

CAMDEN COUNTY PLANNING BOARD

Regular Meeting – April 19, 2017

Camden County Planning Board

Regular Meeting

April 19, 2017 7:00 PM

Historic Courtroom, Courthouse Complex

Camden, North Carolina

MINUTES

The regular meeting of the Camden County Planning Board was held on April 19, 2017 in the Historic Courtroom, Camden, North Carolina. The following members were present:

CALL TO ORDER & WELCOME

Chairman Calvin Leary called the April 19, 2017 meeting of the Camden County Planning Board to order at 7:00 PM.

Planning Board Members Present:

Attendee Name	Title	Status	Arrived
Calvin Leary	Chairman	Present	6:45 PM
Fletcher Harris	Board Member	Absent	
Patricia Delano	Vice Chairman	Present	6:50 PM
Michael Etheridge	Board Member	Absent	
Rick McCall	Board Member	Absent	
Ray Albertson	Board Member	Present	6:50 PM
Steven Bradshaw	Board Member	Present	6:45 PM

Staff Present:

Dan Porter	Planning Director	Present	6:50 PM
Dave Parks	Permit Officer	Present	6:45 PM
Amy Barnett	Planning Clerk	Present	6:40 PM

Public Present:

NONE

CONSIDERATION OF AGENDA

Agenda was amended to remove Consideration of the February 15, 2017 Minutes. The clerk inadvertently left the attachment out of the board packet, and so the February, March, and April Minutes will be considered at the next regular meeting of the Camden County Planning Board.

Motion to Approve Agenda: As Amended

RESULT:	PASSED [UNANIMOUS]
MOVER:	Steven Bradshaw, Board Member
SECONDER:	Patricia Delano, Vice Chairman
AYES:	Leary, Delano, Albertson, Bradshaw
ABSENT:	Harris, Etheridge, McCall

CAMDEN COUNTY PLANNING BOARD

Regular Meeting – April 19, 2017

PUBLIC COMMENTS

NONE

OLD BUSINESS

NONE

NEW BUSINESS

Item A. Amendment to County Code of Ordinances - Solar Farms

Dan Porter described this agenda item and the history behind it.

- At the 3-20-17 Special Meeting of the Camden County Board of Commissioners, the Board passed an ordinance creating a 60 day moratorium on Solar Farm development so that Staff could review the current ordinances to see if there is any need of amendments to same.
- Surrounding counties have taken steps to curtail the development of Solar Farms
- Board of Commissioners requested staff to review the ordinances and propose any needed amendments
- Board of Commissioners asked staff to produce a comprehensive report addressing the issues and concerns with Solar Farm development
- Public concerns include such issues as hazardous materials, recycling of materials used in construction, what state regulations there are, and so on.
- Camden's regulations (ordinances) were written before there were any applications for Solar Farm development in Camden, and this part of the country for that matter
- Moratorium is 60 days starting on March 20 and ending on May 20, so a public hearing needs to be held before the end of the moratorium and is scheduled for May 15, 2017
- From a local level, public concerns include:
 - How is a Solar Farm going to affect the land owner's property
 - Visibility of the Solar Farm
 - Aesthetic value of the Solar Farm - will it look good or be an eye sore
 - Location & setback from other properties
 - Location & setbacks are one of the main concerns
- Current ordinance allows Solar Farms in any zoning district
- Staff considered the possibility of limiting Solar Farms to particular zoning districts. Problem with this is that if they are limited to only commercial zones, a developer may try to rezone a residential piece of land to a commercial zoning district, and if that happens, then all the potential uses of the land have to be considered when rezoning, so it could open it up to be used for any number of commercial uses should the rezoning go through but the plans for a solar farm did not, the land could then be used for any commercial use allowed in the particular zoning district of the land.

