

Caswell County Planning Board Special Meeting  
February 28, 2023

**Members Present:**

Russell Johnston, Scott Oakley, Steven Harris, Michael Poteat, Antonio Foster, Jason Daniel, Stephen Thompson, Commissioner Tim Yarbrough (ex-officio)

Also present: Planning Director Matthew Hoagland

**Members Absent:** Ron Richmond

**Called to Order**

Chairman Johnston called the meeting to order at 4:30 p.m.

**Approval of Agenda**

Mr. Harris made a motion to approve, seconded by Mr. Daniel. Approved unanimously.

**Unfinished Business**

**A) Watershed Review Board appeal of the Chairman's Motion to Dismiss**

Mr. Johnston stated that at the last meeting the decision was made to dismiss the appeals and now the appellants have appealed the chairman's ruling to the entire board. He also stated that the attorneys representing the appellants have requested a delay until the March meeting. Mr. Hoagland also noted that in continuing any hearing it is important to name a date, time, and location certain and the draft motion before the board does just that. Mr. Johnston made the following motion: "At the request of the attorneys representing the several appellants in this case: I move to postpone today's Watershed Review Board appeals hearing and reconvene it during the next regularly scheduled Planning Board meeting. That meeting will take place on Tuesday, March 28, 2023 at 1:00 p.m. at the Caswell County Public Library, located at 161 East Main Street, Yanceyville." Seconded by Mr. Harris. Motion passed unanimously. Mr. Oakley asked why the procedure occurred the way it did to go through the chair first and then to the full board. Mr. Johnston explained that the general statutes laid out the process to go to the chair first, then the full board upon appeal, then to Superior Court after that if needed. Mr. Hoagland clarified that General Statute 160D-406 outlines such procedures and that the issue in question for the hearing was Sunrock's challenge to the claim of standing by the many appellants. That type of challenge goes to the chair, then the chair's decision may be appealed to the full board, which is where the process stands now.

**Approval of January 17, 2023 Special Meeting Minutes**

Mr. Johnston asked if everyone had a chance to review the previous meeting's minutes. Mr. Foster made a motion to approve, seconded by Mr. Thompson. Motion passed unanimously.

**Public Comments**

There were no public comments.

## **New Business**

### **A) The Uplands Northeast Phase Two Major Subdivision**

Mr. Johnston noted that the solar farm public hearing will have to happen later in the meeting due to the public hearing and asked Mr. Hoagland if they should skip it for now. Mr. Hoagland clarified that the High Impact Development Ordinance requires a public hearing for this type of development happen “no earlier than 5:30 p.m. on any business day.” Mr. Johnston said the board would proceed with the major subdivision then and asked Mr. Hoagland to share some information about the agenda item. Mr. Hoagland shared the following:

“The preliminary subdivision before you contains a proposal for eight new lot, mostly along Highway 62 South just north of the Alamance County line. Two lots, numbers 7 and 8, are accessed by an easement from Hughes Mill Road. All major subdivisions – which are categorized as those containing seven or more lots—must receive approval from the Planning Board in accordance with section 8.7 of the U.D.O.

As the ordinance requires, the developer has conducted a pre-application meeting with the Planning Department and presented sketch plans of the preliminary plat. The subdivider has paid the necessary fees associate with review and the surveyor has submitted the necessary number of preliminary plats for your review. For those of you who received an email of this document, you will find the 18” x 24” paper copies on your desk.

No road upgrade was necessary for this layout since all lots are already accessed by a state-maintained road or a simple easement. Caswell County regulations allow for up to two lots to be accessed by an easement and you’ll see that only Lot 8 is accessed by such an easement.

One unique feature you can see about this proposal is that three of the lots (numbers 4, 5, and 6) are partially or mostly located within Alamance County. Though the ultimate review of development of those lots may be under Alamance County’s jurisdiction, it is my responsibility to ensure that whatever portion of a lot resides within Caswell County meet our subdivision standards. I have found that the applicable portions of these lots do in fact meet our standards.

