

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

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

**DATE: January 26, 2023 PLACE: Shields-Carter Meeting Room
1776 East Washington Street
Urbana, IL 61802**

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

MEMBERS ABSENT: None

STAFF PRESENT: John Hall, Susan Burgstrom, Isaak Simmers

OTHERS PRESENT: Mike McCormick, Anthony Grilo, Lindsay Vahling, Bruce Vahling

1. Call to Order

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

2. Roll Call and Declaration of Quorum

The roll was called, and a quorum declared present.

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

3. Correspondence – None

4. Minutes – December 1, 2022, and December 29, 2022

Mr. Roberts moved, seconded by Mr. Wood, to approve the December 1, 2022, minutes. The motion carried by voice vote.

Mr. Randol moved, seconded by Mr. Roberts, to approve the December 29, 2022, minutes. The motion carried by voice vote.

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

6. Continued Public Hearings – None

7. New Public Hearings

Case 079-S-22

Petitioner: Anthony Donato, d.b.a. IAG Investments LLC

Request: Authorize a data center as a Special Use Permit in the AG-2 Agriculture Zoning

District.

Location: A 21-acre tract in the North Half of the Northeast Quarter of Section 27, Township 19 North, Range 9 East of the Third Principal Meridian in Urbana Township that is located west of the veterinary clinic with an address of 3003 East Windsor Road, Urbana.

Case 080-S-22

Petitioner: Anthony Donato, d.b.a. IAG Investments LLC

Request: Authorize a photovoltaic solar array with a total nameplate capacity of 6 megawatts (MW), including access roads and wiring, as a second principal use as a County Board Special Use Permit and including the following waivers of standard conditions (other waivers may be necessary):

Part A: A waiver from providing a Decommissioning and Site Reclamation Plan that includes cost estimates prepared by an Illinois Licensed Professional Engineer prior to consideration of the Special Use Permit by the Board, per Section 6.1.1 A.3.

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

Part C: A waiver for locating 32 feet from a non-participating existing dwelling on a lot that is 10 acres or less in area in lieu of the minimum required separation of 240 feet between the solar farm fencing and the property line, per Section 6.1.5 D.(3)a.

Part D: A waiver from submitting a Roadway Upgrade and Maintenance Agreement prior to consideration of the Special Use Permit by the Board, per Section 6.1.5 G.(1).

Part E: A waiver from providing a Noise Analysis prior to consideration of the Special Use Permit by the Board, per Section 6.1.5 I.(3).

Location: A 21-acre tract in the North Half of the Northeast Quarter of Section 27, Township 19 North, Range 9 East of the Third Principal Meridian in Urbana Township that is located west of the veterinary clinic with an address of 3003 East Windsor Road, Urbana.

Case 081-V-22

Petitioner: Anthony Donato, d.b.a. IAG Investments LLC

Request: Authorize the following variance for the data center proposed as a Special Use Permit in related case 079-S-22:

Part A: Authorize a variance for 2 parking spaces in lieu of the minimum required 10 parking spaces, per Section 7.4.1 C.3. of the Zoning Ordinance.

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

Location: **A 21-acre tract in the North Half of the Northeast Quarter of Section 27, Township 19 North, Range 9 East of the Third Principal Meridian in Urbana Township that is located west of the veterinary clinic with an address of 3003 East Windsor Road, Urbana.**

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

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

Anthony “Tony” Grilo thanked Mr. Elwell and said his address was 103 N Thomas, Thomasboro. He said this case was very similar to the other two that he presented to the ZBA. He said he was trying to build a six-megawatt solar array and data center. He said the data center operates behind the meter to offset the power usage. He clarified that he was talking about the Windsor project. He said he wanted to do the Windsor project first. He said this location kind of surrounds A&E Animal Hospital and they were offsetting the project off Windsor to keep it off the road. He said he was in talks with the City of Urbana Zoning and Planning. He said they wanted to kind of leave up front open and thought Ms. Burgstrom said the Staff just received the city’s stamp of approval saying they were good with the plans and are okay with whatever their sign off is that they do. He wanted to address the waivers that were being requested next. He said they signed off on the Contiguous Urban Growth Area, and the Decommissioning Plan will be submitted but he tries to do it a little later in the process for accuracy, either based on scrap prices, or equipment. He said things like that will change. He said he had tried to get ahold of the City of Urbana regarding the road upgrade use agreement waiver. He said he had not had a ton of luck in doing that and spoke with Ms. Burgstrom before the meeting that his next step was to try and go above that person and be more persistent to get that checked off the list. He said he did not foresee it being an issue because Windsor Road right there is a substantial roadway, and his expectation was it was going to be the same answer they received for the Oaks Road project because it is the same jurisdiction. He said they would essentially perform an inspection before and after the construction starts and any damage done to the road he would be responsible for. He said that was kind of the gist of that. He said the noise analysis was being run right at that moment. He said the microphones were out on site collecting the baseline data. He said they hope to have that analysis completed next week sometime. He said the last waiver regarding the fencing being too close to the neighbor’s property, a non-participating dwelling, was where A&E Hospital comes in. He said they had a meeting earlier that week and kind of talked about the project as a whole to kind of see where they are with it and what their thoughts were. He said noise was one of their biggest concerns for them, so they were planning another meeting once they receive the noise analysis back from the engineering company. He said the meeting was going to be between themselves, A&E representatives, and the sound engineer so that they can make sure A&E is happy with what was going to be the result, whether they need to put in another row of trees or need a random wall around some noise emitting

1 devices. He said whatever the solution turns out being, they were trying to come up with a solution that
2 will address their concerns. He said they would like to understand the noise analysis a bit more as well,
3 so he felt that having that meeting with that noise engineer would be beneficial for them as well. He said
4 they would be able to have all their questions answered during that time. He said his hope was to get the
5 results next week and plan the meeting shortly after that, either the end of the week or the early part of the
6 next week. He said he thinks that was about the gist of the Windsor project site, so he asked if there were
7 any questions.

8
9 Mr. Wood asked if the 32 feet was the area behind A&E.

10
11 Mr. Grilo said yes, exactly. He said that was their south property line. He said he assumed their west
12 property line was too close too, but he guessed that depends on how it was measured. He said he did not
13 know but the big problem was the south property line was too close to the fence of the solar array.

14
15 Mr. Wood wanted to confirm they did not extend down the west side.

16
17 Mr. Grilo said correct, he said they go parallel to their south property line.

18
19 Mr. Wood asked Staff if that met the standards for being off Windsor Road.

20
21 Mr. Burgstrom said yes.

22
23 Mr. Wood asked if Windsor Road was a Class A road.

24
25 Mr. Burgstrom said Windsor Road was a major arterial road inside the City of Urbana. She said she was
26 not familiar with the classes and could not say if it was Class A or not.

27
28 Mr. Wood just wanted to make sure it could hold 80,000 lbs. He said that was the weight limit from the
29 State. He said he could not imagine that this project would do a whole lot of damage to that.

30
31 Mr. Grilo said he agreed. He said that was his thought as well.

32
33 Mr. Wood asked if there was a residence at A&E.

34
35 Mr. Grilo said there is. He said there was a clinic on one side, and they have a residence on the same
36 property, maybe technically it was two properties, but it is there. He said the fence is too close to the
37 residential property line.

38
39 Mr. Wood said what was stated in his material was the nearest residence was 375 feet and he assumed that
40 was one across the road in Stone Creek Subdivision, but there is a residence that is closer.

41
42 Ms. Burgstrom said that was correct.

43
44 Mr. Grilo said maybe they did not want anyone to know that was a residence. He laughed and apologized
45 to A&E and said that was he was joking.

46
47 Mr. Elwell said toilet paper and eggs are expensive now.

48
49 Mr. Anderson asked the Staff about a new handout he did not have time to read.

1 Ms. Burgstrom said that was a Natural Resource Report from the Champaign County Soil and Water
2 Conservation District. She said it was something they just received two days ago and all Special Use
3 Permits must have that completed through the Soil and Water Conservation District. She said she could
4 tell him that the report included no findings for wetlands in the area, there are no endangered species;
5 nothing that really indicates a red flag to them regarding this project.

6
7 Mr. Anderson asked about the City of Urbana handout as well.

8
9 Ms. Burgstrom said the email we just received from the City of Urbana this afternoon says that they were
10 not going to require two ZBA meetings or two ELUC meetings for the Windsor Road project. She said
11 there was a requirement in the Zoning Ordinance that if there is a proposed solar farm within one and one-
12 half miles of a municipality, they would require two meetings to give everyone time to provide input.

13
14 Mr. Grilo said he wanted to add while they were on the subject, in this case specifically, they wanted to
15 resolve the concerns that A&E has before the Board takes any action that night. He said he would be all
16 for acting on the next one.

17
18 Mr. Wood asked if something like the letter they received from Thomasboro regarding the lockbox would
19 be required for this one as well.

20
21 Ms. Burgstrom said no, that would only be for the Market Street site, which was the second set of cases
22 they were hearing that night.

23
24 Mr. Grilo said that was Market Street. He said he dropped the ball completely on contacting the Fire
25 Department that covers the Windsor Road project jurisdiction. He said that was still on the to do list and
26 was another reason for the Board to not take action that night.

27
28 Mr. Wood thought the lockbox would be a good thing to have on their list and have a relationship with
29 the Fire Department as well.

30
31 Mr. Grilo said he agreed, and it was on the list. He said Ms. Burgstrom gave a nice checklist that he always
32 forgets to read and look at. He said it was on there and she even gave him the names of the people he
33 needs to be in contact with. He said Paul, the fire chief there in Thomasboro, made a good plan to use the
34 Knox boxes, which was not something they talked about for the Rantoul location and the Oaks Road
35 location, but he expects to put them on all of his sites because it is a complete oversight to not have them.
36 He said it just makes sense to have them for the fire department to come on site if they ever must.

37
38 Mr. Elwell asked if there were any questions from the Board or Staff.

39
40 Mr. Herbert asked if the investor for this project changed compared to the other ones.

41
42 Mr. Grilo said he did hear Mr. Elwell say “IGA” in the introduction but it should be “IAG”.

43
44 Mr. Herbert said IAG was what was stated on his paperwork.

45
46 Mr. Grilo said okay, yes, that was correct and it is the same investor for the other projects.

47
48 Mr. Herbert asked how many of these sites do they plan on putting in, just out of curiosity.

49

1 Mr. Grilo said there was four in Champaign County: Rantoul, Oaks, Windsor, and Market. He said they
2 were working on a similar development with the Village of Bondville. He said there was no data center
3 there and it was just going to be a commercial development along with a solar array. He said they wanted
4 to see a retail center. He said those were the only ones in planning now.

