Camden County Planning Board
Regular Meeting
August 16, 2017, 7:00 PM
Historic Courtroom, Courthouse Complex
Camden, North Carolina

MINUTES
The regular meeting of the Camden County Planning Board was held on August 16, 2017 in the Historic Courtroom, Camden, North Carolina. The following members were present:

CALL TO ORDER & WELCOME
Planning Board Members Present:

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<tr>
<th>Attendee Name</th>
<th>Title</th>
<th>Status</th>
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<tr>
<td>Calvin Leary</td>
<td>Chairman</td>
<td>Present</td>
<td>6:50 PM</td>
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<td>Fletcher Harris</td>
<td>Board Member</td>
<td>Absent</td>
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<tr>
<td>Patricia Delano</td>
<td>Vice Chairman</td>
<td>Present</td>
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<td>Michael Etheridge</td>
<td>Board Member</td>
<td>Absent</td>
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<tr>
<td>Rick McCall</td>
<td>Board Member</td>
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<tr>
<td>Ray Albertson</td>
<td>Board Member</td>
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<tr>
<td>Steven Bradshaw</td>
<td>Board Member</td>
<td>Absent</td>
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Letter of Resignation Received: Dave Parks noted that Michael Etheridge had submitted a letter of resignation from the Planning Board. This opens a vacancy on the Planning Board. A volunteer from the Courthouse Township of Camden will be sought.

Staff Present:

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<th>Attendee Name</th>
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<tr>
<td>Dan Porter</td>
<td>Planning Director</td>
<td>Present</td>
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<td>Dave Parks</td>
<td>Permit Officer</td>
<td>Present</td>
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<td>Amy Barnett</td>
<td>Planning Clerk</td>
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Also Present:

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<tr>
<th>Attendee Name</th>
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<tr>
<td>Linda Nwadike</td>
<td>Representative, SunEnergy1</td>
<td>Speak Regarding Ordinance Amendments</td>
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CONSIDERATION OF AGENDA
Dan Porter requested to switch Agenda Items 1 & 2 since Ms. Linda Nwadike was expected to speak regarding the Amendment to County Ordinance §151.347(V), and she had not yet arrived.

Motion to Approve Agenda as Amended

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

CONSIDERATION OF MINUTES - JULY 19, 2017

Motion to Approve July 19, 2017 Minutes as Written

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

PUBLIC COMMENTS
None.

OLD BUSINESS
None.

NEW BUSINESS

Item 1, UDO 2017-08-07, Rezoning 729 NC Hwy 343 North

Dave Parks described this rezoning application and went over the staff report as incorporated herein below:

----------------------------------------------------------------

STAFF REPORT

UDO 2017-08-07
Zoning Map Amendment

PROJECT INFORMATION

File Reference: UDO 2017-08-07
Project Name: N/A
FIN: 01-8916-00-08-2247
Applicant: Camden County
Address: 117 N. 343, Camden, NC
Phone: (252) 338-1919
Email:

Agent for Applicant:
Address:
Phone:
Email:

Current Owner of Record: Gus W. McPherson, Jr.

Meeting Dates:
8/16/2017 Planning Board

Application Received: 8/2/2017
By: David Parks, Permit Officer

Application Fee paid: N/A

Completeness of Application: Application is generally complete

Documents received upon filing of application or otherwise included:
A. Rezoning Application
B. Letter from owner
C. Aerial of portion of property requested to be rezoned.
D. Deed
E. GIS Aerial, existing zoning, Comprehensive Plan future land use and CAMA Land Use Plan Suitability Maps

PROJECT LOCATION:
Street Address: Property located at 729 North 343.
Location Description: South Mills Township

REQUEST:
Rezone 1 acre containing house

From: General Use District (GUD). The GUD, general use, district is established to allow opportunities for very low density residential development and bona fide farms, along with agricultural and related agricultural uses (e.g., timber, horticulture, silviculture and aquaculture.)

To: Basic Residential (R3-1). The R3 Districts are designed to provide for low density residential development in areas that are adjacent to those areas primarily devoted to agriculture. Subdivision in the R3-1 district requires a minimum of one acre per lot.
SITE DATA

Lot size: Entire tract is approximately 73 acres. Area to be rezoned is 1 acre.

Flood Zone: Zone X

Zoning District(s): General Use District (GUD)

Existing Land Uses: Agriculture/Residential

Adjacent Zoning & Uses:

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<th>Zoning</th>
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<th>South</th>
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<tr>
<th>Use &amp; Size</th>
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Proposed Use(s): The use already exists as residential.

Description of property: Property abuts Highway 343 North.

