

C. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENT

- a. **PLN-ZOTA-26-00004: AMENDMENT TO SOLAR ENERGY SYSTEMS** – a text amendment to Article 31 to address large-scale Solar Energy Systems (SES) in the agricultural zones, establish provisions relating to brownfield development, and create additional criteria for the review of Solar Energy Systems projects.

INITIATED BY: Urban County Council

PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended: **Approval**, of the staff alternative text, with modifications pertaining to intermediate scale SES in the Agricultural zones.

The Staff Recommends: **Approval**, of the staff alternative text for the following reasons:

1. The proposed language will continue to allow for increased utilization of solar energy systems within urban contexts and on brownfield property, contributing to the community's efforts to reach net-zero emissions by 2050 (Theme E, Goal #1.c). Appropriate limits have been established to focus solar energy systems within the Urban Service Area.
2. The alternative text language will remove all references to allowing ground mounted solar energy systems within the agricultural zones which protects the rural character and landscape of Fayette County. The Bluegrass Region has been recognized as one of America's most distinctive landscapes characterized by the rolling hills and highly fertile soil; soil of statewide importance and prime farmland that cannot be replaced. The introduction of solar energy systems that constitute large land coverage, disturb the soil, and remove land from typical agricultural production within this unique environment poses a threat to the community's identity and economy.
3. The proposed addition to the Zoning Ordinance for ground mounted solar energy systems within the agricultural zones is not consistent with the adopted 2017 Rural Land Management Plan, nor the Imagine Lexington 2045 Comprehensive Plan which recommends protecting the natural landscapes that make our county unique (Comprehensive Plan - Theme D, Goal #3; Theme E Goals #1 and #2; RLMP – Goals A thru D). Permitting merchant solar in this context does not support this vision nor would it be consistent with the intent of the Agricultural Rural (A-R) zone to preserve the rural character of the Rural Service Area by promoting agriculture and related uses.

Staff Presentation - Ms. Wade presented the Zoning Ordinance Text Amendment (ZOTA) addressing proposed modifications for Solar Energy Systems (SES). She gave a brief history of the initial ZOTA, and the subsequent workgroup of the Urban County Council's General Government and Planning Committee. She also described the meetings of the Planning Commission's solar workgroup. This council-initiated proposed text provides a pathway for large-scale SES within the agricultural zones as a conditional use, includes exemptions for brownfield sites, and clarifies the community benefit agreement language. Ms. Wade presented the staff alternative language that removed intermediate and large-scale SES from the agricultural areas, relaxed restrictions for small-scale solar in urban residential contexts, but retained other proposed changes from the council-initiated text. She also displayed a map that indicated areas of interest such as brownfields, electric transition lines, and conservation easements. She described how the staff used both the Comprehensive Plan and the Rural Land Management Plan to come to their recommendations.

Ms. Wade explained that the Zoning Committee had made a recommendation to allow for intermediate scale in the agricultural areas as a conditional use with some limitations. The Staff drafted a recommendation based on the Zoning Committee discussion for intermediate scale SES on a lot that complies with the minimum lot size of the zone and has a maximum footprint of 12.5% of the lot. She reiterated that Staff still recommended no intermediate-scale solar in the agricultural zones.

Commission Questions - Referring to the Council adopted text, Ms. M. Davis asked if the 1% was referring to all of Fayette County or just the agricultural zones. Ms. Wade explained that it was one percent of the entire county, but applied to the agricultural zones.

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Silicon Ranch Comments - Bob Corney, Silicon Ranch, was present to oppose the staff alternative text and support the Council text. He said that there did not have to be a choice between energy and agriculture. He introduced Jim Malooley, who described the various types of agriculture that could be paired with ground mounted solar, and his personal experiences. He listed the benefits of agrivoltaics to disadvantaged farmers, and the nearby communities.

Commission Questions - Ms. M. Davis asked where the created energy goes and how it gets there. Mr. Corney replied that it travels to the nearest load (demand), via the grid system.

Ms. Worth asked Mr. Malooley to provide more detail about the 20-year cattle/solar project in Tennessee. He explained that they had just recently deployed the cattle there, but were monitoring several projects for environmental factors.

Ms. Worth also asked if they had decommissioned a solar farm. Mr. Corney responded that they had not, but there was not any concrete or gravel under the solar panels, and they were simple to pull out of the ground. He added that they desired to make the land as valuable or more valuable than when they purchased it.

Councilmember Comments - CM Dave Sevigny spoke in support of the Council version of the text amendment. He stated that Fayette County was not exempt from the need for alternative energy sources. He gave a brief history of the workgroup and the Council-led ZOTA. He stated that their version of the ZOTA was well vetted and reflected the needs and concerns of Fayette County residents.

