

**Lee County Board
Dixon, Illinois**

RESOLUTION NO. _____

**A RESOLUTION GRANTING A SPECIAL USE PERMIT FOR A COMMERCIAL
SOLAR ENERGY FACILITY PURSUANT TO ORDINANCE NO. 2023-07-008,
AN ORDINANCE AMENDING THE REGULATING DEVELOPMENT OF
COMMERCIAL SOLAR ENERGY FACILITIES ORDINANCE**

(PULSE SOLAR II, LLC)

WHEREAS, a Petition for the granting of a Special Use Permit for a Commercial Solar Energy Facility under Lee County Ordinance No. 2023-07-008, *An Ordinance Amending the Regulating Development of Commercial Solar Energy Facilities Ordinance*, on real estate described in Exhibit “A,” attached hereto and made a part hereof (hereinafter sometimes referred to as “Subject Realty”), has been filed with the Lee County Zoning Office as Petition No. 24-P-1621 (hereinafter referred to as “Petition”), by Pulse Solar II, LLC, an Illinois limited liability company (hereinafter referred to as “Petitioner”); and

WHEREAS, the Zoning Board of Appeals of Lee County (hereinafter referred to as “Zoning Board of Appeals”) held public hearings on said Petition on March 7, April 3, April 4, and April 10, 2024, in accordance with the law; and

WHEREAS, proper Notice of the filing of the Petition and of the impending March 7, 2024, ZBA hearing was published in the Dixon Telegraph on February 7, 2024; and

WHEREAS, United States Postal Service Certified mailings of the same Notice were sent by the Petitioner to real estate property owners whose properties would be adjacent to the proposed Project’s boundaries with such mailings being postmarked on February 20, 2024; and

WHEREAS, timely notice was posted at the southwest corner of the Subject Realty on February 20, 2024; and

WHEREAS, the Petitioner and Interested Parties were given the chance to present evidence, including witnesses and exhibits, cross-examine the witnesses of others, and to present a closing argument, statement, or public comments; and

WHEREAS, the Zoning Board of Appeals has made, and the County Board affirms, the Report & Findings of Fact and Recommendation, which is attached hereto as Exhibit “B” and made a part hereof; and

WHEREAS, the County Board of the County of Lee has received the recommendation of the Zoning Board of Appeals and has duly considered said recommendation; and

NOW, THEREFORE BE IT ORDAINED BY THE COUNTY BOARD OF THE COUNTY OF LEE, ILLINOIS, as follows:

SECTION 1. That the *Lee County Revised Zoning Ordinance*, as amended, and as set forth in the Zoning District Map as described therein and on file in the Office of the County Clerk, is hereby amended by the granting of a Special Use Permit for a Commercial Solar Energy Facility (as defined by Lee County Ordinance No. 2023-07-008, *An Ordinance Amending the Regulating Development of Commercial Solar Energy Facilities Ordinance and hereafter referred to as "Special Use"*) on the Subject Realty, including but not limited to the construction, operation and maintenance of a 5 MW Commercial Solar Energy Facility including, as designed, a battery energy storage system ("BESS") supporting facility. The aforesaid Special Use for a Commercial Solar Energy Facility shall be conducted in accordance with the provisions of Lee County Revised Zoning Ordinance, as amended, subject to such variations, exceptions, and/or conditions as are hereinafter set forth.

Section 2. That the Subject Realty may be developed in accordance with the applicable Ordinance of the County, as are now in effect, except as specifically modified and/or varied below:

- A. Before any building permit is issued, the Petitioner must enter into a Road Use Agreement, relative to the proposed locations, satisfactory to the County Engineer, addressing construction activities not less than 30 days prior to issuance.
- B. Before any building permit is issued, a copy of the signed interconnection agreement with Commonwealth Edison must be provided to the Lee County Zoning & Planning Office.
- C. Based on the presence of a BESS, the Petitioner must affirmatively meet with the respective identified first responder agencies to outline the nature of the system and receive written confirmation that the respective agencies have developed a satisfactory appropriate response plan.
- D. Construction activities shall commence no earlier than 7:00 am and shall be discontinued no later than 8:00 pm, absent written waiver of any affected non-participating resident.
- E. Before any building permit is issued, the Petitioner must undertake a drain tile survey and submit the results to the Lee County Zoning & Planning Office.
- F. Before any building permit is issued that Petitioner, if the submitted drain tile survey reflect the presence of existing drain tiles in the area of construction, provide confirmation that any drainage tile damaged will be repaired to the same or better condition within thirty (30) days of damage.
- G. The Petitioner must provide the Lee County Zoning & Planning Office with a written landscape plan, inclusive of weed/grass control, which outlines when implementation will occur.
- H. Before any building permit is issued, that Petitioner acknowledge that it will comply with the vegetative screening requirements as compelled for projects adjacent to **non-participating residences and** platted subdivisions.
- I. Modifications to, retrofits or replacement of an existing BESS that increase discharge duration or nameplate capacity shall be subject to any applicable BESS ordinance Lee

County has in place at the time of the modifications, retrofits and/or replacement of the BESS.

