



LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Text Amendment #21005	FINAL ACTION? No
PLANNING COMMISSION HEARING DATE July 21, 2021	RELATED APPLICATIONS None

RECOMMENDATION: APPROVAL

BRIEF SUMMARY OF REQUEST

This application is to revise Article 14.003 Sections 14.003(b), 14.003c1 and 14.003c2 and Article 15, Section 15.007 of the Lancaster County Zoning regulations and Chapter 2 Definitions of the Lancaster County Subdivision regulations to allow Solar Energy Conversion System and all necessary appurtenances on an outlot within a Community Unit Plan.

JUSTIFICATION FOR RECOMMENDATION

The Comprehensive Plan encourages alternative and renewable energy sources. This text amendment would allow more agricultural areas to be used for solar energy throughout the County. The special permit needed for a Solar energy Conversion System should minimize impacts on surrounding areas where appropriate.

APPLICATION CONTACT

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STAFF CONTACT

Tom Cajka, (402) 441-5662 or
tcajka@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The proposed amendment meets the goals of the Comprehensive Plan to promote renewable energy as part of an overall strategy to diversify our energy sources and expansion of accessory wind and solar access to buildings and other land uses. The land could be converted to urban uses or return to agricultural use in the future.

KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN

P. 1.4 - The importance of building sustainable communities – communities that conserve and efficiently utilize our economic, social, and environmental resources so that the welfare of future generations is not compromised - has long been recognized. This concept has grown in importance with increased understanding of the limits to energy supplies and community resources, the likelihood that energy costs will continue to increase in the future, the climatic impacts of energy consumption, and the impacts on the physical and economic health of the community. LPlan 2040 describes a community that values natural and human resources, supports advances in technology, and encourages development that improves the health and quality of life of all citizens.

P. 1.5 - Efforts are made to attract new and expanding industries that serve the emerging markets for more sustainable products and services.

P. 2.6 - Agriculture is still a major factor in Lancaster County’s economy with about 90 percent of the land area of the county being used for agricultural production.

P. 2.7 - Acknowledge the fundamental “Right to Farm.” Preserve areas throughout the county for agricultural production by designating areas for rural residential development—thus limiting potential conflicts between farms and acreages.

P. 3.11- Preserve agricultural land within Tier I and Tier II areas, both to reduce conflicts in the future growth of Lincoln and to ensure available land for the production of food products that are important to the health and economic vitality of the community.

P. 5.4 - Agriculture is the dominant land use in Lancaster County, accounting for roughly ¾ of all land.

P. 7.2 - Encourage acreages to develop in appropriate areas and preserve farmland.

P. 7.12 - LPlan 2040 supports the preservation of land in the bulk of the County for agricultural and natural resource purposes. However, it recognizes that some parts of the County are in transition from predominantly agricultural uses to a mix that includes more residential uses. Balancing the demand for rural living and the practical challenge of integrating acreages with traditional land uses will continue.

P. 11.2 - Promote renewable energy sources.

P. 11.3 - Lincoln must develop a comprehensive strategy of fuel diversity and encourage conservation, alternative forms of energy and modern energy technologies.

P. 11.4 - Energy from renewable resources such as solar, geothermal, and wind technologies generally does not contribute to climate change or local air pollution and generally conserves nonrenewable resources.

P. 11.7 - Local government entities, including all local utilities, should strive to increase utilization of renewable energy sources such as wind power, hydropower, solar energy, biomass and geothermal energy.

P. 11.7 - Continue to encourage and expand wind and solar access to buildings and other land uses.

ANALYSIS

1. This text amendment is to allow Solar Energy Conversion System (SECS) and all necessary appurtenances on an outlot within a Community Unit Plan. A SECS shall mean any device, including, but not limited to, a solar panel or solar collector, which collects and converts solar energy to a form of usable energy.
2. A Community Unit Plan (CUP) found in Article 14 of the County zoning, allows in the AG-Agriculture District for the creation of lots that are less than 20 acres. Under the AG district the minimum lot size is 20 acres. In allowing smaller lot sizes, a percentage of the area must be left in an unbuildable outlot for open space or agriculture. In the AG District 50% of the CUP area is required to be in an outlot. If a dwelling unit bonus is granted, then 70% of the CUP area is required to be in an outlot.
3. A CUP in the AGR -Agriculture Residential District 20% of the CUP area is required to be in an outlot if a dwelling unit bonus is granted.
4. The 2040 Comprehensive Plan encourages renewable energy such as solar, geothermal and wind energy. This text amendment would help in locating those renewable energy sources in the county.
5. Currently an outlot within a CUP can only be used for open space or agriculture. This text amendment would allow for the option of allowing an outlot within a CUP to be used as open space, agriculture or for solar energy conversion system.
6. For clarification "common facilities" was also added as an allowed use in an outlot within a CUP. Common facilities could be items such as a picnic shelter, gazebo or playground equipment. This is allowed in CUP's under City zoning.
7. Article 15.007 was also amended to clarify that Solar Energy Conversion Systems are only allowed on outlots within a CUP. Other outlots, such as in AG Preservation, would not allow the Solar Energy Conversion System. This will allow for greater flexibility in citing SECS in the county.

