



Chatham County, NC

Legislation Text

File #: 18-2684, **Version:** 2

Vote on a Quasi-Judicial request for a Conditional Use Permit for a solar farm on Parcel No. 5751, being approximately 46.80 acres, located at 2361 Corinth Rd., Moncure, Cape Fear Township.

Action Requested:

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Introduction & Background:

A quasi-judicial public hearing was held on June 18, 2018. Planning staff presented the request and the applicant's representatives, Attorney Karen Kemereit and two expert witnesses, provided a brief presentation of the application. No-one else spoke and there were questions from the Commissioners.

Some areas of discussion from the Commissioners included the size of the facility and how many residences it could serve, would the land be leased or owned by Strata Solar, how would the value of the property change for tax purposes, and the clearing of trees and maintaining the buffers.

The applicant stated this would be a 5 megawatt facility that could potentially serve up to 200 residences. The solar company will be leasing the land and will not take ownership. The property is currently in land use by the tax office for an agricultural exemption which allows for a reduced tax rate. That rate will be removed and the new rate according to the use of the property should begin once the facility is completed. The Chatham County Appearance Commission has reviewed the proposed site plan and noted the clearing of trees as well. There is a vegetated buffer that will remain and will be supplemented with other plantings as needed.

The Planning Board met at their regularly scheduled meeting on July 10, 2018. Their findings and any discussions are not below in BOLD.

Discussion & Analysis:

The property is currently zoned R1, Residential and the adjoining properties are zoned R1; R1 with a conditional use permit for a RV Park to the east; R1 with a non-conforming mining operation currently being used for coal ash storage to the north; and IND-H, Heavy Industrial on the opposite side of Corinth Road. The property is located in a WS-IV Protected Area watershed district and is outside of the Jordan Lake drainage. There are no prohibitions on solar farms in this watershed district and impervious surface area is limited to 36%. There are streams shown on the USGS and NRCS maps

on this property and the Environmental Impact Assessment includes a wetlands map that includes a note that Andy Williams with the US Army Corps of Engineers verified them on July 25, 2017. The wetlands and streams are identified on the site plan and have been buffered.

A community meeting on the project was held on May 30, 2018 and there were two attendees. The community meeting report notes that there were questions about setbacks and no changes were made to the plan. An environmental impact assessment was submitted with the application and the Environmental Review Advisory Committee (ERAC) reviewed it on June 14, 2018 (the review comments are posted online with the application materials).

In reviewing and considering approval of a Conditional Use Permit, the Board shall find that all of the following Findings of Facts shall be supported. Per the Zoning Ordinance "In considering an application for a conditional use permit the Board of Commissioners shall give due regard that the purpose and intent of this Ordinance shall be served, public safety and welfare secured and substantial justice done. If the Board should find, after public hearing, the proposed conditional use permit should not be granted, such proposed permit shall be denied." The findings are as follows:

Finding 1 - The use requested is among those listed as an eligible conditional use in the district in which the subject property is located or is to be located. Solar farms greater than 2 acres in size are permitted in the R-1 Residential zoning district with approval of a conditional use permit. There are additional standards for solar farms in Section 17.6 that include a maximum solar panel height of 25', 50' perimeter setback from property lines and 100' setback from public roadways, and modified Type B landscaping buffer for adjoining properties.

It is planning staff and Planning Board opinion this finding can be met.

Finding 2 - The requested conditional use permit or revision to the existing permit is either essential or desirable for the public convenience or welfare. The applicant contends that solar is a clean, inexpensive, and unlimited resource that is being guided by current needs from the utility companies for diversity in electrical power sources. The project will be unmanned, no traffic impacts other than those associated with construction and on-going monitoring, and have no lighting issues. There would be little to no environmental impacts with the exception of the clearing of trees for the project area.

It is planning staff and Planning Board opinion this finding can be met.

Finding 3 - The requested permit or revision to the existing permit will not impair the integrity or character of the surrounding or adjoining districts, and will not be detrimental to the health, safety or welfare of the community. This parcel adjoins or is adjacent to a mix of agricultural uses, industrially zoned properties, residential, and residential with a conditional use permit for a public and private recreation campground. To the north is a coal ash landfill located on a non-conforming mining operation.

The adjoining parcel to the east contains Dickens RV Campground that is used mainly for workers for

various industrial projects and seasonal maintenance work for nearby plants and industries. The area of property between the actual rv site and this tract is open and cannot be expanded onto at this time based on the current conditional use permit for the park.

The adjacent tract to the rear and east of this parcel is also owned by Mr. Dickens and contains a large pond that was created by Mr. Dickens during an excavation project.

Solar farms by nature do not create odor, noise, dust, light, or adverse environmental impacts. The owner of the property is proposing to lease the property to Strata Solar, which affords them an opportunity to receive additional revenue from the use of their land.

