

MINUTES
PLANNING BOARD
BRUNSWICK COUNTY, NC

6:00 P.M. Monday
October 9, 2017

Commissioners Chambers
David R. Sandifer Administration Bldg.
County Government Center
Old U.S 17 East

MEMBERS PRESENT

Eric Dunham, Chair
Joy Easley, Vice Chair
Richard Leary
Ron Medlin
Tom Simmons
Troy Price
Randy Ward

MEMBERS ABSENT

None

STAFF PRESENT

Mike Hargett, Director
Helen Bunch, Zoning Admin.
Kirstie Dixon, Planning Manager
Connie Marlowe, Admin. Asst.
Bryan Batton, Asst. County Attorney

OTHERS PRESENT

Lisa Fosbury
Terry Pope, State Port Pilot
William Bittenbender, Alternate
Hugh Fosbury

John Hankins
Michael Fox
Keith Erbs
Tim Hayes

I. CALL TO ORDER.

The Chair called the meeting to order at 6:00 p.m.

II. INVOCATION/PLEDGE OF ALLEGIANCE.

Mr. Dunham said a prayer. The Chair asked everyone to stand and face the U.S. Flag to say the Pledge of Allegiance.

III. ROLL CALL.

There were no members absent.

IV. CONSIDERATION OF MINUTES OF THE 11-SEP-17 MEETING.

Mr. Leary made a motion to approve the minutes as written and the motion was unanimously carried.

V. AGENDA AMENDMENTS.

Ms. Dixon addressed the Board. She stated that staff is adding Item C under Other Business regarding changes to the rezoning worksheet.

VI. PUBLIC COMMENT.

There were none.

VII. PUBLIC HEARINGS.

A. Rezoning Z-757 – Lisa Fosbury.

Request to rezone approximately 15.14 acres located off Southport-Supply Road SE (NC 211) near Oak Island from R-7500 (Medium Density Residential) to C-LD (Commercial Low Density) for Tax Parcels 20300001, 20300002, 2030000201, and 2030000202.

Ms. Dixon addressed the Board. She read the Staff Report (attached). She identified the subject property and surrounding properties on a visual map.

Ms. Dixon said staff recommends approval from R-7500 (Medium Density Residential) to C-LD (Commercial Low Density) for Tax Parcels 20300001, 20300002, 2030000201, and 2030000202.

Ms. Easley made a motion to open the Public Hearing and the motion was unanimously carried.

Mr. Hugh Fosbury addressed the Board. Mr. Fosbury said he and his wife are residents of Southport and they want to purchase the subject property for commercial purposes.

With no further comments, Ms. Easley made a motion to close the Public Hearing and the motion was unanimously carried.

The Board discussed the worksheet and concluded the following:

- I. Will the uses permitted by the proposed change be appropriate for the area concerned?

Yes. There is C-LD zoning nearby including in the Town of Oak Island's planning and zoning jurisdiction.

- II. Does adequate public school facilities and other public services/services (i.e., water, wastewater, roads) exist, are planned, or can be reasonably provided to serve the needs of any permitted uses likely to be constructed as a result of such change?

Yes. Virginia Williamson Elementary and Cedar Grove Middle Schools have adequate capacity; and South Brunswick High School is near capacity.

Water and sewer are available from Brunswick County along Southport-Supply Road SE (NC 211). It is the developer responsibility to connect to water and sewer.

This rezoning has access off Southport-Supply Road SE (NC 211), which is near capacity. There are two (2) North Carolina Department of Transportation (NCDOT) Transportation Improvement Program (TIP) Projects in this area.

- U-5932 is a conversion of NC 211/US 17 intersection to an interchange. This project is in the design phase and construction is anticipated in 2024.
- R-5021 is the widening of NC 211 from Midway Road SE (NC 906) to NC 87. This project is in pre-construction phase and anticipated construction is 2018-2021.

- III. Is the proposed change consistent with the CAMA Land Use Plan or any other adopted land use document?

Yes. The proposed change is consistent with the CAMA Land Use Plan.

- IV. Is the proposed amendment reasonable as it relates to the public interest?

Yes. There were no objections from the public and the proposed change is consistent with surrounding zoning.

THEREFORE, on the basis of all the foregoing, Mr. Ward made a motion to recommend to the Board of Commissioners to approve Tax Parcels 20300001, 20300002, 2030000201, and 2030000202 from R-7500 (Medium Density Residential) to C-LD (Commercial Low Density) and the motion was unanimously carried.

