

MEETING RECORD

Advanced public notice of the Planning Commission meeting was posted on the County-City bulletin board and the Planning Department's website. In addition, a public notice was emailed to the Lincoln Journal Star for publication on Tuesday, December 30, 2025.

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME, AND PLACE OF MEETING: Wednesday, January 7, 2026, 1:00 p.m., Hearing Room
112, on the first floor of the County-City Building, 555 S. 10th Street, Lincoln, Nebraska.

IN ATTENDANCE: Dick Campbell, Maribel Cruz, Brett Ebert, Gloria Eddins, Bailey Feit, Cristy Joy, Cindy Ryman Yost, Ben Callahan, David Cary, Jill Dolberg, Steve Dush, Steve Henrichsen, Emma Martin, Shelli Reid, Andrew Thierolf, Laura Tinnerstet, and George Wesselhoft of the Planning Department, media, and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Hearing

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

Chair Joy requested a motion approving the minutes for the regular meeting held December 17, 2025.

Motion for approval of the minutes made by Campbell; seconded by Eddins.

Minutes approved 7-0: Campbell, Cruz, Ebert, Eddins, Feit, Ryman Yost, and Joy voting "yes". Ball and Rodenburg absent.

Chair Joy declared a conflict of interest regarding Comprehensive Plan Conformance 25001. Chair Joy recused from the consent agenda and did not participate in discussion or voting on the consent agenda items.

Vice-Chair Cruz served as Chair for the consent agenda until completion of the consent agenda vote.

Vice-Chair Cruz asked the Clerk to call for the consent agenda items.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

January 7, 2026

Members present: Campbell, Cruz, Ebert, Eddins, Feit, and Ryman Yost. Ball and Rodenburg absent. Joy declared conflict of interest.

The Consent Agenda consisted of the following items: Comprehensive Plan Conformance 25014, Special Permit 864A, Special Permit 25051, Special Permit 19033A, Annexation 25011, and Waiver 25001.

There were no ex parte communications disclosed.

There were no ex parte communications disclosed relating to site visit.

Campbell moved approval of the Consent Agenda; seconded by Eddins.

Consent Agenda approved 6-0: Ball, Campbell, Cruz, Ebert, Eddins, Feit, and Ryman Yost, voting “yes”. Ball and Rodenburg Yost absent. Joy declared conflict of interest.

Note: This is Final Action on Special Permit 864A, Special Permit 25051, Special Permit 19033A, Waiver 25011, Special Permit 25046, and Special Permit 25045 unless appealed by filing a Notice of Appeal with the City Council or County Board within 14 days.

USE PERMIT 22004A, AMENDING THE LINCOLN MUNICIPAL CODE, CHAPTERS 26 AND 27, TO UPDATE THE EXISTING PUMP STATION POLICY OUTLINING ELIGIBILITY REQUIREMENTS AND STANDARDS TO ACCOMMODATE NON-GRAVITY WASTEWATER TREATMENT SERVICES.

PUBLIC HEARING:

January 7, 2026

Members present: Campbell, Cruz, Ebert, Eddins, Feit, Joy and Ryman Yost. Ball and Rodenburg absent.

Staff Recommendation: Conditional Approval

There were no ex-parte communications disclosed.

There were no ex-parte communications disclosed relating to site visits.

Staff Presentation-

Emma Martin, from the Planning and Development Services Department, 555 South 10th Street, Lincoln, NE, presented an overview of the request to amend Use Permit 22004 at 5245 North 26th Street. Martin explained that the proposal would reduce the approved development from 25 multifamily dwelling units to 21 townhouse units on individual lots, accessed by private roadways off North 26th Street. The property is zoned O-3 Office Park District, which allows both multifamily and townhouse dwellings.

Martin stated that the applicant requested three waivers: a reduction of the front yard setback along North 26th Street from 30 feet to 15 feet; a reduction of internal lot setbacks to zero feet to accommodate shared party walls; and a reduction of the required separation between water and sanitary sewer mains and buildings from 15 feet to 10 feet.

Martin noted that Lincoln Water Systems recommended denial of the utilities waiver due to increased liability and construction-related risks. Martin added that all other external setbacks comply with O-3 zoning requirements, and that the amendment supports the 2050 Comprehensive Plan by providing missing middle housing and greater housing variety. Martin concluded by asking if there were questions from the commission.

Applicant-

Nate Burnett, REGA Engineering 601 Old Cheney Road, Suite A, Lincoln, NE, came forward and thanked the Planning for the pre-application coordination and noted that it helped streamline the review process. Burnett confirmed that the applicant was actively working with LTU Watershed on stormwater management, proposing a hydrodynamic separator instead of the previously approved detention cell. Burnett addressed the utilities waiver, noting a proposed solution to meet the required 15-foot separation. Burnett explained that water would be moved to the middle of the units at 15 feet from buildings, and the sanitary sewer would be located on the west side, eliminating the need for the previously requested waiver.

Staff Questions

Campbell asked whether the applicant had discussed the proposed utility waiver with planning staff.

Burnett responded that due to the recent holiday week, the team had not yet had an opportunity to discuss this specific item with planning. Burnett noted that discussions had occurred regarding the approved alternate plan and that coordination with LTU Watershed had been ongoing, as that item was a higher priority than the utility waiver.

Burnett continued that the applicant had been able to work through several options regarding the depth and placement of the sewer and water lines but had not finalized discussions with planning staff.

Campbell asked whether it would be improper to recommend an amendment that met watershed management approval for the utilities to be in the streets at 15 feet back rather than the 10-foot distance originally requested.

