Resolution of the County Board of Kankakee County, Illinois

RE:  ZBA CASE #18-30; SPECIAL USE PERMIT SECTION 121-99.C.34 (SOLAR FARM) IN THE A1-AGRICULTURAL DISTRICT SECTION 30 OTTO TOWNSHIP (BUR CREEK COMMUNITY SOLAR)

WHEREAS, an application pursuant to the terms of the Kankakee County Zoning Ordinance, has been filed by Frank L. Barbieri and Jerome Barbieri, property owners and Solar Provider Group IL, LLC (Bur Creek Community Solar), applicant, in the Office of the County Clerk of Kankakee County for a Special Use Permit to Section 121-99.C.34 (Solar Farm) in the A1-Agricultural District, on a parcel legally described herein Exhibit A, a copy of which is attached; and,

WHEREAS, the Zoning Board of Appeals held a duly noticed public hearing, on the application on July 23, 2018 and from the testimony and evidence presented findings were made as described in Exhibit B, a copy is attached and the ZBA recommends that the request of Frank L. Barbieri and Jerome Barbieri, property owners and Solar Provider Group IL, LLC (Bur Creek Community Solar), applicant, be denied; and,

WHEREAS, the Planning, Zoning, and Agriculture Committee (PZA), at its regularly scheduled and duly noticed meeting of August 22, 2018 having reviewed, discussed and considered the matter, has denied the request adopted the findings and the recommendation of the Zoning Board of Appeals, Exhibit B; and,

WHEREAS, all matters required by law of the State of Illinois and the Zoning Ordinance of Kankakee County have been completed; and,

WHEREAS the County Board at its regularly scheduled meeting of September 11, 2018 after review, discussion, and consideration, agrees with the findings of the Zoning Board of Appeals and committee minutes of the PZA Committee, and finds that the conclusions expressed are both reasonable and rationally supported by the evidence presented, and the special use permit will be detrimental to the public health, safety, and economic and general welfare.

NOW, THEREFORE, be it resolved by the Kankakee County Board, State of Illinois as follows:

1. The findings of the Zoning Board of Appeals are hereby approved, confirmed, ratified, and adopted and the conclusions of the Planning, Zoning and Agriculture Committee based upon those findings are rational and in the public interest.

2. The findings, conclusions and recommendation expressed in the minutes of the Planning, Zoning, and Agriculture Committee meeting of August 22, 2018 are also supported by the record and are in the public interest and are also approved, confirmed, ratified and adopted.
3. Special Use Permit to Section 121-99.c.34 (Solar Farm) in the A1-Agricultural District, be denied on a parcel legally described in Exhibit A, a copy of which is attached herein and made a part hereof.

PASSED and adopted this 11th day of September 2018.

Andrew H. Wheeler, County Board Chairman

ATTEST:

Dan Hendrickson, County Clerk
LEGAL DESCRIPTION:
A PARCEL OF LAND IN THE NORTHEAST FRACTIONAL QUARTER OF SECTION 30, TOWNSHIP 30 NORTH, RANGE 14 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN KANKAKEE COUNTY, ILLINOIS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHEAST CORNER OF THE NORTHEAST FRACTIONAL QUARTER OF SECTION 30, THENCE SOUTH 00 DEGREES 04 MINUTES 50 SECONDS EAST ON THE EAST LINE OF THE NORTHEAST FRACTIONAL QUARTER, A DISTANCE OF 1335.66 FEET TO A RAILROAD SPIKE, THENCE SOUTH 89 DEGREES 24 MINUTES 07 SECONDS WEST, A DISTANCE OF 489.25 FEET TO THE POINT OF BEGINNING FOR THIS LAND DESCRIPTION, THENCE CONTINUING SOUTH 89 DEGREES 24 MINUTES 07 WEST, A DISTANCE OF 839.55 FEET TO A POINT, THENCE NORTH 00 DEGREES 07 MINUTES 49 SECONDS EAST, A DISTANCE OF 1335.06 FEET TO A POINT ON THE NORTH LINE OF THE NORTHEAST FRACTIONAL QUARTER, THENCE NORTH 89 DEGREES 22 MINUTES 23 SECONDS EAST ON THE SAID NORTH LINE, A DISTANCE OF 339.03* FEET TO A POINT, THENCE SOUTH 00 DEGREES 04 MINUTES 50 SECONDS EAST, A DISTANCE OF 500.00 FEET TO A POINT, THENCE NORTH 89 DEGREES 22 MINUTES 23 SECONDS EAST, A DISTANCE OF 435.63 FEET TO A POINT, THENCE SOUTH 00 DEGREES 04 MINUTES 50 SECONDS EAST, A DISTANCE OF 835.45 FEET TO THE POINT OF BEGINNING. *IT IS OF OUR OPINION THAT THE DISTANCE CALLED AS 339.03 FEET TO BE A PROBABLE SCRIVENER ERROR AND SHOULD BE 399.03 FEET.
FINDINGS OF FACT AND RECOMMENDATION
OF THE KANKAKEE COUNTY ZONING BOARD OF APPEALS

