



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Mayor Diane Wolfe Marlin and City Council Members

FROM: Lorrie Pearson, AICP, Community Development Services Director
Marcus Ricci, AICP, Planner II

DATE: January 9, 2020

SUBJECT: A Resolution of Protest Against a Proposed Text Amendment to the Champaign County Zoning Ordinance (CCZBA-945-AT-19 / Expanded Noticing)
A Resolution of Protest Against a Proposed Text Amendment to the Champaign County Zoning Ordinance (CCZBA-946-AT-19 / Expanded Noticing and Buffer)
A Resolution of Protest Against a Proposed Text Amendment to the Champaign County Zoning Ordinance (CCZBA-947-AT-19 / CR Zoning District Buffer)

Introduction

The Champaign County Zoning Administrator (Zoning Administrator) is requesting amendments to Sections 6.1 and 8.2 of the Champaign County Zoning Ordinance (Ordinance) concerning photovoltaic solar farms (solar farms) that are proposed within one-and-a-half miles of municipalities, like Urbana, that have a zoning ordinance. Cases 945-AT-19 (“Case 945”) and 946-AT-19 (“Case 946”) are alternative versions of a proposed text amendment to address site location, notification to neighboring municipalities, long-term leases, public hearing timelines, comment periods, and continuation of operations. Case 947-AT-19 (“Case 947”) proposes the elimination of buffer requirements between proposed solar farms and the CR Conservation Recreation Zoning District.

Urbana has subdivision and land development jurisdiction within the City’s one-and-a-half-mile extraterritorial jurisdiction (ETJ), while the County holds zoning jurisdiction in this area. The proposed text amendments are of interest to Urbana to the extent that they will affect zoning and land development decisions within the ETJ. The Champaign County Environmental Land Use Committee (ELUC) will hold its public hearings on Cases 945 and 946 at its January 9 and February 6, 2020, meetings. The Champaign County Board (Board) would hear these two cases at its February 20, 2020, meeting, at the earliest. The ELUC will hold its public hearings on Case 947 at its February 6 and March 5, 2020, meetings, and the Board would hear it at its March 19, 2020, meeting at the earliest.

The City has the right to protest County text amendment cases within the ETJ by filing a protest by the date the case goes before the County Board. The City has no protest rights regarding Special Use Permit requests within the ETJ – such as those that would be submitted to County authorities to establish a solar farm – but, historically, County staff have been receptive to discussing concerns related to such requests.

On December 5, 2019, the Urbana Plan Commission recommended that City Council DEFEAT resolutions of protest in all three cases. Under state law, a municipal protest of the proposed amendments would require three-quarters super-majority of affirmative votes for approval of the

request at the County Board; otherwise, a simple majority would be required. This memorandum will address the proposed text amendments individually, and address similarities and differences between them.

Background

Cases 945-AT-19 and 946-AT-19

According to the applicant, during the creation of the solar farm text amendment¹ and in subsequent zoning cases for PV Solar Farm Special Use Permits, representatives of some Champaign County municipalities expressed a desire to have more input during the County’s approval process for solar farms near their municipal limits. At its January 10, 2019, meeting, the ELUC reviewed a letter from the Mayor of the Village of St. Joseph and the Village Presidents of Savoy and Mahomet requesting re-evaluation of Ordinance requirements for solar farms. The letter was also endorsed by the Village Presidents of Ogden and Sidney. ELUC discussed the proposed amendment at its May 19, 2019, meeting, received comments from ELUC members and the public, and requested that County Planning and Zoning staff draft two versions of the amendment: one that includes the extended time period for municipal review (Case 945) and one that includes the extended review period and an increased separation between a municipality and a proposed solar farm.

Table 1. Comparison of Parts of Cases 945 and 946

Case 945-AT-19	Case 946-AT-19
Amend the requirements for a photovoltaic (PV) solar farm in Section 6.1.5 B.(2) of the Champaign County Zoning Ordinance by adding the following requirements for any proposed PV solar farm that is located within 1.5 miles of a municipality:	
<i>Part A of Case 946-AT-19 is not part of Case 945-AT-19</i>	Part A: Increase the minimum required separation between a PV solar farm and a municipal boundary from 0.5 mile to 1.5 miles.
Part A: Increase the minimum required time for municipal review as described in the legal advertisement.	<i>Part A from Case 945 is Part B in 946</i>
Part B: Require municipal subdivision approval for any PV solar farmland lease exceeding five years when required by any relevant municipal authority that has an adopted comprehensive plan.	<i>Part B from Case 945 is Part C in 946</i>
Part C: Amend Section 8.2.3 to allow any PV solar farm authorized prior to the effective date of this amendment and that is in the process of being repaired to not lose its zoning right to operate.	<i>Part C from Case 945 is Part D in 946</i>
Part D: Add new Section 8.2.4 to allow any PV solar farm authorized prior to the effective date of this amendment to be constructed pursuant to the standard requirement of a Zoning Use Permit, provided that the Special Use Permit for the solar farm has not expired.	<i>Part D from Case 945 is Part E in 946</i>

The first version – Case 945 – extends the time period for municipalities to review proposed solar farms to a minimum of 28 days, requires municipal subdivision approval for solar farmland leases

¹ Text Amendment CCZBA 895-AT-18 was approved by the Champaign County Board on August 23, 2018. On August 20, 2018, the Urbana City Council defeated a resolution to protest the proposed text amendment, acting on the August 9, 2018, recommendation of the Urbana Plan Commission (six ayes, zero nays).

exceeding five years, and allows previously-approved solar farms that do not meet the updated regulations to continue to operate (or to be built if they have not yet been constructed).

The second version – Case 946 – includes all of Case 945 and increases the separation between a municipality and a proposed solar farm from 0.5 miles to 1.5 miles.

Exhibit A shows the current text of the Ordinance and Exhibit B shows the proposed changes (underlined for additions and ~~strike-out for deletions~~) and highlights the difference in subsection 6.1.5.B.(2) between these alternatives. Table 1. is an excerpt of the September 19, 2019, County Planning & Zoning Preliminary Memorandum with a summary comparing the two alternatives.

