

JOHNSON COUNTY PLANNING COMMISSION

Johnson County Administration Building
111 South Cherry Street, Olathe, Kansas
Board of County Commissioners Hearing Room, 3rd Floor

MINUTES OF REGULAR MEETING

November 16, 2021

5:45 p.m.

A. CALL TO ORDER

A meeting of the Planning Commission of Johnson County, Kansas, was convened at 5:45 p.m. on Tuesday, November 16, 2021, and was called to order by Chris Iliff, Chair, with the following members present and participating; to-wit: Michael Levin, Mark Huggins, George Lund, Kelley Rast, James Neese, Dave Johns, Lindsey Grise (via Zoom, arrived late) and Randall Downing. Randy Hutchins and Roger Mason were absent. Also present were Jay Leipzig, Leslie Davis, Sean Pendley, Diane Wickham, and Michelle Kriks of the Johnson County Planning Department.

Chairman Iliff: I would remind everyone when they speak tonight to please state your name, so that the record will be clear when it's transcribed. Leslie, do you have a statement to read?

Ms. Davis: Yes, I do:

*This meeting is now being recorded. Please silence all electronic devices. Please note, to reduce the spread of COVID-19, physical distancing will be observed in the hearing room, with limited seating. Some Board members will not be physically present in the Board meeting room and will be joining through Zoom. If you are using Zoom, you may participate in the meeting using your computer, phone or electronic device. Zoom participants' chat will be disabled once the meeting begins. If you have trouble with Zoom, please call 913-715-1700. If you would like to speak but did not register beforehand, please use the "raise hand" function, or *9 if connecting via telephone. I will call your name when it is your turn to speak. Registered speakers using Zoom will be called upon to speak in the order in which they signed up, alternating with in-person speakers. Speakers who have registered or signed up for in-person public comment by 5:40 p.m. will be called on in the order in which they signed up. The Chairman may modify these procedures as needed to conduct an orderly and efficient meeting. All speakers will be limited to two minutes, unless the Chair designates a different time period in order to accommodate all speakers desiring to speak. When your name is called by the moderator, your microphone will be unmuted. Please state your name and address for the record, followed by your comments. If you share concerns, comments or points made by others, please refrain from repeating those comments and instead note for the record that you agree with the previous individual's comments. There will be a "10-second remaining" warning sound. Board members and presenters, please state your name every time you begin talking so the notes can be transcribed for the record. This is a public hearing. We are presenting live and recording the meeting. Thank you.*

B. APPROVAL OF AGENDA

Chairman Iliff: Any objections to the approval of the agenda?

Unidentified Speaker: [inaudible]

Chairman Iliff: I'm sorry. This is for the Board's approval.

Unidentified Speaker: [inaudible]

Chairman Iliff: Sir, you have a chance to be silent or a chance to be removed.

Unidentified Speaker: [inaudible]

Chairman Iliff: I don't wish to do anything other than run the meeting. Are there any objections to the agenda? [none] Hearing no objections to the agenda, it will be approved as printed.

[meeting interruption by unidentified speaker]

C. CONSIDER MINUTES OF PREVIOUS PLANNING COMMISSION MEETING

Chairman Iliff: The September 28th meeting minutes have been presented to us as corrected.

[interruption by unidentified speaker]

Chairman Iliff: Let me say before we move on to the next item on the agenda, one of the things that has been really good about these meetings is the level of civility that we have seen, both from the members of the public and from the Commissioners and everyone else, and I really appreciate it. It does make it possible to conduct public business. Otherwise, we would not be able to.

Unidentified Speaker: Somebody can't hear you back there.

Chairman Iliff: Who can't? I'm sorry, what is the problem? [inaudible] I'll move closer to the microphone. All right. Next item on the agenda is approval of the minutes of the September 28, 2021 meeting that have been corrected. Is there anyone that has any recommendations or objections to or changes for those minutes?

The minutes of the September 28, 2021, Planning Commission meeting were approved unanimously.

Chairman Iliff: Next on the agenda with consideration of the minutes is the October 12, 2021, meeting minutes. Is there anyone, again, who would like to make a recommendation for changes or objections to those minutes? If not, all those indicate their approval of the minutes as printed, indicate by saying aye. Anyone disapproving, same sign?

Lastly, the minutes of the October 26, 2021, meeting. I would ask again, if there is anyone who has any objections to or recommended changes for the minutes of October 26, 2021, please make them known. Hearing none, all those who are in favor of approval of those minutes, please indicate by saying aye. All opposed, same sign.

The minutes of all three meetings were approved.

D. PUBLIC HEARING: UPDATE COMPREHENSIVE PLAN AND ZONING REGULATIONS TO REGULATE UTILITY-SCALE SOLAR FACILITIES

Chairman Iliff: We're going to move on now to the public hearing with regard to the update of the Comprehensive Plan and Zoning Regulations to regulate utility-scale solar facilities. At this point, I'm going to recuse myself from voting or further commenting on these items or chairing the meeting, as I may have a potential conflict of interest. I spoke also with Vice Chairman, Randy Hutchins before coming here today. He regrets his inability to be here, but he also is recusing himself as a result of a possible conflict of interest, so I'm going to turn the meeting over now to the person with the most seniority on this Board, Mr. Jim Neese.

Comm. Neese: Thank you, Mr. Chairman.

Comm. Rast: I have a question, Mr. Neese. Do you want to go first, or can I ask a question?

Comm. Neese: What I'd like to do is have the staff make their presentation.

Comm. Rast: Okay, perfect.

Comm. Neese: At the end of the staff's presentation then what we'd do is have the staff finish their completion, and if we have any discussion or anything you want to bring up in the meantime, we'll do it then.

Comm. Rast: Sounds good. Thank you.

Comm. Neese: Thank you, Mr. Chairman. Jay, if you would proceed with your presentation, and I believe it involves you and the consultants together.

Mr. Leipzig: Thank you, Mr. Neese. Just as a point of additional clarification, Mr. Neese is chairing the meeting tonight because he is the most tenured member of our Planning Commission. I believe it's something like 38 years, or it might even be longer than that, but it's been a long time. Mr. Neese will be the acting Chair for the meeting this evening. As I have done in previous meetings, I wanted to give a quick update on communications that have been received and included in the packet that was hand-delivered to the Planning Commission members on November 10th. There is communication from Richard and Donna Gall. Also from Bill Tillman. Those are both included in the packet. There was an additional communication that was emailed. This would be communication that was received from November 10th through November 15th. We have communication from Emily Truebner, Byron Wiley, Marvin Knoche, George Schlagel, LeeAnn Antes, Ty Gorman, Ray Antes, Carrie Brandon and Joyce Whittier. I apologize if I've mispronounced any of those names, but that's the additional communications we have received.

I did want to begin the staff presentation this evening. This is a public hearing. Staff will be summarizing our previous discussions that we had at our last meeting on October 26th and presenting the recommendations to you, along with our planning consultant, Darren Coffey from the Berkley Group is also available by Zoom this evening, and Sean Pendley, our Deputy Director will also be participating in the presentation this evening.

With that being said, I'll start with the first slide that provides a summary to you of where we are. We started this process, our Planning Commission and Board of County Commissioners had a study session on March 11, 2021. We reviewed the draft Comprehensive Plan and Zoning Regulations for the Planning Commission on August 10, 2021, and then we've had a series of study sessions since that time. We have had two in September – September 14th and 28th – as well as two in October – on October 12th and 26th. Then, of course this evening is the public hearing, November 16th. We had preliminarily scheduled a study session with the Board of County Commissioners for December 16th. That has been moved back to January 6th, just so you all are aware of that date. That has been moved back to January 6th. I wanted to make that statement and kind of provide a summary of where we are at this point. With that, I'm going to turn it over to Sean Pendley, who is going to go through the remaining slides with you.

Mr. Pendley: Thank you, Jay. Good evening, Commissioners. This evening we would like to give a presentation and overview of the proposed amendments to the County's Rural Comprehensive Plan and Zoning Regulations that will establish standards and regulations for utility-scale solar facilities. We'll highlight a couple of the key elements. You have seen these before as we have discussed in some of the study sessions, but we want to highlight some of the key draft regulations and some of the recent changes that were recommendation by the Planning Commission as well as staff. Staff will provide the introduction here, and go through these first few slides. Then we'll

turn it over to Darren Coffey with the Berkley Group, who has been our independent consultant assisting staff in drafting the regulations. They will go through the detailed development standards and regulations. Following this presentation, we'll turn it back over to the Commission for discussion and to open the public hearing.

As we have discussed, one of the first things we need to do, to address, is the Comprehensive Plan policies. There are some specific things that we want to look at for the policies in the Comprehensive Plan, as we have discussed. The majority of land in the unincorporated area is zoned RUR, Rural District, and they are primarily agricultural uses and very low density residential uses. The policies that are being added to the Rural Comprehensive Plan will uphold the rural character and limit grading and disturbance of those rural areas. We are including policies to protect land areas from future growth and development, particularly within one-and-a-half miles of city limits. Other areas that are to be protected and identified in our Comprehensive Plan will be residential areas, parks and public amenities, and environmentally sensitive areas. The beginning that we're talking about for the Regulations, what we're doing, the purpose of these amendments to the Zoning Regulations, will be to establish development standards and application requirements for utility-scale solar facilities.

There is no application submitted at this time for any application, but following the regulations that are adopted, we will discuss the proposed solar facility requirements, and they will require a Conditional Use Permit application. That will include a separate process for staff review and public notice and public hearing. So, what we're discussing tonight is going to be the Regulations that we're going to get into, but any actual application for a utility-scale solar facilities will require a separate process that will be presented to the zoning board and Board of County Commissioners.

The slide I am showing are some of the key elements of the development standards that we'll talk about. Due to the large size and scale of solar facilities and potential impacts on surrounding properties and the surrounding area, there's a variety of development standards that need to be considered for the Regulations. A few of these are identified here, as I'm showing in this graphic. Obviously, setbacks from property lines and dwellings, landscaping, screening requirements, stream buffers and flood plains, fencing, wildlife corridors and others. Those are just some of the things we're considering. Obviously, wherever the solar panels and equipment are presented, and eventually will be required to provide detailed plans. We have standards that we're setting for all of these requirements. Darren Coffey will go through some of those detailed development standards in a moment.