5
6 Mr. Herbert said he knew they had a few in other counties.

7
8 Mr. Grilo said yes, but nothing for sure. He said they threw a lot at the wall, and nothing has really stuck
9 yet. He said the Bondville one was definitely one that was moving forward.

10
11 Mr. Herbert said thank you.

12
13 Mr. Elwell asked if there were any more questions from the Board or Staff. Seeing none, he asked if
14 anyone would like to cross-examine the witness and if so to raise their hand. Seeing no one, he thanked
15 Mr. Grilo and asked Dr. Lindsay Vahling to come up to the testimony microphone and to please state her
16 name and her address.

17
18 Dr. Vahling said her business address was 3003 E Windsor Road, Urbana, Illinois. She said she and her
19 husband own the property, the real estate, that is adjacent to the property they were discussing today on
20 the north and east side. She said she owned A&E Animal Hospital and partnered with her husband for the
21 rental units they had on the property as well. She said they have two rental units that were next door. She
22 said her largest concern was the noise and what that is going to sound like and do. She said the data center,
23 from what she understands, seems to be the larger noise producer and what they are kind of figuring out
24 as they do some research on this as well. She said the noise seems to be the issue across the US when it
25 comes to these data centers. She said they make a constant sound 365 days a year 24/7 and her biggest
26 concern was the quality of life for her patients, obviously, her clients, her employees, and her renters as
27 well. She said they really did not have a lot of studies on how this can affect dogs and cats. She said they
28 do board at the facility, so they do have animals at the facility 24/7, especially over holidays and things
29 like that. She said she wants to protect them the best she can. She said while they were not in the position
30 to approve the development, they were working with the developer and open to discussions. She said as
31 Mr. Grilo mentioned, they were already meeting and planning to meet again with the sound engineer to
32 continue those discussions. She said she brought her attorney to help summarize what they discussed
33 during those meetings. She said they were very fortunate that Mr. Grilo reached out to them and have been
34 very pleased to be working with him. She said he has been very open with them and informative, telling
35 them what he knows and sharing documentation, everything. She said he has been very nice to work with
36 so far. She said this was her first time doing this and that sums up about everything she wanted to say. She
37 said if there was anything she was missing to please let her know and she thanked the Board for their time.

38
39 Mr. Elwell asked if there were any questions from the Board or Staff. Seeing none, he asked if anyone
40 wanted, or was willing, to cross-examine the witness to please raise their hand. Seeing no one, he thanked
41 Dr. Vahling. He asked Mr. McCormick to come to the testimony microphone and state his full name and
42 address before beginning.

43
44 Mike McCormick said he was an Attorney with Erwin, Martinkus, & Cole here in Champaign. He said
45 his business address was 411 W University Ave in Champaign. He said when he was a young lawyer, he
46 thought he needed to do all the talking. He said when he became an old lawyer, he found out the clients
47 do a whole lot better job of presenting their case more often than he does and he thought they all just saw
48 a good example of that just now with Dr. Vahling's testimony. He said one of the things he wanted to
49 point out to everybody was to thank Tony and his willingness to meet with them. He said he was sure the

1 Board was aware that that has not always been the case and so they really appreciate his reaching out. He
2 said the noise was a real concern of theirs and part of the reason for that quite frankly was at this stage the
3 very simple research of data centers around the county and the type of concerns and complaints that are
4 out there. He said the idea that the noise at a certain decibel was one thing but that noise being continuous
5 24 hours a day seven days a week is a concern. He said there seems to be a way that the developer can
6 lessen that and potentially solve that they were not able to say they were not willing to work with them on
7 that to find a potential solution. He said one of the reasons they were there was to let them know that. He
8 said the meeting with the sound engineer and the developer would go a long way in putting his clients at
9 ease and making sure the project can continue without detrimental effects on his client's livelihood. He
10 said a lot of people think that it was just a business there but now they know from Dr. Vahling's testimony
11 that there are people that live there, and also the pets. He said he had to tell them he had a conflict of
12 interest in that regard because his little puppy, Chet, was there yesterday for an appointment. He said there
13 just was not a lot of information out there about the long-term effects of the data center noise on people
14 and animals so without being jerks quite frankly and say they were against anything because they heard
15 there could be problems, that was not their take on this. He said they may come to the Board someday and
16 say they're going to lay down in the middle of the road and not let anybody pull their cars out if they vote
17 yes, but his point was that was not where they were at. He said they want to work with the situation as
18 best they can and be reasonable, not only with the developer. He said of course if the Board has any
19 questions, he learned a long time ago that if you don't know the answer, say so. He said he was getting
20 good at doing that and going and finding someone who does have the answer. He said in all honesty they
21 were just starting this process from their perspective, but they wanted to give the Board that perspective
22 too. He also wanted to publicly state what Tony has said and what they were willing to do and how much
23 they appreciated their cooperation. He said he felt that Mr. Grilo would agree that his statement was
24 correct. He said he would be happy to take any questions if there were any.

25
26 Mr. Elwell asked if there were any questions from the Board or Staff. He asked if it did come down to
27 laying down if Mr. McCormick would be the first.

28
29 Mr. McCormick said he would have to negotiate a retainer or something if they were going to ask him to
30 lay behind a car.

31
32 Dr. Vahling said she still had his puppies' testicles.

33
34 Mr. McCormick said that was true, she still had parts of his puppy. He said but he hoped he was leaving
35 it with the Board that they were working to be reasonable and not just automatic anti-anything people just
36 because it was around their property. He said he felt the concerns laid out by Dr. Vahling were significant
37 and valid. He said they were just appreciative of the Board taking those concerns into account and
38 appreciative of the developer and the representative of them.

39
40 Mr. Elwell asked if McCormick complied with Article 7.6 of the ZBA By-Laws.

41
42 McCormick asked what that is.

43
44 Mr. Elwell said it states Attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt
45 from cross-examination.

46
47 Mr. McCormick said he did but would be more than willing to be cross-examined or answer any questions,
48 although he does think he qualifies for that exemption.

49

1 Mr. Elwell said well, since he did comply with Article 7.6 of the ZBA By-laws he was exempt from cross-
2 examination. Mr. Elwell thanked Mr. McCormick for speaking.

3
4 Mr. McCormick said thank you.

5
6 Mr. Elwell asked the petitioner if he would like to step back up to the microphone. He said it was his
7 understanding that Mr. Grilo would like to move his case to another date to get some more information
8 from the fire department.

9
10 Mr. Grilo said there were two things; primarily A&E and resolving that situation, but also he needed a
11 letter from the fire department. He said he also wanted to keep working on the roadway use agreement
12 because that would be good to have. He said he agreed with Mr. Wood when he said they don't foresee
13 that being an issue on the Windsor Road project, but it was still a requirement that he needs to satisfy. He
14 said if there were any other thoughts or concerns, he wanted to bring them up now, so assuming he could
15 satisfy all parties by the next meeting they can act on the project.

16
17 Mr. Bates asked if they were set up appropriately if the City of Urbana were to encroach out and start
18 residential development on the south side of Windsor.

19
20 Mr. Hall said they had a special condition which would require screening when that development starts
21 construction, and the noise study might also have some impact on that. He said they might want to know
22 what noise to the south and east was going to be.

23
24 Mr. Bates said that was interesting that Mr. Hall brought that up. He asked if the shrubbery along the east
25 side of the property was there for a reason.

26
27 Mr. Hall said there were no residences to the east and south within that 1,000-foot threshold that triggers
28 it.

29
30 Mr. Herbert asked if any new residential development would have to meet the 32 feet setback requirement
31 from the existing fence or must now stay back 240 feet.

32
33 Mr. Hall said there were instances in the ordinance where a subsequent house must meet a certain
34 threshold. He said they do not have that arrangement with solar farms so they can go right up to the
35 property line.

36
37 Mr. Herbert said that was something he never thought about. He said the petitioner was there building first
38 but that could change the outcome of the neighbor's property value.

39
40 Mr. Hall said he was not aware of any development that has been discussed by the City of Urbana around
41 this and it does not look like there will be anything soon, but you never know.

42
43 Mr. Randol asked if they would just be annexed into the city if that were to happen anyway. He said that
44 new agreement would be between the developer and the City of Urbana. He said that would not have any
45 effect on their decision because the solar farm and data center were there first.

46
47 Mr. Hall said it might have some effect on city comments on this case, but we do not have any comments
48 yet.

49

1 Mr. Randol said yes.

2

3 Mr. Elwell asked Mr. Hall when a good time would be to hear the case again.

4

5 Mr. Herbert said he was assuming by that time Mr. Grilo would be able to come to an agreement.

6

7 Mr. Grilo said he wants to say yes but would like to hear the date of the meeting first to be sure. He said
8 if it was in two weeks, then no.

9

10 Mr. Hall said the first opportunity would be March 2.

11

12 Mr. Grilo said so a month and a week or so. He thought that was reasonable. He said they should have the
13 noise analysis by next week and they will get together with A&E following that. He asked Dr. Vahling if
14 that was okay with them, and she agreed.

15

16 Mr. Elwell asked if there was any more discussion.

17

18 Mr. Wood asked if the standard on noise was now based on what the State was going to implement.

19

20 Mr. Elwell said that has not been signed yet.

21

22 Mr. Wood said he knew that, but it probably will be.

23

24 Ms. Burgstrom said any solar project that has come to the P&Z Department before the governor signing
25 the house bill that's been discussed about solar farms was subject to our current zoning regulations.

26

27 Mr. Elwell asked if that would include the data center. He asked is that was a separate issue.

28

29 Ms. Burgstrom said that was correct.

30

31 Mr. Wood asked which made more noise, the data center, or the inverters.

32

33 Mr. Grilo said he was always in the camp that the inverters do not make any noise at all, so he was going
34 to say the data center. He said he stood right next to the inverters and never really understood that
35 argument. He said the data centers in his opinion makes more noise. He said that was clear by the noise
36 analyses done at his other locations. He said the cooler around the data center was the larger noise emission
37 device.

38

39 Mr. Wood said he noticed the inverters on the plans and didn't know how big they were. He said some of
40 them were located underneath the south side of their panels and some were located on the north side. He
41 asked Mr. Grilo is they fit under there or if it was just the way the drawing was made.