8. While a SECS is not an agricultural use, it is a use allowed by special permit in the AG District. There are many uses allowed in the AG District by special permit that are not agricultural. These uses include, but are not limited to, campgrounds, veterinary facilities, schools, clubs, health care facilities and recreational facilities. This text amendment would allow the outlot to be converted to a SECS through a special permit, just like any other farm land.
9. Outlots within AG Preservation final plats are not included within this amendment. Those outlots are required to remain as open space or farm land. The applicant did not include AG Preservation in his text amendment as it does not impact his project. A text amendment for outlots within AG Preservation may be suitable in the future.
10. Chapter 2 Definitions of the Lancaster County subdivision regulations is also being amended to revise the definition of outlot found in Section 2.22. This change is similar to the zoning changes to allow a Solar Energy Conversion System on an outlot.
11. This text amendment is to only allow SECS. Other uses such as wind turbines would not be allowed on the outlot created through a CUP or AG Preservation. This issue may come up in the future and will need to be addressed at that time.

Prepared by

Tom Cajka, Planner

Date: July 13, 2021

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14.003. General Requirement

The owner or owners of any tract of land in the "R" Zoning District which is one acre or more in area, including and up to the center line of existing public rights-of-way abutting the tract of land, or in the "AG" Zoning District which is seventy-five (75) acres or more, or in the "AGR" Zoning District which is ten (10) acres or more in area, may submit to the Planning Commission a plan for the use and development thereof for residential purposes or for the repair and alteration of any existing residential development; provided, however, that the Planning Commission shall apply the standards contained in this chapter in consideration of all applications for community unit plans. The plan may propose a modification of height and area of regulations of the district in which the community unit plan is located. In the AG District for lots five (5) acres or less the height and area regulations of the AGR District shall apply unless modified by the Community Unit Plan. (Resolution No. [R-11-0023](#), March 29, 2011; Resolution No. [R-17-0040](#), May 30, 2017;)

- a. Community unit plans in the "AG" and "AGR" zoning district shall provide access to each residential lot from a private or public roadway; except in unique circumstances, no direct access for any residential lot to a County section line, or half section line, roadway is allowed. (Resolution No. [R-12-0058](#), July 24, 2012)
- b. In the "AG" zoning district, a minimum of fifty percent (50%) of the total area in the subdivision must be preserved as an ~~unbuildable~~ outlot to be used as open space, or for agricultural uses, common facilities and/or for a Solar Energy Conversion System and all necessary appurtenances thereto. (Resolution No. [R-12-0058](#), July 24, 2012)
- c. A dwelling unit bonus of up to twenty five percent (25%) may be granted under the following circumstances: (Resolution No. [R-12-0058](#), July 24, 2012)
 1. A community unit plan in the "AGR" zoning district where at least twenty percent (20%) of the land is preserved as an ~~unbuildable~~ outlot to be used as open space, for agricultural uses, common facilities and/or for a Solar Energy Conversion System and all necessary appurtenances thereto and community sanitary sewer facilities are proposed, or; (Resolution No. [R-12-0058](#), July 24, 2012)
 2. A community unit plan in the "AG" zoning district where at least seventy percent (70%) of the land is preserved as an ~~unbuildable~~ outlot to be used as open space, for agricultural uses, common facilities and/or for a Solar Energy Conversion System and all necessary appurtenances thereto or; (Resolution No. [R-12-0058](#), July 24, 2012)
 3. A community unit plan in the "AG" zoning district where at least fifty percent (50%) of the land is preserved as an unbuildable outlot, and that outlot includes: (Resolution No. [R-12-0058](#), July 24, 2012)
 - i. Green space, environmental resources or agricultural stream corridor areas as designated in the Future Land Use Maps of the Lincoln City - [Lancaster County Comprehensive Plan](#) which are permanently protected, or; (Resolution No. [R-12-0058](#), July 24, 2012)
 - ii. Areas which can be shown to be environmentally sensitive and in need of preservation, whether or not they are shown in the Plan, when the applicant shows a means for permanently protecting those areas. (Resolution No. [R-12-0058](#), July 24, 2012)

For purposes of calculating dwelling unit bonuses in community unit plans, any final dwelling unit calculation which is greater than or equal to fifty hundredths (0.50) shall be rounded up to the next whole number. (Resolution No. [R-12-0058](#), July 24, 2012)

15.007. Outlots, Permitted Use

Permitted Use

An outlot reserved for future building or occupancy after replatting and subdivision may be used for agricultural uses, open space and/or common facilities in all zoning districts until such replatting and subdivision occurs. Accessory buildings are not permitted on outlots reserved for future building or occupancy after replatting and subdivision.