CAMDEN COUNTY PLANNING BOARD

Regular Meeting – April 19, 2017

- Camden has established a Comprehensive Plan that advocates development of urban areas in the core villages and transition outward to take advantage of the infrastructure and set that up for where the higher density areas are. Taking land out of residential uses and making it commercial goes against this plan.
- Staff's recommendation focuses on addressing the location of Solar Farms as they relate to the Comprehensive Plan and keep them out of the core areas.
- There is currently a 50 foot setback which can be increased
- Regulations require developer to submit a Decommissioning Plan and set up a Bond for the cost of decommissioning and those would have to be reviewed every 5 years. Bond can be set at a value of the decommissioning costs less the salvage value of their property, equipment, etc.
- Legal concern is how to enforce the decommissioning plan when the salvage value is determined by the developer and the lease on the land is tied to the property owner. It becomes a legal mess.
 - To address this concern, county is not concerned with the salvage value, but rather only with a bond for the cost of decommissioning. Who ever ends up with the salvage value when all is said and done is not the business of the county. County's only concern is the decommissioning and setting the land back to its original state and the costs to do that.

At this time, Dave Parks spoke about the comparison table included in the board packet, and shown below, which details the zoning districts, setbacks, buffers, height, landscaping, and bond requirements of surrounding counties of Currituck, Pasquotank, Gates, Perquimans, and the NC Model Ordinance as they relate to Solar Farms.

Comparisons

The table below show a comparison of regulations in Camden's neighboring counties and the current status of their experience and possible revisions.

County	Z District	Setback	Setback	Buffer	Height	Landscaping	Bond
Currituck <i>Recently Banned</i>	Ag only	300 ft all property lines	100 ft ROW		15	c	115% decom cost - cash
Pasquotank <i>Under Study</i>	Comm/Ind/Ag	150 Roads & Res	30 if buffered	Trees & shrubs 10 ft center 15 ft min at maturity	25	Trees & shrubs 10 ft center 15 ft min at maturity	Decom minus salvage – Bond Min \$50K
Gates Min 19 acres Over 15 KW	Ind/Ag	100 ft all property lines to fence	100 ft inside fence 150 f/wetlands	Natural forest or			125% Decom or \$50K - Cash
Perquimans <i>120 day Moratorium</i>	Ag/Ind	Zoning or 20 ft whichever greater					none
Camden <i>60 day moratorium</i>	All districts	50 ft all boundaries					
NC Model	All districts	R 50' all round, AG/Comm – 30 F, 15 S, 25 R	100' from any dwelling	By zoning districts	20'	Opacity .2 to .4 R .6 to .8 C	No bond; Remediate through CEA possible tax lein

CAMDEN COUNTY PLANNING BOARD

Regular Meeting – April 19, 2017

Changes recommended for the Solar Farm ordinance are detailed in the proposed ordinance below.

Ordinance No. 2017-05-01
An Ordinance
Amending the Camden County
Code of Ordinances
Camden County, North Carolina

BE IT ORDAINED BY THE CAMDEN COUNTY BOARD OF COMMISSIONERS as follows:

Article I: Purpose

The purpose of this Ordinance is to amend Chapter 151 of the Camden County Code of Ordinances of Camden County, North Carolina, which was originally adopted by the County Commissioners on December 15, 1997, and subsequently amended and as otherwise incorporated into the Camden County Code.

Article II. Construction

For purposes of this Ordinance, underlined words (underline) shall be considered as additions to existing Ordinance language and ~~strikethrough words~~ (~~strikethrough~~) shall be considered deletions to existing language. New language of proposed ordinance shall be shown in italics (*italics*) and underlined.

Article III. Amend Chapter 151 as amended of the Camden County Code which shall read as follows:

CHAPTER 151: UNIFIED DEVELOPMENT

§ 151.334 TABLE OF PERMISSABLE USES.

	Description	R-1	R-2	R-3	CCD	NC	HC	MC	GUD	I-1	I-2
17.400	Solar farms (3 or more) - Refer to § 151.347(V)	S	S	S	S	S	S	S	S	S	S

CAMDEN COUNTY PLANNING BOARD

Regular Meeting – April 19, 2017

§ 151.347 SPECIFIC STANDARDS.