The solar panels themselves will be required to comply with all electrical and building code requirements and be installed with anti-reflective coating to prevent glare toward any habitable building or structure and street right-of-way. The area will be secured with a six foot tall chain-link fence with three strands of barbed wire across the top, as well as a locked entrance gate for maintenance and emergency services.

The Planning Board asked about a Type A buffer along the access road and for clarification the road was outside of the noted wetland area. The access will be outside of the 50 foot buffer for the wetland area as shown on the prepared map in the Environmental Impact Assessment prepared by Pilot Environmental, Inc. Because there will be no solar panels in that area and the close proximity to the property line the road must be placed, a Type A opaque buffer is not required adjacent to that stretch of roadway area. Type A is required in all other areas as shown on the site plan.

Planning Board members also wanted confirmation that the trees within the wetland and stream areas would be left undisturbed and it was confirmed by the applicant's attorney that is the case.

It is planning staff and Planning Board opinion this finding can be met.

Finding 4 - The requested permit will be or remain consistent with the objectives of the Plan Chatham comprehensive land use plan. Objective 4, page 41 of Plan Chatham (the "Plan") promotes diversifying the tax base when and where appropriate. This property is currently under land use for forestry agricultural use. This affords the landowner a substantially reduced tax rate while in operation. When the agricultural use of no longer exists, the property is removed from the present use value program administered through the Tax Department which in turn brings in more tax revenue for the county.

Objective 5, page 42 encourages the avoidance or minimizing landscape fragmentation. This property will be kept as one tract which reduces the possibility for development. The use helps to preserve the night sky by minimizing light pollution.

Objective 8, page 43 promotes projects that are more resilient by mitigating, responding, and adapting to emerging threats. Clean, renewable energy is an emerging alternative power source to

supplement existing utility infrastructure and supports efforts to move more toward a more carbon neutral county.

It is planning staff and Planning Board opinion this finding can be met.

Finding 5 - Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary facilities have been or are being provided consistent with the County's plans, policies, and regulations. The solar facility will not require use of the county water system, or wells or septic systems. The project will be required to meet all erosion and sedimentation control and stormwater regulations, as well as stabilization of the area once panels are installed. This is usually done with grass.

A commercial driveway permit will be required from NCDOT.

The property is located within the WSIV-PA Protected Area watershed but is not located within the Jordan Lake buffer rule area. Up to 36% of the parcel can be developed in impervious surface. Under the watershed regulations solar panels are not considered impervious surface and therefore are not counted in the calculation making the project less than 10% impervious surface based on the submitted site plan.

The property does have a streams per the NRCS Soils Map and USGS Map that are being shown as buffered for any land disturbance and development activity. The site plan shows these areas buffered and protected with no disturbance of existing vegetation.

It is planning staff and Planning Board opinion this finding can be met.

It is planning staff opinion that all of the findings have been met and that this request be recommended for approval with the conditions provided in the recommendation.

How does this relate to the Comprehensive Plan: As noted in Finding No. 4, Objective 4, page 41, Objective 5, page 42, and Objective 8, page 43 all encourage the use of solar energy and services that do not further tax the county and create more tax base for county. Preservation of a large tract of property is supported by this plan as well.

The Planning Board finds that all five findings can be met and therefore recommend approval of the request.

Recommendation:

The Planning by a vote of 9-0 recommends approval of the the conditional use permit for a solar farm with the following conditions:

Site Specific Conditions

1. The recommendations from the Chatham County Appearance Commission (CCAC) shall be followed as stated in the minutes and as shown on the submitted site plan that reflects the

adopted design guidelines. The planning staff and CCAC may conduct routine inspections of the property to ensure compliance with the landscaping requirements.

2. A building permit shall be obtained and remain valid at all times within two years of the date of this approval or the conditional use permit becomes null and void.

Standard Site Conditions

3. The application, standards and adopted regulations of the applicable ordinances and policies, and the approved recommendations as provided for and/or conditioned, are considered to be the standards as set forth and shall comply as stated. Changes or variations must be approved through the Planning Department or other approving board before any such changes can take place. These include but are not limited to landscaping, lighting, signage, parking, building construction, etc.
4. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Land and Water Resources, Environmental Health Division, Building Inspections, Fire Marshal, etc.) shall be obtained, if required, and copies submitted to the Planning Department to the initiation of the operation/business.

Standard Administrative Conditions:

5. Fees - Applicant and/or landowner shall pay to the County all required fees and charges attributable to the development of its project in a timely manner, including, but not limited to, utility, subdivision, zoning, and building inspections.
6. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditional listed above.
7. Non-Severability - If any of the above conditions is held to be invalid, this approval in it's entirety shall be void.
8. Non-Waiver - Nothing contained herein shall be deemed to waive any discretion on the part of the County as to further development of the applicant's property and this permit shall not give the applicant any vested right to develop its property in any other manner than as set forth herein.