

MINUTES OF THE WAYNE COUNTY PLANNING BOARD

WAYNE COUNTY, NORTH CAROLINA

The Wayne County Planning Board met at 7:00 p.m. on Tuesday, March 11, 2014 in the Jeffrey's Building after due notice was given.

MEMBERS PRESENT: Messrs. Mike Aycock, Brent Hood, Edward Cromartie, Julian Aycock and Mrs. Joann Summerlin.

MEMBERS ABSENT: Messrs. Chris Cox and Daniel Taylor.

EX-OFFICIO MEMBERS PRESENT: None.

EX-OFFICIO MEMBERS ABSENT: Messrs. Steve Stroud, Kevin Whitley, Kevin Johnson, Dennis Goodson and Joe Gurley.

BOARD ACTION – March 11, 2014

Mr. Price requested the agenda be adjusted to remove the final plat of Morris and Gaynell Carmack. It was the Board's decision to approve the minutes for the February 17, 2014 meeting. A motion was made by Mr. Julian Aycock and seconded by Mrs. Summerlin to approve the minutes and adjustment. The Board passed the motion unanimously.

Consideration of the Following Plats:

N Projects LLC, Final, Lot 1-2

Owner\Developer: N Projects LLC

Surveyor: B. R. Kornegay, Inc.

Fork Township, NCSR 1238

Mr. Price stated the plat met the minimum requirements of the Wayne County Subdivision Regulations. Mr. Price recommended approval of the plat. After discussion by the Board, a motion was made by Mrs. Summerlin and seconded by Mr. Julian Aycock to approve the plat. The Board passed the motion unanimously.

Dee Acres, Sec. 1, Final, Lots 1-9
Owner\Developer: Dolores N. Smith
Surveyor: Benton & Associates Land Surveying
Indian Springs Township, NCSR 1915

Mr. Price stated the plat met the minimum requirements of the Wayne County Subdivision Regulations with the following exceptions: 1) signatures needed on certificates, and 2) driveway permit needed for easement. Mr. Price recommended conditional approval of the plat. After discussion by the Board, a motion was made by Mr. Cromartie and seconded by Mrs. Summerlin to conditionally approve the plat. The Board passed the motion unanimously.

Melba Howell et als, Final, Lots 1-3
Owner\Developer: Melba Howell
Surveyor: Willie Miller Land Surveying
Brogden Township, NCSR 1120

Mr. Price stated the plat met the minimum requirements of the Wayne County Subdivision Regulations. Mr. Price recommended approval of the plat. After discussion by the Board, a motion was made by Mr. Julian Aycok and seconded by Mr. Cromartie to approve the plat. The Board passed the motion unanimously.

Old Business

Solar Energy Ordinance

Mr. Price stated in December the Board talked about a proposed solar energy facility ordinance for the County. He also stated rules would be established for the zoned and unzoned areas which the ordinance would cover. Mr. Price stated the ordinance was forwarded to the Board of Commissioners and a public hearing was held at their meeting in February. He stated there were some comments made at the hearing and that is why the Board has received it again to consider the comments. Mr. Price stated since that time Ms. Beth Trahos with Smith, Moore, Leatherwood Law Firm has reviewed the proposed ordinance and has some suggestions or changes to the ordinance. He stated each of the board members should have received a copy of the letter. Mr. Price stated to the Board at the top of Page 3, there is a definition added in defining what an opaque fence is. He stated that is a proposed revision and didn't have a definition of opaque fence before because there wasn't a need. He also stated this term of opaque fence is defined as a continuous opaque un-perforated barrier extending from the surface of the ground to a uniform height of not less than six feet from the ground at any given point. He stated it is to be constructed of dirt, wood, stone, steel or other metal or any substance of similar nature and strength that