- J. A building permit shall be required for installation of any BESS.
- K. All buildings built for the primary intention of housing BESS equipment, and all other building and/or structures that contain or are otherwise associated with a BESS shall be designed, erected, and installed in accordance with all applicable provisions of local, State and Federal law.
- L. Any BESS located at the Site shall be designed, or installed, in a manner that has 24 hour per day, seven days per week (24/7) remote monitoring and include fire suppression systems.
- M. Areas within ten (10) feet on each side of the BESS shall be maintained clear of combustible vegetation and other combustible growth.
- N. All BESS shall be sited to avoid wetlands, floodplains, and other locations of environmental concerns.
- O. No BESS or related structure(s) shall be located closer than twenty-five (25) feet to the inside of the facility fence line.
- P. All components of the BESS shall be setback a minimum of 500 feet of any residence or occupied community building, unless a waiver is obtained from the affected landowner. The setback distance shall be measured from the nearest edge of any component of the BESS to the nearest point on the outside wall of the residence or occupied community building.
- Q. All components of the BESS shall be set back a minimum of 200 feet from any nearest point on the property line of a non-participating property, unless a waiver is obtained from the affected non-participating property owner.
- R. All components of the BESS shall be set back a minimum of 50 feet from the nearest edge of the public road right-of-way, absent express approved variance by the ZBA.
- S. All components of the BESS shall be sited so as to be located within the interior of said Commercial Solar Energy Facility ("CSEF"), with the banks of solar panels lying between the BESS and the edges of the CSEF.
- T. The BESS engineer's certificate shall be completed by a structural engineer registered in the State of Illinois or by a Professional Engineer with a certification from a structural engineer registered in the State of Illinois and shall certify that the specific soils and subsurface conditions at the site can support the apparatus, given local soil, subsurface and climate conditions.
- U. The Petitioner must provide an emergency response plan, specific to the BESS, after consultation with local emergency responders.

SECTION 3. That the Petition for the granting of a Special Use Permit for a Commercial Solar Energy Facility as requested in Zoning Petition No. 24-P-1621 (Pulse Solar II, LLC) be **(approved/denied)**, with the aforementioned modifications and/or variances, by the Lee County Board.

_____ **PASSES AND APPROVED** by the County Board of the County of Lee, Illinois, this 21st day of March, 2024.

_____ **FAILS AND DENIED** by the County Board of the County of Lee, Illinois, this 21st day of March, 2024.

AYES:	
NAYS:	
ABSENT:	
ABSTAIN:	
HOLDING OFFICE:	

BY: _____
Lee County Board Chairman

ATTEST:

BY: _____
Lee County Clerk

EXHIBIT A
Legal Description of Subject Realty
PIN 16-01-35-400-009

The Northeast Quarter (NE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section Thirty-five (35); the Northwest Quarter (NW $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of said Section Thirty-five (35); the Southeast Quarter (SE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of said Section Thirty-five (35); and the East Half (E $\frac{1}{2}$) of the Southwest Quarter (SW $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of said Section Thirty-five (35), all in Township Twenty-two (22) North, Range Eight (8), East of Fourth Principal Meridian, all situated in the County of Lee and State of Illinois,

EXCEPTING THEREFROM THE PROPERTY DESCRIBED IN WARRANTY DEED RECORDED AUGUST 15, 2012 AS DOCUMENT NUMBER 2012004129, DESCRIBED AS FOLLOWS:

Part of the Southeast Quarter of Section 35, Township 22 North, Range 8 East of the 4th P.M., Lee County, Illinois, described as follows: Commencing at the southwest corner of the Southwest Quarter of said Section 35; thence North 89 degrees 59 minutes 59 seconds East, 3,276.92 feet on the south line of said Section 35 to the east line of the West Half of the Southwest Quarter of said Southeast Quarter and the Point of Beginning; thence North 2 degrees 28 minutes 51 seconds East, 342.45 feet on said east line; thence North 88 degrees 55 minutes 20 seconds East, 105.82 feet; thence South 58 degrees 39 minutes 27 seconds East, 144.65 feet; thence South 1 degrees 06 minutes 13 seconds West, 268.93 feet to the south line of said Southeast Quarter; thence South 89 degrees 59 minutes 59 seconds West, 238.98 feet on said south line to the Point of Beginning, containing 1.745 acres, more or less,

In Re Pulse Solar II, LLC

2023-P-1621

TO THE LEE COUNTY BOARD

LEE COUNTY, ILLINOIS

FROM THE LEE COUNTY ZONING BOARD OF APPEALS

Regarding: Petition for Special Use Permit, Petition Number 23-P-1621,

for the Development, Construction, and Operation of a Commercial Solar Energy Facility in Lee County, Illinois

filed by Pulse Solar II, LLC

REPORT & FINDINGS OF FACT AND RECOMMENDATION

Adopted from the proceedings beginning April 3, 2024, and continuing through April 10, 2024.