Proposed amendment Part A in Case 946 – which is not a part of Case 945 – was requested by some municipalities because they want greater separation from their corporate limits than the half-mile that was established in the original solar farm text amendment; specifically, they requested a one-and-a-half-mile separation from their corporate limits and any solar farm. This amendment does not change the fact that, within the one-and-a-half-mile ETJ of municipalities with an adopted Comprehensive Plan, the County maintains zoning jurisdiction up to the municipal corporate limits, and the municipality has planning jurisdiction up to one-and-a-half miles outside its corporate limits. A solar farm developer can still request a waiver from the proposed one-and-a-half-mile separation just as they can for the half-mile separation in the current Ordinance.

Proposed amendment Part A in Case 945 (Part B in Case 946) is in response to a request from municipalities for more time to evaluate and comment on Champaign County Board Special Use Permit cases for proposed solar farms. Among other requirements, it requires the public hearing occur at a minimum of two Board meetings at least 28 days apart to provide time for municipal comments, unless the comment period is waived by any relevant municipality (§ 6.1.5.B.(2)(e)).

Proposed amendment Part B in Case 945 (Part C in Case 946) is in response to the Village of Mahomet's existing regulation that all land leases exceeding five years must go through a municipal subdivision approval process (§ 6.1.5.B.(2)(d)). The solar farms that have been approved by Champaign County to date have generally included 10- or 20-year leases, with options for extensions. Without this amendment, developers proposing solar farms within Mahomet's ETJ might not be aware of the need to seek subdivision approval from the Village.

Proposed amendment Part C in Case 945 (Part D in Case 946) was included because proposed amendments to the Ordinance, e.g., the increased minimum separation distance of Part A of Case 946, could make some previously-approved solar farms nonconforming (§ 8.2.3). This amendment would allow a nonconforming solar farm that is, for example, temporarily down for maintenance, to retain its right to operate.

Proposed amendment in Part D Case 945 (Part E in Case 946) was included for the same reason as Part C: that it could make some previously-approved solar farms nonconforming (§ 8.2.4). This proposed amendment would allow a previously-approved solar farm to be constructed and/or operated pursuant to the standard requirement of a Zoning Use Permit, provided that the Special Use Permit has not expired, even if it is made nonconforming by the proposed text amendment requiring the extended one-and-a-half-mile buffer.

The ELUC opened a Champaign County ZBA (CCZBA) public hearing for these amendments at its June 6, 2019, meeting. Comments were received from ELUC and community members, and revisions were made based on that input. The CCZBA continued its public hearing on October 31, 2019. Case 945 was forwarded to the ELUC with no recommendation due to a tie vote (three ayes, three nays). Case 946 was forwarded to the ELUC with a recommendation for approval (four ayes, two nays). This indicates a slight preference for the alternative that would increase separation from a half-mile to one-and-a-half miles between the proposed solar farm and a municipality. The meeting memoranda can be found at http://www.co.champaign.il.us/CountyBoard/meetings_ZBA.php (see “2019 Meetings” for the September 26 Preliminary Memo and October 31 Supplemental Memo). The ELUC will hold its public hearing on these two cases at its January 9, 2020, meeting. If forwarded by the ELUC, the Champaign County Board would hear one or both of these two cases at its January 23, 2020, meeting, at the earliest.

Case 947-AT-19

According to materials provided by the applicant, at its May 9, 2019, meeting, the ELUC reviewed a memorandum regarding proposed changes to solar farm text amendment 895-AT-18. One of the proposed changes was to remove the half-mile separation requirement between solar farms and the CR Conservation Recreation District. This current separation is similar to, but less than, the one-mile separation required between a proposed wind farm and the CR District. Based on the reviews of recently-authorized solar farms, the Zoning Administrator determined a minimum separation between a solar farm and the CR Conservation Recreation Zoning District is not necessary, and recommends removal of this requirement from the Zoning Ordinance.²

The ELUC opened a CCZBA public hearing for these amendments at its June 6, 2019, meeting. The hearing was continued to its November 14, 2019, meeting, and then to its January 16, 2020, meeting. The meeting memoranda can be found at http://www.co.champaign.il.us/CountyBoard/meetings_ZBA.php (see “2019 Meetings” for the September 26 Preliminary Memo and November 14 Supplemental Memo). If forwarded by the CCZBA, the ELUC will hold its public hearing on this case at its February 6, 2020, meeting, at the earliest. If forwarded by the ELUC, the Champaign County Board would hear this case at its February 20, 2020, meeting, at the earliest.

Discussion

County Zoning

Cases 945-AT-19 and 946-AT-19

City staff reviewed the alternative text amendments to determine potential impacts to land within the City’s boundary and ETJ, and for potential impacts to the City’s ability to plan or manage development. **Staff does not anticipate a negative impact to the City or to the City’s ability to plan or manage growth or development. Staff acknowledges that Case 946 requires an applicant to apply to the County Board for a waiver, and be granted that waiver, to locate closer than one-and-a-half miles to the city’s corporate limits.** The City should consider whether

² Case 947 originally included proposed changes involving the minimum required credit rating for financial institutions headquartered in Champaign County providing financial assurance for solar farms. This topic was later determined to be sufficiently differently from the buffer requirement and moved into Case 971-AT-19.

solar farms are desirable, undesirable, or neutral land uses within the ETJ. Exhibit A shows the current text of the Ordinance and Exhibit B shows the differences in subsection 6.1.5.B.(2)a.(a) between the two alternative amendments.

City staff determined that **the proposed amendments regarding notification of municipalities within one-and-a-half miles of a proposed solar farm are not relevant to the City, because the County already notifies the City of Special Use Permit applications, including those for solar farms.** Below are the proposed changes that are the most relevant to the City:

- Amend § 6.1.5.B.(2)a. to require a minimum distance of one-and-one-half miles between a proposed solar farm and an incorporated municipality with a zoning ordinance. As stated previously, a waiver may be granted by the County Board, if requested by the applicant. This would result in all existing approved solar farms being determined “nonconforming,” necessitating the passage of Parts D and E (described above) to allow said solar farms to be constructed or to make repairs if damaged more than 50% of replacement value. Case 946 only.
- Add § 6.1.5.B.(2)d. to require municipal subdivision approval for any proposed solar farm land lease longer than five years by an relevant municipality that has an adopted comprehensive plan. Cases 945 and 946.