will hide the solar energy facility. Mr. Price stated a lot of the comments at the hearing dealt with minimum setbacks from a residence with 300 ft. being proposed. He stated several of the speakers thought that was too much from a residence and it would take too much area that was being used as the solar energy facility and they asked that it be reduced. Mr. Julian Aycock asked if that included churches and schools. Mr. Price stated initially it was 300 ft. from a residence, church or school. Mr. Price stated he didn't have the first proposal with him and asked if theirs had the definition of residential area in it. Mr. Mike Aycock stated yes. Mr. Price stated Section 5 previously had all improved areas including disposal areas shall be at least 100 ft. from a public road and 50 ft. from a side property line. He stated what he has proposed is that all improved areas including disposal areas shall be at least 250 ft. from a public road and 50 ft. from a fence line. He stated the 250 ft. came from him talking to Randall Tyndall from Duplin County he suggested 200-250 ft. along public roads where there is public water. Mr. Price stated if you put the solar energy facility fence right up to the road or any road it will eliminate that side of the road as a possibility for a place for somebody to have another use that would use the water. He stated you have the water lines going down the road already and would like to have customers on both sides of the road. He stated if you put something on one side that will not use water then you can eliminate it. Mr. Price stated the minimum setback on a residential road, for example the Dee Acres on Mitchell Road, the setback is 200 ft. and the 250 ft. could be changed to 200 ft. and it would cover it. He stated if they felt it wasn't something to worry about here, you can go with what it was before which was 100 ft. Mr. Cromartie stated he was on Emmaus Church where a solar facility is being built and it is built up to road. Mr. Price stated yes that is correct. Mr. Cromartie stated there is a neighborhood of double wide homes across the street from the facility so this doesn't allow anything across the street other than the solar facility. Mr. Price stated that is what will always be there. Mr. Cromartie said he talked with a resident of the neighborhood and asked him his feelings about the facility. He stated he couldn't say much yet about the facility since it was still under construction and didn't know how it will be, but he said another neighbor said she wasn't happy about it. Mr. Cromartie stated after seeing it he clearly felt that something was needed. He also stated in contrast the one near Wal-Mart is somewhat isolated with one residence across the street. Mr. Cromartie stated the facility near Wal-Mart is not as intrusive as the facility on Indian Springs Road. Mr. Price stated it varies due to the shape of the property and what's already on the road. He stated the facility being built on US 70 West on the Thompson farm is about 500 ft. off the highway because of a lot of farm buildings in front of where it was being developed and it was being built toward the rear of the property just like the facility on US 13 South. Mr. Price stated it was several hundred feet off the road because they had personal buildings in the front. He stated the facility Mr. Cromartie was referring to in Indian Springs Road was on a vacant piece of property with no structures to interfere. Mr. Price

asked in this case is there a need of a setback more than 100 ft. from a public road. Mr. Cromartie stated what Mr. Price's idea is to be able to allow houses or some other tax paying entity to put along the road as a store. Mr. Price stated the reason he said for the improved area of 250 ft. because it would still allow the fence to be within 200 ft. of the road and then a 50 ft. buffer behind. He stated if you wanted to make it 200 ft. since that is the minimum depth for a road front lot you could have the fence line being 200 ft. off the road and then whatever is inside the fence it can be as close as what the ordinance allows inside the fence, which may be the way to go. Mr. Price stated all fenced in areas the fence can not be closer than 200 ft. and the Board doesn't feel it is an issue they can move to the next item. Mr. Julian Aycock asked if they go with an opaque fence will a vegetative buffer still be required. Mr. Price stated no, the opaque fence would eliminate the need for landscaping requirements. Mr. Julian Aycock stated you would use less buffer with a fence. Mr. Price stated they could have the improved area closer to the fence if an opaque fenced is used. Mr. Julian Aycock asked where the 250 number originated from. Mr. Price stated it was a number he came up with and was thinking with the minimum depth of a road front lot being 200 ft. so if the fence was there you have 50 more ft. for the buffer. Mr. Julian Aycock asked if he was talking about putting the fence on the 200 ft. Mr. Price stated they could put the fence at 200 ft. off the road and then have the panels inside the fence at 250 ft. or 220 ft. whichever they choose. Mr. Julian Aycock asked how close the panels can be to the fence. Mr. Price stated as close as they wanted to be. He stated there would probably be some separation to allow them to drive around inside the fence so there may be a 20-30 ft. separation at a minimum because they have to have access around the site. Mr. Julian Aycock stated maybe to enhance that 100 ft they may need to look at a 50 ft. barrier. Mr. Price stated if it were just a landscape barrier it would be 50 ft., if it were a solid fence at the 200 ft. line they could be at 20 ft. inside the fence which is the minimum. Mr. Price asked how much is allowed around the perimeter as far as the panels from the fence. Mr. Lance Williams with Strata Solar stated 50 ft. is more than adequate. He stated he thought their normal design standard was 30-50 ft. Mr. Williams asked if all landowners need to reserve all their land along the road for housing? He asked Mr. Price is that the restriction being put on everybody that owns acreage in the county. Mr. Price stated that's what it would be in trying to reserve that front road acreage for housing or commercial use. Mr. Parker, County Attorney said does that make sense because if you have a half mile down the road and the landowner wants to put as much solar panels as he can and thinks a 30 year lease will bring him more money than selling these lots off. He stated the County isn't going to let someone put in subdivision road front lots and have their driveway off the same road. Mr. Price stated it depended on how much frontage you had. Mr. Williams stated in his development experience he hadn't seen this before, most places in NC are more conservative than this. Ms. Trahos stated one of the benefits they have seen from people that lease their property for the use by a solar farm is