1. **PETITIONER, PETITION, PROJECT, NOTICE, FACILITATOR, PROCESS, WITNESSES, EXHIBITS, CLOSING STATEMENTS AND PUBLIC COMMENTS:**

The Lee County Zoning Board of Appeals (hereinafter ZBA), as authorized by Lee County Ordinance 2023-07-008, herein finds as follows:

- A. The Lee County Zoning Board of Appeals (hereinafter "ZBA") finds that, on February 2, 2024, Pulse Solar II LLC (hereinafter referred to as "Pulse Solar", the "Petitioner", the "Applicant", or the "Developer"), an Illinois limited liability company, which is a wholly owned subsidiary of Ironwood Renewable, a Louisiana company, filed a Petition for Special Use Permit, which is numbered 24-P-1621, for the construction, operation and maintenance of a 5 MW Commercial Solar Energy Facility ("CSEF") including, as designed, a battery energy storage system ("BESS") supporting facility situated in Palmyra Township in Lee County, Illinois (hereinafter, the "Petition", "Pulse Solar", the "Project", the "Solar Farm", or the "Development") with the Lee County Zoning and Planning Office.
- B. The Petition for Special Use Permit ("the Petition") was accompanied by supporting material in the form of 12 8 ½" x 11" 3-ring binders (hereinafter the "Supplement", "Supporting Material", or "Supplemental Material"). A digital version of the Supporting Material was also provided.

C. Notice.

1. Proper notice of the filing of the Petition and of the impending public hearing before the ZBA was published, as noted by certification included in Zoning Officer group Exhibit 5, in the *Dixon Telegraph* on February 7, 2024.
2. United States Postal Service Certified mailings of the same Notice were sent by the Petitioner to real estate property owners whose properties were identified by the Petitioner as adjacent to the proposed Project's boundaries with such mailings being included as part of Zoning Officer Ex 5, postmarked February 20, 2024; and
3. Lee County Zoning and Planning Administrator, Ms. Alice Henkel, supplemented the above Notices as follows:
 - a. By way of a digital agenda, uploaded and posted to the Agenda Center of the Lee County website for dates March 7, 2024; April 3rd; April 4th; and April 10th; and
 - b. Posting the agenda on the County Board Chairman's bulletin board in the Old Lee County Courthouse on February 23, 2024 (March 7, 2024 agenda) and March 21, 2024 (April 3, 4, and 10, 2024 agendas); and
 - c. A timely notice was posted, as noted in Zoning Officer Exhibit 4, at the southwest corner of the parcel identified as 16-01-35-400-009, on February 20, 2024.

D. Initial Session.

1. On the evening of Wednesday, April 3, 2024, the Public Hearing, beginning at 6:00 p.m., was initially announced by ZBA Chairman Bruce Forster in the former courtroom on the third floor of the Old Lee County Courthouse.
2. Under the authority provided by its own rules, prior to formally initiating the Hearing, the ZBA engaged the services of Attorney Timothy Zollinger to serve as the facilitator for the proceedings (the "Facilitator").

E. Process.

1. The Lee County ZBA finds that the public hearing began on April 3, 2024, and concluded on April 4, 2024, after approximately 5.5 total hours of hearing time.
2. The Lee County ZBA finds:
 - a. Through the auspices of the Lee County IT Department and Lee County Zoning and Planning Officer, Interested Parties were provided the opportunity to participate in the Hearing remotely and virtually by either video or teleconferencing via the video communication platform ZOOM using a computer, telephone, or similar communication device at a location of their choosing.
 - b. The Lee County ZBA finds that at any given time, there were approximately fourteen (14) Interested Parties that appeared in person and three (3) persons on ZOOM.

- c. Interested Parties could always remotely view and listen to the proceedings in near real time, or later in the recorded mode, on a YouTube feed and there were no technical interruptions.
 - d. Due to an issue with the elevator, in the Old Lee County Courthouse, a secondary location was established by County Officials, on the first floor of the Courthouse, at which location any interested party could see, observe, and participate if requested. No such Party requested or utilized the secondary location.
 - e. Interested Parties can rewatch the Hearing, which was recorded and uploaded to the Lee County Account on YouTube; and
 - f. The entirety of the Hearing proceedings was taken down by a certified shorthand reporter and subsequently transcribed. Transcripts of all testimony, arguments, public comments, and ZBA discussion will be available, on the Lee County Zoning and Planning web pages found on the Lee County web site.
3. The Lee County ZBA finds that, over the course of the first public hearing stage, everyone, including the Petitioner and Interested Parties, were given a complete and fair opportunity to be heard; and
 4. The Lee County ZBA finds that everyone, including the Petitioner and Interested Parties, were given the chance to present evidence, including witnesses and exhibits, cross-examine the witnesses of others, and to present a closing argument, statement, or public comment; and
 5. Prior to hearing, written comments in objection to the project were received from Palmyra Township, identified as Zoning Office Exhibit 7, and Brenda & Gerald Winger, identified as Zoning Office Exhibit 8, were both received; and
 6. At the conclusion of the hearing two individuals (Dennis Boynton and Dr. Sara Willey) requested the opportunity to submit writtens comment to the Zoning Board and was permitted, by the Hearing Facilitator to do so; and
 7. At the conclusion of the hearing Dennis Boynton did submit written comment and Dr. Sara Willey requested to submit her written comment to the Zoning Board, and was permitted, by the Hearing Facilitator to do so by the deadline of April 10, 2024; and
 8. During the ZBA hearing all Interested Parties that desired to comment were permitted to do so. Several interested Parties spoke in opposition to the project. No interested party witness spoke in favor of the project; and
- F. Witnesses.** The ZBA finds that three individuals took the witness stand, were placed under oath or affirmation, and testified. Interested Parties, who spoke on the topic without testifying as witnesses, were also allowed to offer comments. Sworn witnesses, in order of appearance, including a summary of their testimony, were as follows:
1. Ms. Alice Henkel, Lee County Zoning and Planning Administrator, laid the foundation for the admission of her, and Lee County's, Exhibits into evidence. These Exhibits included the various notice processes for the ZBA hearing and the assorted documents accepted and kept within her office. She further testified that the Petitioner had supplied all the necessary documents, reports, and materials necessary to comply with the

