

## MEETING RECORD

**NAME OF GROUP:** PLANNING COMMISSION

**DATE, TIME AND PLACE OF MEETING:** Wednesday, September 4, 2019, 1:00 p.m., Hearing Room 112, on the first floor of the County-City Building, 555 S. 10<sup>th</sup> Street, Lincoln, Nebraska

**MEMBERS IN ATTENDANCE:** Shams Al-Badry, Tom Beckius, Dick Campbell, Tracy Corr, Tracy Edgerton, Cristy Joy, Cindy Ryman Yost, Dennis Scheer and Deane Finnegan. David Cary, Steve Henrichsen, George Wesselhoft, Tom Cajka, Kellee Van Bruggen, Brian Will, Andrew Thierolf, Geri Rorabaugh and Rhonda Haas of the Planning Department; media and other interested citizens.

**STATED PURPOSE OF MEETING:** Regular Planning Commission Hearing

Chair Corr called the meeting to order and acknowledged the posting of the Open Meetings Act in the room.

Corr requested a motion approving the minutes for the regular meeting held August 21, 2019.

Motion for approval made by Campbell, seconded by Beckius and carried 9-0: Al-Badry, Campbell, Joy, Ryman Yost, Edgerton, Finnegan, Scheer, Beckius and Corr voting 'yes'.

Chair Corr noted that Special Permit 19035 was being delayed until October 2, 2019, as requested by the applicant, and she stated that it would not be necessary to re-advertise this item.

The Clerk noted that under the announcement regarding Special Permit 19035, the Planning Department is required to re-advertise this item and, therefore, will be renotifying adjacent property owners.

### **CONSENT AGENDA**

### **PUBLIC HEARING & ADMINISTRATIVE ACTION**

### **BEFORE PLANNING COMMISSION:**

**September 4, 2019**

Members present: Al-Badry, Beckius, Campbell, Corr, Edgerton, Joy, Ryman Yost, Scheer and Finnegan.

The Consent Agenda consisted of the following items: **Comprehensive Plan Conformance 18017, Comprehensive Plan Conformance 19008, Street and Alley Vacation 19006, Comprehensive Plan Conformance 19009, Comprehensive Plan Conformance 19010,**

**Comprehensive Plan Conformance 19011, Special Permit 19039, Special Permit 363C and Text Amendment 19005.**

There were no ex parte communications disclosed.

Street and Alley Vacation 19006, Special Permit 19039, and Text Amendment 19005 were removed from the Consent Agenda and scheduled for separate public hearings. Comprehensive Plan Conformance 19009 was removed from the Consent Agenda and placed under Requests for Deferral.

Scheer moved approval of the Consent Agenda, seconded by Campbell and carried 9-0: Al-Badry, Campbell, Joy, Ryman Yost, Edgerton, Finnegan, Scheer, Beckius and Corr voting 'yes'.

Note: This is **FINAL ACTION** on **Special Permit 19039** and **Special Permit 363C**, unless appealed by filing a letter in the Office of the County Clerk or City Clerk within 14 days. This is a recommendation to the City Council for all other items.

**Requests for Deferral:****COMPREHENSIVE PLAN CONFORMANCE 19009**

**TO REVIEW AS TO CONFORMANCE WITH THE 2040 LINCOLN-LANCASTER COUNTY COMPREHENSIVE PLAN, TO AMEND THE CITY OF LINCOLN'S 6-YEAR CIP (CAPITAL IMPROVEMENT PROGRAM) FOR FY 2018/2019 TO 2023/2024, BY ADDING THE EXPANSION OF AN EXISTING LES (LINCOLN ELECTRIC SYSTEM) SUBSTATION, ON PROPERTY GENERALLY LOCATED AT 2208 NORTH 56TH STREET:**

**September 4, 2019**

Members present: Al-Badry, Beckius, Campbell, Corr, Edgerton, Joy, Ryman Yost, Scheer and Finnegan.

**Staff recommendation:** Conformance with the Comprehensive Plan

There were no ex parte communications disclosed on this item.

**COMPREHENSIVE PLAN CONFORMANCE 19009**

**ACTION BY THE PLANNING COMMISSION:**

**September 4, 2019**

The Clerk noted that the applicant has requested to defer this item for two weeks to the regular Planning Commission hearing on September 18, 2019.

Campbell moved for a 2-week deferral until September 18, 2019, seconded by Beckius and carried 9-0: Al-Badry, Campbell, Joy, Ryman Yost, Edgerton, Finnegan, Scheer, Beckius and Corr voting 'yes'.

**STREET AND ALLEY VACATION 19006**

**TO VACATE THE NORTH 142 FEET OF THE ALLEY ADJACENT TO LOT 3, BLOCK 86, ORIGINAL LINCOLN SUBDIVISION, GENERALLY LOCATED BETWEEN 9TH AND 10TH STREETS AND M AND L STREETS**  
**PUBLIC HEARING:**

**September 4, 2019**

Members present: Al-Badry, Beckius, Campbell, Corr, Edgerton, Joy, Ryman Yost, Scheer and Finnegan.

Scheer declared a Conflict of Interest on Item 3.1 and exited the chambers.

**Staff Recommendation:** Conforms to the Comprehensive Plan

There were no ex parte communications disclosed.

**Staff Presentation:** George Wesselhoft, Planning Department, came forward and stated this request is to vacate a portion of the alley between M and L Streets. This is not for the entire alley, but just the northern half of the north-south alley. The remaining alley would consist of an L-shaped alley that would connect L Street to 10<sup>th</sup> Street. He stated this request is to accommodate the redevelopment of the west and northeast parts of the block and all of the existing structures in that area would be demolished. A new 7-story, 340,000 square foot student housing project would be constructed. He stated that subsequent to the completion of the staff report there were some very specific issues concerning the B & J Partnership building. The issues identified were truck-turning movements in the remaining L-shaped alley; the relocation of the sanitary sewer and the potential impact to the building and in the portion of the alley that remains; and there are concerns with storm water drainage.

**Applicant:**

1. **Tom Huston, Cline Williams Wright Johnson & Oldfather, 233 S. 13<sup>th</sup> Street, #1900**, came forward on behalf of Campion Development and stated this street and alley vacation is part of a project that will have a 7-story structure containing 134 dwelling units and an internal parking garage that provides in access of 260 parking stalls. This downtown housing project is consistent with the Comprehensive Plan where the objective is to increase density and it is also consistent with the 2018 Master Plan. The two current utilities will need to be relocated with this project. There were three issues raised and the Civil Engineer has come up with a plan for the relocation of the sanitary sewer that has been attentively approved by the city, and the engineers have also come up with a plan to drain the surface water from the alley. The last issue relates to the access for the trucks. The architect to this project believes they can create a recessed area within the building for the trucks to turn around in and an easement will be granted so that the trucks will have continued access to their dock in the northwest corner. The applicant is asking for a vote on this item today.

**Staff Questions:**

Campbell asked for the height of the area that the trucks would be turning around in. Huston stated that it is part of the parking area and that bay area will have a height of 20 feet.

Corr stated that they would be able to enter from 10<sup>th</sup> Street to go straight back to turn around.

Huston said correct, and he stated they are working towards an agreement.

**Proponents:**

None came forward.

**Opponents:**

**1. Ann Post, Baylor Evnen, 1248 O Street, Suite 600,** came forward on behalf B & J Partnership Speedway Properties who is in opposition to this street and alley vacation, but in favor of a 2-week delay. Post stated that this street and alley vacation substantially impacts the ability to access their building. Post referenced a number of photographs and site diagrams (see Exhibit "1"). She stated that on the northwest corner of their building there is an overhead door for large trucks and, with this north-south alley vacation, there will not be the turning radius needed for these trucks to access this door. There is also a substantial 8-foot grade in this alley and there is concern of how access will be preserved and how the trucks will be able to turn around with the grade of the alley. She stated that they need to have continued access to the parking area for their building and asked who will maintain the alley area, as a 7-story building will create a shadow in this area and four months out of the year there will be snow and ice. She stated that it is appropriate to wait to approve the street and alley vacation until all of the questions are answered and the issues are resolved.

**2. Tim Gergen, Clark Enersen Partners, 1010 Lincoln Mall, Suite 200,** came forward and stated that the east-west alley is not in the City of Lincoln Design Standards as an alley as far as the condition of the alley, nor is it in the grades. He explained this is a condition that was not on the Planning Department's website to improve this east-west alley if it is going to be used. Currently, the east-west alley is not being used and will need to be addressed in the improvement project with the increase of traffic in the alley.

Corr asked how long it would take to vet out the solutions. Gergen stated that with a 2-week delay they should be able to come up with something. Corr inquired if this could be resolved before the four weeks when this would go to City Council. Gergen stated that it possibly could, but the issue is if the alley vacation continues to move forward it could affect this property owner and this is the time that they have to address their concerns, because the portion of the alley that is being vacated is not abutting Speedway Properties.

Campbell asked about the trucks backing out of the alley onto L Street. Gergen stated that they could, although the Transportation and Utilities Department normally does not allow for trucks to back out into downtown streets.

**Staff Questions:**

Corr asked about the east-west alley and if it was included in the improvements of the project. Wesselhoft stated that he was not aware of this portion of the alley being included. Corr asked if this project would be applying for TIF (Tax Increment Finance) funding. Wesselhoft stated he was not the expert on this project, but he believes they would be. Corr inquired if TIF funds could be used to improve the east-west alley. **Dan Marvin, Urban Development Director,** came forward and said yes, they would be using TIF dollars and those funds could be used for the alley improvement. Currently, we are working through sources and uses on this project. Corr inquired if any projects are scheduled for the east-west alley portion. Marvin stated at the moment he was not aware of any, but they are still working on sources and uses now, before this goes to City Council.



Corr asked how staff felt about approving this item now and letting the parties work on resolving the issues before this gets to City Council. Wesselhoft stated that LTU has just started looking at some of the solutions that have been proposed and would still recommend the 2-week delay.

**Applicant Rebuttal:**

Huston stated the schedule is important for a development project and this schedule that is mapped out is likewise important. He stated that there are 26 days before this goes to City Council, and he stated that would be adequate time to work out the issues and find solutions.

**STREET AND ALLEY VACATION 19006**

**ACTION BY PLANNING COMMISSION:**

**September 4, 2019**

Campbell moved to defer this application for two weeks with continued public hearing and action, seconded by Beckius.

Campbell stated he feels these issues need to be worked out prior it going to City Council.

Beckius stated that he agrees with staff, and that some of the issues with the adjacent land should be worked out. The access issue is important in determining conformance to the Comprehensive Plan.

Finnegan stated that she would support the motion because it is the wise thing to do.

Motion for 2-week delay carried 8-0: Al-Badry, Campbell, Edgerton, Joy, Ryman Yost, Finnegan, Beckius and Corr voting 'yes': Scheer declared a conflict of interest on Street and Alley Vacation 19006 and, therefore, recused himself from voting on this item.

Scheer returned to the chambers.

**SPECIAL PERMIT 19039, TO ALLOW FOR AN EXPANDED HOME OCCUPATION FOR THE SALE OF FIREARMS, ON PROPERTY GENERALLY LOCATED AT 9700 RAYMOND ROAD**

**PUBLIC HEARING:**

**September 4, 2019**

Members present: Al-Badry, Beckius, Campbell, Corr, Edgerton, Joy, Ryman Yost, Scheer and Finnegan.

**Staff Recommendation:** Conditional Approval  
There were no ex parte communications disclosed.

**Staff Presentation:** Tom Cajka, Planning Department, stated this application is for a special permit under the expanded home occupation in the county. This would allow the applicant to sell firearms from their house. The selling of firearms will have minimal traffic, no new construction and should be a minimal impact to the adjacent property owners. The applicant letter stated that he has been doing this for the past 10 years and was not aware that he needed a special permit. The ATF has

done an audit to see if this business was in compliance with the local zoning code. The applicant has stated that he only sells two to four guns a month. Cajka stated that he has received information from John Basile from the Bureau of Alcohol, Tobacco, Firearms & Explosives on background check requirements that the applicant would need to follow.

#### **Staff Questions:**

Edgerton inquired about the condition that is not being met that is requiring the waiver, which is the sale of a product not manufactured, processed, treated or assembled on the premises, and she asked what the purpose of that condition was. Cajka stated when the county did this it was to allow more small businesses through home occupation. The idea was that most businesses would be something that you would prepare and manufacture onsite. Edgerton asked if the few number of sales has anything to do with the Planning Department's approval. Cajka said yes, this will have a minimal impact on the area, there will not be a new building built, and he is using a small area of the house for his office area. Edgerton stated that there was not a limit on the number of sales that could occur, and she asked if that was correct. Cajka stated that was correct.

#### **Applicant:**

**Shad Stutheit, 9700 Raymond Road**, came forward and stated he is the business owner of S & K Guns & Tackle. He explained that he has had this permit for 25 years, and originally he lived in Waverly where he had a permit. He stated that when he moved to his current location 9 to 10 years ago he contacted the county and asked about requirement for his business, and he stated he was told that nothing was needed. He further stated that he has been conducting his business like he always has for 20 plus years. The ATF just performed an audit and everything was in compliance.