Finally, in my review capacity as Subdivision Administrator, I have found that all lot size, dimension, right of way, layout, and other subdivision requirements for all lots have been met and it is submitted today for your approval. As you make your determination, please note that Section 8.7.4.2.3 of the UDO gives the Planning Board the following three options: 1) approve the plan as is; 2) approve the plan with conditions; 3) disapprove the plan. Any determination must be made within 45 days of initial consideration today.

I’m happy to answer any questions you may have about the proposed subdivision.”

Mr. Johnston asked if there are any interior roads proposed for the subdivision. Mr. Hoagland spoke about the two easements on the plat, one accessing the north side of Lot 8 and a lot next to it which was recently created and recorded, and the other running through Lot 7 from Hughes Mill Road to the south side of Lot 8. He explained that those easements are actually above the minimum standard of the ordinance based on their width. Mr. Johnston also asked about the soil evaluations for the lots. Mr. Hoagland said he didn't know a great deal about it since that's an Environmental Health issue but from what he's heard the better soil sites are on the back side of Lots 1 through 4, closer to Lot 8.

Mr. Oakley asked if there was any type of requirement that future buyers of the lots be made aware of a nearby pending asphalt plant. Mr. Hoagland said that it was an interesting question but he simply isn't sure if the county can require that. He noted that typically conditions attached to a development involve sidewalks, landscaping, road access, and other items typically specific to that development. He said he could possibly consult the county attorney and get an answer for the board. Mr. Johnston added that he didn't think the UDO would allow such a requirement and that may be an issue for the Real Estate Commission. Mr. Hoagland also pointed out a note on the plat where he required the developer to agree to remove an abandoned barn on Lot 7 so that it is not a setback violation and that they specify the lot area exclusive of the right-of-way on Lots 1 through 7. The surveyor included both those items and, in his opinion, Mr. Hoagland said the subdivision is ready for approval.

Mr. Oakley made a motion postpone approval of the subdivision and to contact the county attorney and seek an answer as to whether or not they can attach a condition requiring real estate disclosures of a nearby development. Mr. Oakley and Mr. Foster voted for; all other board members voted against. The motion failed. Mr. Poteat then made a motion to approve the plat as is, seconded by Mr. Harris. Votes for included: Mr. Thompson, Mr. Harris, Mr. Poteat, and Mr. Daniel; votes against included Mr. Foster and Mr. Oakley.

### **Planning Department Updates**

#### **A) Broadband**

Mr. Hoagland mentioned that he had recently heard from people in the county that crews had been out in the Highway 158 West, New Castle Farm Road, and the Corbett area installing high-speed internet in those area. This is positive news and shows that Charter Spectrum is getting into the "nook and crannies" of the county. He also mentioned that the crews in the field are not necessarily aware of the big picture build out of internet throughout the county. They usually only get directions on what to install on a day-to-day basis. So, if residents stop and ask the road crews then they may be working off of limited information. It is best for residents to either look online, contact the County Manager's office, or contact the Planning Department for detailed information.

**B) Cell towers**

Mr. Hoagland said he had heard back yesterday that the Stephentown Road site should be standing in March and they hope to have the entire site done by April. He's not sure if that means it will be completely finished but that's the word he's heard from George Davis with TowerCom. He told the board that he has now reached out to Doug Barker three times for updates on the Highway 158, Mise Road, and Prospect Hill towers but still hasn't heard back from him.

Mr. Hoagland also mentioned that the PTRC region is currently working on a new 10-year transportation plan and he plans to share that information with the board. He recently got some clarification on his role as county planner and how that fits in to the regional participation. Mr. Johnston asked if the general public could attend those meetings and Mr. Hoagland confirmed that they are.

**B) Solaris Renewable Energy Facility Public Hearing**

Mr. Johnston asked if Mr. Hoagland could inform the board on the pending solar development. Mr. Hoagland read the following:

"Applicant George Dorgu has submitted an Intent to Construct Permit for a Renewable Energy Generating Facility (or Solar Farm) for a vacant 55.85-acre parcel of land on Oakus Page Road, Reidsville, in the Stoney Creek Township. The project name is Solaris.