Lee County Solar Ordinance, Ordinance Number 2023.07.008, and the applicable sections of the Lee County Code and that the Petitioner's application materials were complete. Alice Henkel further testified to the written comments that were received by the Zoning Office.

2. Mr. Keith Morel appeared on behalf of the Petitioner. He is a Project Developer with Ironwood Renewable, appearing on behalf of Pulse Solar II LLC, a wholly owned subsidiary of Ironwood. He outlined his experience with development of community solar projects, for the past four years, as well as with regulatory compliance, site acquisition and outreach with landowners. He went on to provide explanation of the site being selected due to the immediately available ComEd interconnection. Mr. Morel also provided overview and information relating to the Ground Lease Agreement, SHPO letter from the Illinois Department of Natural Resources, the AIMA, Vegetative Screening, and Land Value Reports.
 3. Mr. Michael Marous, President of MaRouse & Company, appeared on behalf of the Petitioner. He is the President and a licensed general certified appraiser in the State of Illinois. He testified to his background and steps taken to provide opinions on the lack of impact on real estate valuation of surrounding properties, based on the proposed siting of the Commercial Solar Energy Facility. He testified that a page in his original report was wrongfully calculated and provided a corrected page, admitted as Petitioner's Exhibit 7. He also offered his opinion that siting of this Project would have no, or minimal (identified as less than 1.5%) impact on the surrounding properties. He provided input on the relevant peer reviewed studies relating to solar energy facilities and valuation of surrounding property.
 4. There were no other sworn witnesses.
 5. Interested Parties spoke about their opposition of the Project. Interested parties were permitted to ask questions of the three witnesses and actively did so. One interested Party (Wendy Willett) offered the playing of a recording, without evidentiary foundation, asserting that it was her opinion of what was played was the noise level likely heard at her property line emanating from the solar array. Two interested parties actively participated remotely, offering comments in opposition, and posing questions. No limits were placed on the comments of interested parties.
- G. Exhibits.** The ZBA finds that the following Exhibits were admitted into evidence, after inviting all parties to note any objections, by the Facilitator and considered by the ZBA:

1. Petitioner's Exhibits:
 - a.) Petitioner's Exhibit No. 1: Lee County Special Use Permit Application with Appendix A through U; and
 - b.) Petitioner's Exhibit No. 2: Ground Lease Agreement with Matthew & Bernadette Hermes; and
 - c.) Petitioner's Exhibit No. 3: SHPO letter dated March 13, 2024, from the Illinois Department of Natural Resources; and
 - d.) Petitioner's Exhibit No. 4: Executed Agricultural Impact Mitigation Agreement; and
 - e.) Petitioner's Exhibit No. 5: Vegetative Screening Site Plans; and
 - f.) Petitioner's Exhibit 6 Land Value report generated by MaRouse & Company; and
 - g.) Petitioner's Exhibit 7 MaRous & Company's Corrected Summary of Residential Sales Nearest to Pulse Solar II LLC location.

H. Zoning Officer Exhibits:

1. Zoning Officer's Group Exhibit No. 1: a copy of the file-stamped Petition for Special Use Permit filed on February 2, 2024; and
2. Zoning Officer's Group Exhibit No. 2: a copy of the Notice of Public Hearing sent to various Lee County agencies regarding the Project, including District 4 County Board Members, Lee County Health Department, Lee County Soil & Water Conservation District, City of Dixon, City of Dixon Planning Commission, Palmyra Township Supervisor, and Palmyra Township Road Commissioner; and
3. Zoning Officer's Exhibit No. 3: A copy of the agenda posted for the hearing and sessions of the ZBA, including March 7, April 3, April 4, and April 10, 2024; and
4. Zoning Officer's Exhibit No. 4: a copy of the Notice of Public Hearing posted.
5. Zoning Officer's Exhibit No. 5: a copy of the Notice of Public Hearing sent by certified mail and the returned receipts of same mailed to adjacent property owners adjacent to the Development and a copy of the Dixon *Telegraph's* Certificate of Publication of the Notice of Public Hearing.
6. Zoning Officer's Exhibit No. 6: a copy of the Lee County Soil & Water Conservation District's Natural Resources Information Report dated March 6, 2024; and
7. Zoning Officer's Exhibit No. 7: Letter of Objection from Palmyra Township, dated March 14, 2024, and a copy of the Finding of Fact by Palmyra Township Planning Commission, dated March 11, 2024; and
8. Zoning Officer's Exhibit #8: Letter of Objection from Brenda & Gerald Winger.