Case 947-AT-19

City staff reviewed the proposed Ordinance text amendment to determine potential impacts to land within the City’s boundary and ETJ, and for potential impacts to the City’s ability to plan or manage development. **Staff does not anticipate a negative impact to the City or to the City’s ability to plan or manage growth or development. The proposed deletion of the one-half-mile buffer is not relevant to the City, as it affects only County CR zoning districts.** Exhibit C shows a mark-up of the proposed text of the Ordinance.

Urbana 2005 Comprehensive Plan

By State law, the City has the ability to review zoning decisions within its ETJ for consistency with the City’s comprehensive plan. Therefore, Champaign County’s proposed Zoning Ordinance text amendment should be reviewed for consistency with the City of Urbana’s 2005 Comprehensive Plan, which includes the following pertinent goals and objectives:

Goal 6.0 Preserve natural resources (including air, water, and land) and environmentally-sensitive areas in the community.

Objective 6.2 Protect sensitive areas, such as wooded areas, major drainageways, and areas of topographic relief.

Goal 15.0 Encourage compact, contiguous, and sustainable growth patterns.

Objective 15.5 Promote intergovernmental cooperation on development and growth issues.

Goal 16.0 Ensure that new land uses are compatible with and enhance the existing community.

Objective 16.2 Preserve agricultural lands and environmentally-sensitive areas outside the growth area of the city.

Goal 17.0 Minimize incompatible land uses.

- Objectives 17.1 Establish logical locations for land use types and mixes, minimizing potentially incompatible interfaces, such as industrial uses near residential areas.
- 17.2 Where land use incompatibilities exist, promote development and design controls to minimize concerns.

Goal 21.0 Identify and address issues created by overlapping jurisdictions in the one-and-one-half mile Extraterritorial Jurisdictional area (ETJ).

- Objectives 21.1 Coordinate with Champaign County on issues of zoning and subdivision in the ETJ.
- 21.2 Work with other units of government to resolve issues of urban development in unincorporated areas.

Goal 28.0 Develop a diversified and broad, stable tax base.

- Objective 28.1 Encourage an appropriate balance of residential, commercial, and industrial growth.

Goal 33.0 Provide maximum service and dependable utilities.

- Objective 33.5 Promote the use of alternative energy sources, such as wind and solar.

The proposed text amendments are generally consistent with these City goals and objectives. They seek to increase the empowerment of neighboring municipalities – both home-rule and non-home-rule – to plan and manage growth in their ETJs by increasing the communication between the County and the municipality and increasing the instances and periods of municipal comment.

Impacts to City of Urbana Zoning

Within the City’s municipal boundaries, the proposed text amendments do not directly affect the use of land, nor do they affect the City’s ability to manage growth and development. Both Case 945 and 946 require the city’s approval for any proposed solar farm land lease that is longer than five years. In addition, Case 946 requires a developer who wishes to build a solar farm closer than one-and-a-half miles to the City’s corporate limits to apply to, and receive, a waiver from the County Board of this separation distance requirement. The City may view this as a beneficial buffer, as a barrier to development for land that may one day annex into the City, or both. Case 947 should not impose any additional burden on the City. **Staff does not anticipate a negative impact to the City or to the City’s ability to plan or manage growth or development.**

Plan Commission

The Plan Commission discussed the proposed text amendments at its December 5, 2019, regular meeting. One discussion topic was the increased separation distance required by Case 946 a) could be seen as reduction of the municipality’s ability to encourage siting a solar farm near its border on land that could be annexed, or b) require an applicant to obtain a waiver from the Board to site closer than one-and-a-half miles. This discussion resolved with the decision that the City would be able to deal with this additional burden, and that the benefit the additional buffer could provide to a municipality with fewer resources should warrant passage of the amendment. There was little discussion regarding Case 947, as it affects only County CR districts. **The Commission voted unanimously to recommend DEFEATING RESOLUTIONS OF PROTEST in Cases 945, 946, and 947.**

Summary of Staff Findings

1. The Champaign County Zoning Administrator proposes two alternative text amendments to the Champaign County Zoning Ordinance concerning photovoltaic (PV) solar farms proposing to locate within one-and-a-half miles of an incorporated municipality with an adopted zoning ordinance. Both Case 945-AT-19 and Case 946-AT-19 propose to amend sections addressing notifications to neighboring municipalities, public hearing timelines, and comment periods. Case 946-AT-19 also increases the minimum separation distance between a proposed solar farm and municipal corporation limits.
2. The Champaign County Zoning Administrator is also proposing text amendment Case 947-AT-19 to the Champaign County Zoning Ordinance to delete the half-mile separation distance between a proposed solar farm and the CR Conservation Recreation Zoning District.
3. All of the proposed text amendments are generally compatible with the land use policy goals and objectives of the 2005 Urbana Comprehensive Plan, which promote natural resource preservation, contiguous growth, economic stability, and compatibility of land uses.
4. The proposed text amendments would not pose significant negative impacts to land uses or to the ability of the City to manage growth and development of land currently within its ETJ.

Options

Cases 945-AT-19 and 946-AT-19 are alternative text amendments, and City Council may choose to approve resolutions of protest for both cases; defeat resolutions of protest for both cases; or express preference for one option over the other by defeating a resolution of protest for one and approving a resolution of protest for the other.

City Council has the following options in **CCZBA Case No. 945-AT-19**, a request to amend the Champaign County Zoning Ordinance regarding solar farms proposing to locate within one-and-a-half miles of an incorporated municipality, on issues of notifying neighboring municipalities, public hearing timelines, and comment periods:

- a. **Defeat** a resolution of protest; or
- b. **Defeat** a resolution of protest, contingent upon specific provisions to be identified; or
- c. **Approve** a resolution of protest.

City Council has the following options in **CCZBA Case No. 946-AT-19**, a request to amend the Champaign County Zoning Ordinance regarding solar farms proposing to locate within one-and-a-half miles of an incorporated municipality, on issues of notifying neighboring municipalities, public hearing timelines, comment periods, and requiring a minimum separation distance of one-and-a-half miles between said solar farm and municipality's corporation limits:

- a. **Defeat** a resolution of protest; or
- b. **Defeat** a resolution of protest, contingent upon specific provisions to be identified; or
- c. **Approve** a resolution of protest.