Burnett clarified that watershed management's concern focused on water quality and that the waiver request for sewer and water lines fell under LTU. Burnett confirmed that the project team was actively coordinating with Watershed Management.

Burnett added that, according to general condition C 1.7, the issue would be addressed in accordance with Watershed Management requirements. Burnett explained that because the utility configuration had been resolved, the previously requested waiver was no longer necessary.

Burnett concluded that conditional approval by planning allowed the waiver to be removed while still proceeding with the full project as presented, with the design adjusted to meet the 15-foot separation requirement.

Campbell confirmed that this explanation answered the question. All commissioners agreed that the issue had been satisfactorily addressed, and no further questions were raised for the applicant.

Proponents:

Gene Kliment, 2425 Folkways Blvd #234, Lincoln, NE, came forward representing the Northgate Garden Estates Homeowner's Association, in support of the project. Kliment noted general approval of the proposal but requested a retaining wall at the property line due to a sharp drop-off between the HOA's R4-zoned property and the proposed O-3 development. Kliment clarified that the concern was specifically related to the property line between the two zoning areas and emphasized that, aside from this request, there were no other issues with the project.

Joy noted that the commission could follow up on the retaining wall question during the applicant's rebuttal.

Joy added that the commission appreciated the testimony provided and asked if there were any further questions for the speaker, and there were none.

Neutral:

No one approached in a neutral capacity.

Opposition:

No one approached in opposition.

Applicant Rebuttal:

Burnett came forward to provide the applicant's rebuttal and confirmed that a retaining wall was included in the proposed plans to address the HOA's concern.

Staff Questions-

Campbell acknowledged the retaining wall and requested that the plan be displayed, noting that it was helpful.

Burnett confirmed the location of the retaining wall and clarified the site orientation, noting that north is straight up on the displayed plan.

Campbell confirmed understanding and expressed appreciation for the clarification regarding the wall location.

USE PERMIT 22004A

ACTION BY PLANNING COMMISSION

January 7, 2026

Campbell moved to close the public hearing; seconded by Eddins.

Campbell moved to approve Use Permit 22004A; seconded by Eddins.

Steve Henrichsen, Planning and Development Services, 555 S. 10th Street, Lincoln, NE, came forward and clarified that the commission's action would result in the denial of the utility waiver. Henrichsen explained that the waiver was not included in the conditions of approval because the applicant agreed with the staff's recommendation. Henrichsen stated that whether the waiver was considered withdrawn or denied, the outcome was the same, and a regular motion could proceed.

Campbell commented that the proposal was a good project and a strong example of infill development. Campbell stated that the project addressed an area that could otherwise be difficult to develop and noted that the applicant had presented a well-thought-out solution.

Joy agreed with the fellow commissioners.

Motion for approval of Use Permit 22004A carried 7-0: Campbell, Cruz, Ebert, Eddins, Feit, Joy, and Ryman Yost voting "yes"; Ball and Rodenburg absent.

SPECIAL PERMIT 25046, CORNHUSKER RESILIENT POWER PROJECT, TO ALLOW A BATTERY ENERGY STORAGE SYSTEM (BESS), ON PROPERTY GENERALLY LOCATED AT N 120th STREET AND HIGHWAY 6.

PUBLIC HEARING:

January 7, 2026

Members present: Campbell, Cruz, Ebert, Eddins, Feit, Joy and Ryman Yost. Ball and Rodenburg absent.

Staff Recommendation:

Conditional Approval

There were no ex-parte communications disclosed.

There were no ex-parte communications disclosed relating to site visits.

Staff Presentation-

George Wesselhoft, Planning and Development Services, 555 S. 10th Street, Lincoln, NE, came forward and presented an overview of the proposed project near North 120th Street and U.S. Highway 6. Wesselhoft explained that the property is split between the Lincoln extraterritorial jurisdiction and the City of Waverly and is zoned AG Agricultural. The proposal is for a Battery Energy Storage System (BESS), a land use added to the Lincoln Zoning Regulations in July 2025.

Wesselhoft stated that the project encompasses approximately 41 acres within the Lincoln jurisdiction and is proposed to interconnect with the LES transmission system using existing infrastructure. The development would include battery enclosures, safety monitoring equipment, access driveways, and other site features. The system would store energy during low-demand periods and discharge during high-demand periods or grid stress to support reliability.

Wesselhoft reviewed the applicable Lincoln Municipal Code criteria. The project meets the requirement to be associated with energy transmission or renewable systems and complies with all AG district setback and height standards. No waivers are requested. Wesselhoft noted that the Planning Commission may require additional screening to address site impacts. Staff recommended landscaping due to the site's proximity to Waverly and Highway 6. The applicant added a 25-foot-wide perimeter landscaping buffer along the west and south sides, with six trees per 100 linear feet, three of which are evergreen. Wesselhoft noted that the City of Waverly submitted a letter suggesting additional screening along the eastern and southern property lines and that the Planning Commission could consider further landscaping beyond the applicant's current proposal.

Wesselhoft addressed the emergency action plan requirement. The applicant submitted a plan reviewed by Waverly Fire and Rescue in November, which raised concerns about resources and equipment for incident response. Lincoln Fire and Rescue has not expressed interest in a service agreement. In response, the applicant provided letters from Sofos Power and ESRG, explaining that projects like this undergo three to four years of permitting, allowing time for safety planning and training. Approval by Waverly Fire and Rescue would be required before issuance of a building permit, consistent with code requirements.