ENVIRONMENTAL ASSESSMENT

Streams, Creeks, Major Ditches: None.

Distance & description of nearest outfall: Pasquotank River is less than ¼ mile to the west.

MAPS SHOW:

Vicinity Map: Property located at 729 N Hwy 343

Portion of Property in Question: 1 acre where upon the house and accessory structures sit.

CAMA Land Suitability: Moderate

Comprehensive Plan / Future Land Use Map: Rural Preservation

CAMA Future Land Use Map: Low Density Residential

Zoning Map: General Use District

INFRASTRUCTURE & COMMUNITY FACILITIES:

Water: Water lines are located adjacent to property along Highway 343

Sewer: Sewer lines located adjacent to property along Highway 343

Fire District: South Mills Fire District. Property located over 6 miles from Station off Main Street. Property located just over 5 miles from South Camden Fire Station on Sawyers Creek Road

Schools: Impact already exists.

Traffic: Staffs opinion is traffic will not exceed road capacities

PLANS CONSISTENCY

CAMA Land Use Plan Policies & Objectives: Inconsistent. The proposed zoning change is inconsistent with the CAMA Land Use Plan which was adopted by the Camden County Board of Commissioners on April 4, 2005 in that this is classified as spot zoning.

Comprehensive Transportation Plan: Consistent. Property abuts Highway 343 North.

Other Plans officially adopted by the Board of Commissioners: N/A

FINDINGS REGARDING ADDITIONAL REQUIREMENTS:

Will the proposed zoning change enhance the public health, safety or welfare? No. Reasoning: The proposed zoning change will not enhance the public health, safety, or welfare as it is classified as spot zoning.

Is the entire range of permitted uses in the requested classification more appropriate than the range of uses in the existing classification? No. Reasoning: The use as residential for this lot already exists and is permissible in both zoning districts.

For proposals to re-zone to non-residential districts along major arterial roads:

Is this an expansion of an adjacent zoning district of the same classification? N/A. Reasoning: N/A

What extraordinary showing of public need or demand is met by this application? N/A. Reasoning: N/A

Will the request, as proposed cause serious noise, odors, light, activity, or unusual disturbances? No. Reasoning: All uses allowed in the requested zoning classification should not cause any serious noise, odors, light activity, or unusual disturbances.

Does the request impact any CAMA Areas of Environmental Concern? No. Reasoning: Property is outside any CAMA Areas of Environmental Concern.

Does the county need more land in the zoning class requested? No. Reasoning: Staff’s opinion is that the requested zoning classification is needed, but not in this area. Opinion is based on the County’s Comprehensive Plan.

Is there other land in the county that would be more appropriate for the proposed uses? No. Reasoning: Proposed use already exists.

Will not exceed the county’s ability to provide public facilities: No.
- Schools - Impact already exists
- Fire and Rescue - Minimal impact
- Law Enforcement - Minimal impact
- Parks & Recreation - Minimal impact
- Traffic Circulation or Parking - N/A
- Other County Facilities - No
Is This A Small Scale “Spot” Rezoning Request Requiring Evaluation Of Community Benefits? Yes. If Yes (regarding small scale spot rezoning) – Applicants Reasoning:

| | Personal Benefits / Impact | Community Benefits / Impact |
|-------------------------------|--------------------------------------------------|
| With Rezoning | Will allow owner to cut out house out of the farm. See Staff Commentary. | None. |
| | | |
| Without Rezoning | See Staff Commentary | No Change. |

STAFF COMMENTARY:

In 2015 staff talked to then the current property owner (Mrs. Williams) and her attorney (Mr. Mullen) about information on subdividing the house out of the farm for her son. I informed her that she could subdivided out an acre of land as a deed of gift from a parent to a child and if she went through the regular minor subdivision process and the current zoning on property (GUD) minimum lot size would be 5 acres.

Prior to her passing she sold to Mr. Gus McPherson, Jr. what she believed was everything but the house on one acre. Her attorney (Mr. Mullen) drew up the deed (attached) which created an illegal subdivision as he gave a description of the house lot containing +/- one acre of land as being exempt. Deed was recorded in the Registry of Deeds. There was never any survey recorded subdividing that one acre or deed transferring the property.

It is staff’s opinion that since the survey/deed for the house lot was never drawn up and recorded that the current owner Mr. Gus McPherson owns the house and lot. Mr. McPherson wants to get this error corrected as Mrs. Williams’ son lives in the house and should be the rightful owner.