This is the findings of fact and the recommendation of the Kankakee County Zoning Board of Appeals concerning an application from property owners Frank L. Barbieri and Jerome Barbieri and applicant Solar Provider Group IL, LLC in ZBA Case No. 18-30. The applicant and owners are seeking a special use permit to allow the construction of a 2MWac community solar garden, known as Bur Creek Community Solar, along the south side of Illinois Route 115 approximately 800’ west of 8000 W Road in Otto Township.

The project will encompass the entire 20.66 acre site. The site is within 1.5 miles of the Village of Irwin, however, the Village does not possess an adopted comprehensive plan.

After due notice required by law, the ZBA held a public hearing on this case on July 23, 2018 in the County Board Room, 4th Floor, Kankakee County Administration Building, Kankakee, Illinois, and hereby report their findings of fact and their recommendation as follows:

Site Information: See Staff Report (attached herewith).

Public Comments: (Refer to transcripts for full details)

Jeff Morgan – An adjoining property owner stated that water from the property runs to the east and north and that he has concerns about additional water that this project may create.

Jeff Bruer – An adjoining property owner also had concerns about storm water and the amount of impervious surface a solar farm would produce and other drainage issues. The applicant’s representative could not answer the questions. He also had questions about the chain link fence and its ability to keep his bulls out of the solar farm.

Lorianne Bruer – An adjoining property owner had concerns about the health of animals and people due to the amounts of radiation that she believes a solar farm would produce. She also stated that silicon is a hazardous substance and that birds would be disintegrated. She also stated that solar farms change the climate, will cause changes to wind flow and rain and that the dust on the panels contained silicon which is harmful to humans as it causes silicacosis. She submitted printouts from the internet to support her claims.
Carry Morgan — An adjoining property owner had questions concerning the use of the remainder of the parcel. She also stated that the solar farm will destroy the life they have built for themselves.

Jolene Maas — An adjoining property owner had questions concerning the company's ownership by international partners and questions about the decommissioning plan. She also had questions concerning breakage of the panels and contamination of wells.

James Maas — An adjoining property owner asked how the solar farm would connect to the grid and how the connection is protected.

Thomas Hort — An adjoining property owner objected to the project. He has concerns about the pile driving activities and how they would affect the clay tile system. He believes the racking system would be lightning rods which would cause issues with gas pipelines. He also stated that mowing only 4 times per year would destroy property values and the activity will harm his lifestyle.

**Analysis of Six Standards:** After considering all the evidence and testimony presented at the public hearing, the Board makes the following analysis of the six (6) standards listed in Section 17.03.F4 (Standards for Special Uses) of the Kankakee County Zoning Ordinance that must all be found in the affirmative prior to recommending granting of the petition.

1. **That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.**

The Board finds the establishment, maintenance, and operation of Bur Creek Community Solar (the special use) will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of Kankakee County nor its residents. Because a community solar farm is a renewable-energy-generation facility, the potential for negative impacts on the community are low while the potential to positively affect the environment and sustainability of Kankakee County is high.