that they are able to keep large pieces of property together rather than having to sell off lots to generate income and they can diversify their crops. She stated it is a use that can easily be removed in the future if something is more desirable at that location in the future. Ms. Trahos stated they do make a wonderful opportunity for people to generate income without subdividing and selling their property. She also stated its utilizing every inch of the land they have seen a benefit in many jurisdictions that they have worked with across the state. Ms. Trahos also stated many of them require a landscaping requirement in combination with a design to hide the solar facility so that larger setbacks are not necessary. She stated over the last couple of years working with the company she hasn't seen a buffer as large as what is being proposed. Mr. Cromartie stated after the Commissioners public hearing he received a phone call from a family in the Grantham area and had property joined together and were leaning towards the solar energy facility. He stated they want to be able to maximize the use of their property. Mr. Cromartie stated in Duplin County the water system is already installed county wide. He stated it sounded like to him they were using the 250 ft. to protect the use of the land they already have developed. Mr. Price stated that was right. Mr. Cromartie stated the opposing view is they would lease the land for 30 years which would prevent the water being put in. Mr. Price stated there is water on almost every road in Wayne County. Mr. Julian Aycock stated he felt this could be made to be restrictive, but if you have in place a fence or vegetation area that would enhance the view or cover the view of the property he felt the Board has more or less done what they are suppose to do and haven't infringed on the property owners ability to use the land. Mr. Williams stated around the state the 50 ft. seems to be most common with the 100 ft. being common, but haven't seen it dictated to be this far away from a road in an ordinance. Mr. Price stated if the Board felt setting it back to make available the use of the water lines is not an issue then it can go back to 100 ft. as it was before and 50 ft. from a side property line. Mr. Mike Aycock asked is the land for the solar farm going to change the tax rate. Mr. Price stated yes, it would go from current use value to commercial value and go back and pay the deferred value. Mr. Julian Aycock asked who was responsible for that. Mr. Price stated the property owner. Mr. Mike Aycock stated he felt it needed to go back to the 100 ft. setback. Mr. Price stated currently there is a 50 ft. side yard going around the property, and he added into that, in the event that an opaque fence is installed the setback may be reduced to 20 ft. Mr. Mike Aycock stated he didn't have a problem with it and the Board agreed. Mr. Price stated on item "E" improved areas shall be at least 300 ft., and he removed residence on adjoining property, and left in schools and churches. He stated this will allow a solar facility to be closer than 300 ft. to a residence on someone else's property. Mr. Williams asked is it common within the code on schools and churches to have some uses that far away. Mr. Mike Aycock stated yes. Mr. Price stated item "F", all access and storage areas shall be at least 50 ft. from a property line constructed with paved gravel or crushed stone surface maintaining