Wesselhoft noted that safety data sheets were submitted and approved by the Health Department and that the Planning Commission may impose additional conditions to protect public health, safety, and welfare. The applicant voluntarily submitted a decommissioning plan estimating costs over \$7 million, and staff recommended financial assurance for decommissioning, based on county solar decommissioning standards. Wesselhoft also noted that a noise study reviewed by the Health Department showed compliance with Lincoln Municipal Code standards.

Wesselhoft concluded by stating that City of Waverly review was included due to the site's proximity to city limits and Highway 6, with primary concerns focused on fire protection, design, and landscaping. Representatives from the Health Department, the County Engineer, and the City of Waverly were present to answer questions, and Wesselhoft offered to respond to any questions from the commission.

Applicant-

David Levy, Baron Home Law Firm, 301 South 13th Street, Lincoln, NE, and Eric Wood, Energy Safety Response Group, 7475 Dayton Brandt Road, Tipp City, OH, presented on behalf of the applicant. Levy stated that a PowerPoint would be used, and the presentation would stay within the allotted time.

Levy described the Cornhusker Resilient Power Project, a proposed 170-megawatt battery energy storage system (BESS). Levy noted the facility stores energy from the grid and provides voltage regulation and other services to support reliability, comparable in scale to a small utility-scale power plant. Levy explained that Sofos Power, founded in Spain in 2004, has over 20 years of experience, including approximately 10 years in U.S. battery storage development.

The system consists of containerized battery units resembling steel shipping containers, each housing racks of battery modules with individual cells. All components include safety and monitoring equipment that tracks heat, voltage, and other conditions. The system is monitored remotely 24/7 and can be shut down if necessary. While BESS is sometimes tied to renewable energy, this project is not, but it interconnects with Lincoln Electric System transmission lines.

Levy discussed applicable safety standards, including NFPA 855 and UL 9540/9540A, required for financing and insurance. Compliance could be a condition of approval. Levy described the site location with North 120th Street on the west and Highway 6 to the south, approximately 28 acres to be developed with battery infrastructure and a substation, with access from North 120th Street.

Levy stated that Sofos Power held a public open house with about 30 attendees. Concerns from the City of Waverly were addressed in multiple meetings, and a letter withdrawing the city's objection was included in the Planning Commission packet. The applicant agreed to provide landscaping and screening along the east, south, and southern half of the west side, with natural features enhanced.

Wood, Senior Consultant with Energy Safety Response Group, described 20 years of fire service experience and battery storage testing expertise, including over 1,000 medium- to large-scale fire tests. Energy Safety Response Group conducts research, analyzes battery chemistries, system configurations, and site-specific applications, and prepares hazard mitigation analyses and site-specific emergency response plans in coordination with local fire departments. Members serve on technical panels for UL 9540/9540A and NFPA 855.

Wood explained that NFPA 855 governs the full lifecycle of BESS projects from commissioning through decommissioning. UL 9540A tests battery cells and modules without integrated safety features to determine propagation characteristics, while UL 9540 tests integrated safety systems. All internal systems—including battery management, thermal management, fire detection, and internal fire suppression—comply with these standards. The system is monitored remotely 24 hours a day and can be shut down if needed.

Wood concluded that the proposed system incorporates multiple layers of safety and monitoring to mitigate risk and protect public health and safety. Levy and Wood were available to answer questions from the commission.

Staff Questions-

Eddins asked for clarification regarding the safety of the battery energy storage system in the event of a fire.

Wood responded that the system is designed to “self-consume” in the event of a fire. Wood explained that, based on extensive research and testing, including many years working with UL standards, allowing the system to self-consume is the safest course of action. Wood noted that each container, cell, rack, and module is equipped with monitoring and sensing equipment to detect issues and ensure safety throughout the process.

Levy added that each container, cell, rack, and module is equipped with sensing equipment. Levy explained that long before a fire could occur, the system would detect overheating through these sensors and shut down the affected cell, module, or container to prevent an incident. Levy noted that only if all fail-safes were to fail would the system reach the point of catching fire.

Eddins stated appreciation for the explanation.

Campbell asked for clarification regarding the containment of a potential fire.

Wood explained that each enclosure has battery and thermal management systems to prevent overheating or overcharging, similar modern cell phones. If a cell or module malfunctions, the system isolates it, and 24/7 monitoring can shut down the entire enclosure if necessary.

Campbell then asked for confirmation that additional landscaping screening had been added following meetings with Waverly.

Wood confirmed that screening was added on the east side, as proposed by the landscape architect, as well as on the south and west sides.

Campbell asked for clarification about what is located directly across Highway 6 from the site.

Levy responded regarding the area across Highway 6 from the site. Levy stated that the area contains a variety of commercial and light industrial uses. Specifically, the Morton Building is located there, along with what appears to be a quarry-type operation and other building materials businesses. Levy characterized the area generally as commercial and light industrial. Levy noted that as you move closer toward Waverly, the uses transition more toward retail and general commercial.

Feit asked about the plan for the land not included within the white boundary shown on the presentation slides.

Levy responded that the land surrounding the project area is ideally intended to continue being farmed. He noted that the presence of the waterway presents some challenges, but the goal is to maintain agricultural use. Levy explained that Sofos would acquire the southwestern 41 acres within the project boundary, while the northern 40 acres would remain in farming. Levy added that it is expected that whoever is currently farming the land would continue to farm the area north of the creek.

Feit asked for a layman's explanation of the project size, noting that the facility is 170 MWAC, and requested an example of what that means in practical terms.