B. Proposed Revisions to the Solar Farm Requirements in the Brunswick County Unified Development Ordinance.

Mr. Hargett addressed the Board. He stated that the Board of Commissioners directed staff to draft revisions to solar farms as the current minimum requirements are somewhat dated and need to be tweaked to address size, setbacks, screening and buffering, and installation and design. He stated that solar farms are allowed as a limited use in the C-I, RU-I and CP zoning districts and they are allowed by a special use permit in the RR zoning district. Mr. Hargett stated that solar farms are generally located near a major power line(s). He provided a color-coded map of existing solar farm sites as well as approved sites. Mr. Hargett discussed a PowerPoint presentation (attached) outlining the proposed revisions to solar farms.

Mr. Leary asked staff if the decommissioning plan is in place? Mr. Hargett said it is a proposed addition. Mr. Leary asked if the current solar farms are subject to the proposed decommissioning plan? Mr. Batton interjected that decommissioning plans are included as a condition for the recent site approved for a special use permit.

Mr. Leary made a motion to open the Public Hearing and the motion was unanimously carried.

Mr. Keith Erbs, United Renewable Energy, addressed the Board. Mr. Erbs said they have 4 projects that are currently under construction and they have approval for 3 additional projects. Mr. Erbs said their projects range in size from 5 to 18 acres. He provided the Board with several positive aspects of allowing solar farms in the County. Mr. Erbs expressed concern with limiting the size of solar farms because it could potentially take away from the property owner getting the highest and best use of their property. He suggested that projects be looked at on a case by case basis regarding the size a solar farm can be. He stated that the decommissioning plan can be cumbersome when determining who is responsible for what. Mr. Erbs was not in favor of having to update the decommissioning obligation every 3 years for a project that may last for an extended period of time (e.g., 30 years) because it seems redundant and unnecessary. He further stated that the financial guarantee estimated cost for the removal of the facility to be in a form acceptable to the County Attorney's office is nebulous and very subjective. Mr. Erbs suggested that the financial guarantee section be stricken as it may hamper potential growth opportunities for future solar farms in the County.

The Chair asked Mr. Erbs if the materials in the solar panels are recyclable? Mr. Erbs said the solar panels are glass in an aluminum frame and copper and there is a significant scrap value. The Chair asked Mr. Erbs the minimum/maximum acreage solar farm(s) his company has done? Mr. Erbs said the maximum acreage size solar farm they have done is approximately 45 acres and they have installed solar panels on residential rooftops. Mr. Erbs said they do not want to be hindered should a larger site become available.

The Chair asked staff their thoughts on requiring a 3 year update for solar farms. Mr. Hargett said the solar farm industry and technology is constantly changing as well as the salvage value of the materials which prompted requiring a financial guarantee. Mr. Hargett said staff has discussed the proposed revisions with a number of entities involved with solar farms to ensure all perspectives are represented. Mr. Batton asked Mr. Erbs how often solar farms change ownership? Mr. Erbs said they sometimes bring in a financing partner, but operational projects rarely change ownership.

Mr. Mike Fox, Attorney-At-Law, addressed the Board. Mr. Fox expressed concerns regarding the size limitation, decommissioning process, and other proposed criteria. He stated that the size should not be limited because solar farms are more likely to be located in rural areas rather than industrial areas and the RR zoning requires a special use permit approval and conditions can be placed on the project. Mr. Fox suggested that if the size of a solar farm is a concern, it should be addressed on a case by case bases. Mr. Fox further stated that solar farms have a high salvage value and the lease agreement addresses who is responsible for cleanup after the life of the solar farm. He was concerned with bonding and the proposed 3 year update unless there is a change of ownership. Mr. Fox expressed concern with saying herbicides should be avoided and felt that can be better addressed by the Department of Environmental Quality and/or the Brunswick County Human and Health Services (Health Department) because there could potentially be some unintended consequences. He further stated that solar farms utilize less herbicides than a farm or golf course.

Mr. Leary asked Mr. Fox asked why bonding will be an issue if the salvage value of material is high? Mr. Fox said bonding could pose a potential complication to the financing of the project. The Chair asked about a larger tract being subdivided to accommodate multiple solar farms. Mr. Hargett said buffers and screening would apply to each individual site. Mr. Hargett said the Board of Commissioners are concerned with larger tracts being a potential detraction and not aesthetically pleasing to an area.

Ms. Easley asked if solar farms are allowed as an accessory use? Mr. Batton replied, yes. Ms. Easley pointed out that the proposed amendment only addresses solar farms as a principal use. Mr. Batton said the proposed language will address all solar farms.