So, we'll got through some of the key elements that we discussed over the last few study sessions. If you recall, one of the key requirements was the term of the Conditional Use Permit. These facilities will require a Conditional Use Permit. Staff had originally recommended a 20-year term, and at the last Planning Commission meeting the majority of the Commissioners recommended a longer term of 25 years. Staff has revised those draft regulations accordingly, so those are included in your packet with the most recent update. Staff has recommended a 25-year term based on the previous discussion. The maximum project area for any one Conditional Use Permit would be 2,000 acres, and that has not changed. That's the same standard that was presented in the previous draft, and nothing has changed in regard to that. There's another standard for maximum project extent. This is basically what is defined as the overall project boundary, and that is up to four square miles, 2,560 acres. Staff has recommended a waiver option for this requirement, as noted in the draft regulations. I'll explain that in a minute. The following is a graphic that is showing the difference between the project area and the project extent. The project

area is essentially the total boundary area. This includes all area that is within a development plan and a Conditional Use Permit. It may consist of multiple parcels or portions of parcels. The parcels may be contiguous or noncontiguous, but the standards that we're setting forth are for a maximum area of all those properties within the project area to be 2,000 acres as a maximum, and no portion of the project area shall be located more than a half-mile from any other property within the project area, so it is somewhat defined. There is another definition we've included for project extent that essentially gets at that requirement also, to confine it so that it doesn't proliferate and extend farther than what would be expected. This is basically a geographical extent for any one solar facility. Staff has revised the definition in the draft regulations to simplify and kind of clarify the definitions. Really, the area with the smallest rectangle that encompasses the entire project area in its entirety. If you see on this graphic here, there's a yellow outline that may be difficult to see, but basically it just squares off the entire area that any one proposed project area. Again, the limit is four square miles.

Again, the limit is for four square miles. Staff is recommending a waiver for that requirement. The reason for that is it can extend a little bit further, and as this graphic shows here, it could potentially be more than four square miles, but staff included waiver language in the updated draft regulations to specify that there are some conditions with this waiver. If an applicant is to request a waiver, the applicant must submit written information for the waiver, and there must be a finding by the Board of County Commissioners that the proposed use is in keeping with, or does not conflict with, the planned uses for the area; the distance between non-abutting tracts does not exceed one-half mile in distance; and the deviation from the maximum project extent does not create adverse impacts on adjoining properties. Essentially, they're still going to follow the same standards as far as the maximum area. It cannot exceed 2,000 acres in total project size, but the project extent, this boundary line, may go a little bit more than the four square miles, as defined in the draft regulations. Staff would be happy to answer any specific questions on that. Basically, it's just an option that the applicant could request a waiver if they felt it necessary.

As we discussed previously, the location of utility-scale solar facilities is the single most important factor in evaluating an application, and as we have discussed, we have recommendations for the maximum percentage of coverage area for any one project. That's 70 percent. We've included a graphic here that we discussed for the buffer maps, which I'll explain next. The buffers that we are recommending – initially it was one mile, if you recall at the last two study sessions, staff had recommended increasing that to one-and-a-half miles to respond to some of the cities' comments, and to take into account cities' future growth areas. So staff is recommending increasing that to 1.5 miles from city limits. A waiver is available for that, too, as it was previously. That has not changed. Again, one thing that did change that staff added in was a requirement that – to address some of the cities' concerns – if an applicant does request a waiver from that requirement, from the one-and-a-half-mile distance, staff noted that the applicant would be required to send written notice to the cities for the request for the waiver, and any comments received from the cities would be included for consideration by the zoning board and the Board of County Commissioners. It essentially puts the onus on the applicant to explain why a waiver would be requested, and then the cities have an opportunity to provide comments. Of course, there will be public hearings to that effect.

Comm. Neese: I've got a quick question. If they come before a zoning board and ask for a waiver, they could be granted a waiver, right? So why would you put already write the waiver possibilities in there if they're going to come before the zoning board and want something other than standard, then they're going to ask for a waiver, which may or may not be granted. If you already have a waiver written in there, and they ask for the waiver, they're still going to have to be granted by the

zoning board. I think I'm right there, so my question then is, why have all these waivers, because they could ask for waivers when they want to make a waiver to the zoning board?

Mr. Pendley: Not all of our development standards include waivers, so we'll highlight those that do. The reason why staff recommended a waiver for this requirement, for the distance from cities, is there could conceivably be an applicant for a utility-scale solar facilities that a city may support. Maybe it's in support of an industrial development for the Intermodal, or maybe it's for another project that would be allowed. If we don't include language for a waiver option, it's not an option. So essentially, they would be stuck at one-and-a-half miles from all cities regardless of whether the city wants it or not. We understand that there may be some opposition to the waiver, but we have to have allowance for it if the board wants to entertain that, right? So, we're just including language for that waiver, and there are conditions and justifications. The applicant would have to provide that justification, and you're correct. The zoning board and the Board of County Commissioners would review that request for a waiver, and could recommend approval or denial of that waiver. So it doesn't have to be granted just because an applicant requests it. It could be denied, and staff may not support it as well. Let's say if a city has submitted comments that are opposed to that request for a waiver. Chances are County staff would say, "We don't recommend approval of that waiver." So the board would have the ultimate decision to make as to whether or not they support the waiver.

After answering other questions, and as we go if you think of anything else, feel free to...I forgot to mention, feel free to ask questions as we go along. One of the other distance requirements is from other solar facilities, so if a facility is approved, there's a minimum distance of separation of at least two miles from another facility, so if one is approved, there could be no other utility solar-scale facilities permitted within two miles of that facility. With that, that concludes staff's introductions and presentations. I'll turn it over to Darren Coffey now. He'll go through these next seven or eight slides and then staff will come back and wrap up the final discussion.

Darren Coffey, Berkley Group, appeared before the Zoning Board and made the following comments:

Mr. Coffey: Thank you, Mr. Pendley. I appreciate that. As Sean said, the single most important factor is the location of these facilities, but once a location has been picked, setbacks is another really big one. What staff is recommending is that the setbacks from structures be at least 50 feet from the project boundary. I will say that that is a very reasonable setback requirement, especially for facilities as large as we're dealing with. Every use typically has a setback, and the bigger the use, the bigger the setback you're going to want, so 50 feet, in my opinion, is extremely reasonable. Now, with substations and battery energy storage facilities, there's the potential for more hazard there, so the setback is at least 150 feet from the project boundary. We're trying to encourage the industry to design these facilities with these minimums in mind and encourage them to exceed the minimums where possible as the project allows. Also, the minimum setback to existing dwellings should be 250 feet. Again, you may hear people say, "Look, why should we have to stay that far away if the neighbor doesn't care?" Well, how many neighbors are there going to be in a 20- to 40-year period? If we really want to protect the property values of adjacent property owners then we want to do the setbacks correctly.

Another factor is the screening. Just because you set back doesn't mean you can't see it, but it does give an opportunity for you to put in appropriate screening. The visual impact of utility-scale solar facilities can be significantly minimized with effective buffering and screening. We've heard some people say that they don't mind looking at it from the road, that they don't mind looking at it from their house, but I can tell you, a lot of people – and we may hear from some this evening –

do mind. What I say all the time is, if you can't see it, then maybe it's not an issue. Buffering and screening may be appropriate along any public right-of-way, but when the site is adjacent to another land use, particularly residential, vegetative buffers tend to be more appropriate in an agricultural area rather than fencing and berms. Of course, it depends on the site, whether it's sloping up or sloping down or has hills, et cetera. It also can be done by a variety of means. Vegetative, evergreen, deciduous, a combination of fencing and berms and landscaping, whatever is appropriate to the area.

Also, with existing dwellings within 300 feet, the staff is recommending that it be 100 percent visually screened. Again, just to go along with that same philosophy of if you can't see it, maybe it's not an issue, or certainly it's less of an issue. This figure shows a rendering of vegetation planted during a project construction, and the projected growth after six years. Typically, you're going to see a mixture of plants that are specified to provide an effective screen.

This is an example of, I would say, bad landscaping. Staff visited this site in Missouri. They took some pictures. If this is going to be your landscaping then probably you don't need to require landscaping. The screening recommended in this ordinance, in my opinion, is very reasonable, but it is significantly more robust than what is seen here, which is minimally effective, to say the least.

Now this is what you want. When you have existing trees and existing open space, and developers like this too. You just plop the panels in. Nobody can see them. They're doing their job. They're in sun all day long, as long as the sun is shining. This is an example of a really, really perfect kind of screening situation.

Decommissioning is another very, very important component to these facilities. In no other land use have we, as practicing planners, run into something that we have to think about 40 years down the road, and how are we going to secure that and ensure that it's not going to end up being the taxpayers who have to clean up the site. So the decommissioning and reclamation plan is going to specify how they're going to remove the equipment that's installed, how they're going to essentially, an industry term is "restore the site to its previous condition," – which is very difficult to if it was forested, by the way – but replant trees, re-till the land, et cetera. How they're going to dispose of the materials appropriately and sometimes where. Then, the proposed method for the security. Is it going to be cash escrow, which it tends not to be, or would it be a letter of credit or a surety bond? Also, there's a cost estimate by a professional engineer that should not include the salvage value, and it's recommended that the County have that estimate reviewed by a third party consultant, third party engineering firm, just to review the methodology that went into it, the pricing, et cetera, to ensure that that cost estimate is realistic.

So again, how do you get those funds? How do you collect the funds? Well it really is up to the County Attorney's Office as to what would be an acceptable form of security. Typically, you're going to see a letter of credit or a surety bond, and it also should be recalculated every five years. Again, if you're holding \$5 million now, maybe it costs \$20 million to decommission in the future. Or it may cost \$5 million now. It might not cost anything in the future, because it can all be salvaged. But there is no guarantee to that, and the County's responsibility isn't to figure out what will that salvage value be? The County's responsibility is to say, "We're going to do everything in our power to ensure that the taxpayers of Johnson County will never have to pay a dime to decommission one of these facilities. So that five years just kind of helps recalibrate and make sure that the funds that are being held are sufficient. If it is greater than a two-percent value, then it would be adjusted, so money could be given back, or released by the County, or money could be additionally corrected with the issuance of a new letter of credit or other security to replace the

existing one. There's a number of things that have been recommended by staff in terms of modifications. Based on the input that was received at the last study session, staff really paid attention to what was said, and Mr. Pendley is going to go over those items right now.