Renewable Energy Facilities are regulated as a "Class 1" use under the county's High Impact Development Ordinance also known as the "H.I.D.O." Class 1 facilities require a minimum lot size of 10 acres, and a 150-foot Operations Setback but no land use spacing requirement, among other things. Mr. Dorgu has submitted a set of drawings designed by The L.E.A.D.S. Group out of Burlington, North Carolina which include separate renderings for the Existing Conditions, the Solar Array Plan, a Grading and Clearing Plan, an Erosion Control Plan, Erosion Maintenance Requirements, and Erosion Control Details. Mr. Dorgu also submitted a Decommissioning Plan as is required by the ordinance. I also asked that Mr. Dorgu obtain a Sediment and Erosion Control Permit from the State of North Carolina and he has obtained that Certificate of Plan Approval. I will be glad to bring any of these listed documents up on the screen upon request.

The H.I.D.O. further requires that applicants submit a copy of their driver's license, pay the required plan review fee, and undertake the effort to notify the public for a public hearing. Mr. Dorgu has in fact submitted a copy of his license, paid the review fee, and submitted copies of all documentation required for notifying the public. I have copies of those public notices which I can pull up on the screen upon request. The ordinance also requires that county staff notify the county commissioners of such public hearings and that the notice be sent to the county's email

distribution list. These notices have been addressed as well by myself and the county Clerk to the Board of Commissioners.

The H.I.D.O. further requires that a public hearing on these types of developments be held no earlier than 5:30 p.m. on any regular business day, which is what we are addressing today. These public hearings may happen in conjunction with other regular Planning Board business. As the ordinance states: *“The Planning Board shall duly consider all public comments submitted during the public hearing in making its recommendation which shall be delivered to the planning department within 30 days following the date of the public hearing. Provided, however, the planning board's recommendation to approve or deny the application may be based only upon whether the application complies with the specific requirements set for this article. Within 45 days of the conclusion of the public hearing, the planning department shall make a final independent written determination of approval or denial of the application.”* Additionally, *“At this public hearing, the regulated industry and community members may comment on the application.”*

In summary, the role of the Planning Board today is to host a public hearing, receive comments, and determine whether or not all the requirements of the Intent to Construct Permit have been met. If the board feels that they have, the board will give that recommendation to the Planning Department. If the board feels the requirements have not been met, they may request necessary corrections be made or they may recommend denial the permit. Denied permits may be appealed to the County’s Board of Adjustment.

This is the first such public hearings under the relatively new H.I.D.O. and I’m sure there will be plenty of questions. I’m happy to answer any questions you may have about the application and related documents before you hear from the applicant and the public.”

Mr. Hoagland also mentioned that Mr. Dorgu and his associates who designed the plans are present as well to speak about the development. Mr. Johnston asked Mr. Hoagland if he could talk about why solar farms are part of the H.I.D.O. Mr. Hoagland mentioned that they are a Class I use and Mr. Oakley added that it was included in the H.I.D.O. so that there would be a setback from property lines and neighboring lots. Mr. Oakley asked about decommissioning plans as well and Mr. Hoagland confirmed that is part of the requirements within the H.I.D.O.

Mr. Johnston noted that there were about 15 minutes until 5:30 when the public hearing is scheduled to begin but they could take a little time to hear from the applicants. Developer George Dogru addressed the board and introduced Engineer Chad Huffines with the L.E.A.D.S. Group, Electrical Engineer Keith Hardt, and Stephen Kalland with the NC Clean Energy Technology Center. He noted that with the approval of the board, he would expect construction to take place by the end of the year.