The establishment of the special use during the 10- to 15-week construction period will be the busiest phase of the 15-year life of the community solar farm, with potential nuisances arising from construction activity, noise, and traffic to and from the site. These potential nuisances are common during the construction of other permitted uses in the A1-Agricultural zoning district, such as single-family dwellings, agriculturally-related offices, and ethanol plants. Similarly, trucks and tractors present during construction would be like trucks and tractors used to tend the fields that surround the project site. The nearest homes are between 260-360 ft. from the project site. There are no sidewalks along this stretch of IL-115. Thus, with limited exposure and proximity to the construction activity, the risk of endangerment of public health and safety or negative impacts on public comfort and welfare are low. As for the those who will be performing the construction and interconnection, this applicant will be contracting professionals licensed by Kankakee County and collaborating...
with ComEd staff on any upgrades to the electrical infrastructure to the
site and interconnection to the grid. The establishment of the special use
will not be detrimental to environmental assets in Kankakee County.
Rather, compliance with erosion control and stormwater management
standards during construction, low impact on the underlying farmland,
return of the land to agricultural use upon decommissioning, and the
relative benefits of electricity generated from solar compared to fossil
fuels and nuclear are all virtues of the special use.

Once established, the community solar farm will require infrequent
maintenance and generate minimal traffic to and from the site. Post
construction and under normal circumstances, maintenance personnel will
visit the site 6 to 12 times per year. Maintaining the site will primarily
consist of weed and grass control, upkeep of any landscaping, and repairs
in the event of mechanical issues or damage to the facility. Maintaining
the facility will require mowing and landscaping equipment and, where
warranted by mechanical issues or damage, small utility vehicles such as
a Bobcat or a small pile driver. This equipment will be comparable,
though smaller, to the equipment used on the adjacent agricultural land
uses. Further, the special use will be kept in a consistent state of good
condition, the method for which is outlined in Exhibit K: Operations &
Maintenance Plan. The infrequent presence of personnel required to
maintain the special use and the maintenance itself will not have a
detrimental effect on public health, safety, morals, comfort, or welfare.

Operation of the special use will be the simplest of the 3 phases. The
community solar farm harvests sunlight to generate electricity, which is
channeled back into the grid using equipment pre-authorized by ComEd.
Solar generation is a very safe and clean process. The panels themselves
do not emit noise or byproduct. The inverters and motorized tilting of the
panels do produce sound. However, this project uses inverters placed at
the end of every row of panels—known as string inverters—which are
smaller, producing a quieter sound compared to traditional central
inverters. Tilting will occur periodically but will not cause a nuisance.
Exhibit L: Noise Analysis expands on the manufacturer's specifications
and how the noise from the special use will not affect adjacent properties.
The solar equipment required for operation would be set back 100 feet
from roads, and 50 or 100 feet from rear- and side-lot lines (as
applicable), thereby reducing the risk of glare. To further reduce the risk
to public health, safety, and welfare, the entire perimeter of the site will
be fenced, enclosing all equipment and access roads. The site will be
accessible by emergency responders, with Knox Boxes and contact
information for the owner and/or manager of the facility placed at the
facility’s entrance.

Exhibit 3: Emergency Response Plan outlines protocols for situations
requiring fire and medical responders. Day-to-day control of the
community solar farm is managed virtually. Operation of the site will not
threaten the environment, groundwater, residents, passersby, nor
potential for the land to be returned to agricultural use or sold. Instead,
operation of the community solar farm will offer residents of the county
access to clean, renewable electricity generation. Over the 15-year service life, with a financial surety committed to the system’s decommissioning, Kankakee County would have the ability to remove the project with no financial impact if it in any way endangers public health, safety, morals, comfort, or general welfare.

2. That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.

The Board finds solar farm construction and operation at this location would be detrimental to the enjoyment of surrounding properties for the purposes already permitted.