Mr. Leipzig: Sean, I wanted to say just a couple of words about something I neglected to say during my initial comments. In the packet this evening is a memo that is dated November 10, 2021, from Sean and I, staff, to the Planning Commission that summarizes the various conditions and the points that we're going through in the PowerPoint, and also in the packet is the draft solar facilities regulations. I just wanted to point that out, so if you want to look at the memo, all of that information is also backed up in the document, the Subdivision Regulations, as well. I wanted to point that out just in case that was not realized. Sorry. Thank you, Sean.

Mr. Pendley: Thank you, Jay. I'll just wrap up this presentation by staff and just note, as Darren indicated, following the last Planning Commission meeting some of those changes that were recommended by the Commission were incorporated, such as the term. But then also, a few additional items that I wanted to point out. Staff has added draft development standards for medium-scale solar facilities. These are facilities that are between one and ten acres in size. They are still considered a utility-scale facility. They need to be addressed, though, but there are regulations included with this draft. Just for the purposes of explaining what that will entail, they will still require a Conditional Use Permit as drafted, and they will follow the same standards as utility-scale solar facilities, with the following exceptions: Battery energy storage facilities are not allowed in those medium-scale facilities. Secondly, visual impact studies, traffic studies and environmental impact studies may be waived or modified because those are such smaller facilities. They may also be located within one-and-a-half miles of a city and may be located within two miles of an existing solar facility, the thought being that they are smaller in scale. It could potentially be almost considered like an accessory to an industrial development, but because of the size there are different standards that apply.

Staff also added in some changes to allow for additional review time for a Conditional Use Permit application for solar facilities. These are going to be very large projects, require a lot of coordination and communications with different jurisdictions. We need to allow time for that, and also a possibility of a third party review. So additional time may be required for the review of those applications, as determined by the Zoning Administrator. Staff does recommend the waiver option, as we discussed, for the maximum project extent. We have also added standards for public road improvements, repair and maintenance. That draft language is included, along with an agreement that would be required, in which the applicant would be required to submit.

Then finally, staff has recommended some revisions to the Stormwater Management Plan requirements. These are minor, just basically to clarify that a Stormwater Management plan will be required with a Conditional Use Permit application, and they will be subject to the then-applicable standards for whatever are in effect at the time of application. Those are all of the requirements and changes that staff has recommended. That concludes staff's presentation. I'd be happy to turn it back over the Commission for discussion and to open the public hearing.

Comm. Neese: Does anyone have questions of staff at this time?

Comm. Rast: I have a question, but it's not necessarily on any of the presentation. Bear with me for a second. I'm sort of thinking back with the new news of the recusal of Chair Iliff and Commission Hutchins. So how does that work? Because last meeting we basically voted on all of these amendments, and some of the votes were super close, and so now we're at the point where we're doing the recommendation. They're recusing themselves. Should that not have happened

prior to where we are now? And should we go back and re-vote and make sure we're all aligned? Because some of those votes were within one vote. They're kind of taking themselves out a little late in the ballgame. How does that work?

Comm. Neese: First of all, what we voted on last time were recommendations. They were recommendations to be referred. Jay, could you address that, because I have some concerns about that also.

Mr. Leipzig: Yes, Mr. Neese, I'd be happy to address that, and I'm also going to refer to Rick Lind, if he would also like to speak on that, too, as well, Rick. My understanding is the straw votes that were taken at the previous meeting on the 26th of October were just to give staff direction, to offer that direction in terms of consensus, what they're thinking. It's not an official vote. This evening, if you all conclude with a recommendation tonight, that would be the official vote. That straw vote was really taken just to get some direction for staff in terms of developing the guidelines and the stipulations. Rick do you want to add anything to that?

Mr. Lind: With the Johnson County Legal Department. Jay really summarized it pretty well. I think that what happened last time was just some straw poll guidance votes that were given to staff. They were not binding. You're free tonight to change those and go opposite of those recommendations. Those were not final votes. Tonight you can take a final vote and you can revise those. So, I don't think they were binding. If you wanted to take new votes, I think that would be at the pleasure of you all if you wanted to take new votes. But my understanding is that was to just give staff guidance as to what to bring before you today. They've told you what the changes were, so you can go one by one and go opposite of those changes if you want to.

Comm. Neese: Some of those suggestions were incorporated, like you say, into the proposal we have tonight, so at the end of the public hearing, I think we're going to have to maybe think of two or three things we're going to do. We're either going to possibly accept the proposal that the staff has given us as it's written. We could accept the proposal that staff has written, to be amended by something that we wanted to change. If we want to change one of those recommendations. Or, I think the third thing that we would probably do if time runs out and we don't have time, if we chose to, to continue this again. I think that's the appropriate way, so I think that's a really good observation, and I think that in reality, to go along with Legal there, that we're going to have a time at the end of our public hearing to determine what we're going to do going forward, and at that point in time, if you go back to three miles or two miles and 1,000 acres or whatever, I think that would be the time to bring that up. With that, did that answer your concerns? Okay. Jay, is that the conclusion of your - ?

Mr. Leipzig: Yes, Mr. Neese, that does conclude our presentation this evening. We're available to answer comments or questions from –

Comm. Neese: With that, I think it's time for us to open up the public hearing and to kind of back up a little bit. We're going to allow two minutes, and I'm not going to stop anybody in the middle of a sentence if you go over two minutes, but please be respectful of the time, because like the previous, the Chairman in the past has been very considerate of your comments, but we want to stay as close to that two-minute timeframe as we can. I think, Leslie, if we could have the folks that are on Zoom make their presentation first. I hope nobody is too upset if I do that, rather than being in a line. We'll get the Zoom people taken care of, so if you could proceed with the Zoom.

Ms. Davis: Yes, sir. Give me one second.

Comm. Neese: I'll give you two minutes.

Ms. Davis: Thank you, mighty kind of you. All right, our first speaker on Zoom is going to be Elaine Giessel.

Elaine Giessel, 11705 West 101st Terrace, Overland Park, Kansas, appeared before the Planning Commission and made the following comments:

Ms. Giessel: Hello. Good evening all. I'm the current Chair of the Kansas Chapter of the Sierra Club, an environmental organization with more than 3.5 million members and supporters worldwide. I'm speaking tonight officially on behalf of more than 22,000 members who live in Kansas – 560 in Douglas County and 1,648 in Johnson County. Sierra Club promotes energy conservation and efficiency and supports the rapid replacement of fossil fuel generation of electricity with renewable energy sources. We do not support an arbitrary cap on the size of large-scale solar facilities or the imposition of unnecessary restrictions which might be a deterrent to their development. The climate crisis is already causing catastrophic changes around the world. A new study suggests at the current rate of greenhouse gas pollution, we only have about 11 years to reign in emissions if countries everywhere, including our country, want to avoid the worst damage from the climate crisis. We simply don't have the luxury of time to debate the right to viewscapes versus the future of our children. Clean and efficient solar and wind installations, along with energy conservation and energy storage can replace dirty fossil fuel plants quickly with significant reductions in greenhouse gas emissions and very positive public health impacts, particularly in our already overburdened communities. Transformational measures required to replace fossil fuels must be implemented soon where most feasible and where potential for emissions reductions is greatest. Utility-scale renewables provide high-paying jobs, lower utility costs and potentially increase the future tax base with minimal environmental impacts, which benefits all of us. While planners have been weighing different views on private property rights, the solar signing guidelines ultimately recommended should be based on science, because they will affect us all, not just local landowners. You should lead on the adoption of fact-based standards, which can help all of us have a more sustainable place to live in Kansas. Thank you.

Comm. Neese: Thank you, Elaine. Next person?

Ms. Davis: Our next speaker is going to be Marvin Knoche.

Marvin Knoche, 1605 West Maple Street, Nevada, Missouri, appeared before the Planning Commission and made the following comments:

Mr. Knoche: Hello, Planning Commissioners. I am an Evergy customer. Governments must ensure that we have frameworks and infrastructure in place to phase out carbon emissions as scheduled. This is a valid reason for a solar farm. A solar farm is green energy. Leaders and policymakers across the world have decisions to make to meet the targeted schedule for green energy. This is a valid reason for a solar farm. A solar farm means diversifying energy supply to increase security and reliability and increase the affordability and availability of energy. This will also achieve reduction in pollution and other localized effects of burning fossil fuels. Advances in technology and infrastructure in solar, energy storage and power grids will continue to help with the increased demand for electricity, thus reducing blackouts. I am a proponent for the West Gardner solar farm, and as a proponent, I request that fair and reasonable zoning regulations be adopted for solar farms. I request that Conditional Use Permit terms be at least 25 years. I request that visual screening only be required at existing nearby residences. I request that setbacks from public roads be limited to 25 feet. Thank you for your time.

Comm. Neese: Thank you, Marvin. Next?

Ms. Davis: Our next speaker is Karin Pagel Meiners.

[speaker passed due to audio problems]

Ms. Davis: Our last Zoom speaker is Steven Clark.

Steven Clark, 3422 Kensington Court, El Dorado Hills, California, appeared before the Planning Commission and made the following comments:

Mr. Clark: Good evening. As noted before, I was a long-time resident of Johnson County and I have over 40 years of experience in power engineering, over 13 of experience specific to solar farms. I'm going to speak a little bit more extemporaneously this evening. I'm just going to mention that the draft solar regulations put forward by the staff this evening will allow a solution that will allow solar to be built. They don't deny private companies or private landowners from proceeding with a project that would be for the benefit of society. I will say, however, that those regulations still include a number of regulations that are more strict than any other regulatory agency in the entire country, as far as I know. Nowhere else has the project area been set as a cap. Project extent has not been set as a cap. No other jurisdiction has specified a maximum panel coverage. No other jurisdiction has specified a minimum distance from city boundaries, minimum distance from another solar project. These are all unique and challenging to Johnson County. Yet I hear with the absence of two solar-supporting Commissioners, there is discussion of making these requirements even more strict. If you do so you are endangering the possibility of any meaningful solar being built in Johnson County. You will be caving in to the NIMBYs, to the anti-science, to the climate change deniers. It will be irresponsible. It will result in a black eye for Johnson County. It would be the worst thing you could do, to deny a useful, positive solar renewable project. Thank you.