City Council has the following options in **CCZBA Case No. 947-AT-19**, a request to amend the Champaign County Zoning Ordinance to eliminate the buffer requirement between a proposed solar farm and the CR Conservation Recreation Zoning District, and require local financial assurances:

- a. **Defeat** a resolution of protest; or

- b. **Defeat** a resolution of protest, contingent upon specific provisions to be identified; or
- c. **Approve** a resolution of protest.

Recommendation

At its December 5, 2019, meeting, the Urbana Plan Commission voted eight ayes to zero nays to forward Case **CCZBA 945-AT-19 (Expanded Noticing)** to City Council with a recommendation to **DEFEAT** a resolution of protest.

The commission voted eight ayes to zero nays to forward Case **CCZBA 946-AT-19 (Expanded Noticing and Buffer)** to City Council with a recommendation to **DEFEAT** a resolution of protest.

Finally, the commission voted eight ayes to zero nays to forward Case **CCZBA 947-AT-19 (CR Zoning District Buffer)** to City Council with a recommendation to **DEFEAT** a resolution of protest.

Staff concur with the Plan Commission's recommendations.

Attachments: Exhibit A: Current Solar Farm Zoning Ordinance Text
Exhibit B: Comparison of Mark-ups of Cases 945-AT-19 and 946-AT-19
Exhibit C: Proposed Mark-up of Case 947
Exhibit D: Minutes of December 5, 2019, Plan Commission Meeting – DRAFT
Full County Memos available at http://www.co.champaign.il.us/CountyBoard/meetings_ZBA.php

cc: John Hall, Director, Champaign County Planning and Zoning
Susan Burgstrom, Planner, Champaign County Planning and Zoning.

RESOLUTION NO. 2020-01-002R

**A RESOLUTION OF PROTEST AGAINST A PROPOSED TEXT AMENDMENT TO
THE CHAMPAIGN COUNTY ZONING ORDINANCE**

(CCZBA-945-AT-19 / Expanded Noticing)

WHEREAS, the Champaign County Zoning Administrator is requesting a text amendment to the Champaign County Zoning Ordinance in Champaign County Case No. 945-AT-19 to address proposed large- and medium-scale photovoltaic (PV) solar arrays in the unincorporated areas of Champaign County. This amendment increases notification requirements to neighboring municipalities, addresses long-term leases, modifies public hearing timelines, comment periods, and assures continuation of operations; and

WHEREAS, the proposed text amendment has been submitted to the City of Urbana for review and is being considered by the City of Urbana under the name of “CCZBA-945-AT-19”; and

WHEREAS, pursuant to the provisions of State of Illinois Compiled Statutes 55 ILCS 5/5-12014 that states in cases of any proposed zoning amendment where the land affected lies within one-and-one-half (1-1/2) miles of the limits of a zoned municipality, the corporate authorities of the zoned municipality may by resolution issue written protest against the proposed text amendment; and

WHEREAS, the proposed text amendment is compatible with the Goals and Objectives and Future Land Use Map of the 2005 City of Urbana Comprehensive Plan; and

WHEREAS, the Urbana Plan Commission met on December 5, 2019, to consider the proposed text amendment and voted with eight ayes and zero nays to forward to the City Council a recommendation to defeat a resolution of protest; and

WHEREAS, the Urbana City Council, having duly considered all matters pertaining thereto, finds and determines that the proposed text amendment is not in the best interest of the City of Urbana.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. The City Council finds and determines that the facts contained in the above recitations are true.

Section 2. That the Urbana City Council hereby resolves that the City of Urbana, pursuant to the provisions of 55 ILCS 5/5-12014, does hereby APPROVE a Resolution of Protest against the proposed text amendment as presented in CCZBA-945-AT-19.

PASSED BY THE CITY COUNCIL this _____ day of _____, 2020.

AYES:

NAYS:

ABSTENTIONS:

Charles A. Smyth, City Clerk

APPROVED BY THE MAYOR this _____ day of _____, 2020.

Diane Wolfe Marlin, Mayor

RESOLUTION NO. 2020-01-003R

**A RESOLUTION OF PROTEST AGAINST A PROPOSED TEXT AMENDMENT TO
THE CHAMPAIGN COUNTY ZONING ORDINANCE**

(CCZBA-946-AT-19 / Expanded Noticing and Buffer)

WHEREAS, the Champaign County Zoning Administrator is requesting a text amendment to the Champaign County Zoning Ordinance in Champaign County Case No. 946-AT-19 to address proposed large- and medium-scale photovoltaic (PV) solar arrays in the unincorporated areas of Champaign County. This amendment increases notification requirements to neighboring municipalities, addresses long-term leases, modifies public hearing timelines, comment periods, assures continuation of operations, and increases the minimum separation between a proposed PV solar array and a municipality; and

WHEREAS, the proposed text amendment has been submitted to the City of Urbana for review and is being considered by the City of Urbana under the name of “CCZBA-946-AT-19”; and

WHEREAS, pursuant to the provisions of State of Illinois Compiled Statutes 55 ILCS 5/5-12014 that states in cases of any proposed zoning amendment where the land affected lies within one-and-one-half (1-1/2) miles of the limits of a zoned municipality, the corporate authorities of the zoned municipality may by resolution issue written protest against the proposed text amendment; and

WHEREAS, the proposed text amendment is compatible with the Goals and Objectives and Future Land Use Map of the 2005 City of Urbana Comprehensive Plan; and

WHEREAS, the Urbana Plan Commission met on December 5, 2019, to consider the proposed text amendment and voted with eight ayes and zero nays to forward to the City Council a recommendation to defeat of a resolution of protest; and

WHEREAS, the Urbana City Council, having duly considered all matters pertaining thereto, finds and determines that the proposed text amendment is not in the best interest of the City of Urbana.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. The City Council finds and determines that the facts contained in the above recitations are true.

Section 2. That the Urbana City Council hereby resolves that the City of Urbana, pursuant to the provisions of 55 ILCS 5/5-12014, does hereby APPROVE a Resolution of Protest against the proposed text amendment as presented in CCZBA-946-AT-19.

PASSED BY THE CITY COUNCIL this _____ day of _____, 2020.

AYES:

NAYS:

ABSTENTIONS:

Charles A. Smyth, City Clerk

APPROVED BY THE MAYOR this _____ day of _____, 2020.

