

**Guilford County
Planning Board
NOVEMBER 14, 2018**

The Guilford County Planning Board met in regular session on Wednesday, November 14, 2018 at 6:00 p.m. in the Blue Room, First Floor, Old Guilford County Courthouse, 301 West Market Street.

Members Present: Mr. Jones, Chair; Mr. Leonard; Ms. Hayworth; Mr. Alexander; Mr. Apple; Mr. Geter; and Mr. Thompson.

Members Absent: Ms. Burnett and Mr. Mann.

Staff Present: Matt Talbott, Oliver Bass, and Tonya Hodgins -- Planning Department; Stephen Thomas, Guilford County Fire Marshal's Office; and Leslie Bell, Guilford County Planning Director.

Chair Jones called the meeting to order and welcomed everyone in attendance.

AGENDA AMENDMENTS:

None.

Chair Jones explained the rules and procedures of the Guilford County Planning Board.

APPROVAL OF MINUTES: OCTOBER 10, 2018

Ms. Hayworth moved approval of the October 10, 2018 meeting minutes, seconded by Mr. Alexander. (Ayes: Jones, Leonard, Hayworth, Alexander, Apple, Geter, Thompson. Nays: None.)

CONTINUANCE REQUESTS:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

Public Hearing Items:

ROAD CLOSING CASE #18-09-GCPL-05529:

BEING a portion of Security Mills Road from the intersection of NC Highway 62 East following the property line of Hardin II LLC properties approximately 502.59 feet south, in Clay Township.

(APPROVED)

Matt Talbott stated that the Resolution of Intent for this request was adopted on October 10, 2018. Pursuant to N.C.G.S. 153A-241, concerning the closing of public roads, a public hearing must be held before the road can be closed. Based upon the information presented at the hearing, the Board must find that the closing of said road is not contrary to public interest and that no individual or other party owning property adjoining the road or in the vicinity of said road or the subdivision in which it is located, will be deprived of reasonable means of ingress or egress to their property.

Staff submits the following findings for consideration by the Board: (1) The Planning Department has received the request to close a portion of Security Mills Road from the intersection of NC Highway 2 East following the property line of Hardin II LLC properties, approximately 502.59 feet; and (2) As determined at the November 6, 2018 Technical Review Committee meeting, the closing of said road is not contrary to the public interest and no individual in the vicinity will be deprived of reasonable access to their property.

Billy Hardin, Hardin II LLC, was present to speak in favor of this request. He said that nothing negative would come from the proposed closing and he asked the Board to consider closing the subject road. He said that both sides of the road were closed when a fire station was put there.

There being no other speakers, Ms. Haywood moved to close the public hearing, seconded by Mr. Alexander. The Board voted 7-0 in favor of the motion. (Ayes: Jones, Leonard, Apple, Geter, Alexander, Hayworth, Thompson. Nays: None.)

Stephen Thomas, Guilford County Fire Marshal's Office, stated that the Fire Department has no objection to the requested closing.

Mr. Alexander moved to approve the closing and made the following RESOLUTION:

ROAD CLOSING CASE #18-09-GCPL-05529

WHEREAS, a petition was filed, pursuant to G.S. 153A-241, Chapter 282 of the 1979 Session Laws, and Chapter 59 of the 1981 Session Laws, requesting that the Board close and remove from dedication a portion of **Security Mills Road-SR 3382**.

WHEREAS, pursuant to a resolution of intent to close said road adopted by this Board on October 10, 2018, an Electronic Notice was published on the Guilford County Website that a hearing would be held concerning said petition on November 14, 2018 at 6:00 P.M. in the Blue Room on the First Floor, Old Guilford County Courthouse, 301 West Market Street, Greensboro, North Carolina, 27401; and

WHEREAS, it appears that all owners of property adjoining said road have signed the petition or have been notified of the closing thereof; and

WHEREAS, after inquiry by the Chairman, all interested persons were provided an opportunity to be heard on the request contained in the petition; and

WHEREAS, after all interested persons were heard, it appears to the satisfaction of this Board that the removal of said road from dedication is not contrary to the public interest and that no individual owning property in the vicinity of said road will be deprived of any reasonable means of ingress or egress to their property;

NOW, THEREFORE, BE IT RESOLVED THAT:

- (1) The following described road in Clay Township is hereby closed and removed from dedication to the public use;

BEING that portion of Security Mills Road from the intersection of NC Highway 62 East following the property line of Hardin II LLC properties approximately 502.59 feet south, in Clay Township.