Mr. Foster asked if the solar panels emitted heat. Mr. Hardt replied that the panels do not in

fact emit heat. Mr. Hardt noted that there's also no leaching of any kind of product though there is no containment of oil necessary by state or federal environmental agencies and that an environmental impact study was not needed. Mr. Foster asked how many households would benefit from electricity. Mr. Dorgu responded that 10 megawatts would benefit some 30,000 households. He said any reduction in electricity bills would depend on Piedmont Electric, this solar farm is simply an agreement to commercially produce energy for them. He also said he doesn't think the county would have to incur any costs for the project. Mr. Huffines made a comment that any herbicide sprayed would go to the creek in the center of the property.

Mr. Johnston stated that the board would take a 10-minute recess.

Mr. Johnston reconvened the meeting at 5:31 p.m. Mr. Harris made a motion to go into a public hearing for the solar farm development, seconded by Mr. Daniel. Motion approved unanimously.

Mr. Johnston asked Mr. Hoagland to again give some background information on the application. Mr. Hoagland repeated much of the same information as detailed above.

Mr. Johnston asked Mr. Hoagland if, in his analysis, the site plan and application met the requirements of the ordinance. Mr. Hoagland said that it does, with the exception of some gray areas including the stream buffer requirement, whether or not a traffic impact analysis would be required, and whether a groundwater study would be necessary.

Mr. Johnston recognized Chad Huffine first for public comments. Mr. Huffine said that he was hired by Mr. Dorgu and Solaris Solar to design the project and he is happy to answer any technical questions the board may have about the project. Mr. Johnston asked if the state of North Carolina regulated solar facilities. Mr. Huffines said the regulations he works with are specific to the NC Land Quality Section Erosion Control and the county's H.I.D.O. and that he was also involved in preparing the erosion plan. He talked about the "land disturbance" being greater than one acre and the requirement by state law to obtain an Erosion and Sedimentation Control Plan. They have received approval for such a plan for this project. The certificate of approval, dated January 17, 2023, was shown on the screen. Mr. Huffines said a pre-construction meeting was held with the owner, engineer, and representative from the regional office. That meeting sets up a schedule for the plan and a timeline for the inspectors to come and inspect the activity. Once the project is finished, he concluded, the permit is closed. Mr. Johnston asked if at that point does it go back into normal private management? Mr. Huffines confirmed that it did.

Mr. Huffines also addressed the three "gray areas" that Mr. Hoagland mentioned. First, in his opinion there would be basically no traffic impact and thus no analysis needed. Early on, service and construction trucks will be active on the property but once the project is finished there will essentially be no traffic. Next, he addressed the stream buffer question. He stated that the state's requirement is 50 feet. He said the task really before the Planning Board is whether the

HIDO's 100 buffer is a total measurement or is it 100 feet in both directions from the stream banks?

Mr. Johnston then recognized George Dogru to speak. Mr. Dorgu introduced himself again and referenced Mr. Huffines, Mr. Hardt, and Mr. Kalland who he has worked with and who will be able to answer questions as well.

Mr. Johnston recognized Mrs. Sekinat Modile. She stated that she is the wife of Mr. Dorgu and a partner in the development.

Mr. Johnston then recognized Mr. Steve Kalland. Mr. Kalland said he is the executive director of the NC Clean Energy Technology Center and is not a paid participant in this project but has a lot of experience speaking with boards about solar project developments though he is not an engineer; he's more of a policy expert. He told the board that he is available for the board's questions and mentioned that he helped develop some of the first model ordinances throughout the state. Mr. Johnston asked how the NC Utilities Commission regulates such facilities. Mr. Kalland said their interest is really all about the need for power, where projects are interconnected, is there a need for the energy, etc... The Utilities Commission does not deny projects based on a groundwater concern, for example.

Mr. Johnston then recognized Mark and Jean Maness. Mr. Maness said he is a property owner whose property adjoins this property. He is concerned about topography, herbicide spraying, how they will access the property, easements, what happens after the property is used for 30 years or so. Does it just sit and collect dust? He said he would like answers to these questions.