42

43 Mr. Grilo said they go under the north side because that was the high side of the panels. He said the
44 original site plan for the Rantoul site showed the panels out by themselves and they were going to put a
45 little wall around them but when they looked at the plans a little bit closer they realized the inverters could
46 go up underneath the panels. He said that helped them in two ways: they do not need to have them all
47 together and build a wall, and the panels are acting like that wall now because they are isolating the
48 inverters underneath. He said that was very beneficial and they changed the Oak site to be like that as
49 well.

1 Mr. Wood said it is kind of open faced there on the north side because that would be facing A&E.

2
3 Mr. Grilo said correct, and he thought about that. He said the height of the panels was about seven feet,
4 maybe slightly above, so they still had a wall, albeit a leaning wall, but there were still about 15 walls
5 between the inverters and the fence. He said to also keep in mind the drawing does not look very big but
6 the racking itself was about 31 feet from edge to edge of the panel. He said they were substantial.

7
8 Mr. Wood said they could not insulate the cooler very well because it needs access to blowing air.

9
10 Mr. Grilo said that was correct and he was in a meeting with them and had looked at pictures of another
11 site somewhere in the country, or other country, and they built what he would call a building without a
12 roof around the cooler outside to help with the noise and keep it ventilated.

13
14 Mr. Elwell asked if there were any other questions from the Board.

15
16 Mr. Randol asked if the cooler would be safe from snow drifting without a roof. He asked if that would
17 have any effect on the equipment.

18
19 Mr. Grilo said it would be awesome because it would cool the stuff a lot more. He said he guessed in that
20 scenario it would be helpful. He said he did not see drifting being a concern because if they went that
21 route, he would assume the walls would be high enough to prevent most drifting. He said the cooler was
22 just like an A/C unit or a heat pump at your house. He said the fans were going to blow the snow off it as
23 it comes down and any buildup around the cooler would only help things. He said he also felt the cooler
24 would be warm enough to melt any snow on contact regardless.

25
26 Mr. Randol said thank you.

27
28 Mr. Elwell entertained a motion to continue Cases 079-S-22, 080-S-22, and 081-V-22 to March 2, 2023.

29
30 **Mr. Roberts moved, seconded by Mr. Herbert, to continue Cases 079-S-22, 080-S-22, and 081-V-22**
31 **to March 2, 2023. The motion carried by voice vote.**

32
33 Mr. Elwell entertained a motion to close the Witness Register for Cases 079-S-22, 080-S-22, and 081-V-
34 22.

35
36 **Mr. Bates moved, seconded by Mr. Roberts, to close the Witness Register for Cases 079-S-22, 080-**
37 **S-22, and 081-V-22. The motion carried by voice vote.**

38
39 Mr. Roberts said A&E has been his personal Vet Hospital for something like 35 to 40 years, so he asked
40 if he should excuse himself from any voting when it comes time.

41
42 Mr. Elwell asked if his patronage to A&E would cloud any sound, reasonable judgment.

43
44 Mr. Roberts said he did not think so but just did not want to have any appearance of a conflict.

45
46 Mr. Elwell said it was noted and he appreciated his honesty. He said he had no doubt that he was able to
47 make his best judgment when it came to those proceedings.

Case 082-S-22

Petitioner: **Anthony Donato, d.b.a. IAG Investments LLC**

Request: **Authorize a data center as a Special Use Permit in the AG-2 Agriculture Zoning District.**

Location: **A 21-acre tract in the Northeast Quarter of the Southeast Quarter and the Southeast Quarter of the Northeast Quarter of Section 24, Township 20 North, Range 8 East of the Third Principal Meridian in Hensley Township that is located west of the Road Ranger facility with an address of 4910 N Market St, Champaign.**

Case 083-S-22

Petitioner: **Anthony Donato, d.b.a. IAG Investments LLC**

Request: **Authorize a photovoltaic solar array with a total nameplate capacity of 5 megawatts (MW), including access roads and wiring, as a second principal use as a County Board Special Use Permit and including the following waivers of standard conditions (other waivers may be necessary) in the AG-2 Agriculture and B-3 Highway Business Zoning Districts:**

Part A: A waiver from providing a Decommissioning and Site Reclamation Plan that includes cost estimates prepared by an Illinois Licensed Professional Engineer prior to consideration of the Special Use Permit by the Board, per Section 6.1.1 A.3.

Part B: A waiver from locating the PV Solar Array less than one and one-half miles from an incorporated municipality with a zoning ordinance per Section 6.1.5 B.(2)a.

Part C: A waiver from submitting a Roadway Upgrade and Maintenance Agreement prior to consideration of the Special Use Permit by the Board, per Section 6.1.5 G.(1).

Location: **A 21-acre tract in the Northeast Quarter of the Southeast Quarter and the Southeast Quarter of the Northeast Quarter of Section 24, Township 20 North, Range 8 East of the Third Principal Meridian in Hensley Township that is located west of the Road Ranger facility with an address of 4910 N Market St, Champaign.**

Case 084-V-22

Petitioner: **Anthony Donato, d.b.a. IAG Investments LLC**

Request: **Authorize the following variance for the data center proposed as a Special Use Permit in related case 082-S-22:**

Part A: Authorize a variance for 2 parking spaces in lieu of the minimum required 7 parking spaces, per Section 7.4.1 C.3. of the Zoning Ordinance.

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

1 Location: **A 21-acre tract in the Northeast Quarter of the Southeast Quarter and the Southeast**
2 **Quarter of the Northeast Quarter of Section 24, Township 20 North, Range 8 East of**
3 **the Third Principal Meridian in Hensley Township that is located west of the Road**
4 **Ranger facility with an address of 4910 N Market St, Champaign.**
5

6 Mr. Elwell informed the audience that anyone wishing to testify for any public hearing tonight must sign
7 the witness register for that public hearing. He reminded the audience that when they sign the witness
8 register, they are signing an oath.
9

10 Mr. Elwell informed the audience that this Case is an Administrative Case, and as such, the County allows
11 anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for a
12 show of hands from those who would like to cross-examine, and each person will be called upon. He said
13 that those who desire to cross-examine do not have to sign the Witness Register but will be asked to clearly
14 state their name before asking any questions. He noted that no new testimony is to be given during the
15 cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
16 exempt from cross-examination. He asked if the petitioner would like to outline the nature of their request
17 prior to introducing evidence.
18

19 Mr. Grilo said it was the same M.O. here. He said he will say looking at the site plan he thought it was
20 presented a little bit wrong. He said there was some confusion about property line setbacks there and he
21 thought this one did not actually get fixed. He said the solar array would shift west a little bit close to the
22 western property line. He said he thinks this was the one where they got confused on those setbacks so he
23 would get that updated and get it sent out. He said it will not change anything else. He said he spoke with
24 Hensley Township, and they were in support of the project. He said they did not have any issues with said
25 waivers or the road use agreement. He said it wasn't their maintenance area, it was the State of Illinois.
26 He said the State of Illinois also expressed no concerns. He said their one concern would just to be to size
27 the drainage tile appropriately and the site engineer is working with the State of Illinois to make sure it is
28 to their specifications. He said he thinks that was all he had. He said the Thomasboro fire department did
29 not have any concerns other than the Knox box which they already addressed. He said yes, he thinks that
30 was kind of the quick and skinny on this one.
31

32 Mr. Elwell asked if there were any questions from the Board.
33

34 Mr. Bates said his questions was more for his personal interest. He wanted to know why most of them
35 were turning out to be 21-acre tracts or if that was just a coincidence.
36

37 Mr. Grilo said that was a complete coincidence.
38

39 Mr. Bates said he did not know if there was something in the Zoning Ordinance or if it was related to the
40 number of megawatts coming out of it.
41

42 Mr. Grilo said no but if there was a limit, he would like to know what that is so he could get right up under
43 it.
44

45 Mr. Wood asked if his project needed to be connected directly to a substation.
46

47 Mr. Grilo said not directly, no. He said this one connects directly to the distribution voltage. He said
48 Ameren just sent him an updated map. He said they built what he called the north corner of the intersection
49 of Leverett and Market. He said they could call it the northwest corner. He said they have a line they will

1 tap into over there which will actually be the distribution voltage, Road Ranger, and everything will be
2 tied to.

3
4 Mr. Wood said he was just curious because in the previous projects the substation was right across the
5 road and this one here was quite a bit to the south.

6
7 Mr. Grilo said yes, exactly. He said it was more so Ameren decides where they can handle that back feed
8 voltage. He said they prefer it near a substation which was ideal, but this case just happened to be a good
9 location for them. He said he thinks they have a little bit of a development that was coming further south
10 on Market and this project would help them with their need for that.

11
12 Mr. Wood asked if they needed an automatic shutoff in case the power goes down, because he needed one
13 at his own residence.

14
15 Mr. Grilo said yes, those requirements were strict. He said if his voltage got too high then his system
16 would have to shut down, if it got too low it would have to shut down. He said if it detects a phase loss it
17 must shut down. He said there was a huge list of things and when it turns back on, you cannot turn it back
18 on immediately. He said they must ramp up over a period of 12 minutes or something like that. He said
19 there was a set number of things that had to happen, including marking the disconnects appropriately so
20 that if Ameren had a major issue that they want to come and turn it off themselves and lock it they could,
21 but it seems like they would just disconnect it from the road. He said they had a huge list of guidelines
22 they had to follow.

23
24 Mr. Wood asked if they generate only single phase.

25
26 Mr. Grilo said no, three phase, 480 volts. He said that site plan was marked letter C. He said that was
27 Ameren's transformer and the output at 480 volts. He said that was a step-up transformer that would send
28 it to he thinks that one was 7,200. He said yes, line to neutral would be 7,200 volts and line to line is
29 12,000 volts.

30
31 Mr. Randol asked if Mr. Grilo owned all of the sites or if there were individual property owners that he
32 was building for.

33
34 Mr. Grilo said IAG Investments owned them all and right now; the LLC owner was Anthony Donato.

35
36 Mr. Randol said so there was not a third-party landowner the Board should be in contact with.

37
38 Mr. Grilo said no. He said every site needed an Agricultural Impact Mitigation Agreement which solidified
39 the bond between the landowner and the developer, in this case IAG and Donato Solar, and basically
40 making sure the property owner agrees to what Donato Solar is doing and is going to put it back to right.
41 He said in this case it was the same person, just different LLC's.

42
43 Mr. Elwell asked if there were any questions from the Board or Staff.

44
45 Mr. Randol asked Mr. Grilo what the issue with the site plan was again.