a dust free manor. He stated the areas generally inside the fence would not be considered an access road, it is the area between the fence, gate and highway. Mr. Price stated once your inside the fence there is not an access road. He stated the driveway to get on to the property would be at least 50 ft. from the property line. After discussion regarding the access easement it was decided to change the 50 ft. to read as "all access easements to a solar facility must be at least 30 ft." Mr. Julian Aycock asked about it being paved gravel, or crushed stone. Mr. Price stated it would have to be paved from the edge of the pavement to the property line. Mr. Mike Aycock asked if the state right-of-way needs to be 60 ft.? Mr. Price stated DOT will require that as part of the driveway permit, which will be up to the area 30 ft. from the center of the road. Mr. Price asked did they feel the area, the driveway beyond that between the edge of the DOT right-of-way is and wherever the fence is does that area need to be maintained any kind of surface other than grass. Mr. Mike Aycock stated he didn't think so. Mr. Julian Aycock stated it seems they would want it well maintained if they have maintenance going in and out. Mr. Williams stated normally they are already on top of somebody's farm road that has been being used for many years and already pretty compacted so there isn't a benefit to putting gravel down. Mr. Hood stated there is already have some requirement in the driveway permit to put to a certain distance from the centerline. Mr. Price stated asphalt or concrete. He stated what they would be establishing is just a minimum width for the access easement, not specifying what kind of surface it should be. Mr. Price stated because of the change in "E" which took out the 300 ft. from a residence, he added in "G" which was suggested by some that spoke at the public hearing. He stated "G" says all solar energy facilities located in a residential area shall have a minimum landscape buffer of 50 ft. The buffer shall contain four large trees, 10 ft. in height per 100 ft., five small trees 8 ft. in height per 100 ft., 40 shrubs 4 ft. in height per 100 ft. Buffer requirements may be eliminated by installing an opaque fence. A buffer area will not be required between a solar energy facility and an industrial or commercial use. Mr. Price stated going back, what is a residential area, where would this apply? He stated residential areas are defined as any area within 1/4 mile of a solar energy facility having 25 or more dwellings. He stated if you have less than that a landscape requirement would not be required. Mr. Williams asked as an alternative about evergreens that at a mature height would be 10-12 ft. high would shield the panels because they are less than that. He stated they would rather have something bushy and wide and hide the panels versus a tree that will not provide the visual buffer. Mr. Williams asked if they would consider adding the evergreens that are the height of the solar panels. Mr. Julian Aycock stated they wanted 100% daylight not 85%. Mr. Hood stated a combination of the trees will certainly cover it. Mr. Price stated the evergreens could be an option. He stated where the wording of trees and shrubs came from is Goldsboro's Zoning Ordinance. He stated when you have an industrial use (solar panels) next to a residential area. Mr. Price stated the facility that went up on Fedelon Trail that's what they would have had

up there. He stated if there was an existing wooded area that was close to the property line that was on someone else's property, each of the site plans that come through on this will come to the Planning Board. Mr. Price stated that will give them the opportunity to see what's there, how one site differs from another. He stated it is hard to write an ordinance that will cover every situation, you try to establish minimum standards so when the engineers design the site they will know what you want. Mr. Price stated if there is something unique about a site that makes it different from other places, that a one of a kind site, then you have the opportunity to grant a variance for it. He stated if they want to add in to this the opportunity for evergreen trees, a certain height and type of plant. He stated if you put in red tips at 1 1/2 ft. tall when planted it will take ten years for them to have adequate height. He also stated you may want to request evergreen trees to be a certain height at the time of planting, you don't want to wait three years for the buffer to come in to play. Mr. Price stated in this case where you would have large trees that would be 10 ft. in height at time of planting with small trees at 8 ft. in height and the shrubs under that you have created a buffer from day one. Mr. Hood stated when the definition of residential area this is going to affect a small percentage of the rural part of Wayne County. Mr. Price stated the facility located on 13 South going in next to the subdivision, on the part of the line where its next to the subdivision, it would affect that, but when it gets back to the landfill it would be exempt there. After discussion, Mr. Price asked the Board if they wanted to change, add to or leave the requirement as is. Mr. Mike Aycock asked if the 10 ft. trees could be changed to the 8 ft. evergreens. Mr. Price stated yes. Mr. Hood asked what size evergreens are normally planted. Mr. Williams stated when they are pushed they go with 48", and if their not being pushed it's typically the 36". Mr. Williams stated what is most common is 10 ft. on center. Mr. Price stated if you go in with something smaller, you just have to bear with it over the next two to three growing seasons for it to screen. He stated if your wanting screening from day one then you will have to plant something taller than 48". Mr. Price asked if there needed to be a setback requirement from dwellings anywhere whether it's in a residential area or not. Mr. Mike Aycock stated yes. Mr. Price stated right now there isn't a provision for that, if it's not in a residential area there would be no landscaping requirements, or opaque fence requirements and the facility could be within 50 ft. of a house. Mr. Cromartie stated they recommended 150 ft. from everything including schools and churches and asked their reasoning for reducing it. Mr. Williams stated the 150 ft. from a dwelling or church, you don't want to be on top of someone and you don't want unused land either. He also stated it is common within the code to be 300 ft. from churches and schools with some uses and are not singling them out. Mr. Williams also mentioned in the preamble that went to the Board the statement that solar farms being a danger to the health and welfare of people and that's the same thing as the schools. He stated part of the information he wanted to make sure they were aware of in his understanding the Board did not see the preamble. Mr. Price stated it was in the