Levy explained that the 170-MWAC facility stores grid energy and provides voltage regulation, comparable to a small utility-scale power plant. Levy likened grid management to maintaining a 'bucket of water,' emphasizing the analogy.

Feit asked about the training that the company provides, specifically whether the fire department, Waverly Fire Department, or the Health Department's Hazmat Team would be required to pay for it.

Levy responded that the company offers the training at no cost to the fire or emergency response agencies. Levy explained that the training is offered annually, unless a department like Waverly indicates they do not need it. The training is provided at the cost of the facility owner. Levy added that the training is available to any interested parties, including the City of Lincoln Fire and Rescue, local hazmat teams, or nearby rural fire departments.

Feit asked about the potential impact of weather events on the project, including high winds, hail, and tornadoes, noting a recent tornado near the Highway 6 area that destroyed a large building.

Wood responded that the tornado-specific impacts would be an engineering question, and he could not provide a definitive answer. Wood explained that the battery containers are very heavy when fully populated, weighing just shy of 100,000 pounds. The containers are transported fully populated and are placed on concrete slabs or

pillars, depending on engineering requirements. Wood noted that most containers fluctuate between 60,000 to 100,000 pounds, with some reaching close to 100,000 pounds.

Levy added further clarification regarding the containers and weather resilience. Levy noted that the containers weigh approximately 100,000 pounds (around 50 tons). Each container is either bolted to concrete pillars embedded in the ground or to a concrete slab covering the entire perimeter beneath the container. Steel brackets on the sides secure the container to the slab.

Levy stated that high winds, hail, and rain are not expected to be an issue. Regarding tornadoes, he acknowledged that tornadoes are unpredictable but emphasized that these containers are extremely heavy and securely anchored, making them much less likely to be moved compared to lighter objects, such as empty boxcars.

Feit asked if any towns or entities had considered using murals or other aesthetic treatments on the containers to make them more visually appealing.

Wood responded that he had not seen that done before.

Feit noted it could be a fun idea, but was unsure if it would be feasible or compliant with security requirements.

Proponents:

No one approached in support.

Neutral:

No one approached in a neutral capacity.

Opposition-

Missy Pishna, 10941 Lancashire Circle, Waverly, NE, came forward and stated concerns related to the long-term safety and accountability of the battery energy storage facility. Pishna clarified that the comments were not intended to oppose battery technology or renewable energy, but rather to address how risk would be managed throughout the full operational life of the facility.

Pishna stated that the submitted documentation addressed facility construction, emergency response, and eventual decommissioning, including financial assurance for decommissioning. However, Pishna expressed concern that the documentation lacked a clear, enforceable plan governing the decades-long operational period between construction and decommissioning, noting that this timeframe is when most real-world issues may arise.

Pishna stated concerns that equipment may age, ownership may change multiple times, budgets may tighten, and oversight may diminish over time, particularly given the remote nature of the facility. Pishna stated that publicly available, detailed plans describing long-term maintenance, inspections, and ongoing monitoring were not clearly outlined.

Pishna referenced the emergency response plan and noted that it acknowledged serious risks, including toxic gas emissions, long-duration fires, and the potential for reignition lasting several days. Pishna cited examples of battery facility incidents where shelter-in-place orders were required within a several-mile radius due to airborne toxins, impacting residents' ability to use heating, cooling, or ventilation systems.

Pishna also expressed concern that certain project details were still listed as to be determined, including final battery selection. Pishna stated concern that approval would rely on future determinations rather than requiring finalized information upfront, creating uncertainty for the surrounding community.

Pishna stated that residents live in the area long-term and do not relocate as frequently as businesses or project ownership may change. Pishna emphasized that the community bears long-term risk and responsibility.

Pishna stated that the request was not to stop the project, but to require a full life-cycle plan addressing the entire operational lifespan of the facility, including maintenance, inspections, accountability, and environmental protections, particularly in the event of ownership changes. Pishna stated that greater clarity would help protect residents, first responders, and project owners alike.

Staff Questions-

Ryman Yost asked Wesselhoft for clarification regarding the surety bond. Ryman Yost inquired whether this was something being suggested to add during the meeting or if it was already included in the conditions.

Wesselhoft clarified that it is condition 2.4 and is already contained in the current conditions.

Ryman Yost acknowledged the clarification, noting she had just missed the number while reviewing the conditions.

Eddins asked if the plan must be approved by the Waverly Fire Department before the batteries can be placed on site.

Wesselhoft confirmed that approval is required prior to the issuance of a building permit.

Eddins acknowledged the clarification.

Campbell asked Wesselhoft why there is a 15-year delay before the annuity must be in place.

Wesselhoft explained that the 15-year timeframe is based on the solar provisions. Wesselhoft noted that the applicant's decommissioning plan outlines a project lifespan from 2026 to 2046, a total of 20 years, and added that the Commission could choose to shorten this timeframe if desired.

Applicant Rebuttal:

Levy spoke in response to questions regarding the lifetime management and safety of the project. Levy noted that the emergency action plan and the emergency response plan, as outlined by Wesselhoft and Wood, are in place for the entire lifetime of the project. Levy confirmed that Waverly Fire and Rescue must approve the emergency action plan before a building permit can be issued.

Levy explained that the agreement with Waverly includes annual training and outreach, with additional communication as needed throughout the life of the project. Levy emphasized that the City of Lincoln's special permit includes conditions of approval requiring ongoing monitoring, maintenance, and compliance with NFPA 855, UL standards, International Fire Code, and the State Fire Marshal. Levy stated that failure to meet these conditions could result in the loss of the special permit, providing a strong enforcement mechanism.