46
47 Mr. Grilo said he did not technically have to correct it but there was a little bit of confusion about the
48 setback distance required between the solar array and the property line and they could see the west side
49 was marked 26 feet. He said that was typical and between the fence and the property line, but then the

1 solar array was probably 50 feet off the fence. He said if he were to change anything he would move the
2 solar array a little bit closer to the fence and keep it off the roadway a little bit more. He said it was a
3 pretty small change to just shift it over x amount of feet, he will estimate about 40 feet.
4
5 Mr. Randol said thank you.
6
7 Mr. Wood asked if the sites get a lot of debris from harvest.
8
9 He said he was a little bit nervous about the maintenance of that fence precisely for that reason. He said
10 chain-link fences tend to stop every little thing so that will be interesting to see.
11
12 Mr. Wood said to just pray for rain afterwards.
13
14 Mr. Grilo said that was right.
15
16 Mr. Bates wanted to confirm that they own the property under an LLC.
17
18 Mr. Grilo said yes. He said he personally does not. He said Anthony Donato is the owner of the LLC. He
19 is technically the landowner.
20
21 Mr. Bates asked if he as Anthony Donato.
22
23 Mr. Grilo said no, he was Anthony Grilo.
24
25 Mr. Bates said okay.
26
27 Mr. Grilo said he knew it was really confusing and he apologized.
28
29 Mr. Bates said okay, so there were two different business entities doing business together. He said if this
30 ever had to be decommissioned, then who would hold anyone accountable.
31
32 Mr. Elwell said it was his understanding that Donato does own both LLC and the land.
33
34 Mr. Grilo said that was correct, Anthony Donato was the owner both LLC's, just two different LLC's. He
35 said the County held them responsible for the decommissioning. He said normally the owner would say
36 hey get your solar farm off my property but in this case the county rules require the submission of
37 maintenance records and generation records.
38
39 Mr. Hall said just maintenance records.
40
41 Mr. Grilo said okay just maintenance records, and if it does not get used for some amount of time then the
42 County says the site must be decommissioned or some enforcement measure happens. He said he was not
43 sure what would happen there. He said he guessed they would use the line of credit to decommission it
44 themselves at that point.
45
46 Mr. Bates said that answered his question, thank you.
47 Mr. Elwell said it looked like they had some Special Conditions to read. He informed Mr. Grilo that he
48 was going to reading page 19 of 27 from Attachment O, as follows:
49

PROPOSED SPECIAL CONDITIONS

The following special conditions are proposed for Special Use Permit in Case 084-V-22:

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

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

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

Mr. Elwell asked if he agreed.

Mr. Grilo said yes.

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

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

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

Mr. Elwell asked if he agreed.

Mr. Grilo said yes.

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

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

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

Mr. Elwell asked if he agreed.

Mr. Grilo said yes.

Mr. Elwell entertained a motion to move to the Summary Draft Findings of Fact for Cases 082-S-22 & 084-V-22.

Ms. Burgstrom said there was one thing she needed to mention here. She said they expected to have the noise study by now, that would include the data center, so right now the way Case 082-S-22 was written did not include a waiver from having the noise study.

Mr. Hall said and as he understood it they were anticipating a change to the site plan also.

1 Mr. Grilo said he will not change the site plan if mean holding things up. He said he was happy with
2 keeping the site plan the way it was. He said he expected the noise analysis already as well, so he
3 understood the need for that waiver.

4
5 Mr. Herbert said the change they were discussing was just moving the arrays to the west side away from
6 the road. He said they were not adding anymore panels, just shifting them over.

7
8 Mr. Grilo said that was correct.

9
10 Mr. Elwell said he felt they needed the plan in front of them.

11
12 Mr. Herbert asked how many feet would be left between the panels and the fence on the west side away
13 from the road.

14
15 Mr. Grilo said the fence would be 27 feet off the property line and another 10 feet to the panels, so it can
16 easily be maintained by machinery.

17
18 Mr. Herbert said he did not need to see a site plan if he was just shifting what he already has 40 feet. He
19 said he still was staying within his fence that was 27 feet from the property line. He said he was not
20 opposed to moving panels further from the road to give any car coming off the road more time to go
21 through a fence and hit the panels. He said the site plan of that was not a hold up in his opinion if they
22 were not adding any more panels.

23
24 Mr. Grilo said it would just be a direct shift. He said it was that way originally and got shifted because of
25 confusion about the setback so they moved it.

26
27 Mr. Randol said he agreed with Mr. Herbert's opinion and did not have a problem with repositioning the
28 panels inside the perimeter of the fence. He was not adding or subtracting anything.

29
30 Mr. Elwell asked Mr. Hall how much leeway was given to petitioners in the past with the changing of a
31 site plan.

32
33 Mr. Hall said he agreed with the comments being made. He said this was a minor change and was all
34 within the fence, which was described in the legal advertisement, it was not getting any closer to an offsite
35 dwelling. He said the array does not make noise anyhow, so he thought that was reasonable. He said one
36 question he had regarding the Knox box. He said they had a comment from the fire protection district and
37 the petitioner's statement that they were going to comply. He asked if the Board wanted to see a condition
38 on that or just trust Mr. Grilo when he said in the minutes that he intends to comply with that. He said if
39 the Board was happy with that, then they could leave the noise analysis for review and approval by ELUC
40 which was what happened with the Rantoul site. He said that went very smoothly.

41
42 Mr. Randol said he was happy with it and Mr. Grilo has been more than forthcoming with everything that
43 he has come in front of us with. He said if they did not have the Knox box, then the fire department was
44 going to be on their case.

45
46 Mr. Grilo said he was not for sure but thought the Illinois Building Code rule was going to require them
47 to have a Knox box. He said he has not read it, but he would bet that was a requirement. He said the fire
48 department was expecting a walk through when the site is complete, and they are going to check it off. He
49 said he sees them way too often to be able to lie to them.

1 Mr. Herbert said this was off topic just a bit, but Mr. Hall said this was going to be in the minutes. He
2 asked if they could hold someone accountable to something that was mentioned in the minutes.
3
4 Mr. Elwell said yes because they agreed that everything they said was the truth under oath.
5
6 Mr. Herbert said that was his understanding but wanted to make sure.
7
8 Mr. Hall said the State's Attorney recommends still having a condition if you really want to have
9 something ironclad enforceable, but going back to Mr. Randol's comments and what Mr. Grilo said about
10 wanting to stay on the good side of the fire protection district, that seemed to be a simple matter. He said
11 that could be left just in the minutes and he was sure that was going to get done.
12
13 Mr. Randol said he could guarantee that if the fire department wanted in there, they had many avenues of
14 doing that.
15
16 Mr. Grilo said that was what the department said. He said they told him they might want to get the Knox
17 box up because they would just rip the door off if they did not have one. He said he figured just getting
18 one was the easier choice.
19
20 Mr. Bates asked if that was something they should put in the next one if the working environment was not
21 as friendly. He said if that was necessary then maybe they should wait until that next meeting to apply that
22 special condition.
23
24 Mr. Randol said he thought that would be a good idea because none of them since the first one had an
25 issue come up about having a Knox box. He said he felt it would be a good idea to have that as a standard
26 condition in every case.
27
28 Mr. Elwell said this request came from the one fire protection chief, did they know that the other chiefs
29 also feel that it is needed.
30
31 Mr. Grilo said it should be everywhere and it was gross negligence to not have one. He said it would be a
32 requirement for the City of Champaign and Urbana. He said he would be putting a Knox box on all his
33 sites because fire departments need access to the location in case of an emergency. He said he did not
34 know if all sites need gates or were required to be fenced in, but it would be an oversight not to have them.
35
36 Mr. Wood said he would assume that they had insurance to cover any fire damage and they would want a
37 box anyway to limit their liability.
38
39 Mr. Grilo said right before he came there, he had a voicemail from the banker about insurance. He said
40 they were very big onto that. He said if he had it his way, if there was a fire then the fire department should
41 focus on the surrounding area and let the panels burn for the insurance company to replace them. He said
42 that would be easier, but that requirement was one of the easiest ones to comply with.
43
44 Mr. Randol said he could tell him that not all fire departments were precise enough to ask for a Knox box.
45 He said some could care less because they know if they needed in there they would get in there anyhow.
46 He said from experience that the business did not want the fire department to enter the facility unless they
47 had someone on staff present. He said fire departments have been told to let it burn and stay out of there
48 until a business representative gets there. He said a lot of that could depend on the entity, but it was a good
49 idea for the Board to put it in there just for safety but it may not be enforceable if the fire department

1 jurisdiction was not concerned about it.

2

3 Mr. Elwell asked if there was a proposed special condition for the Knox box.

4

5 Mr. Hall thought the consensus of the Board was there did not need to be a special condition.

6

7 Mr. Randol said on this issue, but one for anything in the future.

8

9 Mr. Elwell said okay.

10

11 Mr. Elwell asked if there was any further discussion.

12

13 Mr. Elwell entertained a motion to move to the Summary Draft Findings of Fact for Cases 082-S-22 &
14 084-V-22.

15

16 **Mr. Randol moved, seconded by Mr. Wood, to move to the Summary Draft Findings of Fact for**
17 **Cases 082-S-22 & 084-V-22. The motion carried by voice vote.**

18

19 Mr. Elwell informed Mr. Grilo that he was going to be reading page 22 of 27 from Attachment O, as
20 follows:

21

22 **FINDINGS OF FACT FOR CASE 082-S-22 & 084-V-22**

23 From the documents of record and the testimony and exhibits received at the public hearing for zoning
24 cases 082-S-22 and 084-V-22 held on January 26, 2023, the Zoning Board of Appeals of Champaign
25 County Finds that:

26

27 **1. The requested Special Use Permit *{IS/IS NOT}* necessary for the public convenience at this**
28 **location because:**

29

30 Mr. Randol said the requested Special Use Permit IS necessary because the petitioner already owns the
31 property adjacent to the necessary power infrastructure from Ameren.

32

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

37

38 **a. The street has *{ADEQUATE / INADEQUATE}* traffic capacity and the**
39 **entrance location has *{ADEQUATE / INADEQUATE}* visibility because:**

40

41 Mr. Wood said the street has ADEQAUTE traffic capacity and the entrance location has ADEQAUTE
42 visibility because traffic volumes were not expected to increase significantly since they would not have
43 employees visiting the site regularly and the Board did not receive any comments from the township
44 supervisor or the township road commissioner.

45

46 **b. Emergency services availability is *{ADEQUATE / INADEQUATE}* because:**

47

48 Mr. Herbert said emergency services availability is ADEQAUTE because the subject property was located
49 7.1 miles from the Thomasboro Fire Station. He said the Fire Chief was notified and no other comments,

1 besides the Knox box, have been received.