Campbell asked about a security system on the home. Stutheit said he has a security system and the firearms are in a safe, with each gun having its own lock. He also stated that in the past he has refused to sell firearms to people who he is not comfortable selling to. Campbell asked if he sells ammunition. Stutheit stated that he has ammunition but does not typically sell it.

Corr inquired if test shooting is allowed on his property. Stutheit said no. Corr inquired about the type of driveway on his property. Stutheit stated it is a gravel driveway.

#### **Proponents:**

None came forward.

#### **Opponents:**

**1. Martha Minchow, 8181 Davey Road**, came forward and stated she is the owner of property within one mile to the east of the proposed permit application. She stated that this business will impact her and she has concerns about customers test firing the firearms outside with neighbors possibly outside nearby.

Finnegan asked the applicant if there have been problems over the past 10 years with the neighbor and shooting outside. Minchow stated that she did not know that the business existed.

**2. Michael Minchow, 15200 Raymond Road**, came forward and stated his property is southeast of the applicants and he is against this permit. He stated that he has concerns with what this business will be doing outside, with the test firing of firearms, and he wants to make sure everyone is safe. He stated that he does farming in the area for relatives and others neighbors.

Finnegan asked if he was aware that the business existed. Minchow said not he was not.

Corr inquired about the properties that he farms in the area and asked if the property he lives on is one of those in the area. Minchow said no he lives down the road.

**3. Jerry Minchow, 8181 Davey Road**, came forward and stated that he was born in this area and has lived here for 78 years. He stated that the selling of guns could bring attention to the area and there could be break-ins and this could put the neighbors in danger.

**4. Ruth Ann Thompson, 2400 N. 134<sup>th</sup> Street**, came forward and asked what happens if the applicant decides to have an outdoor range, which is what has happened to her in her area. She stated that they are in danger of getting shot, constant loud noise with the shooting of the guns, and her property value has been impacted. She stated that the concerns of outdoor shooting in the area are real, she lives it every day at her house.

#### **Staff Questions:**

Campbell asked if it would be possible with a special permit to place criteria that there could be no outdoor activity relating to the gun sales on it. Cajka stated that is more of a legal question, and he shared that shooting a gun in the county on your own property is allowed. If it is related to a business, then it would maybe fall under a special permit for outdoor recreational activity area; this is something that has recently been added to the County Zoning. This applicant is not applying for a gun range with this application; he is just applying for the selling of guns. **Steve Henrichsen, Planning Department**, came forward and stated that if you wanted to add a condition as part of the expanded home occupation that states the expanded home occupation was limited to indoor use only, it could be included as a condition that could be added on the expanded home occupation and it wouldn't limit his private rights in terms of the use of firearms. Campbell ask if Henrichsen could state the wording again. Henrichsen stated that a sentence could be added to read: No outdoor activity related to the home occupation is allowed.

Corr inquired as to who monitors a use permit and asked if it is complaint based. Cajka said yes, that it would be like any other special permit. Corr further questioned if there were complaints with the special permit who would they contact. Cajka stated Building & Safety would handle zoning complaints. Corr stated that if the applicant wanted to add a shooting range indoor or outdoor if he would need to amend this permit or come back and apply for a different permit. Cajka stated yes, it would be a different special permit the applicant would need to apply for.

**Applicant Rebuttal:**

Stutheit came forward and stated he mentioned prior his guns are secure. He stated that it is his acreage and he has concerns about restrictions being added to the special permit. He asked about the enforcement for those restrictions, and what if someone comes over and they are out shooting. Someone could say that he is in violation of the special permit and that is not the intent of this. He stated that he has had this business on this property for nine years and has shot guns on this property and never had any complaints. He stated his neighbors across the road do not have a special permit or a business and they shoot their guns as much or more than he does.

Scheer asked as part of the business if the applicant would be opposed to having a condition that says, as part of the business there would not be outdoor shooting, which would not preclude the applicant or friends from shooting. Stutheit stated he would not have a problem with it, but if a friend comes over and wants to buy and shoot a gun how would it be regulated. He stated that he thinks it would be very hard to regulate and he would have complaints if friends were over shooting.

**SPECIAL PERMIT 19039****ACTION BY PLANNING COMMISSION:****September 4, 2019**

Beckius moved approval, seconded by Scheer.

Campbell stated that he is wondering if an amendment should be added for no outdoor activity related to the occupation is allowed, wanting to eliminate any possibility of an outdoor shooting range without a second permit.

Edgerton shared that this is the state of the law currently. She stated that there could not be an outdoor shooting range without another special permit.

Joy agreed with Edgerton's statement.

Beckius stated that some individuals want to live in the county and have businesses and some of these businesses are not specifically land based as stated in the home occupation. He stated that the applicant is running a legal business and he can fire guns now legally on his property; he is in support of the special permit.

Finnegan stated that she is in support of this, and she said he has been there for 10 years and neighbors did not know he had this business, and is in support.

Edgerton stated that when the applicant found out he needed a special permit he began the process.

Scheer stated he is in support.

Motion for approval carried 9-0: Al-Badry, Campbell, Joy, Ryman Yost, Edgerton, Finnegan, Scheer, Beckius and Corr voting 'yes'.

Note: This is **FINAL ACTION** on **SPECIAL PERMIT 19039** unless appealed by filing a Letter of Appeal with the Office of the County Clerk within 14 days.

**TEXT AMENDMENT 19005**

**TO AMEND CHAPTER 27.62 CONDITIONAL USES BY AMENDING SECTION 27.62.040 HOUSEHOLD LIVING USE GROUP TO PROVIDE THAT DWELLINGS ARE PERMITTED IN THE B-2 ZONING DISTRICT WHEN STATED AS AN ALLOWED USE AS PART OF A USE PERMIT; AND REPEALING SECTION 27.62.040 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING**  
**PUBLIC HEARING:** **September 4, 2019**

Members present: Al-Badry, Beckius, Campbell, Corr, Edgerton, Joy, Ryman Yost, Scheer and Finnegan.

**Staff Recommendation:** Approval

There were no ex parte communications disclosed.

**Staff Presentation:** **Brian Will, Planning Department**, came forward and stated this request proposes is to remove the prohibition on first-story dwellings in the B-2 Zoning District when allowed as part of a use permit. The rationale for the amendment is that the O-2, B-1 and B-3 Zoning Districts are intended for the city's older commercial areas, which are often linear and typically lack depth. As a result, it is appropriate to preserve the first story for commercial uses. The B-2 Zoning District is intended to allow for neighborhood shopping centers in the newer suburban parts of the city.

Corr asked about examples of where this B-2 might occur. Will stated on 70<sup>th</sup> Street and Pioneers is a good example. Corr inquired if there was an existing B-2 that was previously approved and they could not have first floor, what process would they need to go through. Will stated if residential was listed as part of the project, they would not need to do anything. Corr asked if this would need to be done by an amendment and not an Administrative Approval. **Steve Henrichsen, Planning Department**, came forward and stated that they would now be able to do this on the first floor. Corr stated that they would just need to stay within their allotted number of units. Henrichsen said correct. Corr inquired about permitted verses conditional. Will stated permitted is by right and conditional is as long as you meet the conditions.

Beckius asked about an answer on the Administrative Approval or amendment if they were needed. Henrichsen stated that you would not need either if dwelling units were previously permitted, although if no dwelling units were previously permitted in the past, they would need to go back and ask for dwelling units.

Corr stated they would need to come back through Planning Commission for approval and it could not be done through an Administrative Approval. Henrichsen said correct.

**Applicant:**

**Matt Langston, Olsson Assoc., 601 P Street**, stated that the R-2 Zoning is a transitional area that is typically next to residential areas and this gives the developer the ability to add first floor units, because sometimes commercial is hard to rent out. This is just a conditional use and the applicants would need to come before the Planning Commission, and if there are places that this does not fit the Planning Commission would be able to say no.

**Proponents:**

**1. Mike Eckert, Civil Design Group, 8535 Executive Woods Drive, Suite 2A**, came forward in support of this text amendment. There is such a strong market now and this adds some flexibility to the developer.

**Opponents:**

None came forward.

**TEXT AMENDMENT 19005**

**ACTION BY PLANNING COMMISSION:**

**September 4, 2019**

Edgerton moved approval, seconded by Campbell.

Edgerton stated this makes a lot of sense.

Campbell stated this makes a lot of sense.

Beckius stated that it makes sense and the only concern that he might have with the implementation of this is that with the flexibility we are optioning the possibility of creating projects that are not economically viable in Zoning Districts that weren't as economically viable by market driven forces as commercial pieces.

Motion for approval carried 9-0: Al-Badry, Campbell, Joy, Ryman Yost, Edgerton, Finnegan, Scheer, Beckius and Corr voting 'yes'.

**SPECIAL PERMIT 19036**

**TO ALLOW FOR THE CONSTRUCTION OF A LARGE SOLAR ENERGY CONVERSION SYSTEM, ON PROPERTY GENERALLY LOCATED FROM "O' STREET TO ADAMS STREET AND N. 134TH ST TO N. 148TH STREET**

**PUBLIC HEARING:**

**September 4, 2019**

Members present: Al-Badry, Beckius, Campbell, Corr, Joy, Ryman Yost, Edgerton, Finnegan and Scheer.

Scheer declared a Conflict of Interest on Special Permit 19036 and recused himself from the hearing.

**Staff Recommendation:** Conditional Approval

Commissioner Campbell disclosed that he owns property near this proposed development and contacted the Nebraska Accountability and Disclosure Commission (NADC) regarding any potential conflict of interest. The NADC provided written documentation indicating that he has no conflict of interest, which has been placed on file with the Planning Department.

**Staff Presentation:** Tom Cajka, Planning Department, stated this request is for a special permit for a Large Solar Energy Conversion System (SECS) for up to 230 megawatts on approximately 1,100 acres. This project is located on 12 contiguous leased properties in an area from Havelock to O Street and 128<sup>th</sup> Street to 148<sup>th</sup> Street. The proposed Large Solar Energy Conversion System provides for alternative, renewable source of energy, which is supported and promoted by the 2040 Comprehensive plan. The applicant is requesting a waiver on the setbacks as stated in the staff report.

Campbell stated that it looks as if the applicant was increasing the required setbacks for this project. Cajka stated that was correct.

**Applicant:**

Colin Snow, Ranger Power Development Manager, 500 S 4<sup>th</sup> Street, Eagle, the applicant, came forward and stated Ranger Power is a solar development company specializing in utility-scale projects. Snow referenced a PowerPoint presentation during his testimony (See Exhibit "2"). Photovoltaic panel tracking systems are currently the most economical solar technology available, and they operate without producing air pollution or greenhouse gases. The equipment includes solar panels, steel I-beam posts, racking, electrical collector lines, inverters, access roads and fencing. This project will produce on-peak power during the day when people are using it and it is close to the largest load centers in the state--Lincoln and Omaha. David Levy, Baird Holm, LLP, 1700 Farnam Street, Suite 1500, Omaha, representing the applicant, came forward and stated that this project is consistent with Lincoln's Comprehensive Plan. This also complies with the zoning ordinance. This project uses photovoltaics to convert solar energy into electricity, is in accordance with visual screening requirements, and they have established a decommissioning plan that identifies a cost estimate and the posting of a bond for the decommissioning costs. This is a \$230 million project that will generate over \$800,000 in tax revenue for this county. The neighbors to this project were the focus of the setbacks, and that is why they were increased. This was done for the neighbors that did not want to participate in this project.

**Staff Questions:**

Edgerton asked if they commissioned the study with regards to property values. Levy stated that was correct. Edgerton asked about the process of gathering the information. Levy stated CohnReznick, LLP is a nationally known company and they did the study. They were given the

request to look at the property values over time adjacent to as well as property not adjacent to solar energy facilities in the mid-west that were similar in size and scope.

Corr inquired how they determine if they are participating or non- participating properties. Levy stated if they have a contract with the company, they are participating.

Corr asked if they have buyers for this solar power that is going to be generated. Snow stated not to date. Levy stated once this project is approved, it will make it much easier to find buyers. Corr inquired if they expect the power generated to be sold locally. Snow explained the electrons are put on the grid where they are plugged in, so the electricity does stay local, although the buyer can sometimes be in a wider circle. Corr inquired about the height of the solar panel once it is on the pole. Snow stated they are racked north to south and they will rotate to follow the sun. At night the panels are flat and as the sun rises they tilt to the east and will follow the sun to the west through the day, so they are at their tallest in the beginning and the end of the day, approximately 8 feet. Corr asked how much noise the panels would generate. Snow stated the panels do not make noise, it would be the inverters that collect the power and that would be 41 decibels at the project perimeter. Corr asked how many inverters a project of this size would have. Levy stated about 50 to 100 inverters. Corr inquired how this would affect the water table. Snow stated this would not affect the water table. Corr inquired about the impact on wildlife. Snow stated this is good for wildlife and the fencing around the project is wildlife fence with full-time monitors on site. Corr inquired if this project would generate additional traffic. Snow stated to run a project this size after construction there would be 4 to 6 full-time jobs to monitor the site.