Comm. Neese: Thank you, Steven. If that's the end of our Zoom requests, then we can call the first in-house.

Ms. Davis: Our first in-person speaker is John Frank.

John Franke, 2222 North 600 Road, Eudora, Kansas, 66025, appeared before the Planning Commission and made the following comments:

Mr. Franke: For you Johnson County's 165th Street runs right into 600 Road, and we're two miles west of the county line. Based on the proposals we've seen from this energy company, the west property line would abut that. So we are very concerned. My wife and I are both Kansans, born and raised in Johnson County. We spent most of our life in this county. Seen a lot of changes over the years. Used to camp out at 95th and Metcalf. My dad used to hunt at 75th and Metcalf. Things change. We got married. We moved to Gardner, Kansas. That's when it was still a one-stop-light town. It's changed. I do understand change is inevitable, and we've got to be prepared for that. As a 40-plus Johnson County resident, I saw phenomenal growth with this county and Douglas County while the County planners and officials over the years had the foresight to consider agricultural, consider nature, consider the environmental and consider the growth of this county. My father was one of those people. He was County Commissioner, 2nd District, Johnson County, back in the 80s. I learned a lot from that man on how to take care of things, and how to take care of the people. He did spend some time in Washington before his death, but my love and respect for nature and the environment started with him. He was a Scout Master, and one of the things he always told the Scouts, "You're going to leave a place better than you found it," and by god, he made sure we did. That still applies to my life. We bought five acres two years ago, and 1895 farmhouse, with a desire to – we're beekeepers, too – to number one, improve the land back

to its natural setting – pollinator plants, native grasses, et cetera. Last year we were blessed with the ability to buy another 100 acres attached to it. It's about 40 acres of pasture, natural –

Comm. Neese: Excuse me.

Mr. Franke: And I only got...Can I give you a copy of this?

Comm. Neese: Sure. You can give that to staff.

Mr. Franke: Thank you for your time. I would love to have to you all come out to my farm sometime and show you around the other farms in the area. I'll meet you at the county line if need be. Thank you.

Comm. Neese: Thank you.

Ms. Davis: Our next in-person speaker is John Peterson.

John Peterson, 6001 118th Terrace, Leawood, Kansas, appeared before the Planning Commission and made the following comments:

Mr. Peterson: Appearing tonight on behalf of NextEra Energy Company. The regulations as proposed this evening present a workable process for the planning and consideration of a viable utility-scale solar project as they pertain to the vast majority of planning components needed to design and construct a successful facility of superior quality. These include provisions for height, noise, setbacks, buffering, screening, road maintenance and decommissioning, amongst others. But a touchtone of that workability is if they provide guideposts for the Planning boards and BOCC but leave a level of discretion to modify requirements when they have actual designed projects submitted and specific locations before them. Yet the proposed regulations are void of such discretion when it comes to the fundamental issues of terms and size of the project. As NextEra and other industry leaders have consistently stated, time and acreage sufficient to meet requirements of power purchase agreements, financing requirements and public utility planning is foundational to whether a solar project can ever commence. Provisions dictating caps for project extent, project size and terms of a CUP if not arbitrary, are at the least subjective without the benefit of the subject – an application before the decision-makers. I would suggest the project extent is unnecessary. I have said that before, but at least it has a provision as proposed by staff the BOCC and the Planning board can look at the specific circumstances and modify it. We would ask for the same to be true for project size. Why put an artificial cap? Let the application earn a larger size for great design elements. If there is a cap, at least allow the BOCC to modify if they deem it appropriate, and the same holds true for the term. We would request 30 years. We appreciate 25 years, but there could be circumstances – utility interface with the energy producer of solar energy that could make sense for it to be. Leave the BOCC that discretion to modify policy when they see an actual application.

Comm. Neese: Thank you.

Mr. Peterson: We appreciate the time. I would close by saying if a waiver is not specifically set forth in the regulations, it's not inherent and cannot be accomplished. Thank you so much for your time.

Comm. Neese: Leslie, were you going to have a bell ring at 10 seconds? Did I hear you say that? I haven't heard the bell, to give the folks a little idea of when the time is up.

Ms. Davis: Okay. [inaudible, off mic] The next speaker is William Wilkins.

William Wilkins, NextEra Energy, appeared before the Planning Commission and made the following comments:

Mr. Wilkins: You've already heard from John Peterson, who addressed two of our main issues. Our primary issues are size and term, which is the time limit on the CUP. As a potential applicant, NextEra is a forward-looking company. I understand much of the discussion has been rear-looking. The industry is changing to meet market demands. Right here in your back yard, Evergy released their Integrated Resource Plan last year. Their plan is to acquire 700 megawatts of solar over the next five years. Also, there is significant demand from commercial and industry customers, such as Amazon and Google. Developers, especially at the utility scale, are simply responding to the market demands. Now, we acknowledge that our industry perspective has been considered in the subsequent drafts of the regulations, and we appreciate that. We hope that those aren't taken back significantly tonight. Term and size do have the ability to make a project unviable. Or, ultimately unable to meet the demands of the industry. Our experience in solar development stretches across decades and multiple regions across the U.S. With the experience we bring to the table, we will work to address your concerns, earn your trust, but we need regulations that will allow us to simply plan and develop a viable project. Thank you for your time and your consideration.

Comm. Neese: Thank you, sir. Next?

Ms. Davis: Our next in-person speaker is Rob McCullum.

Rob and Charmin McCullum, 15215 Edgerton Road, Gardner, Kansas, appeared before the Planning Commission and made the following comments:

Ms. McCullum: I'm going to speak first. I'm his wife. We live on Edgerton Road, just a little bit over a mile from the north boundary of this project. First of all, this is not green. I recently played a video on YouTube that all of you should watch, called Planet of the Humans. There is nothing green about a solar farm. The earth is so ravaged, to gather all the elements of it, there's nothing green about it, except the money that's going to flow into pockets. Perhaps a quote from Daniel Wester, one of our founders, would be appropriate here. It says, "It is hardly too strong to say that the Constitution was made to guard the people against the danger of good intentions. There are men in all ages who mean to govern well, but they mean to govern. They promise to be good masters, but they mean to be masters." Perhaps that applies here. You appear to want to rule over us, the western Johnson County bumpkins who live in a "wasteland." I am incensed regarding comments made by a member of this body last meeting, speaking of our beautiful rural area as a wasteland. You appear to mean to govern by trying to steamroll over us. We knew nothing about this until this summer, by the way. Last time one of your esteemed members claimed landowners could do as they wished with their land. But that is not true. Everywhere in this county, as you cross the county line, there's a big sign that says, and I quote, it's pretty close to exact – "Permits required to build or divide land." My husband will continue from that point.

Mr. McCullum: I get tired of people saying that they can do with their land as they please. You can't do that. If it was, I'd start a pig farm. You can't even do that in Johnson County. And put a trailer on a lot in Johnson County and see how long that lasts. You have to have some kind of a constructed home. You can't use a trailer. So all of these things about, "I can do what I want with my property," is not real. In the coal fired power plants that we are tearing down, they are being shipped to China. A lady talked on Zoom about science. Okay, she isn't paying attention to science. Because we all supposedly have this atmosphere that we breath, whether you're in China, or whether you're here, if you're burning coal, what's the difference, except they get the

cheap electrical stuff. We get the expensive made in daylight. The plants that we paid for, that we built, constructed, used, until this new administration came in, now is going to be sent to China so they get the benefit out of everything that we did. I don't understand why people can't see what's going on here, but they're as blind as they choose to be. Most of the farmers out there, we don't have real farmers anymore. Generally it takes 3,500 to 5,000 acres to be a farmer. The people that do farm lease a lot of this land from other landowners. It's just ridiculous, this whole thing is so dumb.

Comm. Neese: Thank you very much. Next?

Ms. Davis: Our next speaker in person is Jane Knoche.

Jane Knoche, Gardner, Kansas, appeared before the Planning Commission and made the following comments:

Ms. Knoche: Good evening everyone. It's good to see you again. I think we are meeting an awful lot these months. I wanted to ask you to keep these regulations the same. They've been discussed quite thoroughly. I do have one thing, though, I would like to have kind of capped, and that is the CUP review process going greater than 45 days. I can certainly understand that, and understand the need for that, since this is a very big project, one of the biggest here, but I would like to have an upper end cap that's, say, 90 days, 120 days, if you need longer to bring in experts and other review. So I would put that as a comment there. I would also like you to think about a few weeks ago, in the news, Kansas City announced they are putting in a solar farm, up by the airport. And that great news about that proposal is that shows their commitment to climate change, and as they try to reach out and get more businesses or get the World Cup or things like that to come to Kansas City, that is considered a very powerful plus on their side. So I think if you look at Johnson County and you want to say, "Well, what can Johnson County do to better its image to outside interests that want to come here and development or promote, or have something?" you might want to think about doing that. Also, I'd like to remind you about your resolution, and as zoning board members, you probably want to pay particular attention to that, that supports agricultural uses. When you take photovoltaics, or agri-voltaics, and you want to have grass or sheep underneath the panels, that would be supporting agricultural business. So please, keep these regulations the same and support solar energy. Thank you very much for your time. I really appreciate it.

Comm. Neese: Thank you very much. Next, please

Ms. Davis: Our next speaker is Joan Kelley.

