

MINUTES
LANCASTER COUNTY BOARD OF COMMISSIONERS
COUNTY-CITY BUILDING, ROOM 112
TUESDAY, SEPTEMBER 7, 2021
IMMEDIATELY FOLLOWING THE BOARD OF COMMISSIONERS MEETING

COMMISSIONERS: Rick Vest, Chair; Deb Schorr, Vice Chair;
Roma Amundson, Sean Flowerday and Christa Yoakum

Advance public notice of the Board of Commissioners meeting was posted on the County-City Building bulletin board, the Lancaster County, Nebraska, web site, emailed to the media to the media on September 3, 2021, and published in the Lincoln Journal Star print edition and website on September 3, 2021.

Commissioners present: Rick Vest, Chair; Roma Amundson, Sean Flowerday and Christa Yoakum

Commissioners absent: Deb Schorr, Vice Chair

Others present: David Derbin, Chief Administrative Officer; Jen Holloway and Candace Berens, Deputy County Attorneys; Dan Nolte, County Clerk; Cori Beattie, Deputy County Clerk; and Leslie Brestel, County Clerk's Office

The meeting was called to order at 9:25 a.m., the location of the Nebraska Open Meetings Act was announced.

1) NEW BUSINESS:

- A.** Resolution in the matter of County Text Amendment No. 21005 to amend Article 14 Community Unit Plan and Article 15 Additional Use Regulations of the Lancaster County Zoning Regulations and amend Chapter 2 Definitions of the Lancaster County Subdivision Resolution to allow for Solar Energy Conversion Systems and all necessary appurtenances within an outlot, after closing of the August 31, 2021, public hearing (This item will not provide for the receipt of additional testimony, comment, or evidence from the public.)

Vest stated the purpose of the meeting is to vote on the text amendment.

MOTION: Flowerday moved approval of the original text amendment as submitted by the applicant with the addition of "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 in accordance with Article 13 as required; provide that, notwithstanding the provisions of Section 13.-51(a)(vi), any Large Solar Facility on an outlot within a Community Unit Plan that has a final plat recorded on or before September 7, 2021 shall have a property line setback of three hundred feet from any Non-Participating Property within that Community Unit Plan" (Exhibit 1).

Holloway said based on the intentions from the public hearing it sounded as if the setback was only intended for properties with a dwelling, and she recommended adding the phrase "with a dwelling unit" to the text amendment. Additionally, she recommended removing the "Special Permitted Use" title. Flowerday accepted the recommendations.

Flowerday restated his motion with the amendments as presented by the County Attorney's Office.

Yoakum seconded the motion.

Amundson said she respects both the rights of property owners and of economic development within the community. She stated she is in favor of the Planning Commission proposal in which future outlots in Community Unit Plans (CUPs) could have an option for solar energy, but that the current outlots in CUPs could not. She added property owners were given the assurance that the outlying property use would be agricultural in nature.

Vest felt this issue is how to preserve the rights of the majority and protect the rights of those impacted by any decisions made.

FRIENDLY AMENDMENT: Vest moved that the setback should be increased from 300 feet to 450 feet.

This gives a balance of increased protection for property owners and also clear guidelines for any special permit applications.

Amundson seconded the friendly amendment.

Flowerday did not accept the friendly amendment. He felt the land use of the existing CUPs should not be dictated in a way that forever limits the use of the land.

Vest said this is for opportunities for landowners to use their property to the fullest potential. The setback of 300 feet is from the property line to the solar panel with screening in between the property and the panels.

Flowerday stated the productivity of the land is a valid concern. He indicated he had discussions with family farm advocates that said a farmer will use any amount of land that they can.

Amundson said the 450-foot setback would allow for some agricultural uses. She felt solar farms are industrial in nature and are not agriculture friendly.

Yoakum stated she does not support the 450-foot setback. She respects the current landowners and their expectations, but when looking at the density of the County, things are changing.

Flowerday added if the outlot owner decides that a 260 to 270-foot area is too small, then they can choose to keep the land use as agricultural.

Vest asked Steve Henrichsen, Lincoln-Lancaster County Planning Department Development Review Manager, whose responsibility it is for the care of the outlot property. Henrichsen answered the developer of the outlot owns the outlot, and in some cases the owner may pass the maintenance of the outlot to a homeowner's association, while other times the original developer may keep the land or have a farming arrangement.

Vest questioned if the text amendment goes forward, and if a solar farm is developed, the responsibility to maintain the area remains with the landowner. Henrichsen stated the landowner would have responsibility. It could also be part of the lease with a solar company that the solar company would maintain the land.

Vest reiterated that the vote would be on the 450-foot setback from the property line to the solar panels.

ROLL CALL: Amundson and Vest voted yes. Yoakum and Flowerday voted no. Motion failed 2-2.

Flowerday said a 300-foot setback is reasonable protection without ruling out the project.

Amundson felt a 300-foot setback is not enough and solar farms are not agricultural.

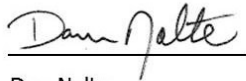
Vest voiced his appreciation for the Planning Commission. Flowerday added the Planning Commission members are volunteers.

ROLL CALL ON ORIGINAL MOTION: Yoakum, Flowerday and Vest voted yes. Amundson voted no. Schorr was absent. Motion carried 3-1.

Vest added he felt it is important that the Board make a decision. He also said with the adoption of the text amendment, there are still questions for a possible special permit application.

2) **ADJOURNMENT**

MOTION: Flowerday moved and Amundson seconded to adjourn at 9:48 a.m. Yoakum, Flowerday, Amundson and Vest voted yes. Schorr was absent. Motion carried 4-0.



Dan Nolte
Lancaster County Clerk



15.007. Outlots, 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 in accordance with Article 13 as required; provided that, notwithstanding the provisions of Section 13.051(a)(vi), any Large Solar Facility on an outlot within a Community Unit Plan that has a final plat recorded on or before [FUTURE EFFECTIVE DATE] shall have a property line setback of three hundred (300) feet from any Non-Participating Property within that Community Unit Plan.

WITH A DWELLING