J. Interested Party Exhibit:

- a.) No formal exhibits were offered as evidence by any Interested Party. Two interested parties (Dennis Boynton & Dr. Sara Willey) offered submission of written documents, requesting that they be attached to the record. No objection was offered as to these items being made part of the record.

K. Closing Statements/Public Comments. The ZBA finds that the following individuals and Interested Parties were permitted, without limitation, the opportunity to make closing statements or public comments.

1. Counsel for Petitioner, Ms. Courtney Kennedy, used the content of the Exhibits, Supporting Materials, and hearing factors set forth in the Lee County Ordinance, to explain and demonstrate the Project's compliance with the Lee County Ordinance and stated the reasons the ZBA should recommend to the Lee County Board to approve the Petition for a Special Use Permit.
2. Interested Parties were permitted, without limitation, to offer comments and ask questions of the witnesses. These individuals included Dr. Sara Willey, Dennis Boynton, John Delgado, Wendy Willett, Dr. Joyce Johnson,

Shawn Foster, Kim Stanley, and Dorry Kingry. This also included individuals who attended remotely, namely Dave Stanley.

The ZBA further finds that the testimony offered by each sworn witness is fairly and accurately reflected in the transcript of proceedings taken by the Court Reporter at the public hearing. The transcripts of proceedings are formally adopted herein.

L. Overview of Development

Based on the exhibits offered at public hearing and testimony of the witnesses, including the Project Developer, the ZBA finds that:

1. Purpose

The Petition seeks issuance of a Special Use Permit (SUP) permitting construction of a 5 MW Commercial Solar Energy Facility with accompanying Battery Energy Store System (BESS).

2. Useful Life

The anticipated lifespan of the type of panels to be used in construction is warranted to be up to twenty-five (25) years with an expected life span of approximately 40 years.

3. Components

The equipment specifications to be used in the Project were explained by Petitioner's witnesses, and reflected in Petitioners Exhibit #1, sub-appendix B.

4. Access Road & Fencing

That based on the Petition, testimony of the Petitioner's representative, the access points will be new lanes, constructed on or within the project site.

Based on the testimony of the Petitioner's representative the fencing surrounding the project will be six (6) feet in height and constructed with components that will allow small wildlife to enter and exit the project site unabated.

5. Background Findings

That based on the testimony of the Petitioner and the documents submitted with the application there appear to be:

No protected lands identified by the Illinois Department of Natural Resources
No adverse findings were issued by the Illinois State Historic Preservation Office
No adverse findings were issued by US Fish & Wildlife

6. Community Opposition

Palmyra Township voted, at a public meeting, to oppose the Petition. A copy of the letter of opposition and findings from the Township Planning Commission were admitted, without objection, as Zoning Office Exhibit #7.

3. Applicable Ordinance

- A. The Specific Lee County CSEF Ordinance. On July 20th, 2023, the Lee County Board Chairman signed into law an Ordinance Amending the Regulating Development of Commercial Solar Energy Facilities (the "Ordinance") passed by the County Board, as Ordinance No. 2023.07.008, which would then be the provisions specifically applicable to the Petition at issue which has been codified.
- B. Rules and Regulations Pertaining to stand-alone Battery Energy Storage Systems ("BESS"). At the time of the filing of the Petition, the Lee County Board did not have an Ordinance in effect prohibiting stand-alone BESS. The Code, however, defines "Supporting Facilities" as "transmission lines, substations, access roads, storage containers, and equipment associated with the generation and storage of electricity by the Commercial Solar Energy Facility". Furthermore, the Ordinance defines "Commercial Solar Energy Building Permit" as a permit necessary for the commencement of work performed toward the construction, erection or installation of an approved Commercial Solar Energy Facility, Substation, Supporting Facilities, or operations and maintenance building in connection with a Commercial Solar Energy Facility.
- C. Other Applicable Ordinances. The ZBA finds that also in place, at the time of the Petition and continuing thereafter, certain provisions of the Lee County Ordinance "Performance Standards," and "Special Exceptions, Variations and Non-conforming uses" remain applicable to the Petition unless expressly supplanted by the Solar Energy System Ordinance (#2023-07-008)

4. Evidentiary Findings of Fact required by Lee County Ordinance

After duly considering the content of the application and supporting documents, reflecting on the sworn testimony and exhibits presented at public hearing, the members of the ZBA hereby find:

- A. The petitioner will, at the time of application for the building permit, have a structural engineer certify that the Commercial Solar Energy Facility is within accepted professional standards and compliant with all State & County Code requirements.
- B. The Petitioner demonstrated that no component of the Project will exceed twenty (20) feet in height above the ground at full tilt.
- C. The Petitioner committed to adhering to the vegetative screening requirements as set forth in the Ordinance and, further, provided site plans that demonstrated the proposed vegetative screening for the Project.