Levy also addressed concerns about explosions, referencing the Moss Landing project, which experienced a major incident with older battery technology housed in a building. Levy explained that the current project uses updated technology with each battery contained in a separate steel container. Levy highlighted that advances

in technology and the containerized design significantly reduce risk, compared to older open-building designs where fire propagation could occur more rapidly.

Staff Questions-

Eddins asked about on-site staffing and monitoring, noting the extensive use of remote operations and monitoring systems. Eddins inquired how often personnel are physically present on-site, asking whether inspections are conducted annually and how frequently staff are on the ground to visually inspect the facility.

Wood responded that the implementation of the operations and maintenance plan will be the responsibility of Sofos. Levy stated that the frequency and specifics of on-site visits are determined by the company and noted that on-site presence would occur more often than annually, though they could not speak to an exact schedule.

Russ Edwards, Sofos Power, 917 Anderson Street, Charlottesville, Virginia, came forward to address the operations and maintenance of the facility. Edwards stated that routine operations and maintenance typically involve monthly site visits and that landscaping activities would likely occur more frequently than system maintenance due to the inherent stability of the system. Edwards explained that maintenance activities are performed for safety purposes, including ensuring vents are clear and the system is operating properly. Edwards noted that site traffic is minimal once construction is complete and that the site is inspected at least annually.

Eddins asked how often personnel would be physically present on site and what on-the-ground monitoring would entail. Edwards confirmed that routine operations and maintenance generally involve monthly visits, with minimal site traffic overall once the facility is operational.

Ryman Yost asked about ownership changes in battery storage facilities, noting that while the technology is relatively new, such facilities are becoming more common nationwide. Ryman Yost inquired whether Edwards had observed instances where ownership had changed and, if so, how that was managed. Ryman Yost also asked about the length of agreements with energy providers and with the entities receiving the stored energy.

Levy responded to Ryman Yost's questions regarding ownership changes and energy agreements. Levy explained that the special permit runs with the land, so any new owner of the project would be subject to all the same conditions. Levy noted that changes in ownership are common in the industry, as some developers build, own, and operate a facility for its lifetime, while others build and then sell portfolios of projects. In this case, the agreement with the City of Waverly expressly runs with the project and applies to any successors or assigns.

Levy also explained that the project would be a large utility customer of Lincoln Electric System, the retail electric provider in the area, and would have an agreement to purchase electricity accordingly. Offtake agreements for the energy or capacity produced by the project vary in length, typically ranging from 15 to 25 years, although shorter agreements of one year are sometimes used due to market volatility. Levy noted that longer agreements are advantageous for both the energy buyer and the project owner because they provide predictable costs and revenue, with low and stable operational and maintenance expenses.

Ryman Yost added that one of the benefits of living in Nebraska is the public power system, which helps avoid some of the grid and energy market challenges seen in other states, such as Texas. Ryman Yost expressed appreciation for understanding how the project and energy agreements function within that system.

Ebert asked about the landscaping commitments shown on the site plan and whether they reflect the additional screening agreed to with the City of Waverly.

Levy responded that the site plan did not yet include the additional landscaping due to timing and holidays but confirmed that Sofos has committed to the landscaping agreement with Waverly. A final landscape plan will be approved by both Waverly and the City of Lincoln. The agreed-upon landscaping includes the entire east side of the property, the entire south side, and the south half of the west side up to the access drive.

Ebert asked if anything further is required to ensure the landscaping is incorporated into the special permit.

Wesselhoft responded that there is a site-specific condition about landscaping (Condition 1.6). Wesselhoft added that, if the Commission chooses, a statement could be added to explicitly reference the landscaping on the east side of the property as recommended by the City of Waverly.

Ebert asked for clarification regarding the extent of the landscaping.

Levy confirmed that while the landscape architect hired by the City of Waverly had proposed landscaping around the entire project, the applicant's agreement with Waverly includes landscaping on two and a half sides of the site. With the clarification suggested by Wesselhoft, Levy confirmed that landscaping will be provided along the east side, the south side, and the south half of the west side of the property.

Ebert acknowledged the confirmation, noting that it provided clear guidance.

Chair Joy asked if there were any additional comments or questions. Hearing none, the discussion was concluded.

SPECIAL PERMIT 25046

ACTION BY PLANNING COMMISSION:

JANUARY 7, 2026

Campbell moved to close the public hearing; seconded by Eddins.

Campbell moved to approve Special Permit 25046, amending the screening of the south half of the west side, seconded by Eddins.

Campbell stated that the project is needed for balancing power and noted that the technology has significantly improved since its inception, reducing risks of fires and damage while providing better control over the cells. Campbell indicated support for the project.

Chair Joy agreed with Commissioner Campbell and stated support for the project.

Motion for approval as amended of Special Permit 25046 7-0: Campbell, Cruz, Ebert, Eddins, Feit, Joy and Ryman Yost voting "yes"; Ball and Rodenburg absent.

SPECIAL PERMIT 25045, PAWNEE LAKE RESILIENT POWER PROJECT, TO ALLOW A BATTERY ENERGY STORAGE SYSTEM (BESS), LOCATED AT PROPERTY GENERALLY LOCATED AT NW 140TH STREET AND W HOLDREGE STREET.

PUBLIC HEARING:

January 7, 2026

Members present: Campbell, Cruz, Ebert, Eddins, Feit, Joy and Ryman Yost. Ball and Rodenburg absent.