Diane Wolfe Marlin, Mayor

RESOLUTION NO. 2020-01-004R

**A RESOLUTION OF PROTEST AGAINST A PROPOSED TEXT AMENDMENT TO
THE CHAMPAIGN COUNTY ZONING ORDINANCE**

(CCZBA-947-AT-19 / CR Zoning District Buffer)

WHEREAS, the Champaign County Zoning Administrator is requesting a text amendment to the Champaign County Zoning Ordinance in Champaign County Case No. 947-AT-19 to address proposed large- and medium-scale photovoltaic (PV) solar arrays in the unincorporated areas of Champaign County. This amendment eliminates the one-half-mile buffer requirement between a proposed PV solar array and a County CR, Conservation-Recreation Zoning District; and

WHEREAS, the proposed text amendment has been submitted to the City of Urbana for review and is being considered by the City of Urbana under the name of “CCZBA-947-AT-19”; and

WHEREAS, pursuant to the provisions of State of Illinois Compiled Statutes 55 ILCS 5/5-12014 that states in cases of any proposed zoning amendment where the land affected lies within one-and-one-half (1-1/2) miles of the limits of a zoned municipality, the corporate authorities of the zoned municipality may by resolution issue written protest against the proposed text amendment; and

WHEREAS, the proposed text amendment is compatible with the Goals and Objectives and Future Land Use Map of the 2005 City of Urbana Comprehensive Plan; and

WHEREAS, the Urbana Plan Commission met on December 5, 2019, to consider the proposed text amendment and voted with eight ayes and zero nays to forward to the City Council a recommendation to defeat a resolution of protest; and

WHEREAS, the Urbana City Council, having duly considered all matters pertaining thereto, finds and determines that the proposed text amendment is not in the best interest of the City of Urbana.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. The City Council finds and determines that the facts contained in the above recitations are true.

Section 2. That the Urbana City Council hereby resolves that the City of Urbana, pursuant to the provisions of 55 ILCS 5/5-12014, does hereby APPROVE a Resolution of Protest against the proposed text amendment as presented in CCZBA-947-AT-19.

PASSED BY THE CITY COUNCIL this _____ day of _____, 2020.

AYES:

NAYS:

ABSTENTIONS:

Charles A. Smyth, City Clerk

APPROVED BY THE MAYOR this _____ day of _____, 2020.

Diane Wolfe Marlin, Mayor

MINUTES OF A REGULAR MEETING

URBANA PLAN COMMISSION

DRAFT

DATE: December 5, 2019

TIME: 7:00 P.M.

PLACE: Urbana City Building
Council Chambers
400 South Vine Street
Urbana, IL 61801

MEMBERS PRESENT: Barry Ackerson, Dustin Allred, Jane Billman, Andrew Fell, Tyler Fitch, Lew Hopkins, Jonah Weisskopf, Chenxi Yu

STAFF PRESENT: Kevin Garcia, Planner II; Marcus Ricci, Planner II

OTHERS PRESENT: Jahnisi A., Karen Fresco, Carlin Hastings, Rolf Hudall, Malik Jackson, Michael Kilcullen, Andrew Koterias, Samantha Lenoach, Michael Mirrs, Nicole Mormando, Alice Novak, Maximo Pita, Charley Rasmussen, Eric Ziegler

COMMUNICATIONS

- Email from Susan Burgstrom regarding the splitting of CCZBA-947-AT-19 into two cases, CCZBA-947-AT-19 and CCZBA-971-AT-19.

NEW BUSINESS

CCZBA-945-AT-19 and CCZBA-946-AT-19 – A request by the Champaign County Zoning Administrator to amend the requirements in Section 6.1.5 B.(2) of the Champaign County Zoning Ordinance for a proposed photovoltaic (PV) solar farm located within one-and-one-half miles of a municipality.

CCZBA-947-AT-19 - A request by the Champaign County Zoning Administrator to amend the requirements in Section 6.1.5 B.(2) of the Champaign County Zoning Ordinance that requires a 0.5 mile separation between a proposed PV solar farm and the CR (Conservation Recreation) Zoning District.

CCZBA-971-AT-19 – A request by the Champaign County Zoning Administrator to amend the requirements in Section 6.1.5 Q.(4)e. of the Champaign County Zoning Ordinance to add requirements for financial assurance provided by financial institutions headquartered in Champaign County.

Chair Fitch opened these cases simultaneously. Marcus Ricci, Planner II, presented the staff report to the Plan Commission for Case Nos. CCZBA-945-AT-19 and CCZBA-946-AT-19. He began by explaining the purpose for each text amendment. He said City staff did not feel that either of the text amendments would negatively impact the City's ability to plan or manage growth. The difference between the two cases is that CCBA-946-AT-19 would increase the distance that a solar farm could site from the City's Corporate limits, unless the developer receives a waiver from the Champaign County Zoning Board of Appeals for the buffer distance.

Chair Fitch asked if any members of the Plan Commission had questions for City staff regarding CCZBA-945-AT-19 and CCZBA-946-AT-19.

Mr. Fell asked if the City of Urbana could add a regulation stating that we are okay with a half-mile separation. It seemed counter-productive for municipalities to agree to the mile-and-a-half separation requirement, but then Champaign County can overrule it and allow a half-mile separation. Mr. Ricci replied that the City has no zoning authority outside of the Corporate limits. Therefore, the City cannot regulate the separation distance.

Mr. Ackerson wondered if Champaign County wanted the City to choose which distance would be acceptable or if they wanted the City to approve both options. Mr. Ricci responded that the City could recommend defeating a resolution of protest for one case and protesting the other case; however, if the City does not have strong feelings either way for the separation distance, then it could defeat a resolution of protest for both cases. Mr. Ackerson commented that CCZBA-946-AT-19 seemed redundant to CCZBA-945-AT-19.

Mr. Hopkins stated that from the perspective of the City of Urbana, he could imagine that we would want solar farms within zero distance from our boundary. While there may be other reasons, the most obvious reason would be to increase our tax base. The City's only option would be to persuade Champaign County to allow a solar farm or to annex the property. Mr. Ricci stated that one thing mentioned when they were reviewing the City's regulations on solar farms was that the City would like solar farms to be located in certain places, avoiding areas where infrastructure had already been installed and causing the infrastructure to be underused.

Mr. Ricci continued his staff presentation by discussing Case Nos. CCZBA-947-AT-19 and CCZBA-971-AT-19. He explained the purpose for each of the two cases.