Edgerton inquired about the decommissioning process. Snow stated that they would try to recycle the panels and everything else would be removed. Edgerton stated that there would be no waste left behind. Snow said correct. Edgerton asked if there would be an increased risk of fire with this project. Snow explained that the panels do not catch on fire and that the only thing that could catch on fire would be the ground cover and someone would be mowing and taking care of that. Edgerton stated that the risk of fire is just because it is in a field and not related to the solar panels, and asked if that was correct. Snow stated that was correct.

### **Proponents:**

**1. John Hansen, President of Nebraska Farmers Union, 1305 Plum Street,** came forward and gave the Clerk a map to hand out to Planning Commission members showing solar development in Nebraska (see Exhibit "3"), and he stated he is in support of this project. He stated that Ranger Power has done what a developer needs to do, which is to ask what they need to do in order to work with landowners, and they have been open and transparent. He stated that every single way to generate electricity has an environmental footprint. He stated that wind and solar power that is being generated is the most kind to the future and have the smallest footprints.

[Break 3:25 P.M.]

Resumed 3:35 P.M.]

**2. Dan Griffith, 13990 Adams Street,** came forward and stated that the solar farm is a good thing. He stated he is doing his part to tackle climate change and the future is here and let's embrace it.



**3. Sean Flowerday, Lancaster County Commissioner for District 1, 2901 A Street, Suite 106,** came forward and stated the effects of climate change are here as evidenced by the extreme weather events. The county has lost 22 bridges, and the increased tax revenues will enable the county to repair these bridges and could potentially fund several full-time positions. He stated our community needs to be a leader for renewable energy. With over 300 days of sun in the east and slightly less in the west, and he stated he is in favor of this project.

**4. Marilyn McNabb, 1701 W. Rose Street,** came forward as a representative of the Lincoln Chapter of Citizens Climate Lobby. They are in favor of this project and stated their purpose is to find solutions to the crisis. She stated that Nebraska is ranked 13<sup>th</sup> among States for its solar power potential, but ranked 44<sup>th</sup> for solar production.

**5. Pat Haverty, Vice President of Economic Development at the Lincoln Partnership for Economic Development, 1128 Lincoln Mall,** came forward in support of this project. He stated that Ranger Power did a great job showing the community strengths with their slide presentation, the high tax revenue that will come from this project, and the construction jobs that it will create.

**6. Ken Winston, Nebraska Interfaith Power and Light, 215 Centennial Mall, Suite 512,** came forward and provided a letter of support (see Exhibit "4"). He stated this organization discusses the issues related to taking care of the planet and climate change. This year the world is seeing impacts of climate change and it is past time to start addressing this, and he stated that they are in favor of this project.

**7. Scott Otley, 2400 N. 134<sup>th</sup> Street,** came forward and stated he is one of the land owners that has leased land for this project. He stated that he currently has a 21-KW hour solar project with LES that has been in for four years. In order to hear any noise you would need to be standing by it. He inquired about the bonding and what the company is wanting to change and he is also wanting the abandonment language clarified.

**8. Gary Carson, 14230 Holdrege,** came forward and stated that they plan to lease 50 acres to this project. He stated that he is support of this project and that solar energy is the best path forward to get away from fossil fuels. The owners that have signed on with Ranger Power will be getting a stable income during the duration of the project and that is very important.

**9. Zach Renshaw, Chairman of Doane University Climate Reality Campus Corps Chapter, 1014 Boswell Ave., Crete,** came forward and showed a PowerPoint (see Exhibit "5") illustrating why they support this project and the benefits of solar power. He stated that climate change is affecting soil everywhere and they support this project.

**10. Bruce Anderson, 4101 N. 134<sup>th</sup> Street,** came forward and stated that he is one of the owners that has contracted with Ranger Power on this project. He stated this will be beneficial for the local people. With this type of a project, they won't be using water or pesticides and this will be beneficial to all in the area.

**Opponents:**

**1. Ken Richards, President of area homeowners association, 3401 N. 131<sup>st</sup> Street,** came forward and stated that he lives in the area and is not in opposition, but they have some concerns. However, he stated that the covenant does say solar panels are not allowed on the property. He stated that they also have concerns with the contract that Ranger Power is wanting them to sign. He explained that the contracts state what the landowners can and can't say and if they don't sign they have been told that all bets are off, and they will put solar panels in all of Outlot A, and that makes them feel like they are being bullied.

Edgerton asked the speaker where his land is located. Richards indicated on a map the location of his property.

Beckius asked about the developer being the owner of Outlot A. Richards said that is a good question, and he stated that the contract Ranger Power is asking them to sign does not state who the owner of that property is. Beckius asked if they have had discussion with the developer. Richards said no.

**2. Justin Whisler, 13277 Lizzie Lane,** came forward and showed on the map the location of his house, and he shared the covenant states solar was not allowed on Outlot A. He stated that he was not notified about this project at all. He shared that he is not against this project, but they have concerns and would like them worked out before this project is approved. He stated that the house that they built on this land was to be their forever home. They will be able to see the panels from their second floor balcony, because even though you cannot tell from the picture, they are rolling hills.

Beckius asked if they have had discussions with the developer that they purchased the lot from. Whisler stated that he has not.

**3. Abby Whisler, 13277 Lizzie Lane,** came forward and stated that when their plans for the house were approved, the developer referred them to the President of the Homeowners Association for everything that had to do with the covenant.

Beckius stated that the use of Outlot A that is described in the covenants and the relationship with the developer does not go away, and he stated that they should have a discussion with their developer.

**4. Stephanie Henn, 3450 N. 131<sup>st</sup> Street,** came forward and stated concerns that she has with the covenants on construction restrictions that are stated. She shared that this project will take away local food production and future Lincoln growth, which goes against the Comprehensive Plan.

**5. Diane Brozek, 3501 N. 131<sup>st</sup> Street,** came forward and stated that she is not opposed to solar energy, but she moved to the country to have fields and wildlife and a solar field would not be something beautiful to look at. She stated the fencing is not nice to look at and there will be animal death relating to the fencing.

**6. Jenny Simpson, 13300 Lizzie Lane,** came forward and stated she has concerns that they have not sold any of the energy that they will be making and that this will not benefit the area with LES not needing to purchase any of the solar power. She also feels that this is a fire hazard with Waverly not being equipped well enough to fight a fire in this area.

**7. Shana Gerdes, 13045 Lizzie Lane,** came forward and stated that she is for solar power, but not with her neighborhood being surrounded by this project. She stated if the applicant would remove Outlot A from the project area, she would be onboard with this project.

**8. John Regan, 1911 N. 129<sup>th</sup> Street,** came forward and stated that he has concerns this will affect the property values. He stated he is not against solar power and has had discussions with Ranger Power about not surrounding his neighborhood with solar panels.

**9. Patricia Thalken, 15000 Plum Ridge Road,** came forward and stated that she had sent a letter and pictures to the Planning Commission. She stated that she has concerns with fires relating to this project. She shared that this would affect migratory birds and other wildlife in the area.

**Staff Questions:**

Corr inquired about bonds and decommissioning and why they will not be putting up a bond until the 15<sup>th</sup> year. Cajka stated they did submit a 2-page decommissioning estimate. Basically, it is the decommissioning cost minus the salvage value. The value of the panels would be so much that they won't walk away from them, with the decommissioning cost being \$8.4 million and the resell value of the panels being \$47.8 million. If they continue to operate and the bond would be roughly \$1.2 million at the 15th year, which is the net decommissioning cost. The reason that 15 years is okay for the bond is that it is felt that at that point in time is when the bond would be warranted due to the value of the panels.

Corr asked how approving this project might affect other projects large and small in the area. Cajka stated they could apply for a special permit and it would not impact another special permit. Corr inquired about how this application and covenants relate to one another. Cajka stated the Planning Department does not enforce or look at covenants. Corr stated that the covenants would have no bearing on their decision. Cajka said that is correct.

Edgerton inquired about additional information concerning the discussions and concerns of fires. Cajka stated that it had not been brought up prior and was not a concern from other departments.

**Applicant Rebuttal:**

Levy came forward and stated that in January 2019, Mr. Snow went to the surrounding neighbors. The timing of the decommissioning bond Cajka stated well, bonds are expensive and if Salt Creek Solar were to go away, which is why you would need the decommissioning bond, and the evidence shows that with what this project will be worth, there is no way that they would walk away from it. In regards to the covenants, it is a private matter. Although, the covenants do state that the developer does have permission to do solar on this property. The property that we are discussing is

owned by the developer. He explained that in terms of the fire concerns, there is nothing that makes this project a larger risk than any other project and there are no batteries associated with this project. With the Comprehensive Plan, this project is not using a large amount of land and does preserve land for the future. He shared that they will work with County Engineering on the roads to ensure that the condition of the roads will remain the same or be in better condition. He stated that this project should move forward and that they will still work with the neighbors on this project. Snow stated that they will continue to work with the neighbors on this project, and he shared that they want to be good neighbors for the life of the project and not just during the construction portion.

Edgerton inquired how long the construction phase would be. Snow stated 12 months or less.

Corr inquired when the construction phase would start. Snow stated that depends on when the power is to be delivered, which is part of the agreement with the buyer of the power. He stated that they are hopeful that it will be within the next three years. Corr inquired if the construction would be done in phases. Snow stated there is a lot of savings in building the entire project at one time. Corr inquired if they would be willing to not use all of Outlot A, to give the residents more breathing room. Snow stated that was the design of the agreements that they have been talking with the neighbors on and hope to continue to work with the residents on this issue. Corr stated if approved and with this project not being built right away, she asked if they would continue to work with the neighbors. Snow stated that they do feel that there is time and space to continue to work with the neighbors.

Beckius stated that the land owner can lease the land to them for this project, and he stated if continued discussions it is just being neighborly and not even necessary for them to do. Levy stated that is correct, that the discussions are voluntary, not required.

#### **SPECIAL PERMIT 19036**

#### **ACTION BY PLANNING COMMISSION:**

**September 4, 2019**

Campbell moved approval, as amended as offered by staff in the memorandum dated September 3, 2019, seconded by Joy.

Campbell stated there needs to be more communication between all parties that this will affect.

Joy stated that this does match the Comprehensive Plan and the 40-year plan with the life of the solar farm, and she encouraged the property owners to contact the developer to work on the issues. She stated that they have addressed the concerns of fire with the contacting of departments, with the decommissioning and the aspect of the water use with no storage component onsite.

Al-Badry stated that she would like to echo what Campbell stated, in that the applicant continue the friendly conversations with the neighbors.

Corr stated that the report does state that the application meets all of the conditions of the special permit and that makes it hard to find a reason not to agree to it when they are meeting all of the

check lists. She stated that it is hard to not claim property that is next to you when you have a vested interest in it and the only way that you can do this is if you own the property and stated that she is in support of this with them meeting the conditions.

Motion for approval as amended carried 8-0: Al-Badry, Campbell, Joy, Ryman Yost, Edgerton, Finnegan, Beckius and Corr voting 'yes'; Scheer declared a conflict of interest.

Note: This is **FINAL ACTION** on **Special Permit 19036** unless appealed by filing a letter in the Office of the City Clerk within 14 days.