- (2) A certified copy of this resolution, together with a copy of the published notice of this hearing, is hereby ordered recorded in the Office of the Register of Deeds of Guilford County, North Carolina.

The motion was seconded by Mr. Leonard. The Board voted 7-0 in favor of the motion. (Ayes: Jones, Leonard, Apple, Geter, Alexander, Hayworth, Thompson. Nays: None.)

SPECIAL USE PERMIT CASE #18-10-GCPL-06575: Solar Collector Principal (Solar Facility). Located on the east side of Mt. Hope Church Road, approximately 2,400 feet north from its intersection of McConnell Road in Jefferson Township. Being Guilford County Tax Parcel 30120643, approximately 95 Acres owned by Needham Farm LLC. The petitioners are seeking a Special Use Permit to operate a Solar Collector Principal (Solar Facility).
(APPROVED)

Swearing-in of Speakers:

Mr. Talbott, Planning Department, was sworn as to his testimony in the following matters.

Also sworn as to their testimony in the following matters were Mike Fox, Attorney; Steve Evans; Chris Sanderford; and Nick Kirkland, who were all speaking in favor of the request.

Mr. Talbott said that this request is to consider granting a Special Use Permit to operate a solar collector principal on approximately 95 acres. He clarified that a Special Use Permit was approved to this same applicant in September, 2018. That request was located to the north and across from Mt. Hope Church Road. The applicant and property owner is Needham Farm and the location of this request is on the east side of Mt. Hope Church Road, approximately 2,400 feet north from its intersection of McConnell Road in Jefferson Township, Guilford County Tax Parcel #30120643. There is no history of denied zoning cases on this property. The request is in an area that is primarily low-density residential on large acreage tracts and farm uses. To the north, the surrounding use is vacant with the approved September, 2018 Special Use Permit for a solar facility. The south is large-lot residential and farm uses; to the east there are large-lot residential uses; and to the west the use is vacant and there is a Duke Energy substation. There are no inventoried historic properties located on or near the property. The land use plan is the Northern Lakes Area Plan 2016 Update that recommends for AG Rural Residential. This request is consistent with the adopted plan and it is compatible with the surrounding uses and zoning. The adjacent property had a previously approved Special Use Permit for a solar facility in September, 2018. The request is being proposed in the public interest and is permitted in the AG district with an approved Special Use Permit.

During the consideration of a Special Use Permit, the Planning Board must determine that the following Findings of Fact have been satisfied based upon relevant and credible evidence presented during the hearing:

1. A written application was submitted and is complete in all respects;
2. That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan submitted;
3. The use, a **Solar Collector Principal (Solar Facility)** for which the Special Use Permit is sought, is in conformance with all special requirements applicable to this use. The use meets all required conditions and specifications;
4. That the location and character of the use, if developed according the plan submitted, will be in harmony with the area in which it is to be located and in general conformity with the plan or development of the Jurisdiction and its environs.
5. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity

After reviewing the proposed development plan for this request, staff offers the following facts that the Planning Board considers for the following issues:

1. The development of the parcel shall comply with all regulations as specified in the Guilford County Development Ordinance (GCDO).
2. The development shall proceed in conformity with all amended plans and design features submitted as part of the Special Use Permit application and kept on file by the Guilford County Planning and Development Department.
3. The development shall proceed upon approval of plan and design features by the Technical Review Committee (TRC), illustrating conditions related to the request and applicable development standards.
4. If the specified conditions addressed in this Special Use Permit are violated, the permit shall be revoked and the use will no longer be allowed. Only by reapplying to the Planning Board for another Special Use Permit and receiving its approval can the use be again permitted.

In Support:

Mike Fox, Attorney, 100 North Greene Street, distributed packets of information to members. He said that this is an adjacent parcel to the permit that was considered and approved in September, 2018. There was confusion at the September meeting over what the map should look like because they were not able to secure lease arrangements for the parcel from the property owner in time for that submission. They have subsequently gotten control of the property and this is a separate Special Use Permit.

Mr. Fox introduced members of his team in support of the request who were present in the audience. Steve Evans is the developer and company representative for Cypress Creek Renewables. He is available to answer any questions about their company, the site plan, landscaping or buffering. Also present was Chris Sanderford who is a licensed North Carolina engineer. Mr. Sanderford had a long career with Duke Energy but he is now retired and working as a consultant. He can answer questions about the operation of a solar facility. Nick Kirkland, Kirkland Appraisals, was also present to discuss his findings from the Impact Study that was conducted for this particular project.