Staff Recommendation:

Conditional Approval

There were no ex-parte communications disclosed.

There were no ex-parte communications disclosed relating to site visits.

Staff Presentation-

George Wesselhoft, Planning and Development Services, 555 S. 10th Street, Lincoln, NE, came forward and presented the Battery Energy Storage System (BESS) project located in western Lancaster County, north of West Holdridge Street on the east side of Northwest 140th Street, a county line road with Seward County.

Wesselhoft explained that Lancaster County's zoning regulations were updated in September 2025, like the City of Lincoln, to include BESS as a permitted use. This application pertains to a 20-acre site, approximately 16 acres of which will contain project improvements, and the property is zoned AG (Agricultural). The project is proposed to interconnect with the NPPD transmission system and is adjacent to an NPPD substation. The project will include BESS enclosures, batteries, equipment, and other associated infrastructure. Wesselhoft noted that county regulations require BESS to be used in conjunction with energy transmission substations or solar and wind energy systems, which aligns with the proposed interconnection with NPPD.

Wesselhoft stated that the project meets the district's setback and height requirements; however, the applicant requested a waiver for the south property line if a 10-foot fence is needed for sound mitigation. He added that the Planning Commission may require additional screening to address site-related impacts and recommended that the site plan include evergreen trees planted along Northwest 140th Street at a rate of six trees per 100 linear feet, subject to review for electrical easements.

Regarding emergency response, Wesselhoft explained that an emergency action plan was submitted to Malcolm Fire and Rescue for review. Malcolm Fire and Rescue expressed concern about having adequate support staff in the event of an emergency. Wesselhoft noted that the applicant provided responses addressing fire safety, and it is a condition of approval that the emergency action plan be approved by Malcolm Fire and Rescue before a building permit is issued.

Health and safety considerations were addressed through safety data sheets for the battery chiller systems, which were approved by the Health Department. Sound studies were included and reviewed. Wesselhoft explained that, unlike the Lincoln project, the county resolution had to specify sound requirements as the Lincoln standards did not apply.

Finally, Wesselhoft noted that the Planning Commission may impose additional conditions as appropriate and that a decommissioning plan is recommended as a condition of approval for this BESS project. Wesselhoft was available to answer questions regarding the project.

Staff Questions-

Campbell asked if there were any traffic counts available for Northwest 140th Street.

Wesselhoft stated that he did not have that information but suggested that the county engineer might be able to provide it.

John Barry, Lancaster County Engineering, 444 Cherry Creek Road, Lincoln, Nebraska, came forward and confirmed that he did not have the exact traffic counts on hand but could provide that information later. When asked for an estimate, Barry stated that he would guess approximately 150 vehicles per day in that area.

Applicant-

David Levy, Baird Holm, 301 South 13th Street, Suite 610, Lincoln, Nebraska, and Eric Wood, Energy Safety Response Group, 7475 Dayton Road, Tipp City, Ohio, appeared on behalf of the applicant. Levy presented the project, noting that it is located on the west edge of Lancaster County at 100 Northwest 140th Street, adjacent to the Seward County line. The site is approximately 20 acres, with project improvements occupying most of the property, including 242 lithium iron phosphate battery containers. The containers are compartmentalized, non-occupiable, and fully compliant with NFPA and UL safety requirements, while avoiding wetlands and the 500-year floodplain.

Levy explained that the proposed 10-foot fence requires a 60-foot setback and requested approval to place the fence within that setback to improve site functionality and reduce unused property outside the fence, noting that the land to the south is generally agricultural. Visual simulations of the project from surrounding roads were presented, and community benefits were discussed, including an estimated \$20 million in tax revenue over 20 years and approximately \$4.5 million for the local school district. All project features comply with Lancaster County zoning regulations. Levy concluded the presentation by inviting questions from the Commission.

Proponents:

No one approached in support.

Neutral:

No one approached in a neutral capacity.

Opposition-

Julia Lostroh, 13651 West Adams Street, Lincoln, NE, came forward to speak regarding the proposed project. Lostroh stated that she and her husband, Kevin, own and operate the farm directly north and east of the site, which has been in her husband's family since 1870 and is currently home to their children and 11 grandchildren, representing the fifth and sixth generations on the farm. Lostroh explained that they were contacted in July 2024 about leasing or selling land for the project with a very short response window, but declined the offer due to concerns about health, safety, and the long-term impact on their family and the community. Lostroh expressed concern about potential project expansion, property ownership, and the risk of fire and emissions, noting past incidents at other battery facilities. Lostroh emphasized the importance of long-term safety for nearby homes and families. Lostroh indicated that assurances of safety from an out-of-state company were not sufficient and noted her family's desire to avoid the risks associated with proximity to the facility. Lostroh concluded by thanking the Commission for its time.

Kevin Lostroh, 13651 West Adams Street, Lincoln, NE, came forward in support of his wife's testimony. He noted a concern regarding a sizable drainage ditch that runs across the southwest and southeast corners of the proposed site, pointing out that the project's units would be located directly over it. Lostroh indicated that he was unsure how this drainage feature would be addressed and expressed that this, along with his wife's prior safety and community concerns, were important considerations.

Matt Turek 13701 West Adams, Lincoln, NE, came forward to express concerns regarding the proposed site. Turk questioned the decommissioning process and timeline, noting potential risks if the private entity operating the facility were to go bankrupt before the 15–20-year decommissioning period is complete. Turek expressed concern for the safety of his eight children, who would still be young during this period, and for nearby residential developments downwind of the site in the event of a fire. Turk raised questions about monitoring, accountability, and inspection of the site to ensure compliance with NFPA standards and other regulations. Turk also referenced extreme weather events, including tornadoes, asking whether the bolted containers were adequately rated to withstand such forces. Turk emphasized the potential environmental and economic impacts on surrounding farmland and livestock operations if the project were abandoned or malfunctioned and urged the Commission to consider the proximity of nearby residences when making their decision.