**SPECIAL PERMIT 19035**

**TO ALLOW FOR THE CONSTRUCTION OF A COMMERCIAL FEEDLOT, ON PROPERTY LOCATED AT NW 27TH STREET AND ASHLAND ROAD.**

**September 4, 2019**

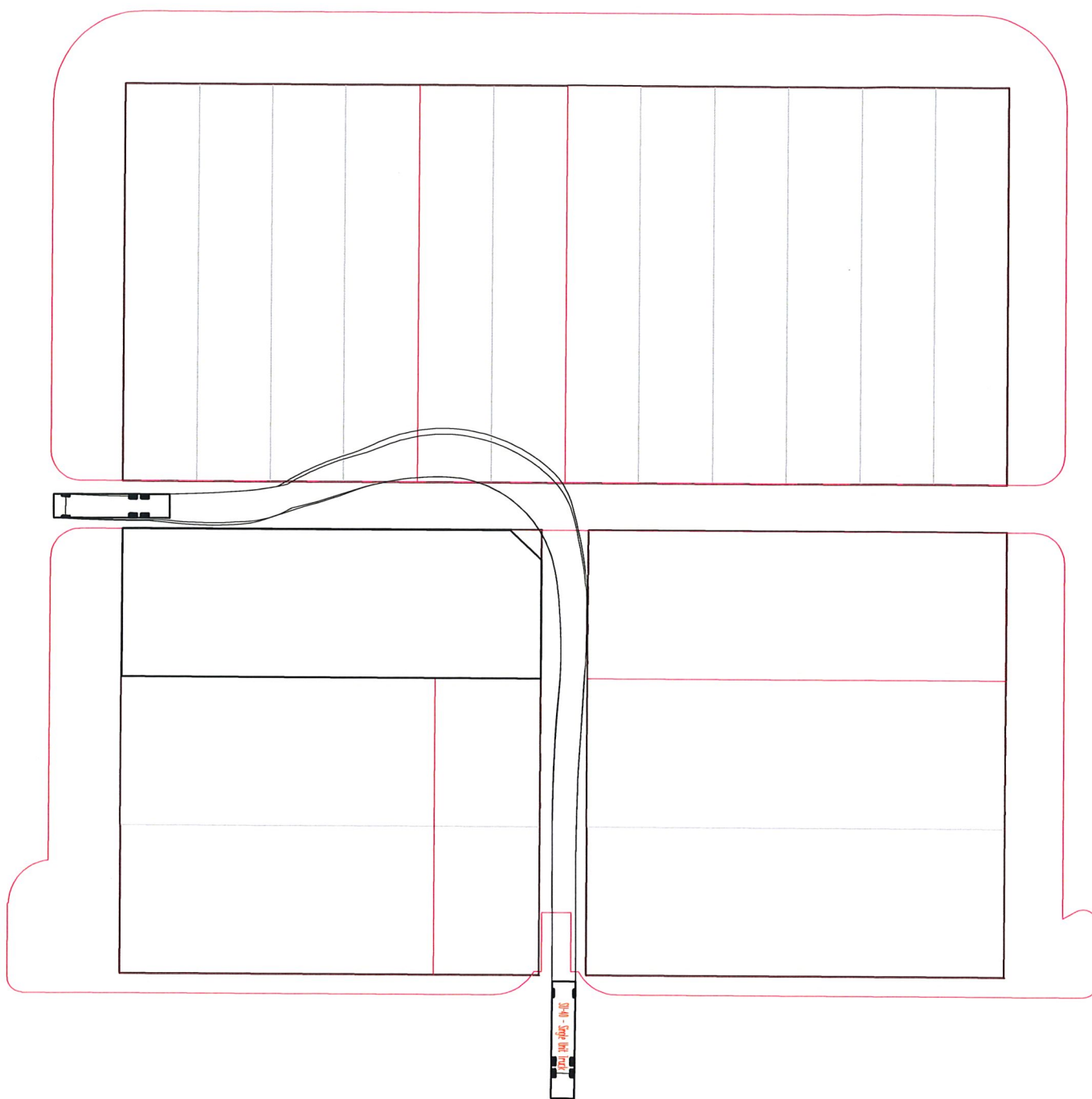
Members present: Al-Badry, Beckius, Campbell, Corr, Joy, Ryman Yost, Edgerton, Finnegan; Scheer absent.

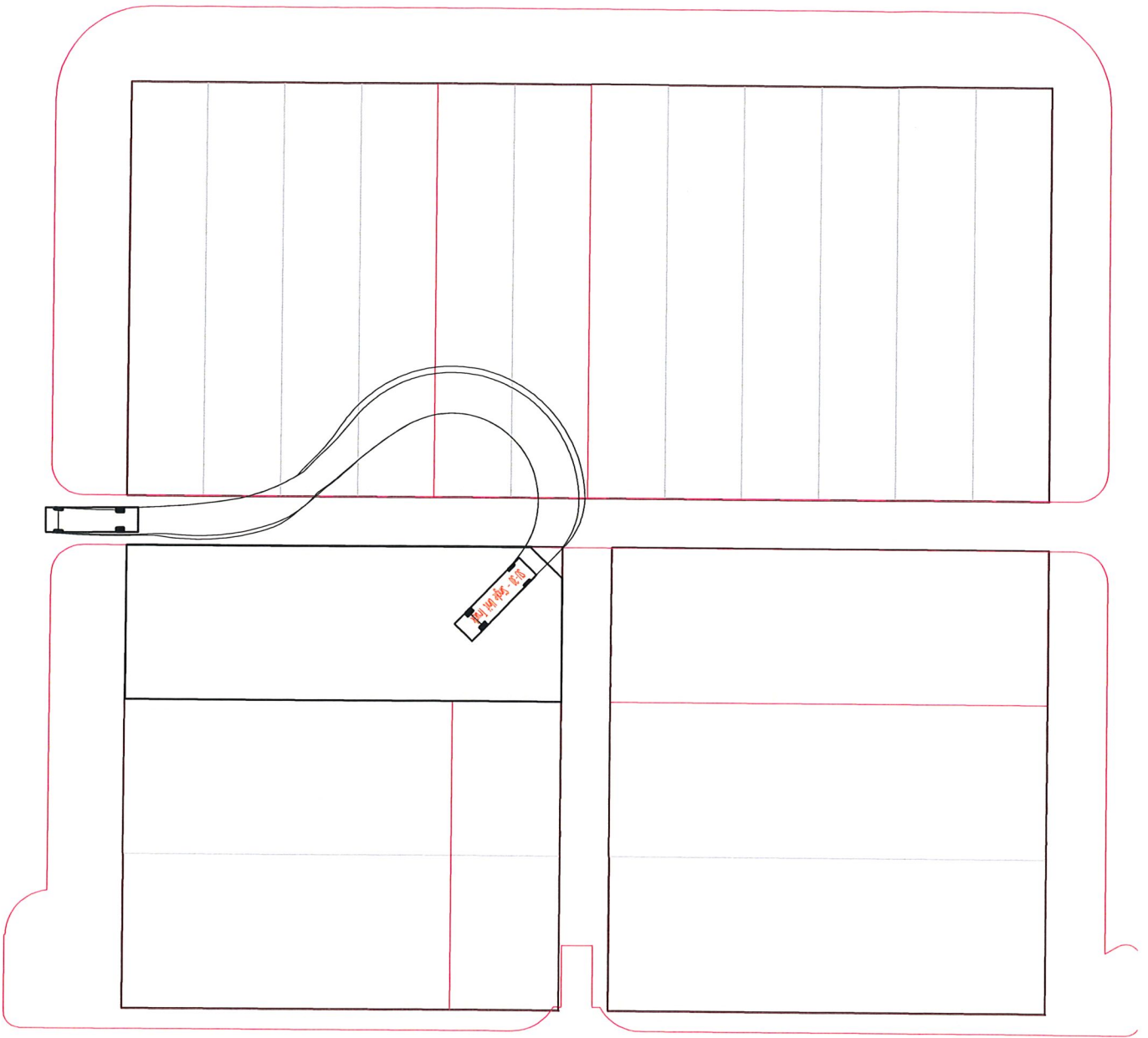
Chair Corr noted that Special Permit 19035 is being delayed until October 2, 2019, at the applicant's request.

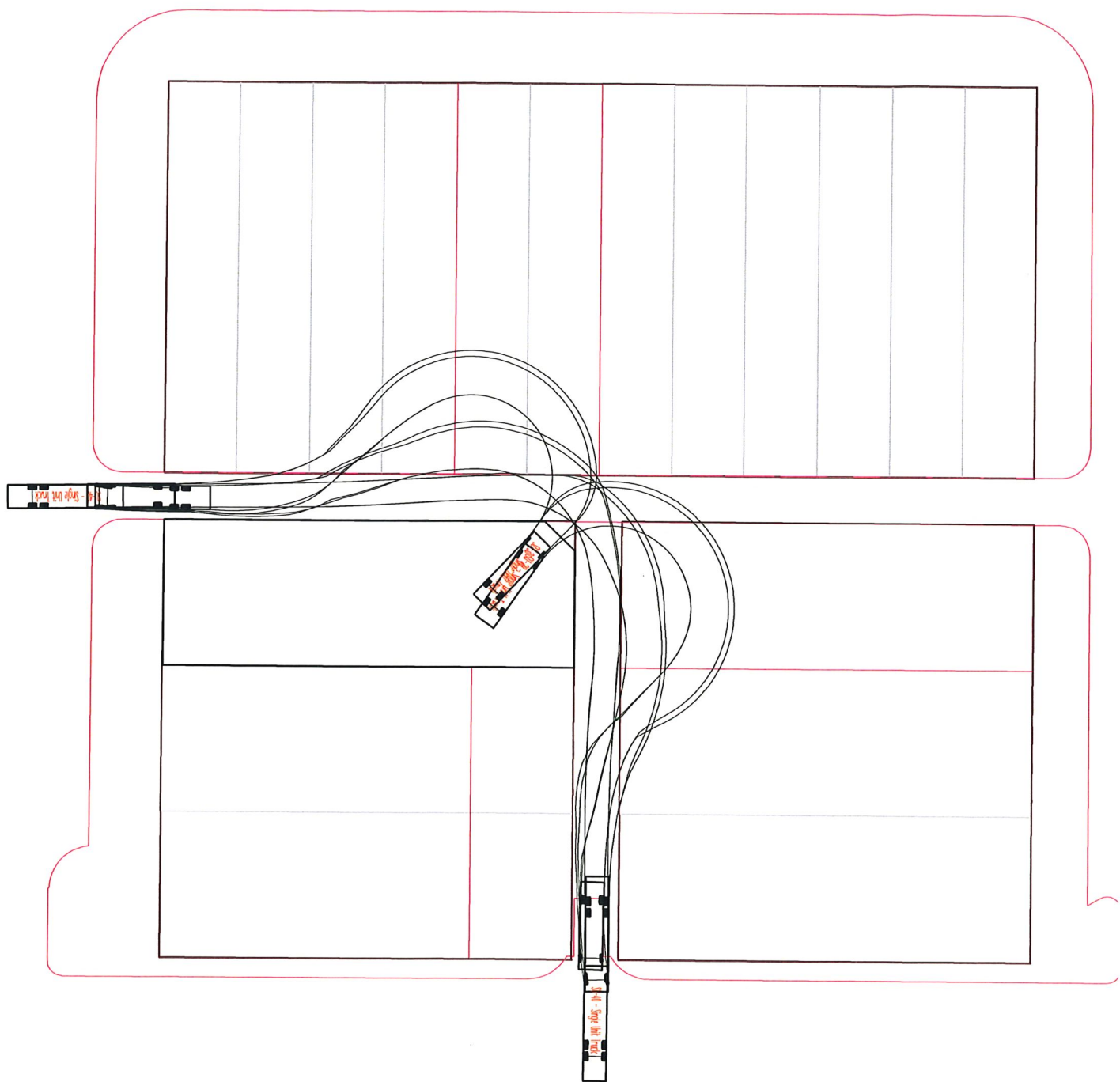
There being no further business to come before the Commission, the meeting was adjourned at 5:16 p.m.

Note: These minutes will not be formally approved by the Planning Commission until their next regular meeting on Wednesday, September 18, 2019.

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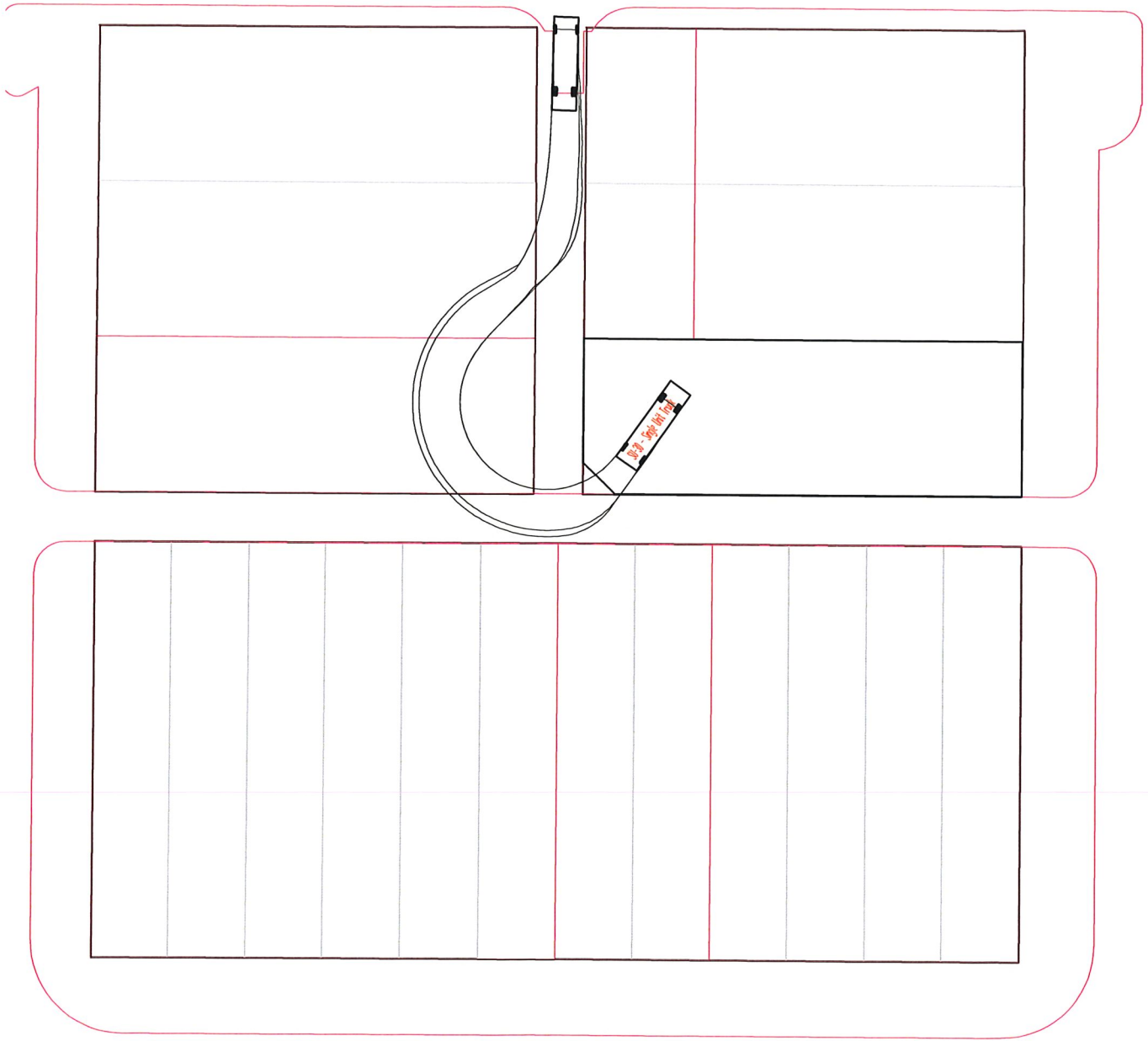