- D. The Petitioner testified that no lighting will be utilized for the Project. However, in the event that any lighting is required by a condition of the Lee County Board, Petitioner committed that all lighting will be shielded and downcast and be Dark Sky Certified Lighting.
- E. The Petitioner confirmed that all power lines used to collect power and all communication lines shall be buried underground, to the greatest extent possible, in accordance with the AIMA.
- F. The Petitioner testified that the fence shall have a minimum height of six feet and be installed maintained and secured around the Project in compliance with the National Electric Code (“NEC”) and shall contain appropriate warning signage that is in accordance with the NESC, and ANSI Z535 Safety Sign Standards and OSHA regulations. In addition, the fence would be comprised of woven wire/fixed knotting and would allow a six-inch gap along the bottom of the fence so as to prevent the restriction of wildlife movement according to the IDNR recommendations.
- G. The Petitioner committed that all warning signage concerning voltage will be in accordance with NESC and ANSI Z535 Safety Sign Standards and OSHA Regulations and will be placed at the base of all pad-mounted transformers and substations and at all entrances to the Project.
- H. The Petitioner confirmed that visible, reflective, and colored objects, such as flags, plastic sleeves, reflectors, or tape will be placed on anchor points of all guy wires and along the guy wires up to a height of fifteen feet from the ground.
- I. The Petitioner confirmed through testimony and the site plans presented that the Project would adhere to all setback requirements of the Ordinance.
- J. While Interested Parties suggested that Petitioner should consent to setback requirements in excess of the Ordinance and State Statute, as proposed in pending legislation, there is nothing in the Ordinance that allows the ZBA to compel the same.
- K. The Petitioner committed through testimony to entering into a Road Use Agreement (“RUA”) with the County Engineer and any applicable township.
- L. The Petitioner committed to depositing the requisite funds into the Consulting Fund, as required by the Ordinance.

- M. The Petitioner committed to providing additional comprehensive soil and geotechnical boring reports, at its expense, to the Lee County Engineer.
- N. The Petitioner committed to following the guidelines for Conservation Practices Impact Mitigation as provided by the LCSWCD.
- O. The Petitioner supplied a noise analysis study prepared by Krebs & Lansing, a consulting engineering firm, which indicated that noise levels generated by the Project will not exceed the standards set forth by the Illinois Pollution Control Board ("IPCB").
- P. The Petitioner supplied a Glare Analysis performed by Forge Solar that concluded that no glare is predicted in association with the Project.
- Q. The Petitioner supplied a "SHPO" letter from the Illinois Department of Natural Resources dated March 13, 2024, that concluded that the IDNR did not identify any known historic properties within the proposed project area and that the project area is not within the high probability area for archaeological resources as defined in the Illinois State Agency Historic Resources Preservation Act.
- R. The Petitioner supplied the results of a wetland delineation performed by Atwell that confirmed that no wetlands were delineated within the Project site.
- S. The Petitioner supplied an executed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
- T. The Petitioner committed to providing as-built maps, site plans, and engineering plans for the Project to the Lee County Zoning Administrator and Lee County Supervisor of Assessments within 60 calendar days of completion of construction.
- U. The Petitioner provided an Engineer's Certificate that the specific soils and subsurface conditions at the site can support the apparatus, given local soil, subsurface and climate conditions. Moreover, the Petitioner committed to providing updated Engineering Certificates confirming same prior to the application of a Building Permit.
- V. The Petitioner confirmed that it will only utilize the project site for the storage of materials, vehicles, and equipment for the direct support of the operation and maintenance of the Project.
- W. The Petitioner confirmed that during construction of the Project, construction activities shall commence no earlier than 7:00 A.M. and shall be discontinued no later than 8:00 P.M.

- X. The Petitioner committed to submit a copy of the site plan, standard operating procedures, and standard operating guidelines for the Project to local emergency responders prior to applying for a Building Permit. The Petitioner further committed to providing annual training for, and the necessary equipment, to local emergency response authorities and their personnel.
- Y. The Petitioner committed to removing all solid waste related to the construction, operation, maintenance of the Project promptly and to dispose of the same in compliance with all federal, state, and local laws.
- Z. The Petitioner testified that no Hazardous Materials will be stored on site, other than as may be contained within the self-contained BESS unit.
- AA. The Petitioner committed to maintain with the Lee County Zoning Administrator and Lee County Sheriff's Department a primary point of contact with two secondary points of contact.
- BB. The Petitioner committed to repairing, at its expense, in a prompt and timely manner, all waterways, drainage ditches, agricultural drainage systems, field tiles and any other private and public infrastructure improvements that are damaged during the construction, maintenance and operational phases of the Project in accordance with the AIMA.
- CC. The Petitioner committed to adhere to all liability insurance and indemnification requirements as set forth in Article VII of the Ordinance.