Commission Question - Mr. Forester asked CM Sevigny if he supported the 1% proposal, and he replied that he did support it.

Lexington Environmental Commission Comments - Patrick Mason spoke on behalf of the Environmental Commission. He stated that they supported solar energy, but wanted to protect the environment. He addressed several points and their recommendations, including brownfields, ground cover requirements, solar tracking, and the timeframe of decommissioning.

Fayette Alliance Comments - Brittany Roethemeier, Director of Fayette Alliance, shared the position of the organization regarding large-scale solar in the agricultural zones. They supported the staff alternative language, and made other suggestions to strengthen the protection of soils in Fayette County from the industrial nature of solar development. She stated that they did support appropriate solar, and recommended roof tops, brownfields, and parking lots.

Note - Mr. Forester left the meeting at approximately 5:00 p.m.

Commission Comments - Chair Davis noted that the Commission had received several emails addressing this issue, and asked for continued public comment following the individuals that has requested extended time.

Citizen Comments - Justin Kinder, 5451 Haley Downs Drive, opposed large-scale solar on agricultural land. He felt that the unique soils and bird habitats should be protected. He did not believe Fayette County would benefit from large-scale solar.

Brett Faulkner, 5440 Haley Downs Drive, said that his home would back up to a potential solar farm at the landfill. He asked the Planning Commission to preserve and protect the agricultural areas. He was concerned about the number of trees that would be removed to create a solar farm.

Jeremy Jenkins, representing Laborers Local 189 Union, supported the Council version of the ZOTA. He stated that they supported the dual use of agriculture and solar.

Don Robinson, 4153 Military Pike, opposed large-scale solar farms, but displayed photographs of how his farm utilized solar on the tops of their buildings, and provided almost all of his electricity needs.

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Commission Question - Mr. Owens asked Mr. Robinson how many square feet of solar was on his barns. He replied it was about 5,000 square feet.

Judith Humble was present to speak on behalf of the Bluegrass Climate Action Team. They supported the Council version of the ZOTA because it protected agricultural land while promoting solar and the net-zero emissions goal of the Comprehensive Plan.

Andrew McDonald, Director of Apogee Climate & Energy Transitions, and Chair of Kentucky Solar Energy Society, supported solar because of the need to transition to renewable energy.

Lane Boldman, 114 Woodford Drive, supported the Council's ZOTA because it managed all of the interests involved. She stated that climate change was more dangerous to birds than solar, and solar could be integrated into Fayette County without harm.

Cathy Clement, 212 Preston Avenue, supported limited large-scale solar in the agricultural areas. She stated that both soil protection and renewable energy could happen at the same time.

Richard Levine, 5675 Kiddville Lane, built a net-zero house in Lexington, and supported solar.

Brandon Lee, 5411 Haley Downs Road, lived next to a proposed solar farm site. He did not want to trade the agricultural land for solar.

Matt Partymiller, Solar Energy Solutions, felt that there are large-scale solar appropriate sites in Fayette County, and urged the Planning Commission to keep them as a conditional use, as recommended by the Council text. He opined that the net-zero goal was unattainable without large-scale solar.

Allison Helsinger, Haley Downs Road, was concerned about the precedent that solar farms would create. She added that the benefits of them were difficult to see.

Henry Jackson, no address given, supported the Council version of the ZOTA as well as the 1% cap. He distributed a newspaper article that he wrote about solar power.

Dan Graves, no address given, supported all renewable energy. He felt that there was a place for solar generation, but it was not the agricultural areas.

Logan Foster, Winchester, KY, felt that large-scale solar was an attack on the agricultural land and did not benefit local interests. He believed they would destroy our Bluegrass heritage.

Carroll Ware, 3713 Haley Road, had family that farmed in the area since the 1700's. He was concerned about the property value, the decommissioning process, and the uncertain business model of large-scale solar projects.

Gloria Martin, Rural Land Management Board Chair, expounded on the letter that the RLMB had sent to the Planning Commission, and listed the stakeholders that were part of their due-diligence process. She said that their stakeholders supported solar power and explained how farmers were using it already on rooftops. Additionally, rooftop solar was allowed on Purchase Development Rights (PDR) farm easements. She urged the Commission to protect the agricultural areas.

Philip Meyer, 218 Shady Lane, said that the agricultural areas are what make Fayette County great. He said the 1% cap was a dangerous precedent, and he supported the staff alternative text.

Margaret Graves, Bluegrass Land Conservancy Chair, stated that their goal was to conserve the prime farmland. She felt that large-scale solar was in conflict with the Comprehensive Plan, Rural Land Management Plan, and intent of the A-R zone. She asked the Planning Commission to adopt the staff alternative text.