Chris Sanderford, 3118 Green Street, Spring Hope, North Carolina, stated that solar technology has been around for many decades and is a tried and true technology. He stated his professional opinion that the proposed project will not materially endanger the public health or safety if built to the plans submitted and approved.

Nick Kirkland, 901 Okaneche Drive, Fuquay Varina, North Carolina, has worked at Kirkland Appraisals for four years gathering data on solar farms. For this particular Impact Study, they created a local summary looking at 24 solar farms from Guilford County and surrounding counties. It is his professional opinion that the proposed solar farm will be a harmonious use in its location. In addition, an evaluation of over 20 matched pairs shows no impact to adjoining property values. He stated his professional opinion that the proposed solar farm will not impact adjoining property values.

Steve Evans, 5310 South Alston Avenue, Durham, North Carolina is the Community Outreach and Zoning Manager for Cypress Creek Renewables. They have decided to go above and beyond what is required by the Ordinance in their performance of this project to mitigate concerns brought up by residents. They have increased the setbacks from adjoining parcels on the north side and on the southern edge to 125 feet from 80 feet. They have increased the buffering to a 50 foot vegetative buffer comprised of four rows of evergreens and understory plantings to provide more opaqueness

from the actual solar arrays. They expect to be able to leave a considerable amount of existing vegetation, as well as planting additional vegetation as provided in the buffering.

Ms. Hayworth asked about the decommissioning of the solar array if the Special Use Permit is revoked. Mr. Evans said that as a condition of all of Cypress Creek Renewables lease agreements, there is a standard decommissioning structure within the lease that obligates Cypress Creek to be the sole responsible party for removal of the solar facility, tilling the soil, and returning the land to whatever intended use is thereafter. It is the responsibility of Cypress Creek, not the landowner, to make sure that the site is decommissioned properly.

Although it is in the lease, Ms. Hayworth asked if decommissioning of the solar facility by Cypress Creek should be added to the application as a condition of the Special Use Permit. Chair Jones indicated that the condition could be included by reference in the course of the motion. Mr. Evans consented to the addition of the decommissioning provision, as stated in the lease, to the Special Use Permit. Responding to a question, Mr. Evans also consented to add the additional buffering, as referenced on the site plan, as a condition.

Mr. Leonard asked Mr. Evans if conversations were held with surrounding neighbors. Mr. Evans said that they met with the neighbors in the course of the first Special Use Permit. They did not hear anything from any of the neighbors on this second submittal. There was a community meeting at the Mt. Hope Church when the original parcel was brought before the Board.

In Opposition:

None.

Chair Jones moved that the Guilford County Planning Board, having held a hearing on November 14, 2018 to consider a request for a Special Use Permit for a Solar Collector Principal (Solar Facility), for the property located on Guilford County Tax Parcel #0120643, and having heard all of the evidence and arguments presented at the hearing, makes the following FINDINGS OF FACT and draws the following CONCLUSIONS:

1. A written application was submitted and **is** complete in all respects.
2. That the use **will not** materially endanger the public health or safety if located where proposed and developed according to the plan submitted. This conclusion is based on sworn testimony and evidence submitted during the hearing which shows the following:

The proposed use of a solar energy facility would generate no harmful emissions; it will have no known public health or safety issues; the site would generate almost no additional traffic to existing traffic volumes; adequate utilities, road access, ingress, egress, drainage, sanitation and other necessary facilities will be provided to service the proposed use; and an active area of the solar array public utility will be enclosed by a seven foot high fence and gated for security purposes.

3. The use, a **Solar Collector Principal (Solar Facility)**, for which the Special Use Permit is sought, is in conformance with all special requirements applicable to this use. The use meets all required conditions and specifications. This is based on sworn testimony and evidence submitted during the hearing which shows the following:

The application itself was sufficient to state that the facility will be developed in conformance with all special requirements and the proposed site plan for the site shows that it will be developed in accordance with our special requirements.

4. That the location and character of the use, if developed according to the plan submitted, **will** be in harmony with the area in which it is to be located and **is** in general conformity with the plan of development of the Jurisdiction and its environs. This is based on sworn evidence submitted during the hearing which shows the following:

The proposed use is a low impact use consistent with the surrounding land use pattern of the area. The proposed use generates minimal noise and does not emit dust or odors harmful to the surrounding area. It is desirable to the public convenience and welfare providing a clean resource for electricity. The proposed use will be fully screened from adjoining properties at a Type B Planting Yard rate and the proposed use will maintain the rural character of the area while providing a sustainable benefit to the community.