3. That the establishment of the special use will not substantially impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

The Board finds that the community solar farm special use will not in any way impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. The primary use in the A1-Agricultural zoning district is farming. As discussed previously, the community solar farm will be seamlessly integrated with the existing adjacent agricultural land uses and screened from the residential land uses. Thus, new or alternative farming practices and crops will not affect nor be affected by the community solar farm. Development of other non-farming practices allowed within the A1-Agricultural districts will occur unimpeded for several reasons:

- Zoning setbacks for community solar farms in the A1-Agricultural district are 100 feet along roads and 50 feet along rear- and side-lot lines; and 100 feet where residential uses are present. These ensure that the solar farm will not encroach upon uses or future uses on adjacent parcels.
- The special use does not require easements—on the project parcel or to cross adjacent parcels—that would limit future development opportunities.
- No rezoning or variances are being sought.
- It is a temporary special use with an anticipated service life of 15 years. A decommissioning plan and financial surety will ensure the restoration of the land upon the system’s expiry.
- In no way does it physically, environmentally, or culturally impede development on adjacent properties.

The 2030 Kankakee County Comprehensive Plan discusses at length the county’s need to preserve its rural and small-town character. The impetus for this policy stems from the rising costs of providing services to unorganized developments in the outlying county. To mitigate unplanned costs and realize the vision put forth in the comprehensive plan, Kankakee County’s preferred Town and Country Land Use Scenario
encourages development around existing urban areas while preserving agricultural land. Being temporary with no long-term effects on the underlying or surrounding land, the special use will aid the county’s efforts to retain its potential for agriculture. Further, the facility does not require any water or sewer services, new or improved public roads, nor any other public accommodation. The community solar farm will, however, require use of the ComEd electrical lines near the site, by interconnecting to feed energy into the grid. Any upgrades triggered by this interconnection will be identified by ComEd, paid for by the owner of the community solar farm, and completed prior to the commercial operation date.

4. That adequate utilities, access roads, drainage, or necessary facilities have been or will be provided.

The Board finds that drainage issues and concerns have not been adequately addressed.

5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

The Board finds that the special use will make a negligible contribution to traffic congestion on IL-115 in Otto Township. The access driveway for the special use is approximately 1,200 feet west of the IL-115 / S 6000W Road intersection, and approximately 4,000 feet east of the IL-115 / S 7000W Road intersection. Further, the Kankakee County 2040 Long Range Transportation Plan makes no mention of this section of IL-115, suggesting low traffic volume and usage. That, along with the fact that personnel are only anticipated to visit the site—at most—once per month after the construction period, gives basis to the fact ingress to and egress from the special use will not cause irregular traffic patterns, congestion, or concerns. Thus, ingress and egress measures beyond a simple access driveway are not planned at the time of submission.

6. That the special use will, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the board.

The Board finds that the special use community solar farm will conform to the applicable regulations of Section 121-99. – Agricultural Districts (A1). (34) Solar Farm in the Kankakee County Zoning Ordinance in the following ways:

- The foundation and design of the solar panels will be certified by the applicable authority.
- The community solar farm will comply with all local, state, and federal regulation standards and the National Electric Code.
- All power and communication lines will be buried underground, apart from where the system is interconnected to the ComEd 3-phase
The community solar farm will be erected within a lot that is 21 acres.
- The tallest piece of equipment will be the photovoltaic array, which will not exceed 8 feet at maximum tilt.
- All solar and electrical equipment shall be setback 100 feet from IL-115, 100 feet from lots in residential use, and at least 50 feet from side and rear lot lines.
- The fence that surrounds the community solar farm will be 8 feet tall. There will be Knox Boxes with keys for emergency response personnel at all locked entrances to the special use.
- At the time of submission, no lighting is planned for the special use.
- Noise levels measured at the property line will not exceed 50 decibels. Exhibit L: Noise Analysis documents this.
- The community solar farm conforms with the performance standards listed in section 121-207.
- The transformer and AC equipment will be situated atop a bituminous surface within the area enclosed by fencing.

**Recommendation:** We find that the proposed special use requested does not meet all the standards for recommending granting as found in Section 17.03.F4 of the Kankakee County Zoning Ordinance and that such a request is in the public interest. Therefore, the Zoning Board of Appeals hereby recommends that the special use permit to establish a solar farm in the A1-Agriculture District on the property described in the application hereby be denied.

**Roll Call Vote:** The roll call vote was four (4) members for the motion to recommend denial, zero (0) opposed.

Respectfully submitted this 23rd day of June, 2018 by the Kankakee County Zoning Board of Appeals.

