

# Community Solar in Agricultural Zone



## *Discussion & Direction*

Board of County Commissioners  
*March 23, 2023*



# Potential Code Revisions

## ☀️ Applicability

Defines if a property may be developed for the subject use.

## ☀️ Requirements

Defines the conditions that must be met for the proposed development.



# Current Applicability

## Section 158.153(E)

- ☀️ Community Solar located on an existing remaining portion in the agricultural district greater than five acres in size.



# Revise Applicability

☀ Agricultural remaining portions  
*"In the Agricultural District, the land remaining after residential subdivision lots have been created from a legally established parcel of land through the subdivision process."*

- Consider allowing on any agriculture zoned property?
- Consider not allowing at all in agriculture zone?



# Revise Applicability

- ☀ Remaining portions > 5 acres
  - Consider increasing minimum size?



# Revise Applicability

Other potential criteria

- ☀ Productive soils
- ☀ Proximity to other zoning districts
- ☀ Proximity to environmental features



# Current Requirements

- ☀ 2 MW maximum
- ☀ 20 acre maximum size
- ☀ Conservation easement required
- ☀ Site plan required
- ☀ No productive topsoil removed
- ☀ No impact to environmental resources
- ☀ Agricultural co-location
- ☀ Landscape buffer
- ☀ 40 foot setback
- ☀ 15 foot height limit
- ☀ Underground utility lines
- ☀ Decommissioning plan and bond



# Issues Identified by Commissioner Vigliotti

- ☀ Section H talks about plant spread to surrounding farmland, but not surrounding property in general. All surrounding property, natural or maintained, must be protected.
- ☀ Section I speaks of, but does not define, adequate fencing. And should the fencing itself also be screened depending on the kind of fencing that is utilized?
- ☀ Section K speaks of a different maximum height for solar developments in agricultural land than in other zoned areas, but does not explain the reasoning or further restrictions. If the intent as described is to screen a solar development, why make it more difficult to do so by increasing the height maximum?
- ☀ Section M speaks of removal of foundations of solar panels, but says nothing about needing to remove any subterranean, or underground components of a development.





## Issues Identified by Commissioner Vigliotti (cont'd)

- ☀️ There is no section pertaining to definitions.
- ☀️ How does the County actually determine what an inactive solar development is? How are the 180 days of inactivity actually measured or determined? Importantly, there is nothing in this amendment which requires funds being escrowed for the decommissioning of sites decades from now.
- ☀️ When a site is decommissioned, where does everything go? To the County landfill? If so, who pays for this?
- ☀️ Does the tax rate on solar land change due to the obvious change in land use despite the land being agriculturally-zoned?



## Issues Identified by Commissioner Vigliotti (cont'd)

- ☀️ With respect to blocking one's view of the solar development, how is this determined? Our County is not a flat county. I may not see a screened solar development standing next to it, but I certainly may see it from the next hill.
- ☀️ There is nothing in here about the specific potential renewal process of a solar development, the years permitted per lease, the number of times a lease may be renewed, or even whether it all has to go back to Planning and Zoning.
- ☀️ There is nothing about the total number of solar developments permissible in the county. The Farm Bureau has advised that 19,000 acres of land are potentially affected by the amendment.
- ☀️ There is nothing about the density of solar panels in a development.



## Issues Identified by Commissioner Vigliotti (cont'd)

- ☀️ There is nothing about the allowable distance between solar developments themselves as a matter of proximity.
- ☀️ While other sections contain recourse for nuisance to neighbors, this amendment does not.
- ☀️ While other sections contain wording on glare, this section does not.
- ☀️ There is nothing in this amendment, or elsewhere in the solar sections, which speaks about construction process standards (such as mitigating grading-runoff, etc.)
- ☀️ There is nothing about the kind or quality of the solar panel materials that must be used (being free from PFS, cadmium, led, hydrochloric acid, etc.). Having heard from someone who actually deals with water for a living during the public hearing, these are very serious considerations.



## Issues Identified by Commissioner Vigliotti (cont'd)

- ☀️ And given environmental concerns, shouldn't developers contribute to a County-monitored fund in perpetuity to mitigate any future potential environmental issues? Just this past year, found solar developers were fined by the EPA for polluting waterways with runoff. There is nothing in this amendment which ensures accountability or responsibility. How many technologies and practices, once considered safe, have since been demonstrated to be otherwise?
- ☀️ Should we require regular testing of solar developments for contamination?
- ☀️ There is nothing in here about a standard or uniform emergency shutoff configuration easily identifiable and usable by First Responders.



## Issues Identified by Commissioner Vigliotti (cont'd)

- ☀ Should we require certain conditions which protect property owners from developers and their activities? What if prices or the nature of farming changes, and a landowner wants to end their contract early? Do we require this as an option in the contract-making process?
- ☀ Should we require agrivoltaics, the dual-use of a solar development, if occurring in agricultural land? That is to say, do we require that the land being utilized by solar must also have a simultaneous and active agricultural use, whether for shade-resistant crops, animal grazing, apiaries, or otherwise? After all, what is the use in preserving land for agriculture, if the land is not used for agriculture? Otherwise, it would be like arguing for the charted course and integrity of a ship, then selling off pieces of the hull while at sea.
- ☀ I know that there have been other legitimate concerns which have been raised, including things like setbacks and soil class types.

***Additional issues?***



# Staff-Identified Issues Needing Clarification

☀ Does the Board have any concern with staff expanding on the scope of investigation to address these issues?

- Example:

*Current code requires that area not used for community solar be placed into a conservation easement. However, what if there is a current use on the property other than agriculture? For example, a church.*



# Proposed Process

**BCC:  
Direction**

**Staff:  
Research  
↓  
Work Group:  
Review  
concerns &  
document  
feedback**

**Staff:  
Draft  
potential  
code  
changes**

**BCC Work  
Session:  
Review &  
decide  
potential  
changes  
→ Direct  
staff to PC**

**PC Work  
Sessions:  
Review  
draft code  
changes  
→ PC  
Recommendation to  
BCC**

**BCC:  
Review &  
discuss  
proposed  
amendment**

**BCC:  
Public  
Hearing**

**BCC:  
Discuss,  
Deliberate,  
& Decide**



# Proposed Work Group

- ☀ Ag community – not impacted – opposes CSEGS

- ☀ Adjacent property owner to current proposed CSEGS

- ☀ Adjacent property owner to different proposed CSEGS

- ☀ Ag community – not impacted – supports CSEGS

- ☀ Solar industry representative

- ☀ Property owner w/ proposed CSEGS

- ☀ Planning
- ☀ Development Review
- ☀ Zoning





## **Motion:**

*I move the Board of County Commissioners direct Land & Resource Management staff to review the community solar requirements as discussed, form a workgroup of stakeholders and return to the Board with proposed recommendations for code changes.*