- (V) The following standards shall apply to all solar farms located in Camden County:
- (1) The minimum lot size for all solar farms shall be five acres.
 - (2) All structures shall meet ~~the minimum setback for the zoning in which located~~ a 100 foot setback as measured from all property lines.
 - (3) There shall be 50 foot buffer prior to the perimeter fence that shields solar farm from routine view from public rights of way or adjacent residentially zoned property.
 - (4) The buffer shall consist of 2 canopy trees, 4 understory trees, and 25 shrubs for every 100 feet.
 - (5) There shall be no solar farms located within the core villages of South Mills, Courthouse or Shiloh or within a one mile buffer of each core village as indicated on county's GIS maps.
 - (6) Solar power electric generation structures shall not exceed a height of ~~25~~ 20 feet.
 - (7) The solar farm shall conform to the NAICS 22119 description of a ground mounted solar powered energy system.
 - (8) A proposed decommissioning plan to be signed by party responsible for decommissioning and the landowner (if different) addressing the following shall be submitted at permit application.
 - a. The solar farm shall have 12 months to complete decommissioning of the solar facility if no electricity is generated for a continuous period of 12 months. For purposes of this section, this 12-month period shall not include delay resulting from force majeure.
 - b. Decommissioning shall include removal of solar panels, buildings, cabling, electrical components, roads, and any other associated facilities down to 36 inches below grade.
 - c. Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.
 - d. Description of any agreement (e.g. lease) with landowner regarding decommissioning.
 - e. The identification of the party currently responsible for decommissioning.
 - f. Plans for updating this decommissioning plan.
 - (9) Prior to issuance of the Building Permit, approved decommissioning plan shall be recorded in the Camden County Registry of Deeds.
 - (10) The county shall periodically request proof of the continuous operation of the solar farm from the applicant/owner. The nature of required evidence shall be determined as a condition of the special use permit.

CAMDEN COUNTY PLANNING BOARD

Regular Meeting – April 19, 2017

- (11) Applicant shall provide prior to approval of building permits an self-renewing irrevocable letter of credit in favor of the county in an amount equal to the estimated removal cost of the solar facility, ~~less the salvage value of the equipment~~, which shall be issued by a Federally chartered bank with a branch office in northeastern North Carolina at which the letter of credit may be drawn and paid in full in immediately available funds in the event the solar facility owner fails to decommission the solar facility pursuant to the requirements of this section. The estimated cost of removal shall be updated every five years from date of approval for solar farm.
- (12) Solar farms located within FEMA's 100 year flood shall elevate all electrical connections one foot above the base flood elevation (BFE).
- (13) All collectors shall be surrounded by a lockable minimum height six foot fence.

Adopted by the Board of Commissioners for the County of Camden this ____ day of May, 2017.

County of Camden

Clayton Riggs, Chairman
Board of Commissioners

ATTEST:

(SEAL)

Amy Barnett
Assistant Clerk to the Board

There was a brief discussion regarding § 151.347(V)(5) as proposed above relating to the 1 mile buffer zone from the core villages. Discussion centered around the potential that a piece of property may be slightly within that 1 mile buffer or a piece of property which might split that buffer and whether any deviation from that buffer would be allowed or if it would be a strict buffer. Board and Staff discussed the possibility that the language might be tweaked to say that no solar panels or apparatus / equipment would be allowed within the 1 mile buffer zone so that a potential location could be utilized as long as no panels or equipment were inside the buffer zone.