Joan Kelley, 36050 West 154th Street, Gardner, Kansas, appeared before the Planning Commission and made the following comments:

Ms. Kelley: So for those of us who do our own due diligence on a regular basis and various venues, mine includes speaking for profoundly disabled individuals who are lost in the policymaking currently occurring across our nation. I'm very familiar with...I'm just going to be real honest with you. We have a virus among us that's worse than COVID. It involves the manipulation of data and statistics in the creation of policy. With smooth words and suppression of critical data, you are affecting fully informed decision-making, or withholding it. We're talking about corporate deception versus caring for our neighbors, the justification of greed and there are questions of the long-term sustainability of these types of projects. The alleged science is based on select information. I'm well aware of select information in the advocacy work I do at the state and federal level. We are well aware of the information presented that there's back door deals, there's

intimidation amongst people of integrity. There's much pressure put needlessly on people that have a higher level of integrity than unfortunately a number of people in this room. And it affects hard-working citizens, who worked hard to live out in the country. We may or may not be able to stop corporate bullying or smooth-worded information that carries a large percentage of falsehood, but I will tell you in closing that accountability and a day of reckoning finally comes for everybody. It comes for all of us, and it goes beyond any natural human endeavor. Thank you for the opportunity.

Comm. Neese: Thank you very much. Next speaker please.

Ms. Davis: Our next speaker is A.D. Chaffee

Comm. Neese: Leslie, how many more do we have?

Ms. Davis: After that we have seven.

Comm. Neese: Okay, I'm going to take a break at about seven o'clock for about ten minutes. So, we'll have a couple more, and then we're going to take a break, please.

A.D. Chaffee, 5540½ Osage, Kansas City, Kansas, appeared before the Zoning Board and made the following comments:

Mr. Chaffee: As all of you have here, there is a copy of an affidavit filed this past week. I want to make mention of a couple of things. Primarily, I want to start with the Kansas Constitution, because every agency of government is entirely bound by every word of the Constitution, and it seems to me, I come here, God willing, with a charitable heart, but it is being made very difficult to sustain by the things I observe here. Kansas says, "This enumeration of rights..." and this is just a portion of the Constitution, "This enumeration of rights shall not be construed to impair or deny others retained by the people." Well if we want to know where others are, where are we going to look? We've got 50 other constitutions to look at, and that would be a rational place to look for them if you ask me. So what does Virginia have to say about it? Well, one of the things it says in Section Two, "People, the source of power, that all power is vested in and consequently derived from the people. The magistrates are their trustees and servants, and at all times amiable to them." Just in case amiable is not a word you're commonly familiar with, it means answerable, called to account. That means that anytime, they are at all times amiable to them. That means when someone, a member of the people, has an address or a question to this body, it is under absolutely binding obligation to God, their fellow man and the Constitution to answer that, whether it's during public speaking or not. There are several other things that can be mentioned, and I will do my best to honor your two minutes.

Comm. Neese: Thank you, sir. I appreciate that. Next, please.

Ms. Davis: The next speaker is Joyce Whittier.

Joyce Whittier, 7414 Flint Street, Shawnee, Kansas, appeared before the Planning Commission and made the following comments:

Mr. Whittier: It's admirable that Mr. Iliff and Mr. Hutchins decided not to be here tonight. However, I'm pretty sure that came about after I sent my comments yesterday. Chairman Iliff, the Planning Commission Chairman, and John Peterson, the attorney for NextEra, have failed to inform the Planning Commission or the public of their professional relationship at Miracle of Innocence, where Mr. Iliff is the Executive Director and Mr. Peterson is the Chairman. I have filed an ethics complaint against Mr. Iliff with the Missouri Disciplinary Committee, and I have filed an ethics complaint against Mr. Peterson, with the Kansas disciplinary community. Given their professional

relationship, Mr. Iliff should have recused himself from all discussions, meeting and voting, and a failure to do that by two members of this board casts serious doubt over the validity of your actions, legal validity of it. There's also a conflict involving the Knoche family. Steven Clark, who you've heard from, is married to Laura Beth Knoche. Diane Knoche is the Project Coordinator of Terracon, a company based in Olathe that could very well become involved with the management of the solar farm. She is married to Marvin Knoche. All of these relationships should have been disclosed to the Planning Commission. I would like to close with a Kansas Statute, KSA 12754A. "Cities may define their zoning jurisdiction to include unincorporated portions of the county that are located within three miles from the boundaries of the city, but in no event more than half the distance to another city."

Comm. Neese: Thank you very much. I'll tell you what I'm going to do. I'm going to take a break now for about ten minutes.

[ten-minute break]

Comm. Neese: Forgive me. We went four minutes too long, but we were out of water, and that's very, very important up here. Okay, Leslie, if you would do the next speaker.

Ms. Davis: Our next speaker is Travis Hardy.

Travis Hardy, 421 East 2400th Road, Edgerton, Kansas, appeared before the Planning Commission and made the following comments:

Mr. Hardy: I just want to start off thanking Kelley Rast and Jim Neese, because they've actually listened. They've questioned things, and we appreciate that from our side, whereas some others have not done that, and we really want to thank you guys for that. I would also like to say for the folks that maybe haven't listened or maybe some of the ones that say, "NextEra, we need to make sure that the company is viable and they make a profit." I would wish that you would maybe listen to your counterparts in Douglas County and actually, they listen to us. They actually thanked us for providing information, giving feedback, having conversations back and forth. They met with us. And I would say that's been a much more pleasant experience than what we've seen here. One thing that I'd also like to bring up is we've heard that the land is going to be left as ag. I mean, it's going to be considered ag, so taxes off that land is still going to be ag. Can't do industrial, because there's rules around that, so the amount of money that the County is going to get is not going to be near enough for this. It's going to increase costs, though, because zoning. This is a huge deal. You're going to have to go out, if you do your due diligence, you're going to have to look at where they're wanting to put it, look at all of the parcels of land. Do you have the staff for that? Probably not. I mean, your staff's already full with what they're doing today. Who is going to go out there and actually make sure that these companies are following the rules that are set forth here? Once again, another cost. Who's paying for that? You guys, it just really feels like there's a lot of downsides but from a financial standpoint there's not a lot of gain. That just worries me. I mean, the County needs to make sure whatever they do that they come out whole on this, and they're not left holding the bag. Thanks.

Comm. Neese: Thank you very much. Next, please.

Ms. Davis: Our next speaker is Alan Anglyn.

Alan Anglyn, 17090 Evening Star Road, Edgerton, Kansas, 66021, appeared before the Planning Commission and made the following comments:

Mr. Anglyn: I've heard a lot of Planning Commissioners speak about ensuring financial viability of the applicant and describe a win/win/win. It's a win for the County, a win for the applicant, NextEra, and a win for participating landowners. Missing from this equation has been non-participating landowners, who stand to lose and raise valid concerns about the negative consequences of massive utility-scale solar. A topic which has not received much attention is how such a massive land use may deprive nearby residents of future government services and private company investment. Government and private companies use demographic trends for decision-making when an area isn't growing. It won't be at the top of the list for limited funding for school improvements, parks, walking or bike trails, or other public services. There won't be a priority for private investment either. It won't be on the list for extending cable and internet services, nor improving cell phone coverage for voice or 5G. So as you think about win/win/win, you should also think about the numerous losers created by such a massive land use in our county. Here's a simple solution. The simple solution is limiting the maximum size to something more suited to an urbanizing Johnson County. If the maximum size was limited to a section or 640 acres, then the character of the community is not overwhelmed by a single land use. The demographics of the area would continue to support improvements of both public and private services, impacts to fringe cities would be mitigated, as they could go around projects of this scale, and more landowners throughout the county could participate. As for the potential impact on the future applicant, I look at solar projects deployed in 2020 as informative. For the list of deployed projects provided to this Commission by Steven Clark, 162 solar projects deployed in the United States in 2020; and 134 of those – roughly 85 percent - are 100 megawatts or less. Fifteen are in NextEra's home state of Florida, and were all 75-megawatt projects. Only one project in the entire United States in 2020 was deployed that was as large as that which NextEra proposes to put in our area. 161 projects out of 162 were smaller than what NextEra proposes here. By the way, 2,000 to 3,000 acres is not required to make a financially viable project. To mitigate this, I urge you to consider reducing the maximum size to 640 acres. Thank you very much.

Comm. Neese: Thank you. Next, please.

Ms. Davis: Our next speaker is Mike Young.

Mike Young, 17035 County Line Road, Edgerton, Kansas, 66021, appeared before the Planning Commission and made the following comments:

Mr. Young: This supposed area of this huge solar farm is going to be on all four sides of me – north, south, east and west. I have ten acres out there, and an old 1890 farmhouse that I bought about 10 or 12 years ago, because I got bought out by the Intermodal and had to move, had no choice. Well now, I have a choice. I'd like to stay where I'm at. You guys are appointed officials or whatever. The Commission are elected officials. Well, there's a whole lot of voters out here that if this goes through, they're not going to be happy about it. I'm not happy about it. I pay taxes, just like all the rest of you do, and I probably pay a lot more. I have business of my own. I have thousands of customers in Douglas and Johnson County. So, just remember that whenever it comes election time, that people can get voted out. It's just ridiculous that we're even talking about this right now. I'm not against solar, and none of these other people out there are against solar. We're just against solar where you're wanting to put it. And it's because these guys from NextEra came in and offered Knoche and a few other...there's like six landowners out there that's involved in this. They offered the Knoches lots of money. I don't blame them for wanting to get it, but it's just a ridiculous place where you're wanting to put this. There's like 220 houses out there that's within a mile of this area, and 440 voters. Thank you.

Comm. Neese: Thank you, sir. Next.

Ms. Davis: Our next speaker is Richard Gall.

Richard Gall, 38400 West 183^d Street, Edgerton, Kansas, 66021, appeared before the Planning Commission and made the following comments:

Mr. Gall: I'm proud to have been one of the many people that worked for Kansas City Power and Light and built and maintained electric lines. Me, basically Johnson County, but in the Kansas City area. I don't know this, but it only makes common sense to me that ever since the invention of the light bulb, the need for electricity just keeps going up, just gets greater and greater and greater, and I'm sure it's not ever going to slow down, and from what I hear about the power plants, the coal-fired power plants, we're going to have to replace them with something, and solar makes sense. Also, I can't remember for sure the country in Europe but I've heard that one of the countries in Europe, the most popular brand new car is an electric car, and I'm sure that's going to get greater and greater here in the USA and we're going to need filling stations that have electricity, not gas. If this goes through, we have signed a lease on 30 acres of our land and I would be really, really proud to be one of the people to have been able to provide electricity to people wherever it may be, so that they can enjoy their life more. Let's face it. Where would you put electricity in our daily needs? I almost quit at 13 seconds, but I'll let it go. Thank you very much.