An outlot reserved for agricultural uses, open space and/or common facilities may be used for such designated use. Buildings that are accessory to the use of an outlot reserved for agricultural uses, open space or common facilities shall be permitted in all zoning districts. (Resolution No. [R-13-0043](#), July 30, 2013)

Special Permitted Use

An outlot within a Community Unit Plan reserved for agricultural uses, open space, common facilities, and/or a Solar Energy Conversion System and all necessary appurtenances thereto may be used for such designated use.

Sec. 2.22. OUTLOT

A parcel of real property to be included in a final plat, having access to at least one public street or private roadway and reserved for future building or occupancy after replatting and subdivision, or reserved for agricultural uses, open space, common facilities (July 30, 2013, Resolution No. [R-13-0044](#))

An outlot within a Community Unit Plan shall mean a parcel of real property to be included in a final plat, having access to at least one public street or private roadway and, reserved for agricultural uses, open space, common facilities, and/or, notwithstanding any use restrictions contained in a final plat recorded on or before [FUTURE EFFECTIVE DATE], a Solar Energy Conversion System and all necessary appurtenances thereto.

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June 23, 2021

BY HAND DELIVERY

Honorable Commissioners
Lancaster County
c/o Lincoln-Lancaster County Planning Department
555 South 10th Street, Suite 213
Lincoln, Nebraska 68508

Re: Application for Amendment to Lancaster County Zoning Regulations

Honorable Commissioners:

On behalf of Salt Creek Solar, LLC, I respectfully request Lancaster County amend its Zoning Regulations by adding the underlined text and striking the stricken text below:

14.003(b): In the "AG" zoning district, a minimum of fifty percent (50%) of the total area in the subdivision must be preserved as an ~~unbuildable~~ outlot to be used as open space, or for agricultural uses, common facilities and/or a Solar Energy Conversion System including all necessary appurtenances thereto.

14.003(c): c. A dwelling unit bonus of up to twenty five percent (25%) may be granted under the following circumstances:

1. A community unit plan in the "AGR" zoning district where at least twenty percent (20%) of the land is preserved as an ~~unbuildable~~ outlot to be used as open space, for agricultural uses, common facilities and/or a Solar Energy Conversion System including all necessary appurtenances thereto, and community sanitary sewer facilities are proposed, or;

2. A community unit plan in the "AG" zoning district where at least seventy percent (70%) of the land is preserved as an ~~unbuildable~~ outlot to be used as open space, for agricultural uses,

common facilities and/or a Solar Energy Conversion System including all necessary appurtenances thereto or;

15.007: Add a new paragraph as follows:

Special Permitted Use

An outlot within a Community Unit Plan reserved for agricultural uses, open space, common facilities, and/or a Solar Energy Conversion System and all necessary appurtenances thereto may be used for such designated use.

Lastly, please add the following to Section 2.22 of the Lancaster County Subdivision Regulations:

An outlot within a Community Unit Plan shall mean a parcel of real property to be included in a final plat, having access to at least one public street or private roadway and, reserved for agricultural uses, open space, common facilities, and/or, notwithstanding any use restrictions contained in a final plat recorded on or before [FUTURE EFFECTIVE DATE], a Solar Energy Conversion System and all necessary appurtenances thereto.

* * *

I enclose the necessary application form and a check for \$412. Please place this amendment on the Planning Commission's agenda for its July 21, 2021 meeting. Thank you.

Very truly yours,



David C. Levy

Enclosures

cc: Salt Creek Solar, LLC

14.003. General Requirement

The owner or owners of any tract of land in the "R" Zoning District which is one acre or more in area, including and up to the center line of existing public rights-of-way abutting the tract of land, or in the "AG" Zoning District which is seventy-five (75) acres or more, or in the "AGR" Zoning District which is ten (10) acres or more in area, may submit to the Planning Commission a plan for the use and development thereof for residential purposes or for the repair and alteration of any existing residential development; provided, however, that the Planning Commission shall apply the standards contained in this chapter in consideration of all applications for community unit plans. The plan may propose a modification of height and area of regulations of the district in which the community unit plan is located. In the AG District for lots five (5) acres or less the height and area regulations of the AGR District shall apply unless modified by the Community Unit Plan. (Resolution No. [R-11-0023](#), March 29, 2011; Resolution No. [R-17-0040](#), May 30, 2017;)

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