2

3 c. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses
4 because: the subject property is surrounded by agriculture and commercial
5 uses.
6

7 Mr. Herbert the Special Use WILL be compatible because the subject property is surrounded by
8 agriculture and commercial uses.
9

10

11 d. Surface and subsurface drainage will be *{ADEQUATE / INADEQUATE}*
12 because:
13

14 Mr. Randol said the surface and subsurface drainage will be ADEQUATE because no part of the subject
15 property was located within a mapped floodplain. He said a stormwater drainage plan and detention basin
16 would be required if more than 16% of the subject property is impervious area which includes gravel, the
17 buildings, and the solar array rack posts per the Stormwater Drainage and Erosion Control Ordinance.
18

19

20 e. Public safety will be *{ADEQUATE / INADEQUATE}* because:
21

22 Mr. Wood said public will be ADEQUATE because as it was already stated, the subject property was
23 located approximately 7.1 miles from the Thomasboro Fire Station and the Fire Chief has been notified
24 and the only comments received were regarding the Knox box. He said there were no comments from the
25 township supervisor or the township road commissioner.
26

27

28 f. The provisions for parking will be *{ADEQUATE / INADEQUATE}* because:
29

30 Mr. Herbert said the provisions for parking will be ADEQUATE because there will be no significant
31 increase in traffic expected for the data center.
32

33

34 g. The property *{IS/IS NOT}* WELL SUITED OVERALL for the proposed
35 improvements because:
36

37 Mr. Randol said the property IS well suited because the site can be safely and soundly accommodated
38 using simple engineering and common, easily maintained construction methods with no unacceptable
39 negative effects on neighbors or the public because there was nothing around.
40

41

42 h. Existing public services *{ARE/ARE NOT}* available to support the proposed
43 SPECIAL USE without undue public expense because:
44

45 Mr. Herbert said existing public services ARE available to support the proposed special use without undue
46 public expense because no additional public services are necessary for the proposed development.
47

48

49 i. Existing public infrastructure together with the proposed development *{IS/IS
NOT}* adequate to support the proposed development effectively and safely
without undue public expense because:
50

51 Mr. Wood said existing public infrastructure together with the proposed development IS adequate because
52 again, no new public infrastructure was required for the proposed development.
53

54

1 Mr. Elwell said and, therefore.

2

3 Mr. Wood said and as such it WILL NOT be injurious to the district.

4

5 Mr. Elwell said thank you Mr. Wood.

6

7 Mr. Randol said he had a comment, or a thought. He said there has been nothing said about any drainage
8 tile that they run across being repaired. He said they should probably have that in their special conditions.

9

10 Mr. Hall said that was true but was already a condition through the Stormwater Management and Erosion
11 Control Ordinance.

12

13 Mr. Randol said okay.

14

15 **3a. The requested Special Use Permit, {SUBJECT TO THE SPECIAL CONDITIONS**
16 **IMPOSED HEREIN,} {DOES / DOES NOT} conform to the applicable regulations**
17 **and standards of the DISTRICT in which it is located.**

18

19 Mr. Wood said the Special Use Permit DOES conform to the applicable regulations and standards of the
20 district in which it is located.

21

22 **3b. The requested Special Use Permit, {SUBJECT TO THE SPECIAL CONDITIONS**
23 **IMPOSED HEREIN,} {DOES / DOES NOT} preserve the essential character of the**
24 **DISTRICT in which it is located because:**

25

26 **a. The Special Use will be designed to {CONFORM / NOT CONFORM} to all**
27 **relevant County ordinances and codes.**

28

29 Mr. Wood said the Special Use will be designated to CONFORM to all relevant County ordinances and
30 codes.

31

32 **b. The Special Use {WILL / WILL NOT} be compatible with adjacent uses.**

33

34 Mr. Wood said the Special Use WILL be compatible with adjacent land uses.

35

36 Mr. Elwell thanked Mr. Wood.

37

38 **c. Public safety will be {ADEQUATE / INADEQUATE}.**

39

40 Mr. Wood said public safety will be ADEQAUTE because it does preserve the essential character.

41

42 **4. The requested Special Use Permit, {SUBJECT TO THE SPECIAL CONDITIONS IMPOSED**
43 **HEREIN,} {IS / IS NOT} in harmony with the general purpose and intent of the Ordinance**
44 **because:**

45

46 **a. The Special Use is authorized in the District**
47 **b. The requested Special Use Permit {IS/ IS NOT} necessary for the public convenience**
48 **at this location.**

49

1 Mr. Randol said the requested Special Use Permit IS necessary for the public convenience at this location.

- 2
3 **c. The requested Special Use Permit, {SUBJECT TO THE SPECIAL CONDITIONS**
4 **IMPOSED HEREIN,} is so designed, located, and proposed to be operated so that it**
5 **{WILL / WILL NOT} be injurious to the district in which it shall be located or**
6 **otherwise detrimental to the public health, safety, and welfare.**
7

8 Mr. Randol said the requested Special Use Permit WILL NOT be injurious to the district.

- 9
10 **d. The requested Special Use Permit, {SUBJECT TO THE SPECIAL CONDITIONS**
11 **IMPOSED HEREIN,} {DOES / DOES NOT} preserve the essential character of the**
12 **DISTRICT in which it is located.**
13

14 Mr. Randol said the requested Special Use Permit DOES preserve the essential character of the district in
15 which it is located and therefore the requested Special Use Permit WILL be in harmony with public health,
16 safety, and welfare.

17
18 **5. The requested Special Use IS NOT an existing non-conforming use.**

19
20 **6. Regarding the variance:**

- 21
22 **a. Special conditions and circumstances {DO / DO NOT} exist which are peculiar to**
23 **the land or structure involved, which are not applicable to other similarly situated**
24 **land and structures elsewhere in the same district because:**
25

26 Mr. Wood said the special conditions and circumstances DO exist because the proposed data center will
27 be monitored remotely and will only have occasional visits by employees for maintenance and therefore
28 the traffic would be limited and the need for parking would be limited. He said there would also be no
29 need for a loading birth.

- 30
31 **b. Practical difficulties or hardships created by carrying out the strict letter of the**
32 **regulations sought to be varied {WILL / WILL NOT} prevent reasonable or**
33 **otherwise permitted use of the land or structure or construction because:**
34

35 Mr. Randol said practical difficulties or hardships created by carrying out the strict letter of the regulations
36 sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or
37 construction because without the proposed Variance the petitioner would have to utilize area set aside for
38 the proposed PV Solar Array for parking and loading birth areas.

- 39
40 **c. The special conditions, circumstances, hardships, or practical difficulties {DO /**
41 **DO NOT} result from actions of the applicant because:**
42

43 Mr. Herbert said the special conditions, circumstances, hardships, or practical difficulties the DO NOT
44 result from actions of the applicant because the petitioner does not anticipate any visitors or deliveries at
45 this site.

- 46
47 **d. The requested variance {SUBJECT TO THE PROPOSED CONDITION} {IS / IS**
48 **NOT} in harmony with the general purpose and intent of the Ordinance because:**
49

1 Mr. Wood said the requested variance IS in harmony with the general purpose and intent of the Ordinance
 2 because the petitioner does not anticipate visitors or deliveries at this site and does not expect many
 3 employee visits because the Data Center will be monitored remotely.
 4

- 5 **e. The requested variance *{SUBJECT TO THE PROPOSED CONDITION} {WILL /***
 6 ***WILL NOT}* be injurious to the neighborhood or otherwise detrimental to the**
 7 **public health, safety, or welfare because:**
 8

9 Mr. Randol said the requested variance WILL NOT be injurious to the neighborhood or otherwise
 10 detrimental to the public health, safety, or welfare because the proposed Variance was sent to all relevant
 11 jurisdictions and no comments have been received other than the Fire Protection District.
 12

- 13 **f. The requested variance *{SUBJECT TO THE PROPOSED CONDITION} {IS / IS***
 14 ***NOT}* the minimum variation that will make possible the reasonable use of the**
 15 **land/structure because:**
 16

17 Mr. Wood said the requested variance IS the minimum variation because the petitioner would have to
 18 reduce the size of the proposed PV Solar Array if they were to provide more parking and a loading birth.
 19

- 20 **7. Regarding the proposed waiver, for not submitting a noise analysis prior to consideration of**
 21 **the Special Use Permit by the Board:**
 22

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

27 Mr. Wood said the waiver IS in accordance with the general purpose of the Zoning Ordinance and WILL
 28 NOT be injurious to the neighborhood or to public health.
 29

- 30 **(2) Special conditions and circumstances *{DO / DO NOT}* exist which are peculiar to the**
 31 **land or structure involved, which are not applicable to other similarly situated land**
 32 **and structures elsewhere in the same district.**
 33

34 Mr. Wood said the special conditions and circumstances DO exist which are peculiar to the land or
 35 structure involved.
 36

- 37 **(3) Practical difficulties or hardships created by carrying out the strict letter of the**
 38 **regulations sought to be varied *{WILL / WILL NOT}* prevent reasonable or otherwise**
 39 **permitted use of the land or structure or construction.**
 40

41 Mr. Wood said practical difficulties or hardships created by carrying out the strict letter of the regulations
 42 sought to be carried WILL prevent reasonable or otherwise permitted use of the land or structure or
 43 construction.
 44

- 45 **(4) The special conditions, circumstances, hardships, or practical difficulties *{DO / DO***
 46 ***NOT}* result from actions of the applicant.**
 47

48 Mr. Herbert said the special conditions, circumstances, hardships, or practical difficulties DO NOT result
 49 from actions of the applicant.