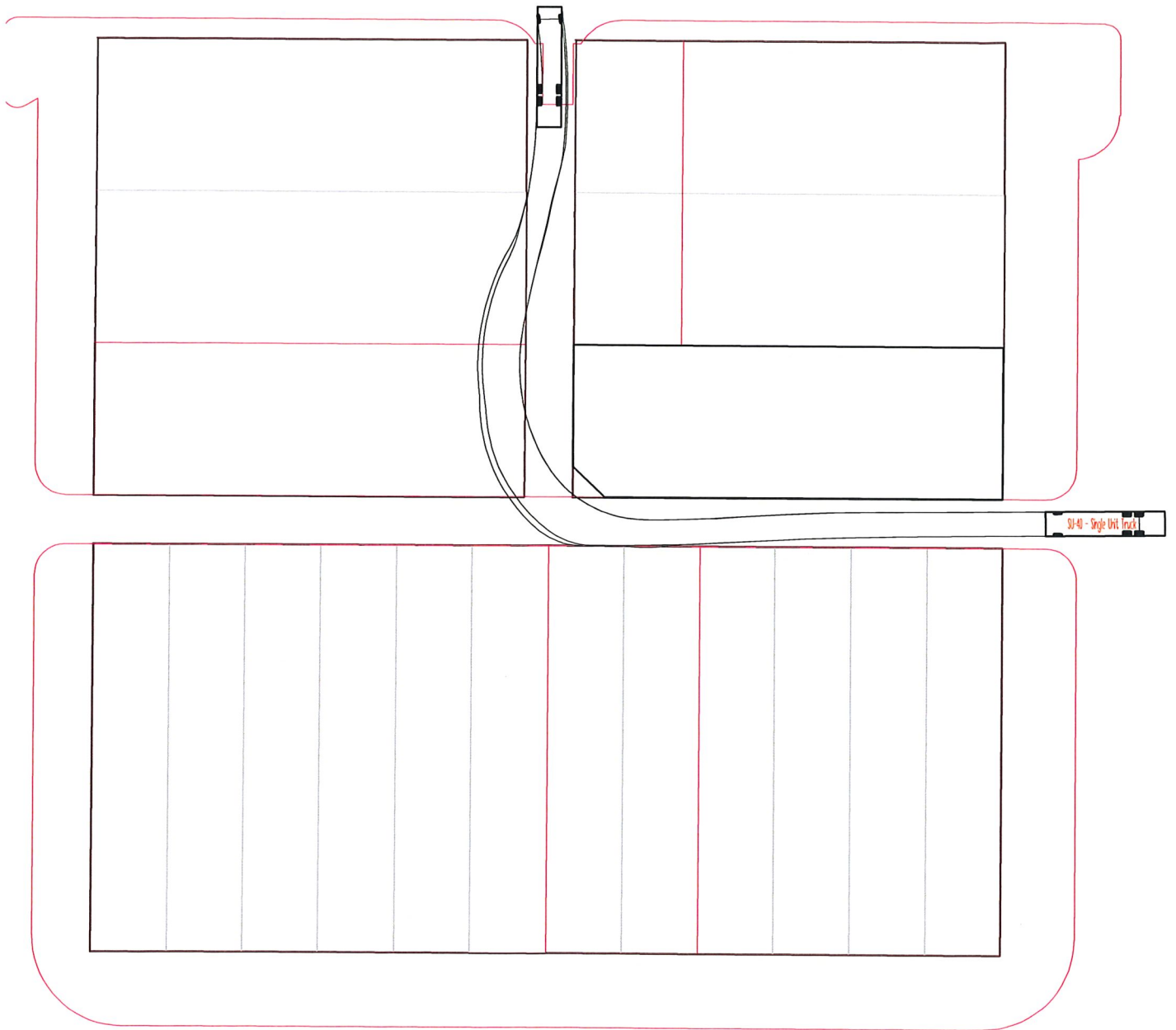
















1:564



DISCLAIMER: The information is presented on a best-efforts basis, and should not be relied upon for making financial, survey, legal or other commitments. If you have questions or comments regarding the data displayed on this map, please email [plan@lincoln.ne.gov](mailto:plan@lincoln.ne.gov) and you will be directed to the appropriate department.

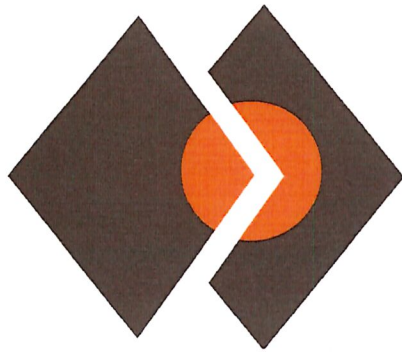
**Legend**

 Building Footprints









# **SALT CREEK** **S O L A R**

**A RANGER POWER PROJECT**



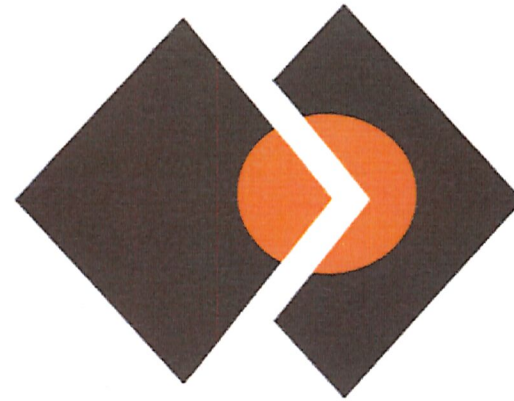
Lincoln, Nebraska

*Salt Creek Solar Special Permit Public Hearing*



# Ranger Power

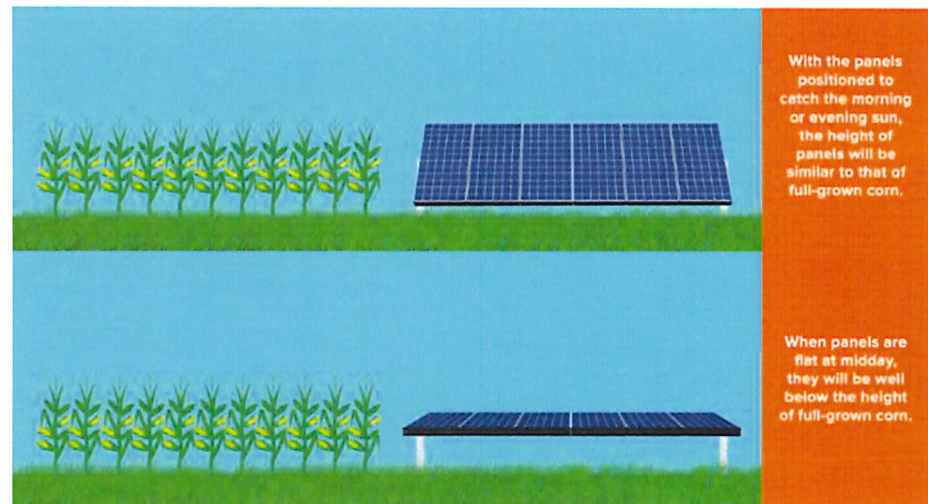
- ❖ Ranger Power is a solar development company specializing in utility-scale projects
- ❖ Led by an experienced team of veteran developers with a proven track record of community-supported solar projects
- ❖ Midwestern US portfolio of 20+ projects across 7 states; 1,500 MWs of successfully permitted projects



*We are dedicated to community engagement, transparency,  
and responsible solar development*

# Solar Energy at a Glance

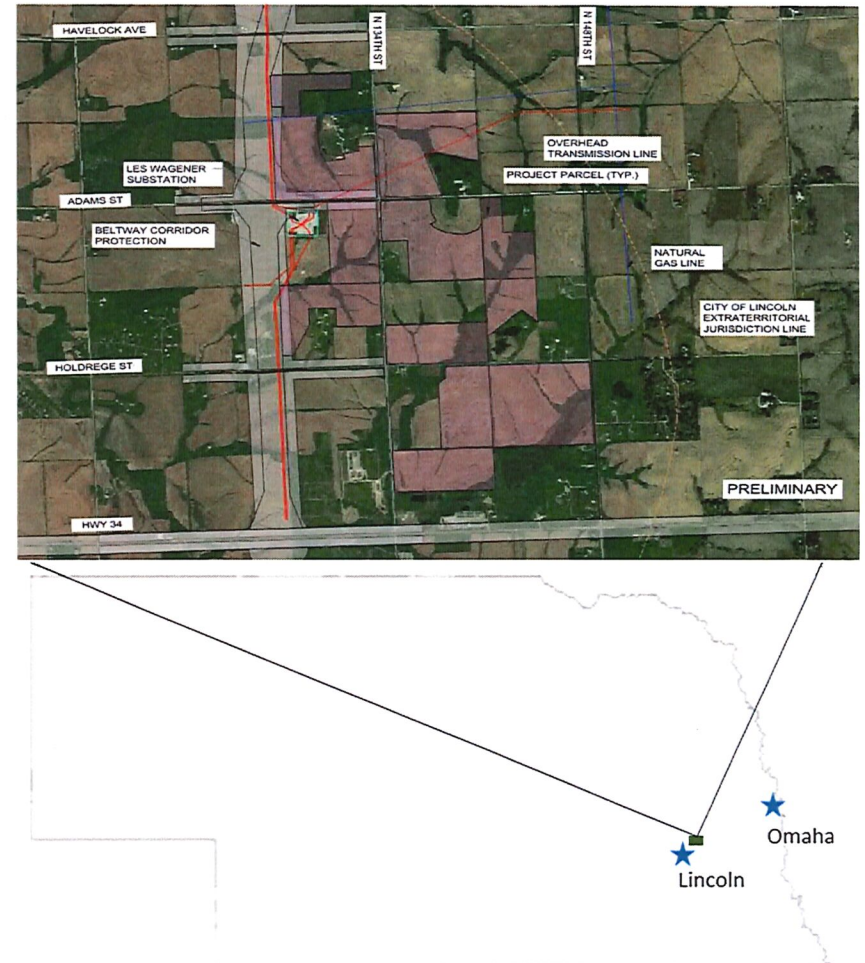
- ❖ Photovoltaic panel tracking systems (“PV trackers”) are currently the most economical solar technology available
- ❖ PV trackers operate without producing air pollution or greenhouse gases
- ❖ Major equipment includes solar panels, steel I-beam posts, racking, electrical collector lines, inverters, access roads, and fencing



