

## **..TITLE**

A request by Strata Solar for a conditional use permit to locate a 5MW solar farm on Parcel No. 5767, on approximately 28.32 acres out of the 87.1 acre tract, located at 3905 Corinth Rd., Cape Fear Township.

## **..ABSTRACT**

### **Action Requested:**

A request by Strata Solar for a conditional use permit to locate a 5MW solar farm on Parcel No. 5767, on approximately 28.32 acres out of the 87.1 acre tract, located at 3905 Corinth Rd., Cape Fear Township.

### **Introduction & Background:**

A quasi-judicial public hearing was held on the request September 16, 2013. Planning staff presented the application and noted concerns or issues that have either been corrected or were in the process of being reviewed. Those matters are addressed below.

Also presenting were the attorney for the applicant, Mr. Henry Campen, along with witnesses, Nick Szydle, senior designer with Strata Solar, Richard Kirkland, NC real estate appraiser with Kirkland Appraisals, and Brent Niemann, PE, with Strata Solar.

One citizen, Maryann Perkins, also spoke addressing various concerns. Her concerns/questions included whether the project site could expand in the future, how are the panels discarded if they are no longer usable, are there any hazardous materials used, what safety concerns should one know about such as electrocution or fires, is there an alarm system for solar farms, what about excessive heat coming from the panels, and do these type of uses alter atmospheric conditions?

Historically the project site area has been used for agricultural purposes. The site has approximately 31 acres of cleared, field area out of the 87 acre tract. Four acres is across Corinth Road and is not part of this site project area. The project area will consist of approximately 28.3 acres which will include a fifty foot minimum perimeter setback from any property line and outside any floodable areas.

**(Planning Board information is noted in BOLD below)**

**The Planning Board met at their regularly scheduled meeting on October 1, 2013. A citizen, Ms. Perkins, asked to address the Board to which Chairman Ernst declined due to the quasi-judicial process. He asked Ms. Perkins if she needed to clarify testimony already given at the public hearing or if she intended to present new information to which she stated new information. Mr. Ernst advised her that would not be legal and therefore not permitted. Mr. Campen, attorney for the applicant, also objected to her request to address the Board.**

**Any other discussion or concerns from the Planning Board is noted below.**

**Discussion & Analysis:**

Generally, in order for a matter to be considered for approval, there are five findings that must be addressed and proof given that each one can be supported. They are:

- 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.
- FINDING #2 – The requested conditional use permit is either essential or desirable for the public convenience or welfare.
- FINDING #3 – The requested 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.
- FINDING #4 – The requested permit will be consistent with the objectives of the Land Use Plan.
- 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.

It is Planning staff opinion, **Finding #1** may be supported. The Chatham County Zoning Ordinance, Section 10.13 lists solar farms, greater than two (2) acres in size, as permitted with approval of a conditional use permit with specific standards outlined in Section 17.6. The filing of this application satisfies this finding. **The Planning Board supported this finding with no additional discussion.**

It is Planning staff opinion, **Finding #2** may be supported. Included in the application's supporting documentation received at the public hearing, a letter from the State of North Carolina Utilities Commission in Raleigh states "after careful consideration, the Commission finds good cause to approve the application and issue the certificate of public convenience and necessity for the proposed 4.975MW AC solar photovoltaic electric generating facility". The applicant is required by state law to report to the utilities commission who monitors the site on an annual basis.

Mr. Nick Szydleik states in his supporting documentation based on NCGS 62-2, Senate Bill 3, which became law in 2007, electric companies are required to purchase an increasing amount of renewable energy. This solar farm is being constructed under that policy and will be interconnected to the Duke Energy power grid.

The collected tax on the property, once the solar farm is in place, is expected to be approximately \$20,000 annually.

This will not be a "manned" facility once the installation is complete. Employment will be limited to the construction time of approximately three (3) months with 80-100

employees per testimony given at the public hearing. **The Planning Board supported this finding and no other discussion was made.**

It is Planning staff opinion **Finding #3** may be supported. Concerns were raised by citizen input on matters noted under this finding. One matter of concern was noise. The applicant stated there is a “humming” noise that comes from the inverter that can be heard within 50 feet of the equipment. Other than this, they state there is no noise.

Traffic to and from the site will mainly be during the construction phase. The applicant anticipates approximately 50-60 vehicles per day for the three (3) month construction phase.

Based on the market analysis provided in the supporting documentation, the housing markets for sale and resale overall have not been adversely affected by having a solar farm in the vicinity or located on a neighboring tract. The project site has 12 parcels that adjoin or are adjacent. All are zoned as residential and most are listed as agricultural use. There is a brick plant within 1000 feet of the project site as well as other industrial uses within 2 miles.