STAFF RECOMMENDATION:

Though this would definitely be spot zoning and not consistent with the Comprehensive Plan or CAMA Land Use Plant staff recommends approval of the rezoning as the situation was created at no fault of the previous/current property owner and it is in the best interest of the public.
Items to note from Staff Report:
- Prior owner (Mrs. Williams) sold what she believed to be all but the house
- Deed was drawn up and included a description of the house lot, +/- one acre, as being exempt from the sale
- Deed was recorded in the Registry of Deeds
- No survey was ever recorded subdividing the land
- An illegal subdivision was created due to the way property was sold
- Current owner, Mr. Gus McPherson, wants to get this error corrected as Mrs. Williams' son lives in the house and should be the rightful owner
- Rezoning would be spot zoning, and is not consistent with either the Comprehensive Plan or the CAMA Land Use Plan
- Situation was created at no fault of the current/previous property owner
- Rezoning is the right thing to do, and staff recommends approval
- Will require a survey later if approved in order to subdivide the house lot out of the rest of the land

Rick McCall asked for clarification sake, if only the +/- one acre that the house sits on is what is being rezoned. Dan Porter replied that was correct.

Chairman Calvin Leary asked if there were any further comments or questions regarding this item. Hearing none, he called for a motion:

**Consistency Statement:** Requested zoning change is inconsistent with the CAMA Land Use Plan as it is Spot Zoning. Requested zoning change is also inconsistent with the Comprehensive Plan as it designates the property as Rural Preservation.

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Motion to Approve UDO 2017-08-07, Rezoning 729 NC Hwy 343 North

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Item 2, Ordinance 2017-07-03, Amendment to County Code of Ordinances, §151.347 Specific Standards (V), Solar Facilities

Dan Porter described this amendment as incorporated herein below:

Ordinance No. 2017-07-03

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

§151.347 SPECIFIC STANDARDS.

(V) The following standards shall apply to all solar farms located in Camden County:

(9) A proposed decommissioning plan obligation shall be part of the lease between property owner and developer. The obligation shall be reviewed by County staff for compliance with standards listed below prior to signatures to be signed by party responsible for decommissioning and the landowner (if different) and recordation in the County's Registry of Deeds. Addressing the following shall be submitted at permit application. Decommissioning Obligation shall include:

a. Removal of solar panels, buildings, cabling, electrical components, roads, and any other associated facilities down to 36 inches below grade.
b. 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.
c. Description of any agreement (e.g. lease) with landowner regarding decommissioning and acknowledgment by land owner, land owner may be held ultimately responsible for decommissioning.
d. List the type of panels and material specifications being utilized at the site.
e. The identification of the party currently responsible for decommissioning.
f. Estimated cost of removal prepared by a third party engineer.
g. Prior to issuance of the Building Permit, approved decommissioning plan obligation shall be recorded in the Camden County Registry of Deeds and shall run with the land until decommissioning is completed.
h. Decommissioning Plan and estimated cost of removal shall be updated every 5 years or upon change of ownership and re-recorded in the County’s Registry of Deeds.

(10) Prior to approval of building permits applicant shall provide an automatically renewable guarantee in the form of a bond, cash escrow deposit, or an irrevocable letter of credit issued by a Federally chartered bank with a branch office in northeastern North Carolina, in favor of the county, which shall be drawn and paid in full in immediately available funds for an amount equal to the estimated removal cost of the solar facility in the event the owner fails to decommission the solar facility pursuant to the requirements of this section. The institution issuing the guarantee shall provide to the county a notice no less than 90 days in advance of any renewal, cancellation, termination or expiration of the guarantee. Decommissioning Obligation shall be updated every 5 years or upon change of ownership and re-recorded in the County’s Registry of Deeds.

(11) The County shall periodically require 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.

(12) 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 the purpose of this section this 12-month period shall not include delay resulting from force majeure. Failure to timely decommission the site in accordance with the obligation shall result in all actions available at law or in equity, including, but not limited to: Breach of contract, specific performance, mandatory injunctions, fines, abatement, nuisance, liens, assessments and judicial sale of the property.

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

County of Camden

Clayton Riggs, Chairman
Board of Commissioners

ATTEST:

Karen Davis
Clerk to the Board
Dan Porter provided a brief history of the Solar Facility Ordinance:

- Reminded Board about the moratorium which was in place earlier this year on Solar Facilities
  - Recall that the Board of Commissioners approved a Solar Facility Ordinance in May 2017, and also directed staff to bring amendments before them with regards to the site, locating, buffering, landscaping, setbacks, and so on.
    - At the time of submittal of the Ordinance in May 2017, recommendation was to prohibit Solar Facilities within a 1 mile buffer of each of the 3 core villages
    - Specific recommendations were made relative to changing setbacks, buffering, and landscaping, and the decommissioning plan
    - Previous Ordinance on Solar Facilities allowed facilities anywhere in the county.
    - Previous Ordinance required developers to put up a bond for the cost of decommissioning less the salvage value.
      - Problem with this is that 3rd party engineers can certify that the salvage value is greater than the costs of decommissioning which effectively means no bond would be put in place.
  - Previous amendment to this ordinance recommended a location prohibition (not located within 1 mile of core villages) and a bond requirement without considering salvage value.
  - Public Hearing was held on May 15, 2017
    - Several industry professionals were there and stated that Solar Facilities would likely never be decommissioned and questioned the need for a bond for something that would very likely never occur
    - Board of Commissioners passed Ordinance 2017-05-01 with the following changes: No locations were prohibited. The specific standards proposed with regard to setbacks, landscaping, and heights were approved.
    - Requirement for a decommissioning plan and bond were left in place, and directed staff to do research and to confer with County Attorney John Morrison regarding the need for the same.

Mr. Porter then described a potential scenario which could occur if a Solar Facility owner abandoned a Solar Facility without decommissioning:

- Obligation and salvage value are held by the property owner due to the lease
- If/when Solar Facility owner doesn't decommission, then property owner gets rights to the salvage value. If property owner doesn't decommission, County has a bond.
- County is holding the bond, but has no attachment / rights to the salvage value
  - Executing the bond becomes a legal mess.
Dan Porter, Potential Scenario (continued):

- Property owner faces possibility of being cited for a violation of the Special Use Permit since it runs with the land.
- Property owner would then have to decommission or face a Code Enforcement Action / Abatement and cost of such would become a Tax lien on the property.
- Ultimate solution to the problem is to treat non-decommissioning as a nuisance violation, perform a Code Enforcement Action, and place a Tax lien on the property.

Mr. Porter added that Solar Companies say there is no need to decommission a facility if it is producing electricity. Bond creates a burden on the Solar Facility owner in that they have to pay bank interest on the bond each year.

Mr. Porter then went over the proposed amendments:

- §151.347(V)(9) changes the word "plan" to "obligation" and adds that the decommissioning obligation shall be part of the lease
- §151.347(V)(9)(c) adds that the land owner acknowledges that he/she is aware that he/she may be held ultimately responsible for decommissioning
- §151.347(V)(9)(f) cost of removal is stricken from ordinance
- §151.347(V)(9)(g) states that the obligation shall be recorded in the Camden County Registry of Deeds, and that it runs with the land until decommissioning is completed.
  - "Runs with the land" means that the obligation is the land owner's, and as such the land owner will also have to sign for the permit
- §151.347(V)(10) removes the requirement of a bond, and what was §151.347(V)(9)(h) is reworded and moved to (V)(10) to read "Decommissioning obligation shall be updated every 5 years or upon change of ownership and re-recorded in the County's Registry of Deeds."
  - Each time the obligation is updated, it is to also include a list of the technology types, and documentation thereto as technology changes and improves over time.
- §151.347(V)(11) changes the word "request" to "require" such that proof of continuous operation is required on a periodic basis.
- §151.347(V)(12) adds that the County has the remedies specified, but not limited thereto, should the obligation of decommissioning not be met as stated in (V)(12).

Rick McCall questioned the wording of §151.347(V)(9)(c), specifically "…land owner may be held…". Mr. McCall recommended changing "may be" to "shall be".

Dan Porter commented that a Public Hearing on this amendment had been scheduled for September 5, 2017, but that the Board of Commissioners had decided to postpone it in light of recent related public input. The Board of Commissioners directed staff to keep it on the Planning Board agenda. A public hearing will occur at some point in the future.

Dan Porter and Dave Parks both expressed a desire to see some buffer around the core village areas such that a Solar Facility could not locate within so many miles of any core village area.
At this time, Mr. Porter introduced Linda Nwadike, a representative of SunEnergy1 who spoke regarding this issue.

Linda Nwadike, SunEnergy1, 192 Raceway Drive, Mooresville, NC

- Regarding decommissioning:
  - After a lease is up (ends), property owner can do 1 of 2 things:
    - Tell the solar company to remove the equipment and leave
    - Tell the solar company to leave the equipment in place if the facility is still producing and making money
  - Solar Facilities have been around since the 1950's and there have been no decommissioned facilities
  - If the facility is still producing, then the property owner is making money by the lease payments, the solar company is making money selling the energy to the power company, and the power company is making money in that they are saving resources that would have been used to create the energy. County also makes money in the form of Taxes on the land and equipment at the commercial rate vice the farmland rate. Why decommission if everyone is making money?
  - As technology changes and improves, the panels get more efficient, less efficient equipment gets swapped out and replaced.
  - If the solar company owns the land, then the issue of a lease is a non-issue.
  - Salvage value of the equipment is a lot of money as is the bond when considering the cost of decommissioning, considering that the facility may never be decommissioned.
    - Would like the County to consider not requiring a bond for decommissioning
  - Solar companies are not involved in just one facility, they are involved in many. If they had to put up a bond for every facility they build and operate, that could effectively eliminate their revenue and drive them out of business.
  - There are many counties that do not require bonds

Dan Porter commented that if most counties in this region require bonds or have prohibitions, but Camden did not, then Camden would get all the solar facilities locating here.