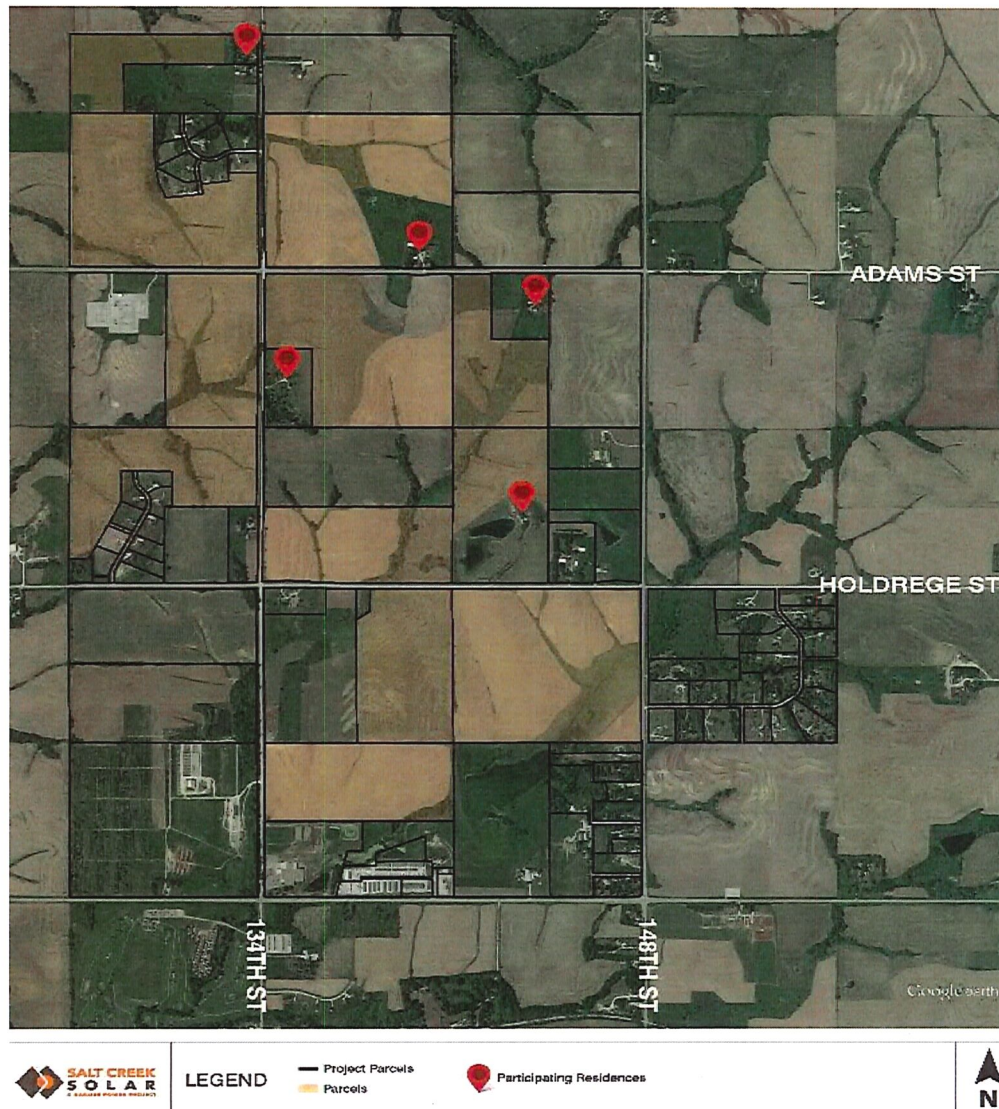


# Salt Creek Solar

- ❖ Salt Creek Solar is a proposed 230 MW Solar Project located on approximately 1,000 acres of privately owned land in East Lincoln
- ❖ The project will take advantage of robust, existing infrastructure and interconnect into the Wagener substation
- ❖ The project will produce on-peak power close to the largest load centers in the state, Lincoln and Omaha
- ❖ The City of Lincoln has adopted a comprehensive plan and zoning ordinance that promotes the responsible development of large-scale solar farms



# Participating Landowners





# Community Outreach

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- ❖ Since December 2018, we have engaged in over 40 meetings with neighbors to the project
- ❖ Frequent outreach to local stakeholders and community leaders in Lincoln's businesses, schools and government
- ❖ Salt Creek Solar held an open house on July 22 and invited community members to solicit feedback on the project
- ❖ Incorporated feedback into the current site plan
- ❖ We have received over 140 letters of support for the project from the Lincoln/Lancaster County community



# Renewable Energy in the 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.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 natural resources.
- ❖ P.11.22 – Continue to include, and **increase where feasible, renewable sources of energy**, such as wind and **solar energy**, in future planning of LES facilities and partnerships.



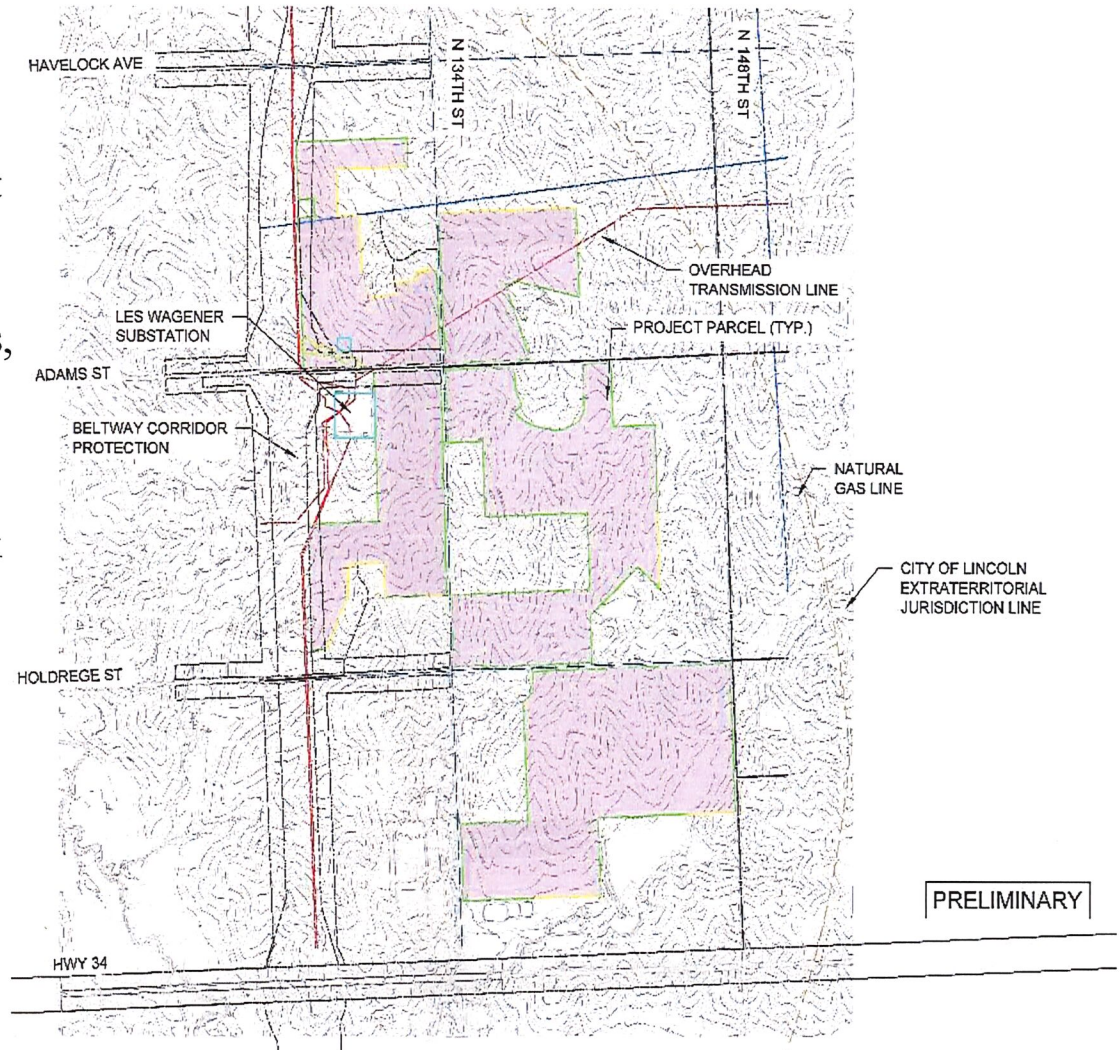
# Compliant with the Lincoln Solar Ordinance

- ✓ The system uses photovoltaics to convert solar energy into electricity
- ✓ On-site transmission lines shall to the maximum extent practicable be placed underground
- ✓ Compliant with visual screening requirements as established by the Planning Commission
- ✓ Establish a decommissioning plan that identifies a cost estimate and the posting of a bond for the decommissioning cost



# Project Setbacks

- ❖ Lincoln's current setbacks are 50 feet for front yards, 60 feet for side yards and 100 feet for rear yards. To protect non-participating landowners, Salt Creek proposes a modified setback approach
- ❖ Salt Creek Solar proposes to set back 100 feet from a non-participating property with a home, guaranteeing the greatest setback in the code, regardless of direction





# Community Benefits

- ❖ \$230+ million investment in Lancaster County
- ❖ At full capacity, the Project will generate over \$800,000 per year in new property tax revenue
- ❖ Improves air quality by reducing regional reliance on fossil fuel generation.
- ❖ Ground cover improves soil and water quality
- ❖ Stable income diversification for local landowners while protecting and preserving agricultural land for future generations
- ❖ Construction activity will stimulate the local economy; utility scale solar projects are economic drivers
- ❖ At the end of project life, land will be restored for agricultural use





# Compliance Law and Findings

- ❖ **Consistent with Section 27.63.020 of the City of Lincoln Municipal Code, substantial evidence in the record of this proceeding confirms that:**
  - ✓ With the proposed conditions of approval, the effect of the proposed use upon the surrounding neighborhood is positive in that the proposed use is of similar character to the existing agricultural use and does not generate significant externalities or nuisance conditions;
  - ✓ The proposed project furthers numerous goals and objectives of the City of Lincoln's Comprehensive Plan;
  - ✓ The proposed project benefits the community as a whole by providing a new, diverse source of clean, reliable energy at peak times, a new, stable and predictable source of income and opportunity for property owners, and a significant contribution to the property tax base and other economic indicators; and
  - ✓ The proposed project furthers the public health, safety, and general welfare of the City of Lincoln for the foregoing reasons.
- ❖ **For all of the foregoing reasons, Salt Creek Solar respectfully requests the Planning Commission's approval of the requested special permit with the conditions the Planning Department recommends**



## Contact Information

[info@rangerpower.com](mailto:info@rangerpower.com)

(240) 437-2685

[www.saltcreeksolar.com](http://www.saltcreeksolar.com)