Chair Fitch asked if any members of the Plan Commission had questions for City staff regarding CCZBA-947-AT-19 and CCZBA-971-AT-19. City staff did not feel that either of the text amendments would negatively impact the ability of a solar farm siting next to the City.

Mr. Hopkins asked for clarification for the purpose of CCZBA-971-AT-19. Mr. Ricci understood that the one institution that would be able to financially back a solar farm does not have a "S&P" or Moody's credit rating. Champaign County wanted to establish a comparable credit rating in a different system.

Chair Fitch opened the cases for public input. There was none, so Chair Fitch closed the public input portion and opened the cases for Plan Commission discussion and/or motion(s). He

reviewed the options of the Plan Commission for Case Nos. CCZBA-945-AT-19 and CCZBA-946-AT-19.

Mr. Hopkins stated that he was inclined to defeat a resolution for both cases because municipalities in Champaign County have asked for the separation distance. If the City of Urbana wants a solar farm closer to Corporate limits, we have the resources to accomplish this through the development and annexation points of view and by expecting behavior from Champaign County. Some of the small municipalities may not have the resources and find a solar farm near to them too late in the game.

Mr. Ackerson moved that the Plan Commission forward Case Nos. CCZBA-945-AT-19 and CCZBA-946-AT-19 to the City Council with a recommendation to defeat a resolution of protest for each case. Mr. Hopkins seconded the motion. Roll call on the motion was as follows:

Mr. Hopkins	-	Yes	Mr. Weisskopf	-	Yes
Ms. Yu	-	Yes	Mr. Ackerson	-	Yes
Mr. Allred	-	Yes	Ms. Billman	-	Yes
Mr. Fell	-	Yes	Mr. Fitch	-	Yes

The motion passed by unanimous vote.

Mr. Hopkins moved that the Plan Commission forward Case No. CCZBA-947-AT-19 to the City Council with a recommendation to defeat a resolution of protest. Ms. Billman seconded the motion. Roll call on the motion was as follows:

Mr. Allred	-	Yes	Ms. Billman	-	Yes
Mr. Fell	-	Yes	Mr. Fitch	-	Yes
Mr. Hopkins	-	Yes	Mr. Weisskopf	-	Yes
Ms. Yu	-	Yes	Mr. Ackerson	-	Yes

The motion passed by unanimous vote.

Mr. Fell moved that the Plan Commission forward Case No. CCZBA-971-AT-19 to the City Council with a recommendation to defeat a resolution of protest. Mr. Hopkins seconded the motion. Roll call on the motion was as follows:

Mr. Allred	-	Yes	Mr. Ackerson	-	Yes
Ms. Yu	-	Yes	Mr. Weisskopf	-	Yes
Mr. Hopkins	-	Yes	Mr. Fitch	-	Yes
Mr. Fell	-	Yes	Ms. Billman	-	Yes

The motion passed by unanimous vote.

Mr. Garcia noted that these four cases would be forwarded to the City Council on December 16, 2019.

Exhibit A: Current Solar Farm Zoning Ordinance Text

ATTACHMENT B. Existing Section 6.1.5B.(2) of the Champaign County Zoning Ordinance
FEBRUARY 27, 2019

The existing Section 6.1.5B.(2) is as follows:

- (2) The PV SOLAR FARM County Board SPECIAL USE permit shall not be located in the following areas:
 - a. Less than one-and-one-half miles from an incorporated municipality that has a zoning ordinance unless the following is provided:
 - (a) No part of a PV SOLAR FARM shall be located within a contiguous urban growth area (CUGA) as indicated in the most recent update of the CUGA in the Champaign County Land Resource Management Plan, and there shall be a separation of one-half mile from a proposed PV SOLAR FARM to a municipal boundary at the time of application for the SPECIAL USE Permit, except for any power lines of 34.5 kVA or less and except for any proposed PV SOLAR FARM substation and related proposed connection to an existing substation.
 - (b) The PV SOLAR FARM SPECIAL USE permit application shall include documentation that the applicant has provided a complete copy of the SPECIAL USE permit application to any municipality within one-and-one-half miles of the proposed PV SOLAR FARM.
 - (c) If no municipal resolution regarding the PV SOLAR FARM is received from any municipality located within one-and-one-half miles of the PV SOLAR FARM prior to the consideration of the PV SOLAR FARM SPECIAL USE permit by the Champaign County Board, the ZONING ADMINISTRATOR shall provide documentation to the County Board that any municipality within one-and-one-half miles of the PV SOLAR FARM was provided notice of the meeting dates for consideration of the proposed PV SOLAR FARM SPECIAL USE Permit for both the Environment and Land Use Committee and the County Board.
 - b. Less than one-half mile from the CR Conservation Recreation Zoning District.