ordinance and the Board did see it and they were ok with it. Mr. Williams stated according to the Dept. of Agriculture, DENR, NC Conservation Network, US Dept. of Energy, FAA, Dept. of Revenue Insurance Bureau, CUP and SUP be received in the State requires a finding that they are not endangering anyone's health. He stated in the preamble, unless you have factual data that is above and beyond 30 months of work by the State and 15-20 agencies he doesn't know why they are putting into a statement as law that the facility is dangerous to health. He stated that was their biggest concern with the Board so if there is a lack of information they could provide phone numbers to the agencies of people they have worked with. Mr. Cromartie stated the agencies are saying there is nothing about the facility that will pose any danger. He stated it reads "it may pose a threat to health or safety." Mr. Cromartie stated there is a difference between may, will, shall or could. Mr. Williams stated that is correct and if this passes they will come back before the County Commissioners. Mr. Parker, County Attorney stated that a letter received from Mr. Chris Cox recommending that all of that be taken out. Mr. Price asked Mr. Parker if it should stay in as far as compliance with the way the ordinance has to be adopted. Mr. Parker stated that would be something he would need to look into. Mr. Mike Aycock recommended that Mr. Parker do further research regarding the preamble and would go with his recommendation. Mr. Hood agreed on the setbacks of 300 ft. for a church and school and 150 ft. for residential whether it's in a residential area or not. Mr. Julian Aycock asked the question, the data was compiled over a period of how long in North Carolina and is it NC data? Mr. Williams stated all the agencies are in North Carolina. He stated these agencies collectively took their experts and policies and worked through a year long program. Mr. Julian Aycock asked was the data compiled out of NC and for how long was it compiled out of NC? Ms. Trahos stated the information that he has provided to the Board is a draft ordinance that experts across the state got together to put the draft together so communities would have some sort of guide as to what might be appropriate so far as an ordinance. She stated they were not studying the safety of solar panels in North Carolina, they were drafting an ordinance. Mr. Price asked if they wanted to make changes to the part about adding in the opportunity to put in evergreen trees in place of the trees previously recommended as an option, and if so, what size does the evergreen tree need to be at the time of planting. Mr. Williams suggested the four feet in height and 7.5 feet apart. Mr. Cromartie asked Mr. Williams if he could e-mail Mr. Price pictures of a facility that would have this height trees so the Board could get a visual of how it would look. Mr. Price stated he could take tonight's suggestions and put it together and bring back to the Board in April and then forward to Commissioners for a public hearing if they choose, or table the discussion. He stated in the letter they received there was a suggested definition for "improved areas". He stated as the term be defined means solar or electrical generation of equipment which needs to be added in because "improved areas" are referred to in several places. Mr. Price also stated there was a question about the Base Commander being given

the opportunity to look at the proposal. He stated there hasn't been a problem with getting responses from the Base Commander when we send rezoning requests and changes and there is an Ex-Officio member from SJAFB on the Board representing the Base. Mr. Price also stated there was a recommendation to refer to a group of solar panels an "array" which should be a change that can be made. He stated lastly, Section 8b, prior to final inspection, proof that permit issued by the State in accordance with applicable provisions with General Statutes that have been issued. It was suggested to clarify to say that the certificate of public convenience will meet state approval issued by the North Carolina Utilities Commission. Mr. Price stated he would make the changes and discuss it at the April or May meeting, but he wouldn't be at the April meeting so they can discuss it when he is back at the May meeting. Mr. Price stated it was suggested that a minimum acreage size be established for a solar facility and the suggestion was 10 acres.

With there being no further business, a motion was made by Mr. Hood and seconded by Mr. Julian Aycock to adjourn the meeting. The Board passed the motion unanimously.

Robin N. Bjorling
Clerk to the Board
March 11, 2014