Ashton Lostroh, 13665 West Adams St, Lincoln, NE, came forward to speak in opposition to the proposed facility. Lostroh stated that she and her husband live approximately a quarter mile from the site, raise cattle, and have three children, noting that their home was visible in one of the project photos presented. Lostroh explained that many of her concerns had already been addressed by previous speakers, but she emphasized her opposition based on risks related to malfunction, fire, explosion, and severe weather. Lostroh noted that Nebraska experiences extreme weather conditions, including tornadoes, heat waves, and polar snaps, which she believes increase the potential risks associated with the facility. Lostroh referenced the Moss Landing battery storage incident, expressing concern about environmental impacts such as soil and water contamination, and questioned the long-term implications for drinking water. Lostroh also asked why the proposed project would require 200 megawatts on 20 acres when a similar project in Waverly involves 170 megawatts on a larger site. Lostroh concluded by stating that she and her family value the safety and character of the area and thanked the Commission for listening.

Staff Questions-

Wesselhoft addressed the Commission and noted that this item is a final action unless appealed to the County Board. Wesselhoft explained that an appeal form and appeal fee are required and that anyone interested in filing an appeal may contact him for additional information. Wesselhoft stated that any appeal must be filed within fourteen (14) days of the action, whether approved or denied.

Chair Joy thanked Wesselhoft for the information.

Campbell asked Wesselhoft whether weed control is supervised countywide rather than citywide.

Wesselhoft confirmed that there is a County Weed Superintendent and stated that weed-related issues, particularly outside the fencing, would be the most appropriate type of complaint to address at the county level. Wesselhoft noted that while he could not speak specifically to fire-related issues, noxious weeds are regulated, and the County Weed Superintendent could be involved if there were concerns regarding weed control.

Campbell thanked Wesselhoft.

Feit asked Wesselhoft about accountability and whether the County conducts annual inspections of the facility. Wesselhoft explained that there is no annual inspection requirement once occupancy is granted.

Wesselhoft stated that if a complaint were received—such as concerns related to weeds, health, or other issues—the appropriate agency would respond accordingly.

Feit then asked Wesselhoft to explain the decommissioning process, including who would be responsible for cleanup and how funds would be handled if the business were no longer operating.

Wesselhoft indicated that he would ask Steve Henrichsen to come forward to provide additional details regarding the decommissioning process.

Steve Henrichsen, Planning and Development Services, 555 South 10th Street, Lincoln, NE, came forward and explained that staff used wind turbines as a comparable example when reviewing the project. Henrichsen stated that a specific decommissioning plan was provided.

Henrichsen explained that for the Pony Lake facility, the estimated cost of decommissioning is approximately \$5.4 million, with an estimated salvage value of approximately \$2.7 million. Henrichsen noted that if decommissioning occurred on day one, the salvage value would not offset the removal cost, resulting in a net expense.

Henrichsen stated that the project represents a significant investment, estimated at approximately \$200 million. Henrichsen explained that when a large investment is made in a specific technology—such as wind turbines or battery energy storage systems—operators typically continue using that technology even when newer options become available, due to the remaining value and functionality.

Henrichsen noted that replacement typically occurs only when newer technology provides sufficient benefit to justify the cost. As an example, Henrichsen referenced national wind turbine blade upgrades that occurred when blade technology improved.

Henrichsen explained that even if the original company were to go out of business, another company would likely assume ownership and continue operating the facility for its intended purpose. For this reason, Henrichsen stated that staff did not identify a need to require decommissioning financial assurance during the first 15 years of operation.

Henrichsen clarified that decommissioning refers to the full removal of the facility. Henrichsen noted that alternative future uses of the property could be proposed, which would require separate approval and could make use of existing infrastructure, such as concrete foundations.

Regarding tornado-related concerns, Henrichsen stated that the facility would be required to comply with current building code standards, including wind load requirements. Henrichsen noted that building codes establish minimum standards but do not guarantee that a structure is tornado-proof.

Henrichsen explained that tornadoes can exceed design standards and that no special permit can guarantee protection from extreme weather events. Henrichsen stated that the weight of the structures and compliance with wind standards would logically reduce movement but cannot ensure absolute protection.

Henrichsen concluded by stating that tornado impacts are beyond the scope of regulatory guarantees and that this limitation applies broadly throughout Lancaster County and the Midwest.

Feit asked Henrichsen to confirm that the special permit runs with the land in perpetuity and does not expire.

Henrichsen confirmed that the special permit has no expiration date. Henrichsen stated that if the facility were to fall into disuse, a complaint could be made to Planning and Development Services. Henrichsen explained that if the facility has been inactive for more than 15 years, the County would initiate the decommissioning process. Henrichsen stated that if the owner does not voluntarily remove the facility, the County may proceed with removal.

Henrichsen noted that a battery energy storage facility is more readily removable than a wind turbine. Henrichsen explained that while wind turbines can also be removed, they require specialized expertise and equipment, whereas battery storage equipment is typically bolted to the ground and more straightforward to decommission.

Feit thanked Henrichsen for the clarification.

Chair Joy asked Wesselhoft whether there were any requirements or reviews related to watershed protection or water impacts.