Cases 945-AT-19 & 946-AT-19
ZBA 09/26/19, Attachment 2 Page 3 of 6

Case 945-AT-19	Case 946-AT-19
<p>1. Revise Section 6.1.5B.(2) as follows: (2) The PV SOLAR FARM County Board SPECIAL USE permit shall not be located in the following areas:</p> <p>a. Less than one-and-one-half miles from an incorporated municipality that has a zoning ordinance <u>except for any power lines of 34.5 kVA or less and any related proposed connection to an existing substation. Any request for a waiver of this minimum separation shall include unless the following is provided:</u></p> <p>(a) No part of a PV SOLAR FARM shall be located within a contiguous urban growth area (CUGA) as indicated in the most recent update of the CUGA in the Champaign County Land Resource Management Plan, and there shall be a separation of one-half mile from a proposed PV SOLAR FARM to a municipal boundary at the time of application for the SPECIAL USE Permit, except for any power lines of 34.5 kVA or less and except for any proposed PV SOLAR FARM substation and related proposed connection to an existing substation.</p> <p>(b) The ZONING ADMINISTRATOR shall notify in writing any municipality that is located within one-and one-half miles of any proposed PV SOLAR FARM upon the receipt of any substantial PV SOLAR FARM SPECIAL USE permit application in addition to any notice otherwise required.</p> <p>(bc) The PV SOLAR FARM SPECIAL USE permit application shall include documentation that the applicant has provided a complete copy of the SPECIAL USE permit application to any municipality within one-and-one-half miles of the proposed PV SOLAR FARM.</p> <p>(d) Municipal subdivision approval for any PV SOLAR FARM land lease exceeding five years may be required by any relevant municipal authority that has an adopted comprehensive plan and when required said subdivision approval shall be necessary for compliance with Section 13.2.1.</p>	<p>1. Revise Section 6.1.5B.(2) as follows: (2) The PV SOLAR FARM County Board SPECIAL USE permit shall not be located in the following areas:</p> <p>a. Less than one-and-one-half miles from an incorporated municipality that has a zoning ordinance <u>except for any power lines of 34.5 kVA or less and any related proposed connection to an existing substation. Any request for a waiver of this minimum separation shall include unless the following is provided:</u></p> <p>(a) No part of a PV SOLAR FARM shall be located within a contiguous urban growth area (CUGA) as indicated in the most recent update of the CUGA in the Champaign County Land Resource Management Plan, and there shall be a separation of one-half mile from a proposed PV SOLAR FARM to a municipal boundary at the time of application for the SPECIAL USE Permit, except for any power lines of 34.5 kVA or less and except for any proposed PV SOLAR FARM substation and related proposed connection to an existing substation.</p> <p>(b) The ZONING ADMINISTRATOR shall notify in writing any municipality that is located within one-and one-half miles of any proposed PV SOLAR FARM upon the receipt of any substantial PV SOLAR FARM SPECIAL USE permit application in addition to any notice otherwise required.</p> <p>(bc) The PV SOLAR FARM SPECIAL USE permit application shall include documentation that the applicant has provided a complete copy of the SPECIAL USE permit application to any municipality within one-and-one-half miles of the proposed PV SOLAR FARM.</p> <p>(d) Municipal subdivision approval for any PV SOLAR FARM land lease exceeding five years may be required by any relevant municipal authority that has an adopted comprehensive plan and when required said subdivision approval shall be necessary for compliance with Section 13.2.1.</p>
<p>1. Revise Section 6.1.5B.(2) as follows: (2) The PV SOLAR FARM County Board SPECIAL USE permit shall not be located in the following areas:</p> <p>a. Less than one-and-one-half miles from an incorporated municipality that has a zoning ordinance <u>except for any power lines of 34.5 kVA or less and any related proposed connection to an existing substation. Any request for a waiver of this minimum separation shall include unless the following is provided:</u></p> <p>(a) No part of a PV SOLAR FARM shall be located within a contiguous urban growth area (CUGA) as indicated in the most recent update of the CUGA in the Champaign County Land Resource Management Plan, and there shall be a separation of one-half mile from a proposed PV SOLAR FARM to a municipal boundary at the time of application for the SPECIAL USE Permit, except for any power lines of 34.5 kVA or less and except for any proposed PV SOLAR FARM substation and related proposed connection to an existing substation.</p> <p>(b) The ZONING ADMINISTRATOR shall notify in writing any municipality that is located within one-and one-half miles of any proposed PV SOLAR FARM upon the receipt of any substantial PV SOLAR FARM SPECIAL USE permit application in addition to any notice otherwise required.</p> <p>(bc) The PV SOLAR FARM SPECIAL USE permit application shall include documentation that the applicant has provided a complete copy of the SPECIAL USE permit application to any municipality within one-and-one-half miles of the proposed PV SOLAR FARM.</p> <p>(d) Municipal subdivision approval for any PV SOLAR FARM land lease exceeding five years may be required by any relevant municipal authority that has an adopted comprehensive plan and when required said subdivision approval shall be necessary for compliance with Section 13.2.1.</p>	<p>1. Revise Section 6.1.5B.(2) as follows: (2) The PV SOLAR FARM County Board SPECIAL USE permit shall not be located in the following areas:</p> <p>a. Less than one-and-one-half miles from an incorporated municipality that has a zoning ordinance <u>except for any power lines of 34.5 kVA or less and any related proposed connection to an existing substation. Any request for a waiver of this minimum separation shall include unless the following is provided:</u></p> <p>(a) No part of a PV SOLAR FARM shall be located within a contiguous urban growth area (CUGA) as indicated in the most recent update of the CUGA in the Champaign County Land Resource Management Plan, and there shall be a separation of one-half mile from a proposed PV SOLAR FARM to a municipal boundary at the time of application for the SPECIAL USE Permit, except for any power lines of 34.5 kVA or less and except for any proposed PV SOLAR FARM substation and related proposed connection to an existing substation.</p> <p>(b) The ZONING ADMINISTRATOR shall notify in writing any municipality that is located within one-and one-half miles of any proposed PV SOLAR FARM upon the receipt of any substantial PV SOLAR FARM SPECIAL USE permit application in addition to any notice otherwise required.</p> <p>(bc) The PV SOLAR FARM SPECIAL USE permit application shall include documentation that the applicant has provided a complete copy of the SPECIAL USE permit application to any municipality within one-and-one-half miles of the proposed PV SOLAR FARM.</p> <p>(d) Municipal subdivision approval for any PV SOLAR FARM land lease exceeding five years may be required by any relevant municipal authority that has an adopted comprehensive plan and when required said subdivision approval shall be necessary for compliance with Section 13.2.1.</p>