Health concerns were another issue raised. Planning staff inquired with the Chatham County Environmental Health Division of the Health Department on whether or not there have been any reported health concerns or issues as a result of being in close proximity to a solar farm. The director stated there have been no such substantiated reports filed with them or the state on the matter. There is also no evidence on atmospheric changes as a result of any heat emanating from the solar panels themselves per testimony at the public hearing.

The applicants met with the Appearance Commission (CCAC) in July before submitting the application. The site plan landscaping was approved with recommended modifications. Those recommendations are part of conditions of approval listed below.

The site will also be enclosed by a six (6) foot high chain link fence that will also have approximately three (3) feet of barbed wire on top. This will aid in preventing vandalism and theft as well as damage to property by wildlife. Landscaping will be on the outer area of the fence lending no further screening to be applied.

There will be no hazardous materials used or stored on the site. The applicant states in the materials there are no pending environmental impacts associated with solar panels.

**The Planning Board supported this finding and had minimal discussion. There was a question about the proper disposal of the panels should they no longer be in use. It will be the responsibility of the owner of the panels to dispose of any and all panels, equipment, poles, etc. should the facility or any part thereof**

**become non-operational. This is also stated in the Chatham County Zoning Ordinance.**

**There was also confirmation that the south side of the solar farm was the only area that required additional landscaping. The entire site cannot be seen from the roadway and there is a good tree line existing around the majority of the site. Landscaping is to follow the recommendation of the CCAC.**

It is Planning staff opinion **Finding #4** may be supported. The applicant believes this project is in harmony with the Land Conservation and Development Plan through form and spirit by the sharing of benefits and burdens. This site will provide alternative energy to the local power company. It is also located on a tract that has a significant tree buffer that will remain making it virtually blocked from view therefore preserving the rural character of the site.

The use ensures the long-term quality of surface water resources. There is floodable area to the rear of this tract. There will be no development activity within this area and there is another 50 foot setback buffer from the noted streams and/or wetland areas. Should the solar farm no longer be in operation, the zoning ordinance requires the facility to be dismantled at the owner's (solar farm owner) expense. The land can then be returned to agricultural use if desired.

The Environmental Quality director has reviewed the Environmental Impact Assessment (EIA) and required a revision to the site plan to reflect the total impervious surface areas to be installed as well as any stormwater measures that may be needed. All of this helps to ensure the protection ground and surface waters. **The Planning Board supported this finding and no further discussion was made.**

It is Planning staff opinion **Finding #5** may be supported. There are no public utilities needed to serve this site except power. No wastewater is needed. The access road has been relocated on the revised plan to show the access point on the project tract. NCDOT will be issuing a commercial driveway permit.

The applicant has obtained the necessary approval from the US Army Corps of Engineers to cross a creek with the access road. The EQ director has also reviewed the impervious surface proposed. Solar panels are not considered impervious surface and the watershed classification is River Corridor (RC) which allows up to 12%.

Erosion and sedimentation control permits and storm water permits will be issued if required. Non-residential land disturbances 20,000 sq ft or higher trigger plan review and approval for all land disturbing activity. At this time it is not clear what the final area disturbance total will be. **The Planning Board supported this finding. The only**

**conversation was to clarify how long there would be added traffic to and from the site. Staff advised only during the construction phase of about 3-4 months.**

It is the **Planning Board** and Planning staff opinion, based on the five (5) findings being supported, this requests can be recommended for approval. **The Planning Board recommended two changes to the conditions below. They were to remove the last part of Condition No. 1 that previously said “and/or the CCAC as needed to ensure compliance”. Planning staff revised the wording as seen below.**

**They also requested Condition No. 5 have the wording “established from time to time” removed from the end. Planning staff revised the wording as seen below.**

**Recommendation:**

The Planning Board (by unanimous vote, 9-0) and Planning staff recommend approval of the request. Should the Board of Commissioners approve the request, it is suggested a review and approval of the below conditions be considered.

**Site Specific Conditions**

1. The recommendations of the Chatham County Appearance Commission shall be followed and implemented by the end of the next optimal planting season following the issuance of the building permit. It shall be the applicant's responsibility to ensure the survival and maintenance of all landscaping required. Inspections will be conducted as needed to ensure compliance is being met.

**Standard Site Conditions**

2. 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.
3. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Health Division, Stormwater Management, Building Inspections, Fire Marshal, etc.) shall be obtained, if required, and copies submitted to the Planning Department prior to the initiation of the operation/business.
4. A Certificate of Occupancy shall be obtained within two years of the date of this approval unless other approval/s has been given for an extension, or the conditional use permit becomes null and void.

**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 inspection.
6. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
7. Non-Severability - If any of the above conditions is held to be invalid, this approval in its 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.