Ms. Nwadike added the following:
- If more solar facilities come to Camden, there are 2 scenarios:
  1. Dominion has to upgrade their lines and the developer has to pay the cost to maintain those lines. Costs involved are easily in the multi-million dollar range.
  2. Solar developer can build their own substation.
    - Has to be for a huge capacity, greater than 60 or 80 mega watts, not for small 5MW facilities
- The assertion that "all the solar facilities will come to Camden" if Camden doesn't require a bond is a very inaccurate statement. There is only so much capacity and the lines are maxing out, the power company can only take on so much. When the lines max out, then more substations, transformers, etc., will need to be built in order to sell the power to the power company.
Vice Chairman Patricia Delano commented that she would like to see large developers such as solar developers invest in and give back to the counties that they operate in by donating to and supporting the many charitable organizations in the county. Ms. Nwadike replied that they do, and they have made donations to Kids First, Sheriff’s Foundation, Food Pantry, and more. She added that SunEnergy1 wants to invest in the County and help out in any way they can. She also added that they would like to know if they can make donations to help any County organizations or the schools.

Dan Porter commented that SunEnergy1 is a great corporate citizen. Mr. Porter added that it's hard to require impact fees without legal justification for them which makes donating for the schools and other county run organizations difficult to justify.

Ms. Nwadike commented on the permit fees, stating that in her opinion and that of SunEnergy1, the fees Camden charges are pretty low - building permit, per panel, and Special Use Permit fees alike, and suggested the County look into raising such fees.

Dan Porter stated that the County can raise the building permit fees, but that the County must by law be able to show a relationship between the cost of the permit(s) and the costs to the County in terms of administrative and inspection costs. He added that all companies have to be treated the same, and that holds true for Special Use Permits. The County doesn't have a "Solar Facility" permit, Special Use Permits are required for any number of different land uses. The same Special Use Permit fee charged for a Solar Facility is the same fee that is charged for a subdivision. The General Statutes say that a County must justify the fees based on the cost of providing the related services.

Rick McCall asked what types of revenues the County receives in relation to the operation of a Solar Facility. Dan Porter replied that the County gets the following:

- Property tax on the land and on the equipment. The equipment is taxed as personal property of the company.
- The land is taxed as commercial use, which is a higher rate than farm use.
- For a 5MW facility, the tax revenues are approximately $10,000 per year
- There is an 80% personal property tax exemption which means that only 20% of their equipment is actually taxed.

Ms. Nwadike stated that once a facility is under construction, that the company likes to utilize local vendors to try to help the local economy.

Dan Porter suggested that Ms. Nwadike try to convince one of their suppliers of materials to locate a business here in Camden.

Rick McCall asked if it was possible to require a percentage of the people hired by the company for the facility to be local people. Dan Porter replied that was not possible, the employment laws don't allow that.

Ms. Nwadike stated that they try to hire locally. They participate in job fairs, use local staffing companies, and many other ways to advertise their open positions.
Vice Chairman Patricia Delano observed that most of the positions are for the setup of the facility and are temporary. After setup is done and the solar facility is up and running, those positions are no longer needed, and a minimal amount of personnel are required to operate the facility.

Ms. Nwadike stated that was correct and added that after setup is completed about 3 people are required for maintenance of each facility. Persons hired for setup / construction are moved from site to site to try to continue their employment as long as possible.

At this time Chairman Calvin Leary asked if there was any further discussion. Hearing none, he called for a motion.

**Motion to Approve Amendments to County Ordinance §151.347(V) with the change that §151.347(V)(9)(c) wording "may be" be changed to "shall be".**

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

**INFORMATION FROM BOARD AND STAFF**

None.

**CONSIDER DATE OF NEXT MEETING - SEPTEMBER 20, 2017**
ADJOURN

Motion to Adjourn the August 16, 2017 Planning Board Meeting

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

Meeting adjourned at 8:05 PM.

Chairman Calvin Leary
Camden County Planning Board

ATTEST:

Amy Barnett
Planning Clerk