1 (5) The requested waiver, *{SUBJECT TO THE PROPOSED SPECIAL CONDITION} {IS*
2 */ IS NOT}* the minimum variation that will make possible the reasonable use of the
3 land/structure.
4

5 Mr. Randol said the requested waiver IS the minimum variation that will make possible the reasonable
6 use of the land or structure.
7

8 Mr. Hall asked if they needed a condition for the noise analysis.
9

10 Mr. Bates asked if this was where he mentioned that it had to go through ELUC anyway.
11

12 Mr. Hall said the standard condition talks about that. He said they combined it with the solar array noise
13 analysis, and they did not have it on either one of the special conditions tonight.
14

15 Mr. Elwell said he thinks the petitioner would be on board with it, and if it would provide more comfort
16 to Staff to add it then he thinks they should add it.
17

18 Mr. Hall said they should but did not recall what the exact wording was. He said Staff would be happy to
19 put in the standard condition if that satisfied the Board. He said Mr. Grilo knew what that was because he
20 has already complied with it at the Rantoul site.
21

22 Mr. Roberts asked if noise was an issue at this location.
23

24 Mr. Hall said no, and we do not anticipate it will be an issue, but it is always nice to be prepared. He said
25 they could simply add noise study with the Decommissioning and Site Reclamation plan condition which
26 is condition E on the Solar Array because that was what it amounts to.
27

28 Mr. Elwell entertained a motion to adopt the Summary Draft Findings of Fact for Cases 082-S-22 & 084-
29 V-22 as amended.
30

31 **Mr. Herbert moved, seconded by Mr. Roberts, to adopt the Summary Draft Findings of Fact for**
32 **Cases 082-S-22 & 084-V-22 as amended. The motions carried by voice vote.**
33

34 **FINAL DETERMINATION FOR CASE 082-S-22**

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

40 **The Special Use requested in Case 082-S-22 is hereby GRANTED WITH SPECIAL CONDITIONS**
41 **to the applicant, Anthony Donato d.b.a. IAG Investments LLC, to authorize the following:**
42

43 **Authorize a data center as a Special Use Permit in the AG-2 Agriculture Zoning District.**
44 **SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:**
45

- 46 **A. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the**
47 **proposed special use until the petitioner has demonstrated that the proposed Special**
48 **Use complies with the Illinois Accessibility Code.**
49

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

4
5 C. The Zoning Administrator shall not authorize a Zoning Compliance Certificate
6 authorizing occupancy of the proposed buildings until the Zoning Administrator has
7 received a certification of inspection from an Illinois Licensed Architect or other
8 qualified inspector certifying that the new buildings comply with the following codes:
9 (A) the current edition or most recent preceding edition of the International Building
10 Code, and (B) the current edition or most recent preceding edition of the National
11 Electrical Code NFPA 70.

12
13 **AND SUBJECT TO THE FOLLOWING WAIVER:**

14
15 A. Authorize a waiver from Section 6.1.3 of the Zoning Ordinance that requires a noise
16 analysis to be performed for a DATA CENTER.

17
18 The vote was called as follows:

19 **Randol- Yes Roberts- Yes Anderson-Yes Herbert- Yes**
20 **Elwell- Yes Wood- Yes Bates- Yes**

21
22 The motion passed by roll call vote.

23
24 Mr. Elwell informed the petitioner that he did have his required four affirmative votes and was sure the
25 Staff was going to be reaching out to them with further communication.

26
27 Mr. Elwell entertained a motion to move to Final Determination for Case 084-V-22.

28
29 **Mr. Randol moved, seconded by Mr. Herbert, to move to Final Determination for Case 084-V-22.**
30 **The motion carried by voice vote.**

31
32 Mr. Elwell informed the petitioner that he was going to be reading from page 27 of 27 of Attachment O,
33 Final Determination for Case 084-V-22.

34
35 **FINAL DETERMINATION FOR CASE 084-V-22**

36 **Mr. Wood moved, seconded by Mr. Roberts, that the Champaign County Zoning Board of Appeals**
37 **finds that, based upon the application, testimony, and other evidence received in this case, that the**
38 **requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority**
39 **granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of**
40 **Appeals of Champaign County determines that:**

41
42 **The Variance requested in Case 084-V-22 is hereby GRANTED to the applicant, Anthony Donato**
43 **d.b.a. IAG Investments LLC, to authorize the following variance in the AG-2 Agriculture Zoning**
44 **District:**

45
46 **Authorize the following variance for the data center proposed as a Special Use Permit in related**
47 **case 082-S-22:**

48
49 **Part A: Authorize a variance for two parking spaces in lieu of the minimum required seven**

1 parking spaces, per Section 7.4.1 C.3. of the Zoning Ordinance.

2
3 Part B: Authorize a variance for no loading berth in lieu of the minimum required 1 loading
4 berth, per Section 7.4.1 C.5. of the Zoning Ordinance.

5
6 The vote was called as follows:

7	Randol- Yes	Roberts- Yes	Anderson-Yes	Herbert- Yes
8	Elwell- Yes	Wood- Yes	Bates- Yes	

9
10 The motion passed by roll call vote.

11
12 Mr. Elwell entertained a motion to move to the special conditions for Cases 082-S-22, page 34 of 47 from
13 Attachment P. He told Mr. Donato to acknowledge in the affirmative if he agreed with the following
14 Special Conditions.

15
16 **PROPOSED SPECIAL CONDITIONS**

17
18 **The following special conditions are proposed for Special Use Permit in Case 083-S-22:**

- 19 **A. The approved site plan consists of the following documents:**
- 20 • **Site Plan sheets received January 4, 2023.**

21
22
23 Mr. Elwell said that was not the case though because he was talking about moving solar panels.

24
25 Mr. Hall said they could leave it because it was a very minor change.

26
27 Mr. Grilo also wanted to clarify that he was Anthony Grilo and wanted the record to be correct. Mr. Elwell
28 mistakenly said Donato previously.

29
30 The above special condition is required to ensure that:

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

33
34 Mr. Elwell asked if Mr. Grilo agreed.

35
36 Mr. Grilo said yes.

- 37
- 38 **B. The Zoning Administrator shall not authorize a Zoning Use Permit Application or**
- 39 **issue a Zoning Compliance Certificate on the subject property until the lighting**
- 40 **specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

41
42 The special condition stated above is required to ensure the following:

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

45
46 Mr. Elwell asked if Mr. Grilo agreed.

47
48 Mr. Grilo said yes.

1 C. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the
2 proposed PV SOLAR FARM until the petitioner has demonstrated that the proposed
3 Special Use complies with the Illinois Accessibility Code, if necessary.
4

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

6 That the proposed Special Use meets applicable state requirements for
7 accessibility.
8

9 Mr. Elwell asked if Mr. Grilo agreed.
10

11 Mr. Grilo said yes.
12

13 D. The Zoning Administrator shall not authorize a Zoning Use Permit until the
14 petitioner submits a copy of an executed Agricultural Impact Mitigation Agreement
15 with the Illinois Department of Agriculture per the requirements established in
16 Paragraph 6.1.5 R. of the Zoning Ordinance.
17

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

19 That the land affected by PV SOLAR FARM is restored to its pre-construction
20 capabilities.
21

22 Mr. Elwell asked if Mr. Grilo agreed.
23

24 Mr. Grilo said yes.
25

26 E. A signed Decommissioning and Site Reclamation Plan and a noise analysis per Section
27 6.1.5 I. that has been approved by ELUC is required at the time of application for a
28 Zoning Use Permit that complies with Section 6.1.1 A. and Section 6.1.5 Q. of the
29 Zoning Ordinance, including a decommissioning cost estimate prepared by an Illinois
30 Professional Engineer.
31

32 The above special conditions are required to ensure that:

33 The Special Use Permit complies with Ordinance requirements and as
34 authorized by waiver.
35

36 Mr. Elwell asked if Mr. Grilo agreed.
37

38 Mr. Hall asked Mr. Elwell if they could add following the site reclamation plan, insert “and noise
39 analysis.”
40

41 Ms. Burgstrom asked if that was at the very end, or shall they do it before the decommissioning because
42 they have all that extra stuff.
43

44 Mr. Hall said he was going to try and keep it simple and was going to add it after the Decommissioning
45 and Site Reclamation Plan, and they do need to add the reference to the section of the Ordinance that the
46 noise analysis is in.
47

48 Ms. Burgstrom updated the documents with the changes.
49

1 Mr. Elwell asked if Mr. Grilo agreed.

2

3 Mr. Grilo said yes.

4

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

7 1. **Documentation of the solar module’s unlimited 10-year warranty and**
8 **the 25-year limited power warranty.**

9

10 2. **Certification by an Illinois Professional Engineer that any relocation of**
11 **drainage district tile conforms to the Champaign County Storm Water**
12 **Management and Erosion Control Ordinance.**

13

14 3. **An irrevocable letter of credit to be drawn upon a federally insured**
15 **financial institution with a minimum acceptable long term corporate**
16 **debt (credit) rating of the proposed financial institution shall be a**
17 **rating of “A” by S&P or a rating of “A3” by Moody’s or a rating of “A-**
18 **” by Kroll Bond Rating Agency within 200 miles of Urbana or**
19 **reasonable anticipated travel costs shall be added to the amount of the**
20 **letter of credit.**

21

22 4. **A permanent soil erosion and sedimentation plan for the PV SOLAR**
23 **FARM including any access road that conforms to the relevant Natural**
24 **Resources Conservation Service guidelines and that is prepared by an**
25 **Illinois Licensed Professional Engineer.**

26

27 5. **Documentation regarding the seed to be used for the pollinator**
28 **planting, per 6.1.5 F.(9).**

29

30 6. **The telephone number for the complaint hotline required by 6.1.5 S.**

31

32 7. **Any updates to the approved Site Plan per the requirements provided**
33 **in Section 6.1.5 U.1.c.**

34

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

37

38 The above special condition is required to ensure that:

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

41

42 Mr. Elwell asked if Mr. Grilo agreed.

43

44 Mr. Grilo said yes.

45

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

49 1. **An as-built site plan of the PV SOLAR FARM including structures,**

1 property lines (including identification of adjoining properties), as-
2 built separations, public access road and turnout locations,
3 substation(s), electrical cabling from the PV SOLAR FARM to the
4 substations(s), and layout of all structures within the geographical
5 boundaries of any applicable setback.
6

7 2. As-built documentation of all permanent soil erosion and
8 sedimentation improvements for all PV SOLAR FARM including any
9 access road prepared by an Illinois Licensed Professional Engineer.
10

11 3. An executed interconnection agreement with the appropriate electric
12 utility as required by Section 6.1.5 B.(3)b.
13

14 The above special condition is required to ensure that:

15 **The PV SOLAR ARRAY is constructed consistent with the**
16 **special use permit approval and in compliance with the**
17 **Ordinance requirements.**
18

19 Mr. Elwell asked if Mr. Grilo agreed.
20

21 Mr. Grilo said yes.
22

23 **H. The Applicant or Owner or Operator of the PV SOLAR ARRAY shall comply with**
24 **the following specific requirements that apply even after the PV SOLAR ARRAY**
25 **goes into commercial operation:**
26

27 1. **Maintain the pollinator plantings and required visual screening in**
28 **perpetuity.**

29
30 2. **Cooperate with local Fire Protection District to develop the District’s**
31 **emergency response plan as required by 6.1.5 H.(2).**

32
33 3. **Cooperate fully with Champaign County and in resolving any noise**
34 **complaints including reimbursing Champaign County any costs for the**
35 **services of a qualified noise consultant pursuant to any proven violation of**
36 **the I.P.C.B. noise regulations as required by 6.1.5 I.(4).**

37
38 4. **Maintain a current general liability policy as required by 6.1.5 O.**

39
40 5. **Submit annual summary of operation and maintenance reports to the**
41 **Environment and Land Use Committee as required by 6.1.5 P.(1)a.**
42

43 Mr. Elwell asked Mr. Hall is that was different than what he stated earlier.
44

45 Mr. Hall said no, that was what they talked about earlier.
46

47 6. **Maintain compliance with the approved Decommissioning and Site**
48 **Reclamation Plan including financial assurances.**
49

1 **7. Submit to the Zoning Administrator copies of all complaints to the**
 2 **telephone hotline on a monthly basis and take all necessary actions to**
 3 **resolve all legitimate complaints as required by 6.1.5 S.**
 4

5 The above special condition is required to ensure that:
 6 **Future requirements are clearly identified for all successors of title, lessees,**
 7 **any operator and/or owner of the PV SOLAR ARRAY.**
 8

9 Mr. Elwell asked if Mr. Grilo agreed.

10
 11 Mr. Grilo said yes.