Comm. Neese: Thank you sir. Next.

Ms. Davis: Our next speaker is Byron Wiley.

Byron Wiley 1200 Almira, Lawrence, Kansas, 66044, appeared before the Planning Commission and made the following comments:

Mr. Wiley: I think we need to take into consideration the long view on all of this, and think about our future generations. Renewables cannot self-replicate. PV panels completely depend on petroleum, yet I thought the goal was to become less reliant on fossil fuels. Energy-dense fossil fuel is essential for mining, refining, manufacturing, transportation and ultimately it's a fossil-fueled process to recycle it. E-waste garbage takes a lot of dirty energy to clean up. So what is renewable or sustainable about renewables when they rely on a finite supply of fossil fuels? It boils down to an uncomfortable truth that an industrial solar facility is just fossil fuel morphed into what appears to be a green form of energy production, perpetuating the unsustainable. It's a progress trap, an effort to fix a problem by creating a new set of conditions than what was there before. It's interesting tonight your earlier discussions, I think from staff, you mentioned the decommissioning. I sort of wonder how on earth is this considered a sustainable project when you're talking about such a short term. It's going to be decommissioned and turned back into agriculture or whatever. It just seems to be an admission of the flaw. I think that it would be appropriate to establish zoning regulations that allow for small and micro-scale projects that are more appropriate for PV solar. I've seen some dual-use small-scale options that can function on the periphery of regular farming operations that can benefit the landowners with some energy autonomy and perhaps small-scale energy sales. Thank you.

Comm. Neese: Thank you, sir. Next.

Ms. Davis: I would also like to let the record reflect that Lindsey Grise has now joined us through Zoom. [7:13 p.m.]

Comm. Neese: Hi, Lindsey. Go ahead.

Ms. Davis: Our next speaker is Carrie Brandon, and after that we have only one more.

Carrie Brandon, 450 E. 2300 Road, Eudora, Kansas, 66025, appeared before the Planning Commission and made the following comments:

Ms. Brandon: Hello everyone. First of all, I want to say, wow...[speaker gave name, address]. I want to say that tonight I really feel like we've really witnessed something firsthand that's pretty remarkable. I have lived on the Johnson County side my entire life for 50 years. We just recently built our dream home out in Douglas County on 40 acres that we have worked our butts off, blood, sweat and tears, because we're not millionaires. We have built something out there that we love. We want to protect it, and I'm sure everyone understands that. What I want to point out tonight is that I'm very pleased to see the result of the unified voices of U.S. citizens in the country that we live in is an amazing place, and we need to protect that with everything we have. I want to say thank you, especially to Kelley and to Jim, because the two of you I feel have really listened and understood what we've been trying to say up until this point. It has kind of changed a little bit. We still have to deal with the regulations, and what we've got to do here, but it has changed for us the feeling that at least we're being heard now. And that's so important. It's so important. I think that one of the differences being on the Douglas County side for the last several weeks observing the Planning Commission over there, I do want to commend them, too, because we've had a stark contrast going on, and it's been a really hard thing to struggle with the differences that we experience with one Planning Commission and what we're experiencing on the Johnson County side, up until tonight. I just want to thank whoever it is in this room that is listening finally, and the District Attorney, Steve Howe, and even the Kansas District Attorney, all of the people that were ethical and honorable in serving the people. Thank you, and let's just make smart decisions moving forward from this point. Thank you.

Comm. Neese: Thank you very much. I would just like to say there's been a couple of people on the Board that have been mentioned and I've been doing this since 1980 with lots of folks, and I just want to say that I do not know one person that sits up here, whether they talk too much like I do, or they're silent, or they listen, but I want to personally tell everybody here that it's my opinion that everybody that sits on these boards does so for the love of the county, the love of the country and to try to do the right thing, and it's not always easy to do that. So, I just wanted to say that, because that's in my heart, and it's something that I know and I believe, that all the members on all of the boards in this county, that I happen to know most of them, that do it on a voluntary basis, do it to try to be fair and equitable, and do best for the populace of our particular county. So with that said, next please.

Ms. Davis: Our final speaker is Calvin Hayden.

Calvin Hayden, 14453 Edgerton Road, Gardner, Kansas, 66018, appeared before the Planning Commission and made the following comments:

Mr. Hayden: Hi Jim and company, and friends, neighbors. A lot of my neighbors out here. [gave name, address] I live right in the neighborhood of this mess. Guys, I want you to know, I've sat on these boards. Jim, I was on with you, on the zoning board for 18 years, and you're absolutely right. Everything we try to do is to try...I mean, we've done rock quarries, done all these fights. What I don't like about this is there have been people around making contracts two years down the road. Transparency is always a good thing, guys, and when you're walking around out here making contracts with farmers and people two years before this thing starts, it's wrong. You need to get community buy-in before you do it. Second thing I've got is I don't understand why we're in Johnson County, the economic engine of the state of Kansas, with some of the most expensive property in the state of Kansas, the highest producing...I can raise a cow on three acres. You go down to Montgomery County, it takes 10 or 12 acres to raise a cow, but we want to be right here

in the top-producing property, and it doesn't make sense to me. There's people looking for jobs out west. There's property out there. The transmission lines go all over the place. Why are you here? That's a problem for me. Now, you've come out to my neck of the woods. I've lived on Edgerton Road for 40 years. I had to move from De Soto to come out to rural Johnson County. Now I've got to try to move again, because you guys want to bring in a bunch of industrial stuff. These things are made in China. You know it as well as I do. You've already brought them in. They're in a warehouse. You're acting like this is a done deal, and that's not right, Jim. That's not right. So I think there's a lot of issues. Wabaunsee County has put a moratorium on these. McPherson has put a moratorium on these. I think you guys need to follow the science here. We're talking about this global warming junk. Need I remind you, this used to be an ocean we're standing in? The climate changes. It does, and there's not a darn thing we can do about it. Thank you for your time. I wanted to end up with the Pledge of Allegiance, but I don't think I'm going to have time. I suggest you guys start with it. Thank you.

Comm. Neese: Thanks, Calvin. Are there any other speakers?

Ms. Davis: That's all, sir.

Comm. Neese: Okay, with that I'd kind of like to open it up to...I'm going to close the public hearing, and with that, ask if there is any questions or discussions we'd like to have, and then after that happens, whether or not there wants to be any kind of activity that we proceed with this evening.

Comm. Levin: Mr. Chairman, I'd like to bring something up. I know there was a change from staff, and I want to, first of all, thank staff for all of their hard work. I know they've put a lot of time and energy into this. I see where they changed the permit term from 20 years to 25 years. I am still struggling, and I'll tell you where it's coming from on that. I believe any established company – and this is based on their need for financing – I believe any established company that has already demonstrated that they are able to build and maintain a facility without having issues at the county or place they put it in, they shouldn't have a problem with financing if they've been able to demonstrate that they follow the regulations of the county and there's no reason for them not to have renewed permits. I really want to stress, I think that should be 20 years and not 25 years, in my opinion.

Comm. Neese: Okay, thank you. Then that kind of begs with the question that was brought up earlier. Why don't we have some discussion before we move on, and figure out what we want to do here tonight. I think if there is a motion and we want to re-address that term, because that was an item that we voted on last time to make a recommendation to the County Commissioners, and if that's one thing that we want to change or amend, that's something that we would certainly anticipate.

Comm. Rast: I'll make a motion that we take a new straw vote, because we did have several regulations that we had to do a couple votes on, and then whatever actually won ended up being the recommendation. So I do think it's very important.

Motion by Kelley Rast, [no second], to take a new vote on the term.

Comm. Neese: Could I ask you to hold that for just a minute? I've got a couple questions, and maybe somebody else has something that would go along with that. Jay, I do have a question in reference to the setbacks and those types of things. I do not know the answer to this. The reason I'm asking is my question is this, are the setbacks comparable to other setbacks required? Say myself, if I want to do something on 40 acres, or 100 acres, or 10 acres?

Mr. Leipzig: Yes, Mr. Neese, as an item 3.a. under the Project Boundary Setbacks, that 50-foot boundary, that is the same in the RUR Zoning District. That was centered very intentionally, so it's consistent with that.

Comm. Neese: Okay. I've got another question. When you go to the County Commissioners, one of the things that one of the County Commissioners issued in a public interview was the taxes that are going to be raised by this over time. Could you tell us what the tax situation is? Do they have five years, or ten years before they have to pay taxes? Are they going to be taxed, if it's a 40-year project, how that's going to work? Could you give us some examples of what...I want to have a feel for that.

Mr. Leipzig: Mr. Neese, I can attempt to answer that. My understanding is this property would be taxed at a commercial rate. I believe there is a ten-year abatement from the State that is allowed. That type of information, though, frankly since it's not a land use, I'm not an expert on that. I will need to verify that, but that's my understanding. There is an abatement period. I believe it's ten years. There might be...I don't know if Rick would like to address that.

Comm. Neese: So, what you're saying is they're not going to have to pay any taxes, according to the State Statute, for ten years, and at that point in time they will be taxed the property value based on...Rick, could you give me some background on that, please?

Mr. Lind: Mr. Chairman, I'm sorry. I don't really have a background on that question. That would be one for the appraiser. My guess is that Mr. Peterson probably knows the answer to that question, but I don't know for sure.

Comm. Neese: It would be my suggestion that if and when this goes to the County Commissioners, that that's something that they know, because we've got County Commissioners saying, "Hey, we're going to get \$25 million bucks, and that may well be, but if you start 10 years from now, that's worth about \$18 million, and if you pay that over 40 years, it's about two cents. So, I would like for that information to be given when this is presented to the Board of County Commissioners, whatever department does that.

Mr. Leipzig: Mr. Neese, that was our intention. I had, frankly, the Planning Commission focusing on land use issues, but yes, that is the information we're going to gather, and we have gathered part of that. We can present to that Board of County Commissioners.

Comm. Neese: Okay, then my other question is, how will this...? Well, I guess based on taxes, it will not be based as if it were agriculture, I would assume.