5. The use **will not** substantially injure the value of adjoining or abutting property, or the use is a public necessity. This is based on sworn testimony and evidence submitted during the hearing which shows the following:

Richard C. Kirkman, Jr., MAI, of Kirkman Appraisers, LLC, is a state certified general appraiser. Mr. Kirkman performed a matched pair analysis which showed no impact to home values due to abutting or adjoining solar farms and/or solar energy facilities.

THEREFORE, on the basis of all of the foregoing, IT IS ORDERED that the application for a SPECIAL USE PERMIT for a **Solar Collector Principal (Solar Facility)** be **granted** subject to the following:

1. The development of the parcel shall comply with all regulations as specified in the Guilford County Development Ordinance (GCDO).
2. The development shall proceed in conformity with all amended plans and design features submitted as part of the Special Use Permit Application and kept on file by the Guilford County Planning and Development Department.
3. The development shall proceed upon approval of plan and design features by the Technical Review Committee (TRC), illustrating conditions related to the request and applicable development standards.
4. It is subject to the following additional conditions: (1) The buffer will be as shown on the site development plan which is in addition and is more stringent than that required by the Guilford County Development Ordinance; and (2) The decommissioning shall be pursuant to the provisions of the ground lease submitted in conjunction with the application.
5. If the specified conditions addressed in this Special Use Permit are violated, the permit shall be revoked and the use will no longer be allowed. Only by reapplying to the Planning Board for another Special Use Permit and receiving its approval can the use again be permitted.

The motion was seconded by Mr. Alexander. The Board voted unanimously 7-0 in favor of the motion. (Ayes: Jones, Leonard, Hayworth, Alexander, Apple, Geter, Thompson. Nays: None.)

REZONING CASE #18-10-GCPL-06579: AG to PI

Located on the west side of NC Highway 61 North, approximately 1,600 feet south from its intersection of High Rock Road in Washington Township. Being Guilford County Tax Parcel #0101133, approximately 9.56 Acres owned by Apples Chapel Christian Church.

(APPROVED)

Mr. Talbott said that this is a request to rezone approximately 9.56 acres from AG to PI. The AG, Agricultural District, is primarily intended to accommodate uses of an agricultural nature, including farm

residences and farm tenant housing. It also accommodates scattered non-farm residences on large tracts of land. It is not intended for major residential subdivisions. The PI, Public and Institutional District, is intended to accommodate mid- and large-sized public, semi-public and institutional uses which have a substantial land use impact or traffic generation potential. It is not intended for smaller public and institutional uses customarily found within residential areas.

The applicant/property owner is Apples Chapel Christian Church. The property is located on the west side of NC Highway 61 North, approximately 1,600 feet south from its intersection of High Rock Road in Washington Township. There is no history of denied zoning cases for this property. This is Guilford County Tax Parcel #0101133. This request is in an area that is primarily Low-Density Residential and Agricultural. There are two parcels of land zoned PI within 1.5 miles from the subject property. The existing land use on the property is the Apples Chapel Christian Church. Surrounding uses are low-density single-family homes to the north and vacant to the south, east, and west. There are no inventoried historic properties located on or near the property.

The Land Use Plan for this property is the Northeast Area Plan 2016 Update that recommends for Public Institution Open Space. This request is consistent with the adopted plan. It is compatible with the surrounding uses and is being proposed in the public interest through the provision of necessary services. The Plan designates the area as Public Institution Open Space which is consistent with this request. It is reasonable and in the Public interest as religious facilities, schools, and open space are all permitted in the PI zoning district.

Staff recommends approval of this request. No update to the Land Use Plan is necessary if this request is approved.

In Support:

Richard Holbrook, 7345 NC 61 North, Gibsonville, North Carolina, is on staff at Apple Chapel Christian Church. The current leadership was not aware that the zoning is not PI and that is why they are rezoning. They are requesting to rezone the parcel to PI to protect the future interest of the church. They have no plans to expand in the immediate future but they would like to maintain the current use of the church.

Leslie Bell clarified that the applicant came forth with this request. The land use plan shows the parcel as PI, but it is not currently PI in terms of zoning. Therefore, the church is limited in what it can do because the parcel is not currently in the PI zone.