At this time the ZBA affirmatively notes that it has duly considered the testimony of the witnesses, sworn in and who offered testimony, all exhibits admitted into evidence, that during the public hearing Interested Parties provided comment asserting that approving the project would be detrimental to the valuation of their properties and disrupt the pastoral setting of their subdivision. The ZBA has duly considered all of this information and the totality of all information presented before the ZBA. The ZBA has duly considered the provisions of the County Ordinance and applicable state statute, relative to commercial solar energy facilities. Based on this:

- DD. That the establishment, maintenance or operation of the proposed Project, the Commercial Solar Energy Facility, will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
- EE. The ZBA is unable to conclude that the Project, the Commercial Solar Energy Facility, will be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, or substantially diminish or impair property values of surrounding properties; and
- FF. Establishment of the Commercial Solar Energy Facility will not impede the normal and orderly development and improvement of the surrounding properties; and

- GG. Adequate measures have been or will be taken to provide ingress and egress so signed to minimize traffic congestion on the public streets; and
- HH. The proposed Project, based on its proposed siting, is not contrary to the objectives of the current comprehensive plan of the County, as it is a recognized use for farmland;
- II. Petitioner agrees to maintain appropriate approved decommissioning obligations within the Land Lease Agreements and maintain compliance with the AIMA and all County requirements.
- JJ. Petitioner agrees to provide evidence of appropriate Financial Security with the Lee County Zoning & Planning Office, prior to issuance of a building permit. All such financial security shall be updated at a minimum every 5 years.
- KK. That Petitioner agrees to maintain a telephone or web-based portal permitting members of the public to notify Petitioner of any issues and seek resolution. Petitioner shall maintain a log of such contacts and provide a copy of the same to the Lee County Zoning & Planning Office upon reasonable request.
- LL. Petitioner, at the time of issuance of any building permit, shall submit a draft proposed emergency response plan relating to the BESS which shall have been prepared following input from fire protection agencies responsible for any emergency response. The petitioner shall update the plan, following construction, at a minimum every 5 years or earlier if the BESS equipment is substantially changed or replaced.
- MM. Petitioner, through its witness Keith Morel, testified that he did not know the soil production index number of the subject property.

5. Evidentiary Findings of Fact Not Directly Addressed by any Ordinance.

- A. **Vibration.** The Lee County ZBA finds that, based on the material and testimony heard, other than, probably, construction activities such as truck traffic and support pile driving, there would be no detectable vibration associated with this proposed Development after completion.
- B. **Air Pollution.** The Lee County ZBA finds based on the exhibits and testimony heard, that there would be no material or substance emitted from this proposed solar development.
- C. **Odor.** The Lee County ZBA finds that, based on the material and testimony heard, there would be no odor associated with this proposed solar development.
- D. **Electromagnetic Fields.** The Lee County ZBA finds, based on the testimony, there was no study conducted to determine what, if any, electromagnetic fields would be created by the proposed Project. However, witnesses appearing on behalf of the Project testified that there would be very minimal electromagnetic fields generated by the Project, that the EMFs generated would be like the amount individuals encounter in everyday life, such as those generated from A/C wiring or cellphones. The Lee County ZBA therefore finds that there is no indication that any EMFs generated by the Project would pose a threat to general welfare.

- E. **Heat.** The Lee County ZBA finds that, based on the Petitioner's materials and testimony heard, there would not be significant heat associated with this solar development that would affect adjoining properties.
- F. **Fire and Explosion Hazards.** The Lee County ZBA finds that, based on the Material and testimony heard, there would be no particularly identifiable fire or explosion hazards associated with the proposed Project. The ZBA does, however, make note of the presence of a proposed BESS System and finds that Petitioner's exhibits and testimony noted that heating & cooling measures would be in place to address maintenance of the BESS; as well as the presence of a fire suppression system.

6. Tax Revenue, Jobs, Economic Advantages and Community Benefits.

- a. The Lee County ZBA finds that the Petitioner testified that the Project would produce an increase in equalized assessed valuation.
 - b. The Lee County ZBA finds that the Petitioner testified the proposed Project would enhance greater electrical grid stability.
 - c. The Lee County ZBA finds that the Petitioner testified that the proposed Project would contribute to the reduction of greenhouse gas emissions.
 - d. The Lee County ZBA finds that the Petitioner testified that the proposed Development would not require any additional public services or utilities during construction or operation of the CSEF, excepting the use of roads and the possibility of emergency services.
 - e. The Lee County ZBA finds that the participating landowner will financially benefit from the proposed Project.
 - f. The Lee County ZBA finds that the approval of this Special Use Permit Petition would not carry with it the need to access any traditional infrastructure utilities, other than may be owned by ComEd.
 - g. The Lee County ZBA finds that the Project will generate an estimated (24) construction jobs.
 - h. The Lee County ZBA finds that, regardless of any possible economic benefit to the landowner or taxing districts within the County, its decision to recommend or not recommend approval of the Petition is not based on an increase or decrease in revenue for taxing bodies but, rather, the criteria in the Lee County Ordinance and the Project's compliance with the same.
- 7. Binding Pledges.** The Lee County ZBA finds that a witness on behalf of Pulse Solar II, LLC testified under oath or affirmation to the following:
- a. The Petitioner would be bound by all proposals, promises, statements and representations in its supplementary materials for a SUP or made under oath at the public hearing before the Lee County ZBA- even if not expressly specified herein or therein; and
 - b. Changes may be required as the development of the Project continues. However, any changes would be in substantial accord with the Petition and Supporting Materials; and

- c. Any successors in interest would be similarly bound as Pulse Solar II, LLC would make any sale subject to the terms and conditions of any Special Use Permit granted to the Project; and
- d. The Final decommissioning Plan submitted, at the time of actual construction and upon completion thereof, will include and provide for removal of the Battery Energy Storage (“BESS”).
- e. The ZBA finds that no variations, from the applicable Ordinance, were requested by Petitioner.