Mr. Leary asked staff if the size of solar farms can be controlled if it is not spelled out in the minimum requirements? Mr. Hargett reiterated that the Board of Commissioners expressed concern about the general size of solar farms and the potential for large tracts being utilized for a solar farm. He stated that special use permits are granted by the Board of Adjustment rather than the Board of Commissioners and appealed to Superior Court. Mr. Batton asked Mr. Fox if requiring a special use permit for all solar farms would be acceptable to the solar farm industry and Mr. Fox agreed. Mr. Hargett mentioned that just as special use permits could limit the size, that process could also allow larger sites as well.

Mr. Tim Hayes, Cypress Creek Renewables, addressed the Board. Mr. Hayes said they have received conditional approval for solar farms in the County. He stated that solar farms do not provide a negative impact to areas where they are located. He, too, provided the benefits of a solar farm(s). Mr. Hayes said they want to be a part of the community to provide energy to the County. He reiterated that the equipment will not be abandoned because it has recyclable and salvage value. Mr. Hayes was concerned with requiring a financial guarantee because the equipment will not be left on site after the life of project because it is very expensive. He reiterated that the lease agreement will stipulate who is responsible for the removal of equipment after the life of the solar farm. Mr. Hayes invited the Board to tour their site(s) to get an idea how solar farms operate.

The Chair asked Mr. Hayes if solar energy is competitive? Mr. Hayes said it is very competitive because it is less expensive than other means of energy. The Chair felt that technology will continue to improve and Mr. Hayes concurred. Mr. Hayes said the current equipment will still be capable of generating energy as technology improves.

With no further comments, Ms. Easley made a motion to close the Public Hearing.

Mr. Leary asked if staff want to revise their proposal? Mr. Hargett said staff has spent considerable time gathering information from developers and other appropriate agencies as well as the County Attorney's office to draft the proposed revisions. Mr. Leary felt that the proposed maximum acreage size of 35 acres may be too limiting. Mr. Hargett said staff is not opposed to increasing the maximum acreage size, but staff feels there should be a maximum size imposed.

Ms. Easley asked about solar farms as a principal use versus an accessory use. Mr. Batton said that will be addressed.

Mr. Batton suggested that the salvage value be considered in the estimated cost of removal of the equipment that is prepared by a licensed engineer. Mr. Hargett interjected that staff considered such, but salvage value fluctuates and therefore is not considered a reliable resource to fund dismantling the facilities.

Mr. Leary suggested that the maximum acreage size be 50 acres rather than 35 acres.

Mr. Price made a motion to recommend to the Board of Commissioners to approve the proposed text amendment with the condition to remove the principal use language so the revisions apply to all solar farms and 50 acres is the maximum size of a solar farm and the motion was unanimously carried.

VIII. OTHER BUSINESS.

- Agricultural Development Plan

Ms. Dixon addressed the Board. She stated that NC Cooperative Extension is developing a plan to promote, preserve and develop local agricultural farms and assist farmers with continuing farming in the County. Ms. Dixon said agriculture has a lot of positive impacts such as increasing the local economy, providing employment opportunities and large land stewardships. She stated that agriculture face some threats and challenges such as growth, low production and productivity as well as aging farmers. Ms. Dixon said NC Cooperative Extension is reviewing the threats and challenges and they are formulating a plan to address concerns about preserving, promoting and enhancing farming in the County. Ms. Dixon provided some quick facts; in that, 84% of all land in Brunswick County is farmland, 76% of the farmland is forestry and 8% is traditional non-forestry agriculture (which is equivalent to 254 non-forestry farms). She added that Brunswick County produce more tomatoes than any other county in the State. Ms. Dixon concluded that the Agricultural Development Plan is forthcoming for the Board's review and endorsement

- Planning Board Cases Update

Ms. Dixon addressed the Board. She stated zoning case Z-753 and Z-754 were approved by the Board of Commissioners at their Monday 18-Sep-17 meeting. Ms. Dixon said zoning case Z-755 and Z-756 will be considered for approval by the Board of Commissioners at their Monday 16-Oct-19 meeting.

- Revision of the Rezoning Worksheet

Mr. Batton addressed the Board. He stated that legislature made some changes to rezoning approvals. Mr. Batton said a motion to approve zoning changes will be made and then the Board will explain their decision based on the new format required by legislature. He stated that the current worksheet can be used as a basis for completing the required format by legislature.

IX. ADJOURNMENT.

With no further business, Ms. Easley made a motion to adjourn and the motion was unanimously carried.