Wesselhoft responded that both the Health Department and the County Engineer reviewed the project from an environmental standpoint. Wesselhoft stated that drainage and water-related issues fall under the review authority of the County Engineer's Office.

Jena Vogt, Lancaster County Engineer's Office, 444 Cherry Creek Road, Lincoln, NE, came forward and stated that the office requested the applicant provide a drainage easement along the waterway. Vogt explained that this is standard practice, with a 120-foot easement centered on the channel, providing 60 feet on each side. Vogt noted that the buffer follows the City of Lincoln's requirements for drainage easements, prohibiting any construction, including fences, within the 120-foot area. Vogt indicated that this easement ensures proper drainage and protects the waterway in the future.

Ryman Yost asked about drainage in the southeast corner of the site, noting the presence of water and a building over that area as observed in Google Earth.

Vogt responded that Lancaster County Engineers Office policy follows USGS blue line streams, which are mapped statewide and nationwide. Vogt explained that a buffer is only requested when a blue line stream is present. Vogt confirmed that there was no blue line stream in the southeast corner, only in the southwest corner, and therefore no buffer was required in the southeast corner.

Chair Joy asked Wesselhoft whether there would be any state inspections, such as by the State Fire Marshal.

Wesselhoft stated that he might defer to the applicant on that question. No further questions were asked at that time.

Applicant Rebuttal:

Levy came forward and stated that he wanted to build on Henrichsen's comments regarding decommissioning and noted that Henrichsen had summarized that issue well. Levy added that another safeguard is the involvement of lenders and investors, who have a strong interest in ensuring the project continues to operate efficiently. If the developer were to abandon the project, the lenders or investors would intervene to maintain operations. Levy also noted that the county retains enforcement authority. In response to a prior question, Levy confirmed that state inspections would be conducted, including by the State Electrical Inspector and State Fire Marshal.

Staff Questions-

Chair Joy asked whether the inspections are annual. Levy responded that inspections occur at the time of commissioning to ensure compliance with applicable fire and electrical codes.

Levy clarified that the developer does not have eminent domain authority, addressing concerns raised by a prior commenter. Levy explained the difference in land use, noting that the current site requires less acreage because it already has a substation for interconnection, unlike the Waverly project, which required additional land to build a substation. Levy reiterated points on decommissioning and addressed comparisons to Moss Landing, noting that while both are battery storage projects, the current project uses newer technology with individual steel compartments and enhanced safety mechanisms. Levy emphasized that the applicant is happy to answer any further questions regarding safety, fire response, or other concerns.

Eddins asked about the southeast drainage.

Levy responded that it is not a blue line stream and is not considered jurisdictional water, so there is no legal requirement to avoid it. Levy noted that the site is tight, and the proposed layout would build over the drainage. While there is no legal requirement to set back from it, Levy added that if the Commission has concerns, the applicant can consider ways to address them, though options for a different layout are limited due to site constraints.

Ryman Yost asked whether the engineers or architects who developed the plan had any concerns about the potential impact on water, or whether the expectation is that water will be diverted or continue to flow underground.

Russ Edwards, Sofos Power, 917 Anderson Street, Charlottesville, Virginia came forward and responded that the plan is still conceptual. Edwards noted that, as Levy had mentioned, there are several local, state, and federal permits still required, including the Nebraska SWIP process (stormwater permitting/SWPPP under NPDES). The conceptual layout presented does not yet reflect the final design, as a significant process must be completed before final approval.

Ryman Yost acknowledged this explanation, stating that it clarified her question.

Levy added that, Edwards noted, the project will still require approval from the agency formerly known as the Nebraska Department of Environmental Quality (NDEQ).

Chair Joy thanked Levy, noting her inspection questions had been addressed; no further questions were raised.

SPECIAL PERMIT 25045

ACTION BY PLANNING COMMISSION:

JANUARY 7, 2026

Campbell moved to close the public hearing; seconded by Eddins.

Campbell moved to approve Special Permit 25045; seconded by Eddins.

Campbell stated that the project appears well planned and noted that, as with any new technology, some unknowns remain, but the applicant is addressing them and has additional steps to complete before permitting. Campbell commented that issues such as drainage are well covered and that using the newest technology and placing equipment in smaller trailers rather than a single large building makes sense. Campbell concluded by expressing support for the project and indicating they would vote in favor.

Ryman Yost echoed the comments of their fellow commissioner, noting that the Commission is reviewing land use, not detailed site design. Ryman Yost stated that land use elements within the Planning Commission's jurisdiction have been addressed, while other public and commissioner concerns will be handled in subsequent review processes. Ryman Yost also noted it is helpful that the fence is included in the Health Department plan, if required. Given the Commission's role at this stage, Ryman Yost indicated she would vote to approve the project.

Chair Joy stated that they also agree with their fellow commissioners. Joy expressed appreciation for the public testimony and noted that there are many systems in place to address, if not all, the concerns raised. From a land use standpoint, Joy indicated agreement with the other commissioners.

Motion for approval of Special Permit 25045 carried 7-0: Campbell, Cruz, Ebert, Eddins, Feit, Joy, and Ryman Yost voting "yes"; Ball and Rodenburg absent.

Campbell moved to adjourn the Planning Commission meeting of January 7, 2026; seconded Eddins.

Motion to adjourn carried 7-0: Campbell, Cruz, Ebert, Eddins, Feit, Joy, and Ryman Yost voted “yes.” Ball and Rodenburg absent.

There being no further business, the meeting was adjourned at 3:09 pm.