# Vegetative Buffering

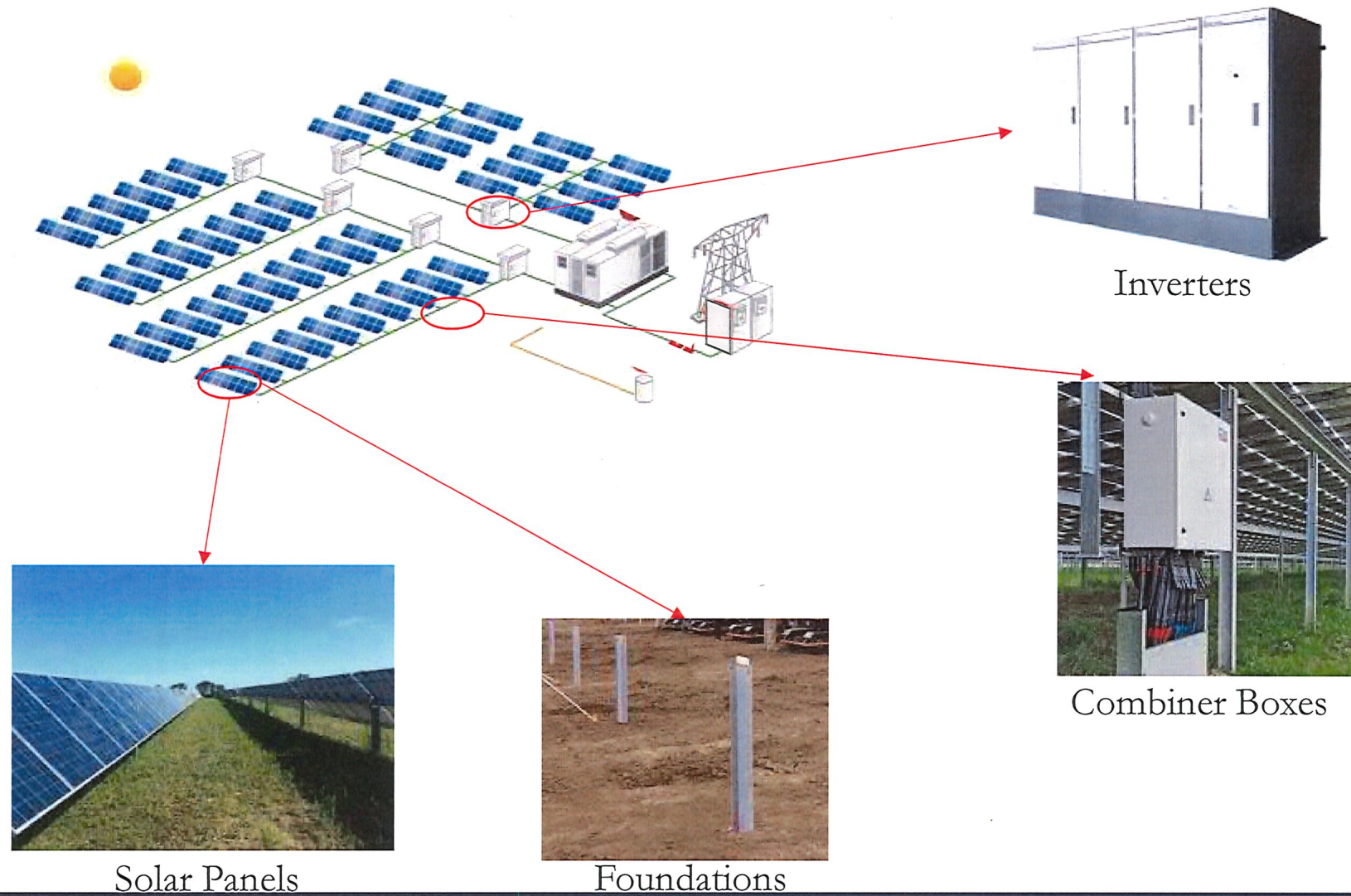


# Construction



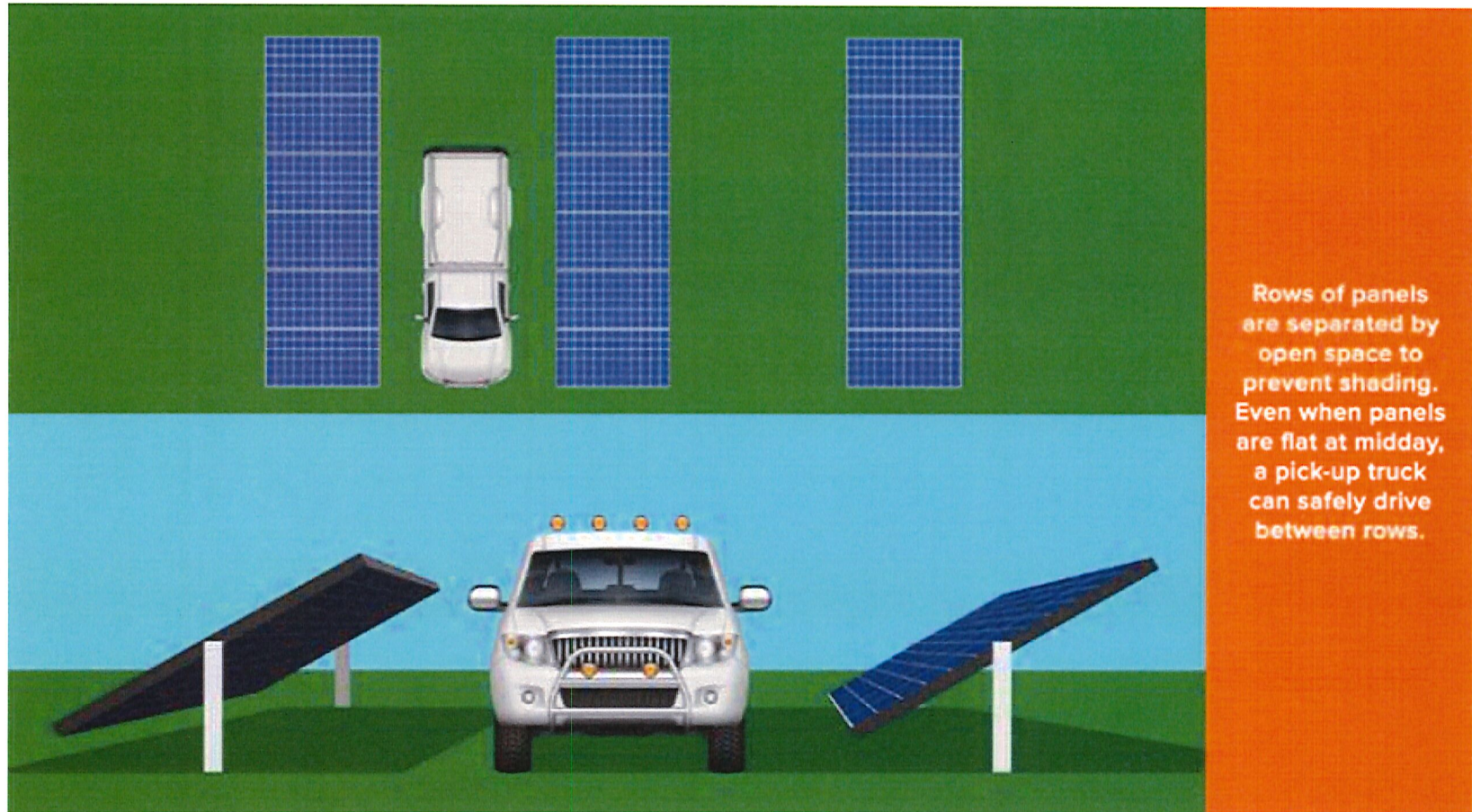


# Major Equipment



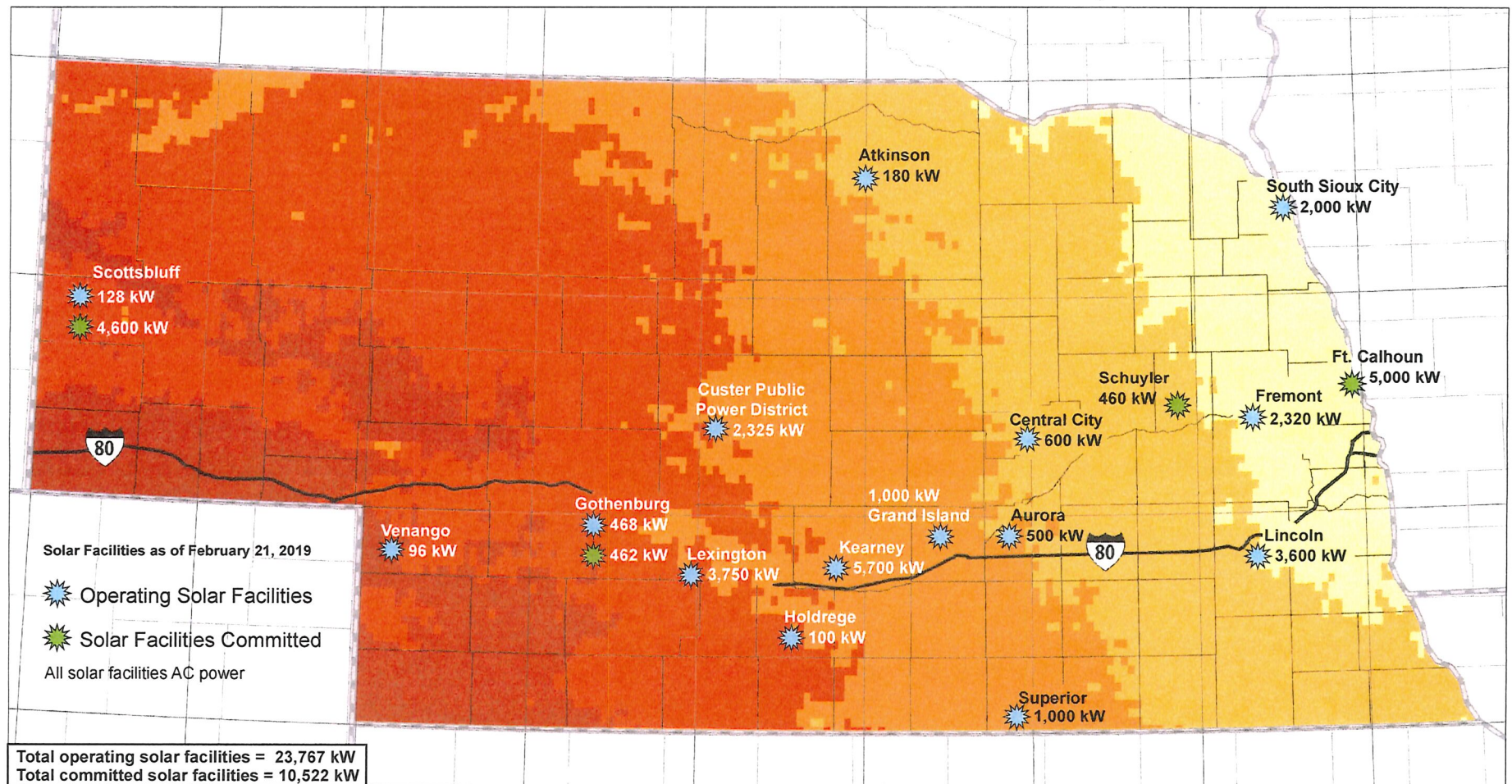


# Distance Between Panel Rows





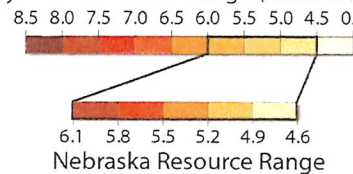
## Nebraska Community Solar Power Generation



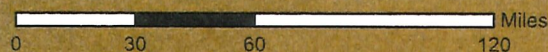
**NOTICE:** The Nebraska Community Solar map represents just some of the operating and committed community solar facilities. If a solar facility has been committed for your community or has been installed and you would like to include the facility on this map, please send the facility location, name and generating capacity to the Nebraska Energy Office: [energy@nebraska.gov](mailto:energy@nebraska.gov)  
 For additional Nebraska solar facility details, visit: <http://www.neo.ne.gov/statshtml/198.htm>

The direct normal solar resource estimates shown are derived from 10 km SUNY data, with modifications by NREL.

Fifty-state Resource Range (kWh/m<sup>2</sup>/Day)



Base map produced by the National Renewable Energy Laboratory for the U.S. Department of Energy.  
 Nicholas Gilroy, April 4, 2017







September 4, 2019

Tracy Corr, Chair  
Members of the Lincoln Lancaster County Planning Commission

RE: Salt Creek Solar Development Proposal, SP 19036

Dear Chairperson Corr and Members of Planning Commission:

**Nebraska Interfaith Power & Light supports the Salt Creek Solar Development proposal.** Development of this solar generation facility would be a major advancement in renewable energy generation for Lancaster County and the state of Nebraska.

**Nebraska Interfaith Power & Light is a statewide interfaith, nonpartisan, nondenominational organization providing a moral message on issues related to climate change and care of creation. Action on climate change is now more important than ever.** This year we have seen unprecedented flooding in Nebraska, fires in the Arctic and the Amazon, massive melting in Greenland and new global temperature records for the month of July. The accelerated climate change and its catastrophic impacts that we are experiencing is largely fed by human generated greenhouse gas emissions, primarily carbon dioxide.

**The good news is that renewable energy provides a positive response to climate change.** Solar electric generation is a vital component of that response. Solar generation emits no greenhouse gases and uses no water, unlike fossil fuel generation such as coal. Approval of this facility could enable significant reductions in greenhouse gas emissions for Nebraska's public power districts. Solar generation also emits no pollutants like mercury, a dangerous neurotoxin, or the Sulphur and nitrogen oxides emitted by burning coal, all of which have been objectively linked to numerous health problems.

**Solar energy has strong support from the public.** A 2018 survey of Lancaster County residents found that 82 % support rebates for solar panels and energy efficient vehicles. This proposal would require no rebates or incentives, merely an opportunity to generate electricity to benefit the people of Lincoln and Lancaster County. Following is a link to the survey.

<https://climatecommunication.yale.edu/visualizations-data/ycom-us-2018/?est=happening&type=value&geo=county&id=31109>

**This project would also provide economic benefits to Lincoln and Lancaster County.** The estimated \$800,000 in annual tax revenues from this facility could be used to repair bridges and pay teachers as well as addressing other pressing needs in this community. The jobs created in building and maintaining this facility would provide additional economic benefits for Lincoln and Lancaster County.

Nebraska Interfaith Power & Light respectfully requests that the Planning Commission approve this proposal.