Mr. Pendley: Mr. Neese, I can answer part of that question. As Jay mentioned, we had some preliminary discussions with the Appraiser's Office to try to get some information, but we haven't completed a full review. The preliminary information that we've received, and as Mr. Lind indicated, the applicant or a prospective utility provider, could definitely provide better information on that, but from what we've learned, the taxes for renewable energy, the State does provide an abatement, a ten-year abatement for equipment for solar facilities, solar equipment. After the time of that abatement, once that expires, the area of property where the solar equipment has been installed, that area of property will be taxed at a commercial rate, or at an appropriate rate for that equipment. It will not be taxed at an agricultural rate, so it will be an increased rate following the expiration of the abatement. I think that's the general understanding, but we probably need to gather additional information to confirm.

Comm. Neese: I don't want to get in the weeds here, but I'm in the equipment financing business, so you have two things. You have equipment and land. I think it needs to be made clear from the

State Statute does the whole project get to pay no taxes? How does that work, because there's a difference between taxing equipment and if equipment is sitting on commercial land all of a sudden, they do that. I don't need an answer. I'm just saying that I think that's something that the people of Johnson County that are going to hear about this need to know, and I think that's a reasonable question.

Comm. Rast: I'm pulling out Senator Thompson's letter, and he does make a comment regarding they do not pay property taxes. This is Senator Thompson's letter that he sent all of us. It may give some information. Basically it says they are exempt from paying ad valorem taxes for a period of ten years. This is one back door subsidy to renewables that I think needs to be reviewed. County taxpayers have to foot the bill for the unpaid taxes on these properties. Pilot agreements usually fall significantly short of the price these industrial installations would otherwise pay, and by the time they do come on to the tax rolls, they have been allowed ten years of depreciation, so they never pay the full load. That's just according to Senator Thompson's remarks.

Comm. Neese: Okay, thank you. So, I guess my request would be that that needs to be given some layman's language, so when I pick up the paper and I see what that's going to be I can understand it. Enough said. I don't want to talk too much here. Any other comments or questions?

Ms. Davis: Actually, Lindsey Grise has included in the chat – I believe she is trying to unmute – but she says she would support new straw votes on terms of regulations. I have asked her to try to unmute, and share her comments out loud.

Comm. Grise: I fully support Kelley's proposal to do a straw vote on different terms with the people who are presently here and by Zoom.

Ms. Davis: Let the record reflect, that is Lindsey Grise speaking.

Comm. Neese: Okay, thank you. I'm sorry, I didn't hear who you were at first, so I apologize. So if that's the case, any other comments, or does somebody want to make a motion? To amend something that we did at the last meeting with regards to I think there were three things that we passed on – the size, the distance from a city, and...

Comm. Johns: Term.

Comm. Neese: Term, thank you. Those are the three things that we asked to pass on.

Comm. Levin: I'd like to make a motion that we redo those votes to give further direction to staff.

Motion by Comm. Levin, seconded by Comm. Rast, to repeat the votes from the last Planning Commission meeting to give further direction to staff.

Comm. Neese: Okay, I think you would do that by making a motion, so if somebody wants to make a motion on one of those, or all, but I think if you're going to want to change them, you need to do it individually.

Comm. Levin: Okay, then, I apologize.

Motion by Comm. Levin, seconded by Comm. Rast, to revote on the length of term, to reduce it from 25 to 20 years.

Comm. Neese: Do we have any discussion? The only discussion I would make is I really don't think it makes any difference whether it be 20 years or 25 years, because whatever time come up – 20 if this goes through, or 25 years or 20 years, there's no County Commissioner that is going to tell them to stop doing it, so that's my discussion. So having said that, I'll call for a vote.

The motion passed, 7-1, by roll call vote.

Comm. Neese: Okay, so that was that we recommend to the County Commissioners that it be a 20-year term, rather than a 25-year term. Any other motions?

Motion by Comm. Rast, seconded by Mr. Levin, to recommend that the buffer area be two miles, with a waiver option.

Comm. Neese: Do we have any discussion? With no discussion, I'll call for a vote.

The motion carried, 5-3, by roll call vote.

Comm. Neese: So it will then be referred to the County Commissioners on your staff report as two miles from city limits. Any other motions?

Comm. Johns: I would like to at least discuss the 2,000 acres. I think that I've been searching for a win/win in this all of the time, and tonight this is the first time I heard...I always saw it as we couldn't get everybody on a win. It was a win/win/lose that was mentioned tonight, so I think we should definitely look at lowering that 2,000, and if it means it's win/win or no deal, then maybe it is no deal.

Comm. Rast: I kind of agree with that, too, as far as nothing against solar, nothing against an of the solar companies. It's just, we are looking at Johnson County which is incredibly different. There are lots of homeowners out there. This is a very unique area to be putting in this. And the terrain, the wildlife, anybody who's drive out there, it's not what you see any place out in the country. There's plenty of other opportunities or areas that might be better fit. It's, again, not against the project. Location, location, location is huge, so I agree.

Comm. Grise: Anybody who knows me knows that I worked in the solar industry, and I even have concerns about the size limits as discussed in Johnson County, so I would certainly support revisiting the size recommendation to make sure that we're all in alignment between the Planning Commission on the recommendation.

Comm. Neese: Okay, I guess my comment on this is staff originally recommended 1,000 acres. I had a discussion privately with the staff about that, my concerns. I've spent several hours researching the locations and the size of the potential applicant. My feeling has been all along is it's not about this applicant. We don't even have an application yet. This is about looking out for the growth of our unincorporated area from any other company. I felt the 1,000 acres was a lot, but I believe that the 1,000-acre threshold that the staff originally recommended was more appropriate, to go two miles now, maybe, possibly, we don't know, from Spring Hill and put in 2,000 acres, and then go another mile and do another 2,000 acres, and so on. So, that's my...I've thought about this a lot, and it's not about the group that is presently before us, because that's really not the issue. The issue is how are we going to stop the corridors of our existing cities? When you look at the map that we saw of 1980 – and I moved out here way before that – of Overland Park and Spring Hill and Gardner. That's 40-some years ago, and what it is now, 2,000 acres, another mile, another 2,000 acres. If you're going to re-look at it, I would recommend 1,000. Go back to what staff originally recommended.

Comm. Levin: Mr. Chairman, I have a quick question for Planning staff. I'm curious. It looks like to me that the majority of whatever company comes in that would be in Johnson County, so I'm curious, did Douglas County actually cap theirs at 1,000 acres?

Mr. Leipzig: Commissioner, Levin, they did originally cap theirs at 1,000 but then they removed that cap, I believe is the latest I've heard but I am not absolutely certain of that.

Comm. Neese: I do have one other question. Have there been any repercussions? I understand that Sedgwick County, I think it was said at one of our meetings, that they have eliminated, they have forbidden wind?

Mr. Leipzig: Yes, Commissioner Neese. That is correct. They are also, I believe, in the process of developing new solar regulations. They've just started that process within the last month, but they have, right now the wind energy is prohibited.

Comm. Neese: The reason I ask that is I'm not suggesting that we don't have it. I was wondering if there has been any legal ramifications that you've heard of from the County Planning there prohibiting wind. Has there been any? Rick, do you know?

Mr. Lind: Yes, there was the Zimmerman case down in Wabaunsee County where they decided that they didn't want wind energy in the Flint Hills. That county, though, had determined that the Flint Hills were a natural area that needed to be protected, and they had made that determination, so they said that these would harm the Flint Hills, so they prohibited wind energy, and that went to a Kansas Appellate Court, that upheld that determination. One of the reasons was aesthetics.

Comm. Neese: Thank you. So, back up. Is there a motion on the floor here to re-address that?

Comm. Grise: I would support a motion to vote on whether the maximum area should be reduced from 2,000 to 1,000. I've been incredibly moved by the statements of the people tonight, and I appreciate everybody coming on both sides to share their opinions.

Comm. Neese: Are you making a motion?

Comm. Grise: Yes.

Comm. Neese: Do I have a second?

Comm. Johns: I'll second.

Comm. Levin: I have a quick question I apologize. On the motion are we discussing a straight 1,000 acres, or are we going to put a possible waiver on that?

Comm. Rast: I think it would be a maximum of 1,000, but the project area could be the one that has a waiver. Isn't that what staff, what we had before?

Mr. Pendley: I'll try to clarify here. If we're talking about the standard for just the maximum project area, there is currently no waiver as drafted. It's 2,000 acres with no waiver. What staff has added with the most recent change with project extent, that would allow for a waiver. That is not the same as the project maximum area. I think it would need to be clarified here with the Commission to clarify, are you wanting to include a waiver with this change to 1,000? If it is 1,000, that's the cap. That's the maximum regardless. Unless there's a –

Comm. Levin: I'm not asking for a change. I just want to make sure we're all on the same page. That's what I'm trying to say.

Comm. Neese: So is your motion for a 1,000-acre cap?

Comm. Grise: Yes. My motion is for 1,000-acre cap with no waiver.

Comm. Neese: Okay, we have a motion for a 1,000-acre cap with no waiver. Is there a second?

Comm. Johns: Still second it.

Comm. Neese: Is there any discussion? [none] Okay, I'll take a vote. Roll call, please,

Motion by Comm. Grise, seconded by Comm. Johns, to recommend a 1,000-acre cap with no option for a waiver.

The motion passed unanimously, by roll call vote.

Comm. Neese: So that count to 1,000 acres will be referred to the County Commissioners. What was the vote, please?

Mr. Leipzig: Mr. Neese, a quick question for clarification. So, the buffer from cities was for two miles.

Comm. Neese: Yes, sir

Mr. Leipzig: Did that include a waiver as well?

Comm. Rast: Yes.

Mr. Leipzig: It did include a waiver. Okay, just want to make sure I'm okay.

Comm. Rast: Now I have a question. So we changed the cap of the max. Do we need to look at the project extent and bring that down to 1,000 acres with a waiver, so it matches what we were onboard with before?

Mr. Pendley: I think you would want to probably make a change to the project extent. I don't know what that comparable distance would be with a 1,000-acre. This is a new standard that we put, the four square miles. It's not necessary. You don't have to. If you've capped it at 1,000 with that cap, it's probably not necessary, but it could be considered, to reduce the project extent. It's up to the Commission.