Mr. Parks briefly went over the bond requirements of neighboring counties as compared to the proposed ordinance requirement for a self-renewing irrevocable letter of credit in favor of the county in an amount equal to the estimated removal cost of the solar facility

CAMDEN COUNTY PLANNING BOARD

Regular Meeting – April 19, 2017

Steve Bradshaw asked what the difference was between a bond and an irrevocable letter of credit. Dan Porter replied saying that the State General Statutes give the developer the choice regarding which method to use in providing a guarantee be it a letter of credit or a bond. Mr. Bradshaw asked what happens if a Solar company goes bankrupt and they have a letter of credit, the letter of credit is no good anymore if they go bankrupt. Mr. Porter replied that the same is true of a bond. Mr. Bradshaw commented that there is collateral with a bond and the bondsman would have to come up with the money for the bond. Mr. Porter went on to say that banks won't generally issue an irrevocable letter of credit, that letters of credit usually have to be renewed every year, and that if a letter of credit were not going to be renewed, the county would like to have a 30-60 day notice of the expiration of the letter of credit.

Mr. Bradshaw requested that something be written into the ordinance so that notice of expiration and/or intent to renew a letter of credit or bond be given. Mr. Porter suggested that it could be written into the proposed ordinance that notice be given 60 days prior to the expiration of any letter of credit or bond issued by any guarantor. Patricia Delano asked if that would already be part of the yearly update of the letter of credit or bond. Mr. Bradshaw clarified that he would like to see a 60 days notice of the intent by the guarantor as to whether or not renewal of the letter or bond will take place.

Dave Parks commented that the backup plan to that would be for something to be in the lease between the property owner and the company. Mr. Parks stated that the property owner will do whatever is possible to protect their own interests where the salvage value and decommissioning costs are concerned.

Dan Porter stated that if in the event the project is not profitable, and the developer leaves the project and it is no longer producing power, 12 months goes by and it has to be taken down, there will probably be something in the lease stating that the developer is responsible for decommissioning and salvage value. The county can't tell a property owner what to put in their lease, but it is reasonable to assume this will be there in some form. There is no way for the county to collect on salvage value where a code enforcement action is concerned because any code enforcement action would be against the land owner and not the owner of the equipment. The Special Use Permit given runs with the land so if the developer leaves, the land owner is the one who is responsible for everything on the property including the obligations relating to the special use permit. Any code enforcement action letter will go to both the company, who may or may not be there, and also to the land owner because the land owner is the one who actually has control of the permit. It would become the land owner's responsibility to decommission the property.

CAMDEN COUNTY PLANNING BOARD

Regular Meeting – April 19, 2017

Patricia Delano asked about the impacts relating to taxes. Dan Porter replied that typically Solar Farms are located on land that was in farm use. Farm use land has a lower tax value per acre than commercial property. The current tax value on farm land at its best is \$1200 per acre, land being used for a Solar Farm is taxes at \$8000 per acre. So the tax value on the land increases by \$6800 per acre when it is taken out of farm use and used for Solar Farm. When the tax use class changes, it changes for the previous 3 years back and gets taxed at the new use class rate. The developer has to be able to show the cost of the equipment as well as other financial data to the Tax Department so that their taxes can be calculated because the equipment itself is taxed as personal property. The state currently has a discount in place that decreases the taxable value of the equipment by 80% for tax purposes for solar farms.

Dan Porter added that it's a matter of the lease arrangements as to who pays the taxes on the land, the developer or the land owner. The developer, since they own the equipment, would pay the taxes on the equipment since it is personal property.

Patricia Delano asked if there were any employment opportunities generated as there are with farming. Dan Porter replied that the only thing the county gets out of it is the property and personal property taxes.

Ray Albertson added that with farming, the land can be farmed as one thing this year and another thing next year, with solar farms, once you put panels on the land, that's it for about 50 years.

Dan Porter commented on what Mr. Albertson said saying that if the solar farm is going to be successful for 3 years, then it's probably going to be successful for 10 years or more. Once it's up and running, the owners will want to keep it running and producing so they are going to do whatever maintenance is needed to that end. If its not successful, or ceases to be successful, then after 12 months of inactivity it must be decommissioned and the land must be restored back to its original condition.