Mr. Johnston recognized Thomas Hall. Mr. Hall said his farm is adjacent to his property as well. He asked when the construction will start? Who is buying power from the solar farm? Is the county getting anything for allowing the solar farm? Will the solar farm change his forestry designation and change it to residential? How does the solar farm benefit any neighbors? How does the solar farm affect human health or create cancer? Will the solar farm create job opportunities? Will there be an impact on wildlife?

Mr. Hoagland addressed two of Mr. Hall's questions. First, he said that the county will not tangibly benefit from the development. The county collected a review fee for the development, which is customary for any development. He also said he assumes it will be taxed differently but he's not sure what the rate change will be. He also said the property's tax status and use will absolutely not change. The bona fide farm status is a very strong protection that cannot be changed by another property owner's actions.

Mr. Huffines spoke regarding the beginning of construction. He said based on the outcome of tonight's meeting and the issuance of the permit. Theoretically, they could start as early as tomorrow. Likely, it would be at least 30 to 45 days from tonight. After this permit, they would seek an electrical permit from Building Inspections. First phase would involve clearing, temporary structures, silt fences, sediment traps, etc... panel installation would come later.

Mr. Johnston asked about the decommissioning plan. Mr. Hardt responded. He said he is the electrician engineer of record for the project. Once land clearing is done they will set up some fencing. Then the building permits will be obtained per the design submitted. Then they will bury wire, putting posts in the ground, etc... but that will be some time down the road. Regarding the decommissioning plan; they do not perform that plan but typically that's a 30-year plan. He said a developer typically doesn't just leave a panel in place after it's been used. There's a lot of valuable metals and other materials in those panels which can be reused. Mr. Johnston asked if an insurance bond is required. Mr. Hardt responded that he did not know; that's a matter of local jurisdiction.

Mr. Oakley asked if the decommissioning plan included everything. Mr. Hardt replied yes. That includes all wiring, frames, panels, and everything. He said the underground aspect is not very deep underground. He said the plastics, metals, rare earth minerals, for example are valuable to manufacturing facilities. The plan prevents the facility from simply being abandoned after it's use.

Mr. Foster said: "Let me get this on record. There is no environmental impact study that needs to be done, correct?" Mr. Hardt replied that the NC Division of Water Quality has to issue their permit but there are no EPA studies that must be done for this type of project. Mr. Foster then asked how you qualify for a site. Mr. Hardt said the first step is to go to your local electrical utility. They will make a Purchase Power Agreement, a Facilities Agreement and an Interconnect Agreement which tell the developer how to connect to their utility. That's between those two entities to come to those agreements. On this particular site, Mr. Hardt is not sure how they will get to the property but that would be within those agreements. Perhaps more easements are required. They will have what's known as a "point of common coupling," where the private property responsibility ends and the utility provider's responsibility begins.

Mr. Daniel asked how many solar farms the substation can handle. Mr. Hardt said he doesn't know the size of it; that's a technical question for Piedmont Electric. The way this development will work is that the substation serves the homes in the general area and this site will offload some of that electrical load. They have consultants who do studies to make sure the new power source will fit into their system and not interrupt anyone's power service.

Mr. Johnston recognized another gentleman from the crowd who asked about the access easement to the property. Mr. Dorgu said there is an easement to the property from Oakus Page Road. Mr. Hoagland brought up a map of the county GIS for the board to see the easement connecting Oakus Page and Cherry Grove roads to the property. Mr. Yarbrough asked about the distance from Oakus Page Road to the property. Mr. Hoagland measured on the GIS website and found it to be approximately half a mile. Mr. Hardt confirmed that it was a recorded easement with the property.