Mr. Leipzig: I think I would also agree with that statement. I think it might be better just to remove that project extent then. It might be an easier way to do that, in my opinion.

Comm. Neese: Say that again.

Mr. Leipzig: I would remove that project extent, that language, and just have the 1,000-acre cap as you had proposed and recommended.

Comm. Neese: Okay, and could that be amended or - ?

Comm. Rast: I'll make a motion that we remove the project extent recommendation that was previously on the staff report.

Comm. Levin: I'll second that motion.

Comm. Huggins: Mr. Chairman, I'm not sure what that means, to remove the project extent. Would that mean that the 1,000-acre project could cover any space? Or are we having the 80-acre maximum separation within the 1,000 acres would somehow contain that?

Mr. Pendley: That's a good question. I was looking at the draft regulations. There are descriptions for what is defined as project area, assuming that with the new change, with the 1,000-acre maximum, there's still definitions for project area, and within that I believe there are still standards that no part of the project area shall be greater than one-half mile from the project area. That's something that staff would probably need to research to clarify that to be sure.

Comm. Huggins: I guess I wouldn't for this at this time because I think we need to have staff look at that. And while they're looking at that, I would like to...I know we had a resident, Mr. Young, tell us that he was on a ten-acre tract that would be surrounded by this facility. I think we need to consider impact on the neighboring properties, and that would seem to me to be a big impact.

He's on about the same size of ground I'm on, and I certainly wouldn't want to be surrounded on all four sides by this, even though I am in support of this industrial solar.

Mr. Pendley: I'll just clarify here; I checked the draft regulations. The definition of project area does include, "Any portion of the project area shall not be located more than one-half mile from the balance of the project area, or else such portion greater than one-half mile shall be considered a separate utility-scale solar facility application." So, what I think that means is even if this were limited to a 1,000-acre maximum, no part of any parcel that's included within the Conditional Use Permit can be more than a half-mile away from another portion. So in that sense, it would restrict it from being extended too far, but as you say, there could still be some reason to consider a project extent, just to clarify that geographic area. They're kind of interrelated.

Comm. Rast: Would there be a way to add something that said no one person's property can be surrounded on more than, like two sides of a solar project? Could that save an individual that just happens to be stuck in the middle of somebody's property that kind of goes around them?

Mr. Pendley: I would want to research that to come up with draft language for the Commission to consider if that is the wish of the Commission to include that. I would suggest that staff research that.

Mr. Leipzig: Commissioner, I would also concur with that as well, if you could give us a chance to look at more in detail and do a review, and see if there's other...I'm sure there must be some language out there that might be applicable at other locations that we might be able to look at as well.

Comm. Neese: I haven't said that. I think there were three options here – pass it as presented, make changes in what's presented, or defer it to another time. I agree with you about being surrounded. My question is – I mean, I hate to have other meetings – but my question is, what is your sense about...? We want to do this right when we send it to them. This is real important. Of having a couple of these things be worked out and doing it again. Am I off-base on that? What do you all think?

Comm. Huggins: I agree. I don't know if it requires another public hearing, but I would agree with giving staff a chance to make some new recommendations on these issues would be a good idea.

Comm. Lund: I also agree with that. I think that would be a good idea.

Comm. Johns: I think there are more addresses that are completely surrounded. I had in my notes, I think it's 40285 West 175th Street is also, at least surrounded three ways, so this is not an isolated incident.

Comm. Neese: And remember, this is not just this application. It's the one south of De Soto and the one outside of Spring Hill and so on and so forth. So that's why this is important. So my question to you is if we make suggestions – I know we're going to have a working session on the 6th. Are we going to have something next month?

Mr. Leipzig: What I would suggest, Mr. Neese, if you all are comfortable with this, you could either continue the public hearing, or you could close the public hearing. We do have December 14th as a possible date for this group to meet again. We could have a proposed recommendation for you on that date if you all are willing to meet.

Comm. Neese: And not have a public hearing? Do we have to have a public hearing?

Mr. Leipzig: That is correct. It does not have to be a public hearing. I'm going to just verify that with Mr. Lind.

Mr. Lind: The Chair has closed the public hearing. That doesn't mean it can't be re-scheduled for the next meeting, but you have closed the public hearing. No, you don't have to come back and have an additional public hearing. You can just have your own discussion and do your vote without having any comments.

Comm. Neese: And we could do that at a later date?

Comm. Levin: But that's still open to the public?

Mr. Lind: It's still open to the public. You just don't have to have comments and have it be a public hearing.

Comm. Neese: Okay, if I could be so bold, then what I would suggest is that we have a hearing, if it's possible, on the 14th of December.

Comm. Levin: I agree with that.

Comm. Neese: Christmas time, but like I say, this is important. We would not have a public hearing. We would come back and have a discussion, although the public would be available. They would be present, just not have a public hearing.

Mr. Lind: It would be a public meeting, not a public hearing.

Comm. Neese: Thank you.

Mr. Leipzig: It would be identical to our previous meeting.

Comm. Neese: And is there any objection to that? Hearing none, if staff could notify everybody that we would have a meeting on the 14th. Is there anything else that concerns anybody that you would like to ask staff to look into?

Mr. Pendley: Mr. Neese, I just would request a little bit of clarification and direction for staff. On consideration for properties that are abutting a Conditional Use Permit for an application, is there indication whether that means two sides of a property, or what is surrounding? Is there a direction with that? Is it one side is okay, but two sides is - ?

Comm. Rast: I was looking at that no one personal property should be surrounded by more than 50 percent, or two sides, of the property. Because there's going to be a few instances...I don't think it's going to come up a lot, but there are going to be some that someone is surrounded a little bit more than someone else.

Mr. Leipzig: Commissioner Rast, what I was thinking is I'd like to do some research with the American Planning Association to see if there's other cases out there that we might be able to look at, or language that would pertain to that.

Comm. Neese: Your consultant can help you with that, too, right? Mark, are there any other questions that you would have regarding that?

Comm. Huggins: I would agree with that. Working towards that. I don't want to tie your hands. You can come up with better information than that.

Comm. Grise: I also would be curious if my fellow Planning Commission members have an opinion on the size of that property. Because to me, the smaller the property, the bigger impact of being bordered. Or do we not want to open that can of worms? I was just curious of your opinion.

Comm. Neese: Okay. Any other comments?

Comm. Rast: That is a good thought. I think the staff can look at into that and see what they see as they delve into the other, but that is...yeah, the smaller the property, the more enclosed they can feel. That's definitely a good recommendation.

Mr. Pendley: Thank you, those additional comments help.

Comm. Neese: Mark?

Comm. Huggins: Do we have a motion and a second on the floor?

Mr. Pendley: I don't believe there's been a motion yet. I think there's discussion regarding a continuance.

Comm. Huggins: I was referring to the motion about the 1,000 acres. Well, we had the –

Comm. Neese: There was a motion. You're right.

Comm. Huggins: We had the motion on the 1,000 acres, but –

Comm. Johns: The motion, I think, on the floor right now, we went into discussion, it's the –

Comm. Levin: The sides. The enclosing of non-participating properties.

Mr. Pendley: That's correct.

Comm. Huggins: The project boundary, I believe, is what was on the table.

Mr. Leipzig: Project extent.

Comm. Neese: I guess my question is, should we call the question, call the vote on that, or should we wait for further discussion when - ? Mark, would you be affected with what you're concerned about?

Comm. Huggins: Well, I think we've addressed my concerns in staff's direction, just the question of if we have a motion and a second on the floor do we need to deal with that?

Comm. Neese: Okay. We have a motion on the floor, 1,000 acres.

Comm. Huggins: The boundary.

Comm. Neese: The boundaries. Excuse me. I'm sorry. The boundaries.

Comm. Huggins: Or the project extent.

Comm. Neese: Discussion?

Mr. Lind: Mr. Chairman, just a clarification, is the motion to remove the project extent cap? Is that what the motion is?

Mr. Pendley: I believe that was the motion by Commissioner Rast.

Comm. Rast: Yes. I believe I made a motion if we needed to address it, and then staff recommended, because we had dropped it down to 1,000 that we just eliminate that whole part. So we need to make a motion that we're going to eliminate the project extent recommendation. Is that correct?

Mr. Pendley: I think the Commission at this point, since we're doing additional research on these items, that that motion can either be voted on as to whether you want to remove it, or it could be rescinded by the one that made the motion if you don't want to remove it at this time.

Comm. Neese: Didn't you say that basically what you want to do is do some research on that?

Mr. Leipzig: Yes.

Comm. Neese: So then what I would ask is that you rescind your motion, and we can deal on that at the next go-around.

Mr. Leipzig: Commissioner, in staff's opinion, if we could have some additional time on that, that would be helpful, because I don't know if it makes sense to eliminate it entirely, but we'd like to look at that.

Comm. Rast: Okay. I totally agree with staff's recommendation, so I will rescind the motion.

The motion was rescinded.

Comm. Neese: Any other discussion tonight? Should we go home here? It's been an interesting time. Jay, do you have anything else?

Mr. Leipzig: Just, Commission Neese, if the pleasure of the Commission then is to have the next meeting on December 14, 2021, at 5:45 p.m. in this room, 111 South Cherry Street, Olathe, Kansas.

Comm. Neese: Good.

Mr. Lind: Mr. Chairman, I would probably make a motion to that effect.

Motion by Commission Johns, seconded by Commission Huggins, to amend the meeting to December 14th, 111 South Cherry, 5:45 p.m.

The motion carried unanimously, by voice vote.

Comm. Neese: Any other business before the Board? Jay, do you have anything?

Mr. Leipzig: No, sir. I do not have any other business.

Comm. Neese: Okay, I'd like to thank everybody for coming tonight. It's been interesting and we'll see everybody on the 14th who is interested in coming. Take care.

E. UPDATES/OTHER BUSINESS

F. ADJOURNMENT

Comm. Neese: Oh, I guess I need a motion to adjourn.

Motion to adjourn by Commissioner Lund, seconded by, Commissioner Levin.

The motion passed unanimously.

Thereupon, with no further business to come before the Johnson County Planning Commission, Acting Chairman Neese, at 7:55 p.m. declared the meeting to be *Adjourned*.