Steve Bradshaw asked for clarification if the language for requiring notice on the expiration and intent to renew letters of credit / bonds was to be added to the ordinance. Mr. Porter replied that he would put a paragraph or 2 in the report he is to give at the May 1, 2017 Board of Commissioners meeting relating to that and ask that the County Attorney draft the actual language in an effort to provide the county with as much protection as possible. Mr. Porter added that he will ask the County Attorney to provide the draft of the language in time for inclusion into the ordinance prior to the public hearing scheduled for May 15, 2017.

There was a discussion relating to the boundary & buffer areas and how much of the buffer area will be allowed inside the boundary. The concern is that if a piece of land splits the boundary line of the 1 mile boundary from the core village area where Solar Farms would not be allowed, that some kind of flexibility is needed so that if the property is otherwise ideal except that a small portion of it is inside that 1 mile boundary, it would still be allowed to be used. Mr. Porter said he would come up with some language to that effect before the public hearing.

CAMDEN COUNTY PLANNING BOARD

Regular Meeting – April 19, 2017

Patricia Delano asked if the Department of Environmental Quality had any concerns for this. Dan Porter replied saying that DEQ has some amount of oversight relating to Solar Farms. Developers are required to submit a Soil and Erosion Plan and a Stormwater Plan to DEQ, and the Stormwater Plan is also required by the county. DEQ has said that the technology is changing and that newer technologies are not as hazardous as the older technologies as far as the materials used in construction. Mr. Porter added that 20 to 50 years down the road it would be nice to know the specs of what is in the installed panels and that is why the decommissioning plan has to be updated every 5 years to update any changes in the technology as well. DEQ suggested that as soon as installation is complete that developers revise and update the decommissioning plan to indicate exactly what kind of technology was installed because the plans may say one thing but by the time installation is completed the technology may have changed and what is installed may be different than what was on the plans.

Patricia Delano asked about wild life concerns. Dan Porter replied that the panels are enclosed in glass and that developers are trying to use materials that reduce the glare as much as possible. The newest panels are made of materials that absorb light, and do not reflect light much. The construction of the panels is such that even the components and materials that make up the components are inert unless they break and are burned, and it would take a temperature higher than what it takes to melt glass to cause the materials to become toxic. Even if that kind of temperature were to be reached, chances are that the melted glass would encapsulate the materials and prevent any chemical leakage. The biggest environmental concern is actually the mining of the materials used in the construction of the panels, and that takes place elsewhere and not where the solar farm is to be placed anyway.

At this time, Chairman Calvin Leary asked if there were any further questions or comments from the board or staff. Hearing none, he called for a motion.

Motion to Approve Ordinance 2017-05-01 Proposed Amendments to UDO Article 151.347(V) Ordinance to Consider Placement of Specific Standards - Solar Farms as amended regarding letter of credit/bond and boundary issues.

RESULT:	PASSED [UNANIMOUS]
MOVER:	Steven Bradshaw, Board Member
SECONDER:	Patricia Delano, Vice Chairman
AYES:	Leary, Delano, Albertson, Bradshaw
ABSENT:	Harris, Etheridge, McCall

INFORMATION FROM BOARD AND STAFF

NONE

CONSIDER DATE OF NEXT MEETING

Next regularly scheduled Planning Board meeting is May 17, 2017 unless there are no matters to be brought before the board.

CAMDEN COUNTY PLANNING BOARD

Regular Meeting – April 19, 2017

ADJOURN

At 7:56 PM a motion was made to adjourn the meeting.

RESULT:	PASSED [UNANIMOUS]
MOVER:	Ray Albertson, Board Member
SECONDER:	Steven Bradshaw, Board Member
AYES:	Leary, Delano, Albertson, Bradshaw
ABSENT:	Harris, Etheridge, McCall

*Chairman Calvin Leary
Camden County Planning Board*

ATTEST:

*Amy Barnett
Planning Clerk*