John Fetherling, Chairman – Aye
David Deyoung – Aye
William Sawyer– Aye
Edwin Meents – Absent
William Hemm– Aye
Beth Scanlon - Absent
Gene Raedemacher-Absent
STAFF REPORT

ZBA CASE 18-30
The applicant, Solar Provider Group IL, LLC and owners, Frank L. Barbieri and Jerome Barbieri are seeking a special use permit to allow the construction of a 2MW community solar garden known as Bur Creek Community Solar on property located along the south side of Illinois Route 115 approximately 800 west of 8000 W Road in Otto Township. The project will encompass the entire 20.66 acre site. The site is within 1.5 miles of the Village of Irwin, however, the Village does not possess an adopted comprehensive plan. Please refer to the application packet for detailed information about the project.

An aerial photograph of the general area can be seen above.
The following sections highlight the Petitioner's responses to the findings and the Planning Department's comments for the proposed special use permit.

Petitioner's Response:

The installation and operation of the solar farm will not represent a risk to public health, safety, morals, comfort, or welfare. The solar farm will be constructed and operated in a manner that minimizes potential noise and traffic impact. The solar farm will be designed and operated to minimize glare and visual impact. The solar farm will be designed to ensure safe access and egress for emergency responders. The solar farm will be regularly maintained to ensure the safety of the public.
Based on the information provided in the application packet, staff does not see now the行事 of this facility at this location will have any detrimental effects on the public health, safety, morals, convenience, property values, etc. of the neighborhood.

Planning Department Analysts:

Based on the information provided in the application packet, staff does not see now the行事 of this facility at this location will have any detrimental effects on the public health, safety, morals, convenience, property values, etc. of the neighborhood.

Two injury concerns are typically associated with solar energy facilities: ultraviolet light and electromagnetic fields. The U.S. Department of Energy's National Renewable Energy Laboratory (NREL) has dispelled both myths.

NREL states: "PV modules use non-reflective glass designed to absorb rather than reflect the light that hits the panels to convert solar energy into electricity. PV modules are generally less reflective than windows. Reflective solar panels designed to absorb rather than reflect, however, are more reflective than solar panels designed to reflect."
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The commercial operation data for the project... continues growing.

The community solar farm will be... renewable energy generation and the shading... solar farms do not have the same impact on property values. Therefore, any negative impact caused by the installation of solar panels on the property is likely to be minimal. The staff of the Kankakee County Planning Department encourages the consideration of community solar farms as a means to promote sustainable living and economic development within the district.

The 2030 Kankakee County Comprehensive Plan discusses at length the ... need to preserve its rural and small-town character.

The community solar farm is... in the Agricultural zoning district. The primary use in the Agricultural zoning district is farming. As discussed previously, the community solar farm will be screened from the residential land uses. The solar panels will be placed on roofs and in the form of structures, which will reduce the visual impact on the surrounding property and... adjacent properties.

The staff of the Kankakee County Planning Department encourages the consideration of community solar farms as a means to promote sustainable living and economic development within the district.

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The staff of the Kankakee County Planning Department encourages the consideration of community solar farms as a means to promote sustainable living and economic development within the district.

The 2030 Kankakee County Comprehensive Plan discusses at length the... need to preserve its rural and small-town character.
The Planning Department Analysis:

The project does not require sewer or water and it does not appear that there will be any effect on drainage patterns due to the limited nature of the proposed project. The proposed project does not involve sewer or water and it does not appear that there will be any effect on drainage patterns. Due to the limited nature of the proposed project.

The land to the east of the subject site is being used for large lot single-family residential purposes which is likely its highest and best use for the foreseeable future.

The land to the north, south, and west is predominantly being used for agricultural purposes in the form of mostly row crops such as corn and soybeans. All of these properties do not appear to be developed as agricultural land and it does not appear that the development of a solar farm at the intended location would impede the development of any of these surrounding properties for use that are already established or that would be permitted in the Agricultural District.