12
 13 **I. The owners of the subject property hereby recognize and provide for the right of**
 14 **agricultural activities to continue on adjacent land consistent with the Right to Farm**
 15 **Resolution 3425.**
 16

17 The special condition stated above is required to ensure the following:
 18 **Conformance with Policy 4.2.3 of the Land Resource Management Plan.**
 19

20 Mr. Elwell asked if Mr. Grilo agreed.

21
 22 Mr. Grilo said yes.

23
 24 Mr. Elwell entertained a motion to move to the Findings of Fact for Case 084-V-22.

25
 26 **Mr. Wood moved, Mr. Randol seconded, to accept the draft of Special Conditions and approve the**
 27 **draft of the Documents of Record.**
 28

29 Mr. Elwell said and move to the Findings of Fact.

30
 31 **The motion carried by voice vote.**
 32

33 Mr. Elwell informed Mr. Grilo that he was going to be reading from page 38 of 47 of Attachment P.

34
 35 **FINDINGS OF FACT FOR CASE 083-S-22**

36 From the documents of record and the testimony and exhibits received at the public hearing for zoning
 37 case **083-S-22** held on **January 26, 2023**, the Zoning Board of Appeals of Champaign County finds that:
 38

39 **1. The requested Special Use Permit {IS / IS NOT} necessary for the public convenience**
 40 **at this location because:**
 41

42 Mr. Randol said the requested Special Use Permit IS necessary for the public convenience because the
 43 State of Illinois has adopted a Renewable Portfolio Standard that established a goal of 25% of the State’s
 44 energy coming from renewable sources by the year 2025, and the Illinois Future Energy Jobs Act requires
 45 installation of 3,000 MW of new solar capacity by the year 2030.
 46

47 **2. The requested Special Use Permit {SUBJECT TO THE SPECIAL CONDITIONS**
 48 **IMPOSED HEREIN} is so designed, located, and proposed to be operated so that it**
 49 **{WILL NOT / WILL} be injurious to the district in which it shall be located or**

1 **otherwise detrimental to the public health, safety, and welfare because:**

2 **a. The street has {ADEQUATE / INADEQUATE} traffic capacity and the**
 3 **entrance location has {ADEQUATE / INADEQUATE} visibility.**

4
 5 Mr. Wood said the street has ADEQUATE traffic capacity and the entrance location has ADEQUATE
 6 visibility. He said traffic volumes were not expected to increase significantly with this particular event
 7 and notices have been sent to the Township Supervisor and Township Road Commissioner and no
 8 comments have been received.

9
 10 **b. Emergency services availability is {ADEQUATE / INADEQUATE}**
 11 **{because*}:**

12
 13 Mr. Herbert said the emergency services availability is ADEQUATE because the subject property is
 14 located within the Thomasboro Fire Protection District and approximately 7.1 from the Thomasboro Fire
 15 Station. He said the Fire Chief was notified of these cases and no comments have been received, other
 16 than the Knox box.

17
 18 **c. The Special Use {WILL / WILL NOT} be compatible with adjacent uses**
 19 **{because*}:**

20
 21 Mr. Herbert said the Special Use WILL be compatible with adjacent uses because the proposed PV Solar
 22 Array will not be disruptive to surrounding agriculture.

23
 24 **d. Surface and subsurface drainage will be {ADEQUATE / INADEQUATE}**
 25 **{because*}:**

26
 27
 28 Mr. Wood said the surface and subsurface drainage will be ADEQUATE because no part of the subject
 29 property is located within a mapped floodplain and a Storm Water Drainage Plan and detention basin will
 30 be required if more than 16% of the subject property is impervious area, including gravel, buildings, and
 31 solar array rack posts, per the Storm Water Management and Erosion Control Ordinance.

32
 33 **e. Public safety will be {ADEQUATE / INADEQUATE} {because*}:**

34
 35 Mr. Randol said public safety will be ADEQUATE because the subject property is located within the
 36 Thomasboro Fire Protection District and is approximately 7.1 road miles from the Thomasboro Fire
 37 Station. He said the Fire Chief was notified of these cases, and again the only comments to have been
 38 received were regarding the Knox box.

39
 40 **f. The provisions for parking will be {ADEQUATE / INADEQUATE}**
 41 **{because*}:**

42
 43 Mr. Herbert said the provisions for parking will be ADEQUATE because a PV Solar Array does not
 44 require parking and there is no significant increase in traffic expected for the proposed development.

45
 46 **g. The property {IS/IS NOT} WELL SUITED OVERALL for the proposed**
 47 **improvements {because*}:**

48
 49 Mr. Wood said the property IS well suited overall for the proposed improvements because the site is

1 reasonably well-suited in all respects and has no major defects.

2
3 **h. Existing public services {ARE/ARE NOT} available to support the proposed**
4 **SPECIAL USE without undue public expense {because*}:**
5

6 Mr. Randol said they ARE available, and no additional public services are necessary for the proposed
7 development.

8
9 **i. Existing public infrastructure together with the proposed development {IS/IS**
10 **NOT} adequate to support the proposed development effectively and safely**
11 **without undue public expense {because*}:**
12

13 Mr. Herbert said the existing public infrastructure IS adequate to support the proposed development
14 effectively and safely because no new public infrastructure is required for the proposed development.

15
16 Mr. Elwell said and therefore it will or will not be dangerous to the district in which the subject property
17 is located or otherwise detrimental to the public health, safety or welfare because.

18
19 Mr. Herbert said it WILL NOT be injurious.

20
21 **3a. The requested Special Use Permit {SUBJECT TO THE SPECIAL CONDITIONS**
22 **IMPOSED HEREIN} {DOES / DOES NOT} conform to the applicable regulations**
23 **and standards of the DISTRICT in which it is located, subject to approval of the**
24 **requested waivers.**
25

26 Mr. Wood said the requested Special Use Permit DOES conform to the applicable regulations and
27 standards of the district in which it is located, subject to approval of the requested waivers.

28
29 **3b. The requested Special Use Permit {SUBJECT TO THE SPECIAL CONDITIONS**
30 **IMPOSED HEREIN} {DOES / DOES NOT} preserve the essential character of the**
31 **DISTRICT in which it is located because:**
32 **a. The Special Use will be designed to {CONFORM / NOT CONFORM} to all**
33 **relevant County ordinances and codes.**
34 **b. The Special Use {WILL / WILL NOT} be compatible with adjacent uses.**
35 **c. Public safety will be {ADEQUATE / INADEQUATE}.**
36

37 Mr. Randol said the requested Special Use Permit DOES preserve the essential character of the district in
38 which it is located because the Special Use will be designed to CONFORM to all relevant County
39 ordinances and codes and WILL be compatible with adjacent uses, and public safety will be ADEQUATE.

40
41 **4. The requested Special Use Permit {SUBJECT TO THE SPECIAL CONDITIONS**
42 **IMPOSED HEREIN} {IS / IS NOT} in harmony with the general purpose and intent**
43 **of the Ordinance because:**
44 **a. The Special Use is authorized in the District.**
45
46 **b. The requested Special Use Permit {IS/ IS NOT} necessary for the public**
47 **convenience at this location.**
48
49 **c. The requested Special Use Permit {SUBJECT TO THE SPECIAL**

1 **CONDITIONS IMPOSED HEREIN} is so designed, located, and proposed to**
 2 **be operated so that it {WILL / WILL NOT} be injurious to the district in which**
 3 **it shall be located or otherwise detrimental to the public health, safety, and**
 4 **welfare.**

- 5
 6 **d. The requested Special Use Permit {SUBJECT TO THE SPECIAL**
 7 **CONDITIONS IMPOSED HEREIN} {DOES / DOES NOT} preserve the**
 8 **essential character of the DISTRICT in which it is located.**
 9

10 Mr. Wood said the requested Special Use Permit IS in harmony with the general purpose and intent of the
 11 Ordinance because the Special Use IS authorized in the District and the Special Use Permit IS necessary
 12 for the public convenience at this location. He said the requested Special Use Permit WILL NOT be
 13 injurious to the district in which it shall be located or otherwise detrimental to the public health, safety,
 14 and welfare, and the requested Special Use Permit DOES preserve the essential character of the District
 15 in which it is located.

- 16
 17 **5. The requested Special Use IS NOT an existing nonconforming use.**
 18

- 19 **6. Regarding necessary waivers of standard conditions:**
 20

21 Mr. Hall noted that per the Section 7.15 of the ZBA Bylaws, “waivers may be approved individually or
 22 *en masse* by the affirmative vote of a majority of those members voting on the issue, and shall be
 23 incorporated into the Findings of Fact with the reason for granting each waiver described.”
 24

25 Mr. Elwell said he loved that idea.

26
 27 Mr. Elwell asked if there was discussion on item number six. He asked if the Board was all in agreement
 28 that the following necessary waivers of standard conditions can be answered all in the affirmative.
 29

30 **Mr. Randol moved, seconded by Mr. Wood, to approve the following necessary waivers of standard**
 31 **conditions *en masse*. The motion carried by voice vote.**
 32

- 33 **A. Regarding Part A of the proposed waivers, for not providing a Decommissioning and**
 34 **Site Reclamation Plan that includes cost estimates prepared by an Illinois Licensed**
 35 **Professional Engineer prior to consideration of the Special Use Permit by the Board:**
 36 **(1) The waiver IS in accordance with the general purpose and intent of the Zoning**
 37 **Ordinance and WILL be injurious to the neighborhood or to the public health,**
 38 **safety, and welfare because: the petitioner will still need to provide this**
 39 **document prior to receiving a Zoning Use Permit.**
 40
 41 **(2) Special conditions and circumstances DO exist which are peculiar to the land**
 42 **or structure involved, which are not applicable to other similarly situated land**
 43 **and structures elsewhere in the same district because: some details such as cost**
 44 **estimates are not available until closer to construction.**
 45
 46 **(3) Practical difficulties or hardships created by carrying out the strict letter of**
 47 **the regulations sought to be varied WILL prevent reasonable or otherwise**
 48 **permitted use of the land or structure or construction because: some details**
 49 **such as cost estimates are not available until closer to construction.**

1 (4) The special conditions, circumstances, hardships, or practical difficulties DO
2 NOT result from actions of the applicant because: some details such as cost
3 estimates are not available until closer to construction.