Mr. Johnston recognized Phil Barfield for a comment to be submitted online. Mr. Barfield could not be heard but emailed the following comment:



“Converting productive farmland to a permanent solar farm further negatively impacts the agricultural balance in North Carolina. While I am in favor of solar power, solar farm projects should be considered for development on less productive soil sites. Sedimentation can affect water quality, aquatic life, streams, and wetland areas. Control measures must be in place prior to construction to prevent impacts. Dust should be controlled during construction. Limit or eliminate the use of herbicides and pesticides to prevent adverse effects on beneficial pollinators, aquatic life, and water quality. Consider sheep grazing to maintain vegetation and to seed and plant pollinator friendly plant species. Although the land owners can be held responsible for water runoff, cleanup, and off site effects, the lease should clearly convey these responsibilities to the lessee. The lessee should also be responsible to ensure that the productive capabilities of the land for any future agricultural activity is maintained and the integrity of unique or sensitive habitats is not destroyed. I also recommended that a decommissioning plan that clearly defines the responsible party, process, time-line, and specific responsibilities (including restoration to prior condition) is incorporated. A decommissioning plan should identify "the party responsible for decommissioning the facility and the conditions under which decommissioning will occur. In addition, the plan should include that all equipment is removed from the site and the land restored to pre-construction conditions.”

Mr. Oakley said he had looked at Alamance County’s ordinance during the meeting. They classify solar farms as a “Class II” development and the operations setback is 500 feet.

Mr. Johnston recognized a gentleman in the crowd who did not give his name. He spoke about the trend in the country in which farmland is going out of use and there’s less and less of it. He said he is also surprised to see Mr. Huffines working on something like this since his family was in farming. He urged the board to think about the neighbors, landowners, and farmers who supported Caswell County before they vote.

Hearing no additional comments, Mr. Johnston asked for a motion to close the public hearing. Mr. Oakley made the motion to close the hearing and Mr. Foster seconded. Mr. Poteat said he is from the Cherry Grove community and owns about 40 acres in the area and that he can’t go along with the plan. The vote to close the public hearing was unanimous.

Mr. Hoagland reminded the board there options are to recommend approval of the intent to construct permit, to request changes to the plan or to recommend denial of the permit.

Mr. Johnston asked if there are any modifications that should be made. Mr. Hoagland said he still felt that the gray areas were the stream buffer setback, the traffic study, and the groundwater study. However, he felt that Mr. Huffines could provide an engineer’s letter to address the traffic and groundwater study. Mr. Johnston asked if they could table this until the next meeting or perhaps continue the public hearing. Mr. Oakley asked that, other than the three items Mr. Hoagland mentioned, did he think all other aspects of the permit had been satisfied? Mr. Hoagland said that he did. He also mentioned that he had visited the site with Mr. Dorgu and taken pictures of the buffer of the property. The H.I.D.O. allows for a natural buffer to be maintained if the Planning Director felt it was sufficient, which Mr. Hoagland thinks

it is. Mr. Oakley asked about fencing requirements as well and Mr. Hardt confirmed that there will be a seven-foot fence surrounding the property.

Mr. Poteat asked Mr. Hoagland what he thought about the project. Mr. Hoagland reminded the board that his personal opinion is irrelevant to a project like this and it has to be that way as matter of his job. In his analysis, he said that the proposal does a great job of addressing all the aspects of the ordinance other than the three areas he cited above. Mr. Johnston recognized Mr. Huffines again. Mr. Huffines said that perhaps the board should table this until the next meeting and give themselves the time to research the meaning and intent of the stream buffer within the ordinance versus state requirements, for example, they need time to look into the issue. He said the other two items he could address with a simple letter, stamped by a professional engineer. In terms of the use of the property, Mr. Huffines said, the topography of that land is such that it could be farmed as trees or it could be farmed as solar. A substantial amount of grading would be required for livestock, for example. His advice would be for the board to consider the best use of the property and to give time for certain issues to be resolved by the next meeting.

Mr. Daniel made a motion to continue this item until the next meeting, seconded by Mr. Poteat. Motion passed unanimously.

Mr. Johnston asked Mr. Hoagland to place this on the next meeting's agenda and thanked everyone for coming to the meeting tonight. Mr. Oakley made the comment that is glad there's a process now for the community to be aware of these types of development and he thinks it avoids a lot of confusion among the public.

### **Adjournment**

Mr. Harris made a motion to adjourn. The vote was unanimous.