

April 9, 2015

Wind Energy Text Amendment Working Group, Meeting 3

Topics: View Corridors, Impacts to Development and Subdivisions, Impact to Property Values of Adjacent Land, Public Road Improvements Needed for Construction, Decommissioning Plans

Important View Corridors

Presentations by:

Dr. Richard K. Sutton, University of Nebraska-Lincoln Department of Agronomy and Horticulture, presentation on visual impacts.

Mark Engler, National Parks Service, Homestead National Monument, presentation on visual impacts

It is important to be able to identify views and vistas in the area. Views and vistas are those that provide scenic views to important or unique natural resources, places, structures, landmarks, etc... These views can be from afar or nearby. Vistas refer to areas that afford significant views. They may be views from a major roadway, park, trail, or other public resource. They may also be views of, or from, a significant cultural or historic resource. Lincoln and Lancaster County have identified significant view corridors to the Nebraska State Capitol building. Development within these view corridors receives additional review and may have restrictions to height and appearance.

The City of Portland, Oregon, Planning and Sustainability office, uses the following simple language to notify applicants for wind turbines that views of particular value will be considered when applications are made for wind turbines. The following <https://www.portlandoregon.gov/bps/article/297911> Portland Oregon Wind Turbine Ordinance, Chapter 33.299 contains the following language: View Corridors. Although the regulations of this section allow wind turbines to exceed the height limits of the base zones, they are not allowed to extend into a view corridor designated by the Scenic Resources Protection Plan. Other jurisdictions require a full view shed study be included with each application.

The Natural Resources GIS Greenprint Challenge report, August 2001, identifies Views and Vistas as a natural resource in Lancaster County. It lists the following planning implications

- Significant views and vistas should be documented
- Corridors to State Capitol protected
- Public Way Corridor guidelines
- County roadway planning and design
- Lighting standards
- Guidelines for overhead utility, cell towers and related (CWECS)

An important point is that the planning implications relate to views of public value, not private views from an individual property. The Greenprint Challenge's Views and Vistas map identifies some of the county views that may be of public interest. These include entry corridors into Lincoln, views to public recreation areas, views to the two identified critical habitat areas of Little Salt Creek and Rock Creek for the Salt Creek tiger beetle, Spring Creek Prairie, Nine Mile Prairie and a signature of view of the Stevens Creek watershed.

Currently there are regulations on Capitol View Corridors to protect the view sheds to the State Capitol Building. The Comprehensive Plan also includes a need to study, protect and enhance entryway corridors into Lincoln, and work is underway to develop requirements to do so.

<http://lincoln.ne.gov/city/plan/lplan2040/plan/document/Amended/place.pdf>

<http://lincoln.ne.gov/city/plan/reports/nrgis/grnprnt/index.htm>

The special permit application and review process provides the opportunity for staff to review each permit for possible impacts to views and vista and to require a view shed study be conducted when impacts appear to be possible.

Impact on Development and Subdivision

As written, the Lancaster County regulations take into account existing dwellings, but not the potential for future dwellings. It is possible that a parcel of land which is not part of a wind farm development could be so impacted that sufficient buildable space for a home, outside of all the setbacks that would normally be required for an existing, would no longer be available. Language proposed by Volkswind, and now withdrawn, did include requirements to treat such properties as if they did have dwellings on them.

Impact on Property Values of Adjacent Land

A common concern of landowners is the effect of wind farms on the value of adjacent properties. There are many different sources of information on the topic. For the most part, studies that use widely accepted methodologies for evaluation of property value changes have shown no impact to property values by wind energy development. Private agreements can be used to assure no impacts to property value of landowners nearby wind farm developments.

The following are studies of property values and wind farms cited in the presentation.

Ernest Orlando Lawrence, Berkley National Laboratory. A Spatial Hedonic Analysis of the Effects of Wind Energy Facilities on Surrounding Property Values in the United States. Ben Hoen, Jason P. Brown, Thomas Jackson, Ryan Wiser, Mark Thayer and Peter Cappers. August, 2013
<http://emp.lbl.gov/sites/all/files/lbnl-6362e.pdf>

University of Rhode Island. Effects of Wind Turbines on Property Values in Rhode Island. Corey Lang and James Opaluch, Environmental and Natural Resource Economics. October 18, 2013.
<http://www.energy.ri.gov/documents/Onshore%20Wind/Final%20Property%20Values%20Report.pdf>

Springfield-Sangamon County Regional Planning Commission. Effect of Wind Farms on Property Values; A Brief Review of the Literature.
http://co.sangamon.il.us/Portals/0/Departments/Regional%20Planning%20Commission/Docs/InfoBrief%20WECS%20and%20PropertyValue%20March%202012%20Update_doc.pdf

National Association of Realtors. Field Guide to Wind Farms and Their Effect on Property Values. February, 2014. <http://www.realtor.org/field-guides/field-guide-to-wind-farms-their-effect-on-property-values>

Public Road Improvements Needed for Construction

The County Engineer requires all equipment of a certain size to provide information regarding the loads which will be traveling over the County's bridges. In cases where the capacity of the bridge is reached, specific permits must be obtained from the County Engineer in order to travel that route. In some cases routes may be reworked in order to avoid low capacity bridges. In some jurisdictions, wind developers have rebuilt bridges, under county/municipal/state supervision, in order to assure they were capable of carrying the required loads. Lancaster County would not require specific maintenance agreements

during the installation or operation period. If there was sufficient evidence that construction equipment associated with a wind development project caused specific damage to the roadway, the developer may be cited for repairs. However, much agricultural equipment is also quite heavy and it could be difficult to ascertain whether the wind energy construction equipment or the agricultural equipment was responsible for damage.

Decommissioning of Wind Towers

There is currently a requirement in the zoning resolution for decommissioning plans, requiring removal of structures and restoration of land, as well as a requirement to post bonds that will assure the restoration work is accomplished. The method of removal and restoration is not specified, nor is a definition of when “discontinuance, decommissioning or abandonment” has occurred and this removal would be required. In a review of model language in other jurisdictions, the specificity of these requirements varies widely, with some jurisdictions providing boiler plate language which is customized by the developer. Decommissioning plans are also often a part of the private lease agreements entered into with land owners.

Enforcement and Regulation

The Building and Safety Department is the primary regulatory agency of the County Zoning Resolution. The resolution gives authority to the County Board and to the Planning Commission to revoke the special permit if the conditions of approval are not being adhered to. Building and Safety often relies upon complaints received from the public to determine when investigative action needs to take place and possible enforcement action taken. In some cases, permit holders must make annual reports to Building and Safety providing specific information on the operation and activities of the permit site.

13.017 Enforcement and Revocation of Special Permits.

(a) The Director of Building and Safety shall make a report to the County Board at any time the Director of Building and Safety finds the following:

- 1) Any of the terms, conditions, requirements of a special permit have not been complied with by the Permittee or that any phase thereof has not been completed within the time required under said special permit or any administrative amendment thereto

(b) The Planning Commission may, after a public hearing of which the permittee shall be notified, take any of the following actions:

- 1) Revoke the special permit for failure to comply with any of the terms, conditions, and requirements of the special permit, or
- 2) Take such other action as it may deem necessary to obtain compliance with the special permit, or
- 3) Take such action that it deems necessary to preserve the public health, safety and general welfare.