Sincerely,

/s/Kenneth C. Winston

Kenneth C. Winston

Director of Policy and Outreach

Nebraska Interfaith Power & Light

[kwinston@inebraska.com](mailto:kwinston@inebraska.com) 402-212-3737



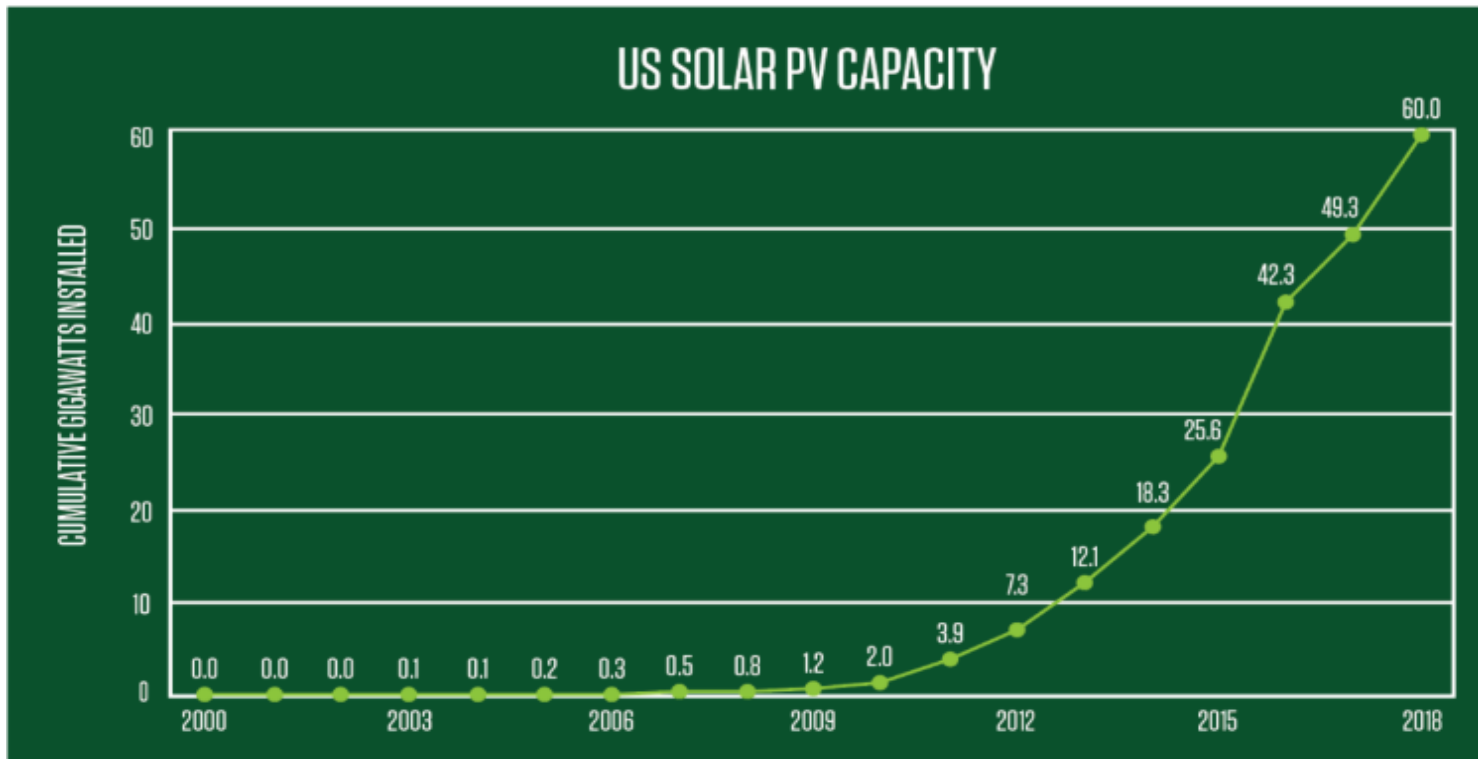


# 100% Committed Campaign

Climate Reality Project Campus Corps Doane University

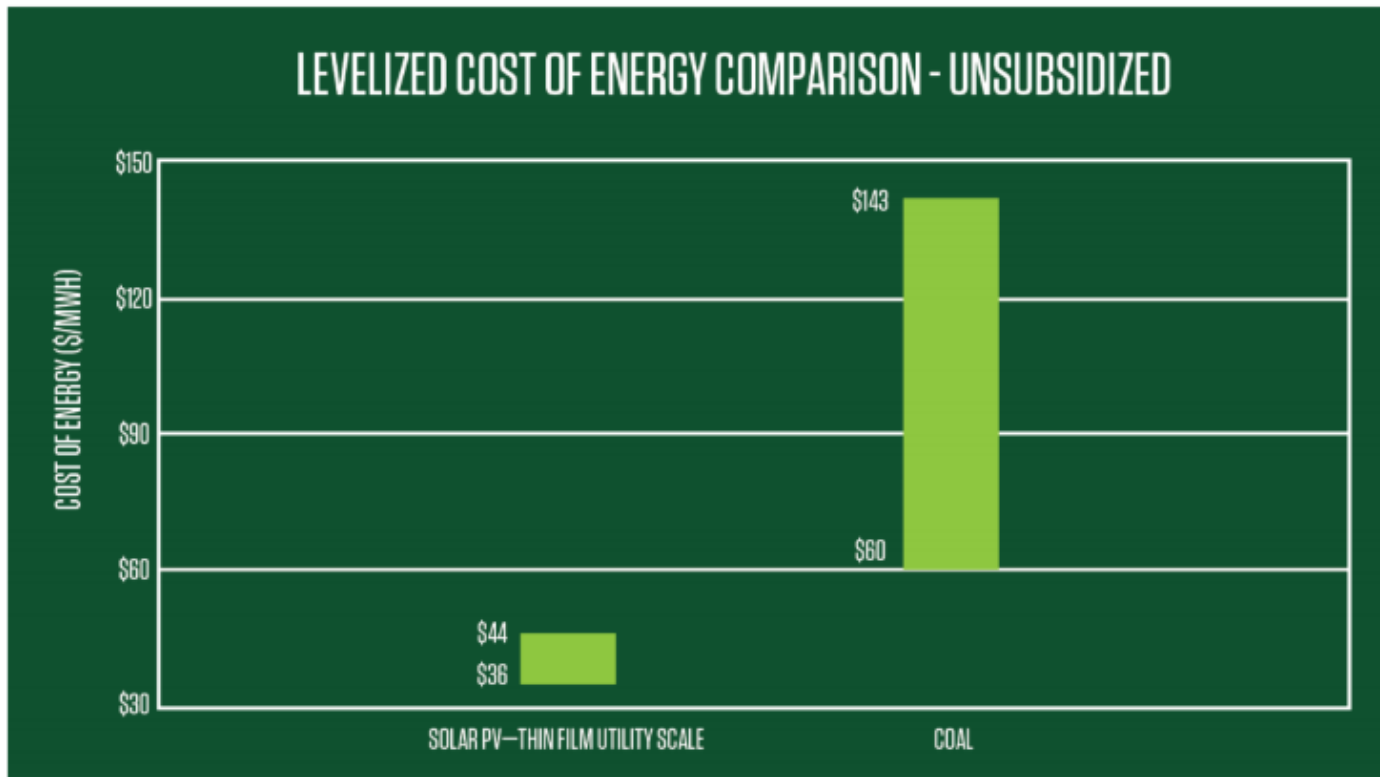
Chairman Zach Renshaw

# PV Solar is Exploding Across the US



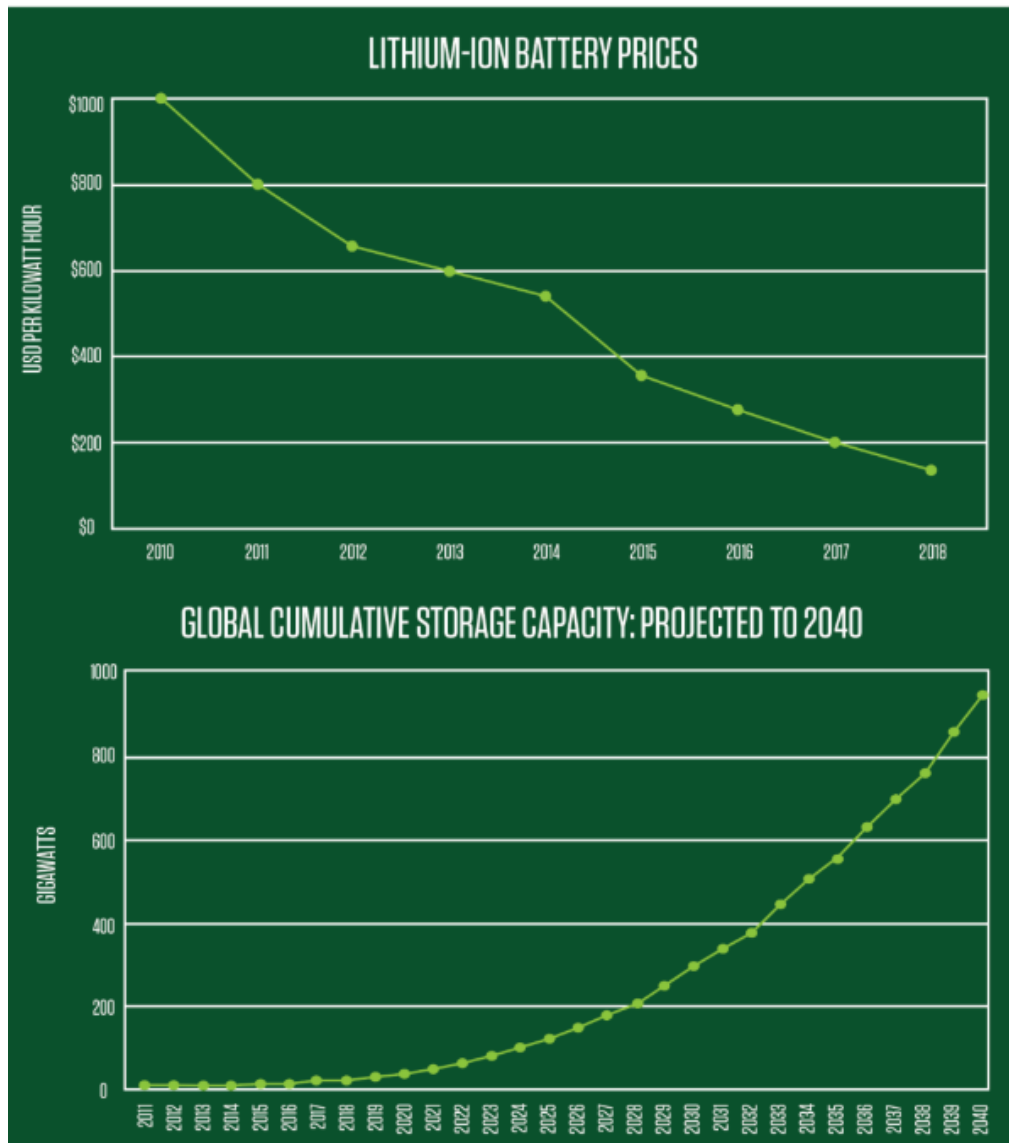
Source: Climate Reality Project, SEIA

# Levelized Cost of Energy



Source: Climate Reality Project,  
Lazard





Source:  
[BloombergNEF.com A Behind the Scenes Take on Lithium-ion Battery Prices](#);  
[BloombergNEF.com Energy Storage is a \\$620 Billion Investment Opportunity to 2040](#)



# Wind Energy is Putting People to Work

FIGURE 34. Wind Power Global Capacity and Annual Additions, 2007-2017

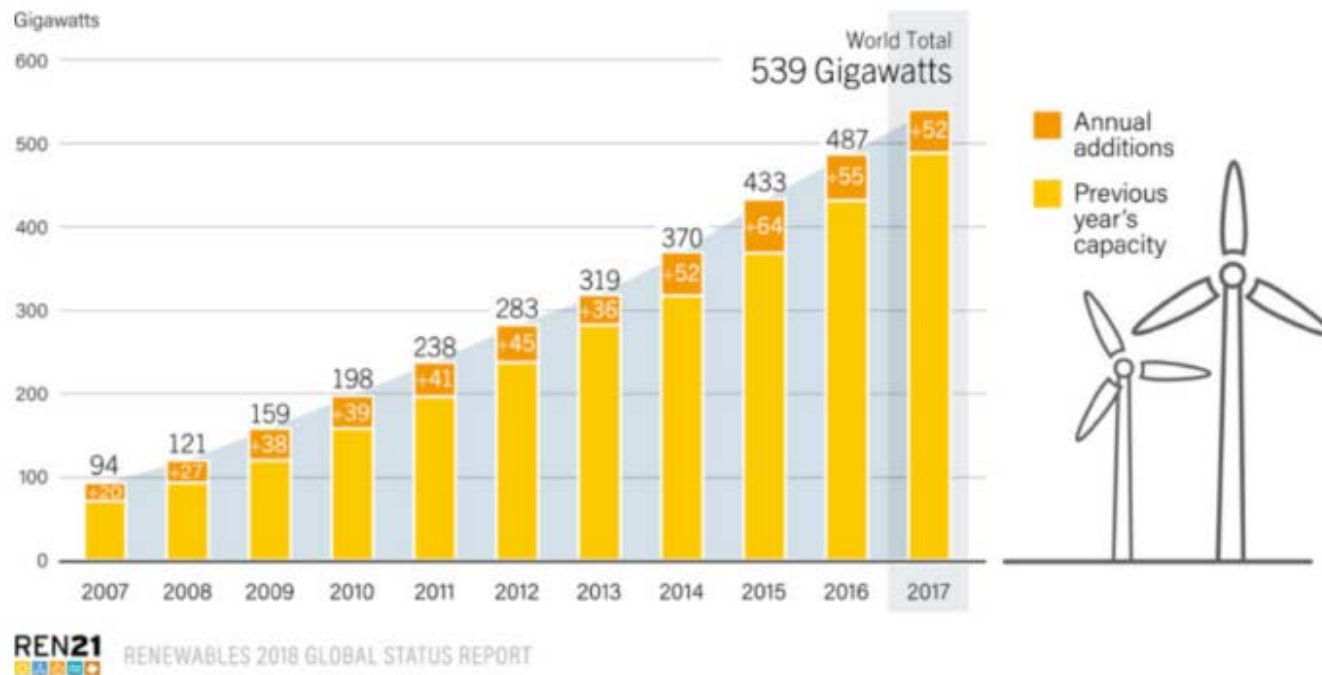


Image: REN21, 2018, *Renewables 2018 Global Status Report*, REN21 Secretariat