Exhibit B: Comparison of Mark-ups of Cases 945-AT-19 and 946-AT-19

<p>(e) <u>The public hearing for any proposed PV SOLAR FARM that is located within one-and-one-half miles of a municipality that has a zoning ordinance shall occur at a minimum of two BOARD meetings that are not less than 28 days apart to provide time for municipal comments during the public hearing, unless the 28-day comment period is waived in writing by any relevant municipality.</u></p> <p>(ef) <u>For any proposed PV SOLAR FARM that is located within one-and-one-half miles of a municipality that has a zoning ordinance, the ZONING ADMINISTRATOR shall notify said municipality of the recommendation by the BOARD after the close of the public hearing.</u></p> <p>(eg) <u>After the initial review of the BOARD recommendation for the PV SOLAR FARM SPECIAL USE permit by the Environment and Land Use Committee of the COUNTY BOARD, if the Environment and Land Use Committee makes a preliminary determination to accept the BOARD recommendation, the PV SOLAR FARM SPECIAL USE permit shall remain at the Environment and Land Use Committee for a maximum 30-day comment period, or until the next regularly scheduled meeting, to allow comments regarding the PV SOLAR FARM SPECIAL USE permit to be received from any relevant municipal authority prior to the Environment and Land Use Committee recommendation to the County Board, unless the municipal comment period is waived in writing by any relevant municipality. If a PV SOLAR FARM is not located within one-and-one-half miles of a municipality the Environment and Land Use recommendation can be referred to the County Board without a municipal comment period.</u></p> <p>(eh) <u>If no municipal resolution regarding the PV SOLAR FARM is received from any municipality located within one-and-one-half miles of the PV SOLAR FARM prior to the consideration of the PV SOLAR FARM SPECIAL USE permit by the Champaign County Board, the ZONING ADMINISTRATOR</u></p>	<p>(e) <u>The public hearing for any proposed PV SOLAR FARM that is located within one-and-one-half miles of a municipality that has a zoning ordinance shall occur at a minimum of two BOARD meetings that are not less than 28 days apart to provide time for municipal comments during the public hearing, unless the 28-day comment period is waived in writing by any relevant municipality.</u></p> <p>(ef) <u>For any proposed PV SOLAR FARM that is located within one-and-one-half miles of a municipality that has a zoning ordinance, the ZONING ADMINISTRATOR shall notify said municipality of the recommendation by the BOARD after the close of the public hearing.</u></p> <p>(eg) <u>After the initial review of the BOARD recommendation for the PV SOLAR FARM SPECIAL USE permit by the Environment and Land Use Committee of the COUNTY BOARD, if the Environment and Land Use Committee makes a preliminary determination to accept the BOARD recommendation, the PV SOLAR FARM SPECIAL USE permit shall remain at the Environment and Land Use Committee for a maximum 30-day comment period, or until the next regularly scheduled meeting, to allow comments regarding the PV SOLAR FARM SPECIAL USE permit to be received from any relevant municipal authority prior to the Environment and Land Use Committee recommendation to the County Board, unless the municipal comment period is waived in writing by any relevant municipality. If a PV SOLAR FARM is not located within one-and-one-half miles of a municipality the Environment and Land Use recommendation can be referred to the County Board without a municipal comment period.</u></p> <p>(eh) <u>If no municipal resolution regarding the PV SOLAR FARM is received from any municipality located within one-and-one-half miles of the PV SOLAR FARM prior to the consideration of the PV SOLAR FARM SPECIAL USE permit by the Champaign County Board, the ZONING ADMINISTRATOR</u></p>
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Exhibit B: Comparison of Mark-ups of Cases 945-AT-19 and 946-AT-19

<p>shall provide documentation to the County Board that any municipality within one-and-one-half miles of the PV SOLAR FARM was provided notice of the meeting dates for consideration of the proposed PV SOLAR FARM SPECIAL USE Permit for both the Environment and Land Use Committee and the County Board.</p>	<p>shall provide documentation to the County Board that any municipality within one-and-one-half miles of the PV SOLAR FARM was provided notice of the meeting dates for consideration of the proposed PV SOLAR FARM SPECIAL USE Permit for both the Environment and Land Use Committee and the County Board.</p>
<p>2. Add the following to Section 8.2.3 at the end: The requirements of Section 8.2.3 shall not apply to any PV SOLAR FARM authorized prior to <u>{effective date of this amendment}</u> or PV SOLAR FARM equipment that is in the process of being repaired or replaced.</p>	<p>2. Add the following to Section 8.2.3 at the end: The requirements of Section 8.2.3 shall not apply to any PV SOLAR FARM authorized prior to <u>{effective date of this amendment}</u> or PV SOLAR FARM equipment that is in the process of being repaired or replaced.</p>
<p>3. Add new Section 8.2.4 as follows: For purposes of applicability of this Section 8.2 to any PV SOLAR FARM, any PV SOLAR FARM for which a SPECIAL USE permit had been authorized prior to <u>{effective date of this amendment}</u>, said PV SOLAR FARM may be constructed in compliance with the SPECIAL USE permit and subject to a duly approved Zoning Use Permit so long as the construction shall be consistent with the SPECIAL USE permit expiration requirements of Section 6.1.5T. and any special conditions of approval that may be applicable.</p>	<p>3. Add new Section 8.2.4 as follows: For purposes of applicability of this Section 8.2 to any PV SOLAR FARM, any PV SOLAR FARM for which a SPECIAL USE permit had been authorized prior to <u>{effective date of this amendment}</u>, said PV SOLAR FARM may be constructed in compliance with the SPECIAL USE permit and subject to a duly approved Zoning Use Permit so long as the construction shall be consistent with the SPECIAL USE permit expiration requirements of Section 6.1.5T. and any special conditions of approval that may be applicable.</p>

Exhibit C: Proposed Marked-up Text of Case 947-AT-19

PROPOSED AMENDMENT FOR CASE 947-AT-19

1. Delete existing Section 6.1.5 B.(2)b.:
 - (2) The PV SOLAR FARM County Board SPECIAL USE permit shall not be located in the following areas:
 - a. Less than one-and-one-half miles from an incorporated municipality that has a zoning ordinance unless the following is provided:
 - (a) No part of a PV SOLAR FARM shall be located within a contiguous urban growth area (CUGA) as indicated in the most recent update of the CUGA in the Champaign County Land Resource Management Plan, and there shall be a separation of one-half mile from a proposed PV SOLAR FARM to a municipal boundary at the time of application for the SPECIAL USE Permit, except for any power lines of 34.5 kVA or less and except for any proposed PV SOLAR FARM substation and related proposed connection to an existing substation.
 - (b) The PV SOLAR FARM SPECIAL USE permit application shall include documentation that the applicant has provided a complete copy of the SPECIAL USE permit application to any municipality within one-and-one-half miles of the proposed PV SOLAR FARM.
 - (c) If no municipal resolution regarding the PV SOLAR FARM is received from any municipality located within one-and-one-half miles of the PV SOLAR FARM prior to the consideration of the PV SOLAR FARM SPECIAL USE permit by the Champaign County Board, the ZONING ADMINISTRATOR shall provide documentation to the County Board that any municipality within one-and-one-half miles of the PV SOLAR FARM was provided notice of the meeting dates for consideration of the proposed PV SOLAR FARM SPECIAL USE Permit for both the Environment and Land Use Committee and the County Board.
 - b. ~~Less than one-half mile from the CR Conservation Recreation Zoning District.~~