8. Recommendations to the Lee County Board

After due consideration of the totality of the evidence presented at Public Hearing, as well as comments offered by Interested Parties at the public hearing, the ZBA finds that Petitioner has provided evidence of compliance with all the requirements of the relevant Lee County Ordinance and as such recommends to the Lee County Board that the Petition of Pulse Solar II LLC for Special Use be approved.

9. Recommendations to the Lee County Board for Conditions of the Special Use if Petition Approved

The ZBA recommends to the Lee County Board, if Pulse Solar II LLC’s Petition for Special Use is approved, that Petitioner be reminded to comply with all provisions of the Code, including but not limited to the following conditions be approved as required by Petitioner:

a. Road Use Agreement

Before any building permit is issued that Petitioner enters into a Road Use Agreement, relative to the proposed location, satisfactory to the County Engineer, addressing construction activities not less than 30 days prior to issuance.

b. Interconnection Agreement

Before any building permit is issued a copy of the signed interconnection agreement with Commonwealth Edison, be provided to the Lee County Zoning & Planning Office.

c. Fire Protection Matters

Based on the presence of a BESS that the Petitioner affirmatively meet with the respective identified first responder agencies to outline the nature of the system and receive written confirmation that the respective agencies have developed a satisfactory appropriate response plan.

d. Permitted Construction Times

That a condition of construction be that construction activities shall commence no earlier than 7:00am and shall be discontinued no later than 8:00pm absent written waiver of any affected non-participating resident.

e. Drain Tile Survey

Before any building permit is issued, that Petitioner undertake a drain tile survey and submit the results to the Lee County Zoning & Planning Office.

f. Drain Tile Repairs

Before any building permit is issued that Petitioner, if the submitted drain tile survey reflect the presence of existing drain tiles in the area of construction, provide confirmation that any drainage tile damaged will be repaired to the same or better condition within thirty (30) days of damage.

g. Weed/Grass Control Plan

That prior to or concurrent with obtaining a building permit Petitioner provide the Lee County Zoning & Planning Office with a finalized written landscape plan, inclusive of weed/grass control, which outlines when implementation will occur.

h. Screening

Before any building permit is issued, that Petitioner acknowledge that it will comply with the vegetative screening requirements as compelled for projects adjacent to platted subdivisions.

i. BESS

The Petitioner, as a condition of any building permit, consent to requirements relating to the BESS, namely:

1. Modifications to, retrofits or replacement of an existing battery energy storage system ("BESS") designed discharge duration or power rating shall be subject to any applicable battery energy storage system ordinance Lee County has in place at the time of the modification, retrofit and/or replacements of the existing battery energy storage system.
2. A separate building permit shall be required for installation of any BESS.
3. All buildings built for the primary intention of housing battery energy storage system equipment, and all other building and/or structures that contain or are otherwise associated with a BESS shall be designed, erected, and installed in accordance with all applicable provisions of local, State and Federal law.
4. Any BESS located at the Site shall be designed, or installed, in a self-contained manner which has 24/7 remote monitoring and include fire suppression systems.
5. Areas within ten (10) feet on each side of the BESS shall be maintained clear of combustible vegetation and other combustible growth.
6. BESS shall be sited to avoid wetlands, floodplains, and other locations of environmental concerns.

7. No BESS or related structure(s) shall be located closer than 25 feet to the inside of the facility fence line.
8. All components of the BESS shall be setback a minimum of 500 feet from any residence or occupied community building, unless a waiver is obtained from the affected landowner. The setback distance shall be measured from the nearest edge of any component of the BESS to the nearest point on the outside wall of the residence or occupied community building.
9. All components of the BESS shall be set back a minimum of 200 feet from any nearest point on the property line of a non-participating property, unless a waiver is obtained from the affected non-participating property owner.
10. All components of the BESS shall be set back a minimum of 50 feet from the nearest edge of the public road right-of-way, absent express approved variance by the ZBA.
11. All components of the BESS shall be sited so as to be located within the interior of said Commercial Solar Energy Facility ("CSEF"), with the banks of solar panels lying between the BESS and the edges of CSEF.
12. The BESS engineer's certificate shall be completed by a structural engineer registered in the State of Illinois or by a Professional Engineer with a certification from a structural engineer registered in the State of Illinois and shall certify that the specific soils and subsurface conditions at the site can support the apparatus, given local soil, subsurface and climate conditions.
13. The Petitioner must provide an emergency response plan, specific to the BESS, after consultation with local emergency responders.

Respectfully submitted,

Dated: 4/11/2024 
Bruce Forster, Chairman, Lee County
Zoning Board of Appeals

Attest:

Dated: 4/11/2024 
Alice Henkel, Lee County Planning & Zoning
Administrator