



Comments of NextEra Energy Resources (NEER) to the Johnson County Planning Commission Study Session on Utility Scale Solar Facilities - September 14, 2021

Decades of operating projects prove that solar facilities can be safely designed, constructed, and operated while enhancing the environment and mitigating any potential impacts to nearby residents and communities. Any proposed zoning regulations should be reasonable, apply standards that are comparable to other forms of development, and respect property rights of rural agricultural stakeholders looking to use their property for solar farms. Understanding the requirements to design, build, and operate a utility scale solar facility is important when drafting regulations. Therefore, we submit the following for your consideration.

1. 20-year term for a CUP. An arbitrary inclusion of a 20-year term for solar farms is unnecessary and inconsistent with other forms of development. Such a relatively short term introduces unnecessary risk to financing for capital intensive development such as a solar project. Developers seek long-term contracts through Power Purchase Agreements that can range from 15-30 years. Investors are not likely to invest capital in projects where the CUP could be up for renewal and potentially disapproved during a shortened operational period. We would request that this term be uncapped.
2. Solar projects limit development. Solar projects *are* ‘development’ that is on par with other types of land development currently being pursued in Johnson County, despite the Johnson County’s Planning Commission Staff’s reference to solar development resulting in ‘compromised’ land. Solar development improves the land and results in:
 - Capital investment
 - Property tax payments
 - Jobs – during construction and full-time for Operations and Maintenance
 - Land that is preserved and returned to agricultural use after decommissioning
3. Acreage limitation / Project Extent. The project acreage cap coupled with the project extent limitation creates an artificial limitation on development that could render solar projects to not be economically feasible in Johnson County. The arbitrary acreage limitation and project extent also fail to appreciate landowners’ potential to have other co-uses on the land and to landowners’ or the developer’s potential desire to plan around existing concerns on the property, including wildlife and environmental concerns.
4. Buffering. Buffering requirements are unevenly applied when compared to other types of development, are not proportional to benefits, and are uneconomic for development, especially in areas with limited traffic.
 - Unevenly applied: Other types of (less attractive) development are not required to use, build, and maintain similar buffers (examples include, but are not limited to, mechanic shops, fast food restaurants, strip malls, landfills, etc.)
 - Cost not proportional to benefit: Traffic flow on many of the roads that border potential projects is extremely low. Roads are, by their nature, areas for transient use and the expectation for viewshed while traversing roads would be to see a variety of uses, including landowners hosting solar panels.
 - Renders project uneconomic: the cost of the proposed buffers is high and could render proposed projects, including NextEra’s proposed project, to no longer be feasible.
5. Setbacks. Excessive setbacks imply that solar development is inferior to other types of development and that one neighbor can dictate their adjacent landowner’s use of their property to maintain their preferred viewshed.



Setbacks are typically used for health and safety reasons such as setbacks from confined feeding operations, oil and gas production, or landfills, or if a use creates other unpleasant externalities such as smell or excessive noise. The concerns that drive setbacks for these types of development – danger of explosion, exposure to toxins, unpleasant odors, noise, lighting – either do not exist or are so unlikely in the case of solar projects that they are unnecessary impediments to beneficial community development.

6. Property Rights. Acreage limitations, extreme setbacks and screening are taking away a landowner’s selected use of their property. When a government, such as Johnson County, takes away the ability for a landowner to use his or her property as they deem most economically efficient, we create great harm to that person. Any action that we know harms the citizens of Johnson County by injuring their property rights must only be taken sparingly. Some individuals will request that the Johnson County Planning Commission and County Commission take away their neighbor’s property rights so they can have an aesthetic they prefer, while forsaking the rights of the landowner they are impacting.

Professor Armen Alchian, emeritus professor of economics at the University of California, Los Angeles has stated that, “*One of the most fundamental requirements of a capitalist economic system—and one of the most misunderstood concepts—is a strong system of property rights.*”¹ Johnson County traditionally has supported property rights and recognized its position in a capitalist economic system. Secure property rights give confidence to individuals and businesses to invest in land and development opportunities. Each of the landowners currently participating in the West Gardner Solar Project did so voluntarily with the goal supplementing or replacing their income and letting their land work for them. A solar facility has minimal impact on the surrounding area or on the residents who neighbor the project, and that limited impact does not justify such a heavy encroachment on the property rights of Johnson County’s citizens.

¹ The Concise Encyclopedia of Economics, 2008.