4
5 (5) The requested waiver, SUBJECT TO THE PROPOSED SPECIAL
6 CONDITION, IS the minimum variation that will make possible the
7 reasonable use of the land/structure.

8
9 B. Regarding Part B of the proposed waivers, for locating the PV SOLAR ARRAY less
10 than one and one-half miles from an incorporated municipality:

11 (1) The waiver IS in accordance with the general purpose and intent of the Zoning
12 Ordinance and WILL NOT be injurious to the neighborhood or to the public
13 health, safety, and welfare because:
14 a. Relevant jurisdictions have been notified of these cases, and no
15 comments have been received.

16
17 (2) Special conditions and circumstances DO exist which are peculiar to the land
18 or structure involved, which are not applicable to other similarly situated land
19 and structures elsewhere in the same district because: The City of Champaign
20 is aware of the proposed project. In an email received December 27, 2022, Rob
21 Kowalski, Assistant Planning & Development Director, stated, "The site is
22 identified in our Comprehensive Plan as Tier 3 which is not ready for urban
23 development due to lack of sewers and urban services. Additionally, the city
24 doesn't have jurisdiction of adjacent streets or access and the land use is
25 generally compatible with agricultural uses."

26
27 (3) Practical difficulties or hardships created by carrying out the strict letter of
28 the regulations sought to be varied WILL prevent reasonable or otherwise
29 permitted use of the land or structure or construction because: without the
30 waiver, the project could not be constructed on the subject property.

31
32 (4) The special conditions, circumstances, hardships, or practical difficulties DO
33 NOT result from actions of the applicant because: the petitioner was not aware
34 of this requirement when they purchased the land for the project.

35
36 (5) The requested waiver IS the minimum variation that will make possible the
37 reasonable use of the land/structure because: without the waiver, the project
38 could not be constructed on the subject property.

39
40 C. Regarding Part C of the proposed waivers, for not submitting a Roadway Upgrade
41 and Maintenance Agreement prior to consideration of the Special Use Permit by the
42 Board:

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

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

and structures elsewhere in the same district because: The petitioner will provide an agreement or waiver therefrom at a later time.

(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 because: the Special Use Permit process might have to be extended in order to have sufficient time to prepare the required materials.

(4) The special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because: the petitioner will provide an agreement or waiver therefrom at a later time.

(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. Wood moved, seconded by Roberts, to accept the Findings of Fact for Case 083-S-22. The motion carried by voice vote.

Mr. Elwell entertained a motion to move to Final Determination for Case 083-S-22.

Mr. Wood moved, seconded by Mr. Roberts, to move to Final Determination for Case 083-S-22. The motion carried by voice vote.

Mr. Elwell informed Mr. Grilo that he was going to be reading from page 45 of 47 of Attachment P.

FINAL DETERMINATION FOR CASE 083-S-22

Mr. Randol, seconded by Mr. Wood, that the Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval of Section 9.1.11B. HAVE been met, and pursuant to the authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, recommends that:

The Special Use requested in Case 083-S-22 be *GRANTED WITH SPECIAL CONDITIONS* to the applicant, Anthony Donato, d.b.a. IAG Investments LLC, to authorize the following as a Special Use:

Authorize a photovoltaic solar array with a total nameplate capacity of 5 megawatts (MW), including access roads and wiring, in the AG-2 Agriculture and B-3 Highway Business Zoning Districts as a second principal use as a County Board Special Use Permit and including the following waivers of standard conditions (other waivers may be necessary):

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

Part B: A waiver for locating the PV Solar Array less than one and one-half miles from an incorporated municipality with a zoning ordinance per Section 6.1.5 B.(2)a.

1 **Part C: A waiver for not submitting a Roadway Upgrade and Maintenance Agreement**
2 **prior to consideration of the Special Use Permit by the Board, per Section 6.1.5 G.(1).**

3
4 ***SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:***

- 5
6 **A. The approved site plan consists of the following documents:**
7 • **Site Plan sheets received January 4, 2023.**
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 **C. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the**
14 **proposed PV SOLAR FARM until the petitioner has demonstrated that the proposed**
15 **Special Use complies with the Illinois Accessibility Code, if necessary.**
16
17 **D. The Zoning Administrator shall not authorize a Zoning Use Permit until the**
18 **petitioner submits a copy of an executed Agricultural Impact Mitigation Agreement**
19 **with the Illinois Department of Agriculture per the requirements established in**
20 **Paragraph 6.1.5 R. of the Zoning Ordinance.**
21
22 **E. A signed Decommissioning and Site Reclamation Plan and a noise analysis per Section**
23 **6.1.5 I. that has been approved by ELUC is required at the time of application for a**
24 **Zoning Use Permit that complies with Section 6.1.1 A. and Section 6.1.5 Q. of the**
25 **Zoning Ordinance, including a decommissioning cost estimate prepared by an Illinois**
26 **Professional Engineer.**
27
28 **F. The following submittals are required prior to the approval of any Zoning Use Permit**
29 **for a PV SOLAR FARM:**
30 1. **Documentation of the solar module’s unlimited 10-year warranty and the 25-**
31 **year limited power warranty.**
32
33 2. **Certification by an Illinois Professional Engineer that any relocation of**
34 **drainage district tile conforms to the Champaign County Storm Water**
35 **Management and Erosion Control Ordinance.**
36
37 3. **An irrevocable letter of credit to be drawn upon a federally insured financial**
38 **institution with a minimum acceptable long term corporate debt (credit**
39 **rating of the proposed financial institution shall be a rating of “A” by S&P or**
40 **a rating of “A3” by Moody’s or a rating of “A-” by Kroll Bond Rating Agency**
41 **within 200 miles of Urbana or reasonable anticipated travel costs shall be**
42 **added to the amount of the letter of credit.**
43
44 4. **A permanent soil erosion and sedimentation plan for the PV SOLAR FARM**
45 **including any access road that conforms to the relevant Natural Resources**
46 **Conservation Service guidelines and that is prepared by an Illinois Licensed**
47 **Professional Engineer.**
48
49 5. **Documentation regarding the seed to be used for the pollinator planting, per**
50 **6.1.5 F.(9).**

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

1 I. The owners of the subject property hereby recognize and provide for the right of
2 agricultural activities to continue on adjacent land consistent with the Right to Farm
3 Resolution 3425.
4

5 Mr. Elwell requested a roll call vote.
6

7 The vote was called as follows:

8	Randol- Yes	Roberts- Yes	Anderson-Yes	Herbert- Yes
9	Elwell- Yes	Wood- Yes	Bates- Yes	

10
11 **8. Staff Report - None**

12
13 **9. Other Business**
14 **A. Review of Docket**
15

16 Mr. Hall said they need to pick a date for the opening of Case 075-AT-22, the new amendment to the
17 wind farm requirements. He said the House Bill has not yet been signed but he expects it to be signed.
18 He said they also expect other amendments in this coming session to deal with what was passed in the
19 previous session, so this was not going to be settled for a while. He said his recommendation would
20 be to go ahead, complete that amendment, get it to the County Board and let them do what they are
21 going to do. He said then at least we will have our standards set. He said he still held out hope that
22 what was done in House Bill 4412 might be modified in a good way; in case it is, it would be nice to
23 have our standards set. He thought it was important to finish that Text Amendment and would be what
24 he recommends.
25

26 Mr. Randol said he agreed with Mr. Hall. He said it really burns his butt for Springfield to tell them
27 what to do when they do not even live here.
28

29 Mr. Herbert asked what the purpose was to have the ZBA level if the State takes control of some of
30 that stuff and just says any county ordinances stricter than this were void. He asked if he read that
31 right.
32

33 Mr. Hall said yes, he was understanding that correctly, but for the road use agreement portion of that,
34 the trailer bill is already being discussed to amend that. He said he would think drainage districts might
35 try to come up with an improved version of that. He said he still has hope that the rest of it might be
36 amended somehow, but if it is amended, it would be nice to have our standards set just as a protection.
37 He said it may not amount to a hill of beans but in case it does.
38

39 Mr. Herbert said he thinks that it should probably be cleaned up and finished. He said they tried to
40 start that process and get to a conclusion on it anyway, or at least out of the ZBA's hands.
41

42 Mr. Hall said yes, and the first available reschedule date would be March 16, 2023. He said that was
43 an open date.
44

45 Mr. Elwell asked if there were any thoughts from the Board.
46

47 Mr. Herbert asked what the case on March 2nd was going to take.
48

49 Mr. Hall said they added the Windsor Road solar project to March 2nd.

1 Mr. Herbert said oh right, sorry.
2
3 Mr. Elwell said he would anticipate quite a bit of public testimony for the case they were talking about.
4 He asked if Mr. Hall would agree.
5
6 Mr. Hall said yes.
7
8 Mr. Elwell said he felt that they were talking to the wrong people, so he would just prepare them to sit
9 and hear the public testimony.
10
11 Mr. Elwell entertained a motion move Case 075-AT-22 to March 16, 2023.

12
13 **Mr. Herbert moved, seconded by Mr. Wood, to move Case 075-AT-22 to March 16, 2023. The**
14 **motion carried by voice vote.**

15
16 **10. Adjournment**

17
18 Mr. Elwell entertained a motion to adjourn.
19
20 **Mr. Roberts moved, seconded by Mr. Randol, to adjourn.**

21
22 **The motion carried by voice vote.**

23
24 The meeting adjourned at 8:35 PM

25
26 Respectfully submitted,

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29 Secretary of the Zoning Board of Appeals
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