The Village of Irwin lies closely to the east and southeast of the subject site. The Village is a very small municipality of 14 people (U.S. Census 2010) which has not seen much growth since its incorporation in 1902. In fact, since its incorporation the Village has actually shrunk in size. The Village does not have a comprehensive plan and therefore the only plan for the area in and around the Village is that of Kankakee County. The Kankakee County Comprehensive Plan designates this area as Community Growth Area and the development of solar farm would certainly fall within the category of community growth.

It is not expected that the development of a solar farm on this site would have any significant impact on the Village of Irwin. The Village is very small and has not seen much growth since its incorporation. The development of a solar farm is not expected to have any significant impact on the Village. The Village does not have a comprehensive plan and therefore the only plan for the area in and around the Village is that of Kankakee County. The Kankakee County Comprehensive Plan designates this area as Community Growth Area and the development of a solar farm would certainly fall within the category of community growth.

The Planning Department Analysis:

The project does not require sewer or water and it does not appear that there will be any effect on drainage patterns due to the limited nature of the proposed project. The proposed project does not involve sewer or water and it does not appear that there will be any effect on drainage patterns. Due to the limited nature of the proposed project.

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The land to the north, south, and west is predominantly being used for agricultural purposes in the form of mostly row crops such as corn and soybeans. All of these properties do not appear to be developed as agricultural land and it does not appear that the development of a solar farm at the intended location would impede the development of any of these surrounding properties for use that are already established or that would be permitted in the Agricultural District.

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It appears that the property will conform with all other aspects of the Zoning Ordinance. The Board should ask the applicant to confirm this at the hearing.

Planning Department Analysis:

- The community solar farm will be located on a蝴蝶的表面 within the area encroached by the farm.
- The community solar farm conforms with the performance standards listed in Section 21-202.7.
- Noise levels measured at the property will not exceed 50 decibels. Exhibit A: Noise Analysis Documents.
- All signs of the subdivision do not conflict with the special use.
- The entire area of the subdivision is designated as a special use.
- The fence that surrounds the community solar farm will be 8 feet tall. There will be Knox Boxes with keys for emergency response personnel at all entrances.
- All solar and electrical equipment will be elevated 15 feet above the ground and at least 50 feet from side and rear lot lines.
- The tallest piece of equipment will be the photovoltaic array, which will not exceed 5 feet at maximum height.
- The community solar farm will be connected with a total of 2 acres.
- All power and communication lines will be buried underground. Area rooms where the system is interconnected to the central grid.
- The foundation and design of the solar panels will be certified by the applicable authorities.
- The community solar farm will conform to the applicable regulations of Section 121-99. Agricultural Districts (A)(3). Solar Farm in the

Kankakee County Zoning Ordinance:

- Each instance, be modeled by the Board.

- If, will the special use in all other aspects of the Zoning Ordinance. The Board may in

- The applicant has stated that after initial construction, maintenance personnel will be minimal. If this is true, there should be no traffic issue arising from the

Planning Department Analysis:

- The access to the special use area will not cause any traffic patterns, congestion, or confusion. Thus, ingress and egress measures ensured a simple access drive.
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Kankakee County Zoning Ordinance:

- The special use area will make no mention of the section of 121-99. Accessory Structures and the Agricultural Ordinance. Further, the access driveway for the special use is approximately

Preliminary Response:

C. Explain how it is expected that access to the property will be taken to provide ingress and egress to the property. Traffic conditions in the public

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By their nature, uses subject to a special use permit generally have a higher intensity or have a greater potential to adversely affect surrounding properties than permitted uses in a zoning district. Because of this fact and the need for these uses to gain special approval, conditions may be required that will help support agricultural uses.

1. All ground cover established on the site shall be a type which is pollinator friendly to help encourage pollination.
2. All landscaping that may be required shall abide by any and all rules as outlined in the weed and grass control plan and is subject to the same penalties as weed and grass for care and maintenance.
3. All proposed conditions as approved by the Planning Board shall be imposed by the Zoning Board of Appeals and the Kane County Board prior to approval. These conditions may be modified or removed by the Zoning Board of Appeals and the Kane County Board prior to approval.

Proposed Conditions (If Approved):