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Commission Discussion - Mr. Michler made an appeal to allow for intermediate-scale solar in the agricultural areas as a conditional use. He felt that farmers should have the flexibility to add solar panels to their property, beyond just rooftops, if they chose to do so. He generally agreed with the staff alternative text.

Mr. Penn said that he supported alternative renewable power. He was concerned that solar would hurt the soil and trees. He said this large-scale solar was an industrial use in the A-R zone and he was concerned about other industrial uses that could come in if that precedent was set. He supported solar as long as it was not ground mounted, and the staff alternative text.

Ms. Worth said that in discussions about solar farms, they did support skilled trade workers. The Commissioners were being asked to balance what resources the community had, and what they would gain by allowing the large-scale solar projects. She reminded the Commission of the environmental benefits of the agricultural areas, specifically absorbing heat, stormwater management, and sequestering carbon, which provides economic value. She believed in the value of solar, but not on prime farmland.

Mr. Wilson thanked the audience members for coming and sharing their thoughts. He stated that he would be supporting the staff alternative text. He said that there was no need to use the agricultural land to build solar energy systems when there was other land available.

Mr. Owens thanked everyone for coming to speak about the issue. He believed that the large-scale solar in the agricultural zones was in conflict with the Comprehensive Plan. He added that this was not site specific and would affect the entire county. He stated that the agricultural areas attract tourists. He supported the staff alternative text.

Ms. M. Davis reiterated that the Haley Pike Landfill was a brownfield, not prime farmland. She said that she was in support of the staff alternative text.

Mr. Michler said that, as a small business owner, he wanted to give farmers the option to integrate different power sources, if they chose to do so. He agreed that industrial grade solar does not belong on farmland. He was concerned that too many choices were being taken away from farmers.

Ms. Barksdale asked for clarification about what they were considering. Ms. Wade verified that there was a Council text, a staff alternative text, and a Zoning Committee alternative text. Ms. Barksdale agreed with giving farmers the intermediate scale solar option.

Ms. Worth said she did not have enough information to make a good decision about the intermediate scale as proposed by the Zoning Committee. She saw the benefits, but not the disadvantages.

Mr. Penn replied that the disadvantage was adding an industrial use in the agricultural zones. He believed that there should be no ground mounted solar in the agricultural zones of any size. Mr. Michler countered that that intermediate size as an accessory use would be allowed in several other zones.

Ms. Barksdale asked if there was anything preventing farmers from building a structure and adding solar panels to it. Several Commissioners replied that there was nothing preventing that. She opined that covering the ground with concrete for a building would be no different. The Commissioners continued the discussion for several minutes.

Chair Davis shared his thoughts about the issue, and said that prime soils needed to be protected. He believed there was room for discussion about the intermediate scale as a conditional use, but concluded that they do not know enough about it to make that decision at this time. He said that he agreed with the staff alternative text.

Ms. Worth stated that the definitions and decommissioning guidance that was in the Council text was valuable, but at this time, the staff alternative was moving further in the right direction, especially with the decommissioning language.

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Ms. M. Davis asked about the recommendations of stakeholders that were not included in any of the versions presented. Chair Davis said that any additions would need to be discussed and voted on. Ms. Wade suggested that if they were a conditional use, several of these suggestions could be considered in their decision. Ms. Jones added there must be specific text, not a general provision, and it would have to be done at the meeting because of the timeline restrictions.

Ms. Worth asked staff to describe the process and guidelines that the Board of Adjustment would use, if it was a conditional use. Ms. Jones replied that as part of a conditional use application, staff would do research on each specific location.

There was discussion about whether they should adopt the staff alternative language or add to it. Ms. Wade told the Commission that she had worked on some language to add based on the discussion and comments provided during the hearing, if they were interested, but the enforcement piece would be difficult to include. Mr. Duncan said that the staff alternative was based on the Workgroup meetings, and would not need any additions.

Chair Davis thanked the audience members for coming and voicing their opinions.

Motion - Mr. Wilson made a motion, seconded by Mr. Penn, to **approve** the staff alternative text as presented for **PLN-ZOTA-26-00004: AMENDMENT TO SOLAR ENERGY SYSTEMS**.

Commission Discussion - Mr. Michler said that he would support this, but felt that they were taking away some innovation opportunities from farmers.

Ms. M. Davis asked if the staff alternative text included the 1% cap that was included by the Council, requirement of the community benefits program, adding more decommissioning safeguards, or a non-transferrable conditional use permit. Ms. Wade replied that the staff text only included the 1% cap, and that the other items were not currently included.

Action - The vote carried 9-0 (Forester and J. Davis absent).

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