In Opposition:

None.

Discussion:

None.

Mr. Alexander moved to **Approve** this zoning amendment located on Guilford County Tax Parcel #0101133, from **AG** to **PI** because:

1. The amendment **is** consistent with applicable plans because:

The request is consistent with the adopted plan and it is compatible with surrounding uses and it is being proposed in the public interest through the provision of necessary services.

The Plan designates the area as Public Institution Open Space which is consistent with this request.

2. The request **is** reasonable and in the public interest because:

Religious facilities, schools, and open spaces are all permitted in the PI zone.

The motion was seconded by Ms. Hayworth. The Board voted unanimously 7-0 in favor of the motion. (Ayes: Jones, Leonard, Hayworth, Alexander, Apple, Geter, Thompson. Nays: None.)

REZONING CASE #18-10-GCPL-06582: AG to RS-40

Located on the west side of Doggett Road, approximately 500 feet south from its intersection of Beckett Road in Monroe Township. Being Guilford County Tax Parcels #0129632, #0129636, #0129691, and #0129648, approximately 112.61 Acres owned by Wesley and Leonor Doggett.

(CONTINUED UNTIL DECEMBER 12, 2018 MEETING)

Oliver Bass said this request is to rezone approximately 112.61 acres from AG to RS-40. The AG, Agricultural District, is primarily intended to accommodate uses of an agricultural nature, including farm residences and farm tenant housing. It also accommodates scattered non-farm residences on large tracts of land. It is not intended for major residential subdivisions. The RS-40, Residential Single-Family District, is primarily intended to accommodate single-family detached dwellings, including major subdivisions. The applicants and property owners are Wesley and Leonor Doggett. The property is located on the west side of Doggett Road, approximately 500 feet south from its intersection of Beckett Road in Monroe Township. There is not a history of denied zoning cases for this property. This request is in an area with low-density residential uses and large undeveloped parcels. The adjacent parcels east of the site are encumbered in association with the Greensboro Lake Townsend project. The surrounding uses are agricultural, large-lot residential to the north; major single-family subdivision to the south; residential, minor subdivisions to the east; and the parcel to the west is encumbered by an easement owned by the City of Greensboro. There are no inventoried historic properties located on or near the property.

The land use plan is the Northern Lakes Area Plan 2016 Update which recommends for AG Rural Residential (AGRR). An RS-40 zoning is consistent with the AGRR future land use designation. The AGRR is intended to accommodate low-density residential areas not served by public water and sewer at maximum density of two dwelling units per acre. The RS-40 zoning allows major subdivisions at a maximum density of one dwelling unit per acre and without public water or sewer. It is in the public interest by allowing future housing consistent with the development patterns established on adjacent parcels and in the vicinity.

Staff recommends approval of this request. The request is consistent with the land use plan and is in keeping with development in the area. No land use plan amendment is required if the rezoning is approved.

In Support:

Jay Matey, 8642 West Market Street, is with the Timmons Group. He is representing the applicants for this rezoning. There are four parcels in total making up the 112.61 acres. The parcels are located within a watershed critical area. They are proposing to rezone to RS-40 to allow for a large-lot residential project. RS-40 is the least dense of all the zoning districts and it is in compliance with the Northern Lakes Area Plan. Even though RS-40 zoning would allow a maximum density of one lot per acre, the effective density is about one lot per 2.1 acres because they are in a watershed critical area. The lots would be large with minimal impact given the size of the property. The proposed project is very consistent with adjacent residential uses.

Responding to questions, Mr. Matey said that there will be 43 lots varying in size from over an acre up to five acres. The lots in the southern portion will be larger lots.

Mr. Matey said that a Traffic Analysis was not done because they did not meet the required threshold. However, they will comply with NCDOT in terms of driveway permits, road construction plans, turn lanes, etc.

Mr. Leonard disclosed that although the company he works with does a lot of work with the Timmons Group, he has no financial interest in this case.

In Opposition:

Randall Myers, 2807 Brookledge Court, Brown Summit, North Carolina, is a resident of Doggett Estates. He asked the Board if the requirements were satisfied to notify the community in time about this request. Although a notice was received in the mail about a week ago, he has many questions about the proposed development. Staff said that proper notice was provided and posted. Mr. Myers asked if there was any period of community input that can take place before the property is rezoned RS-40. The neighbors have not seen a site plan or development plan and have many questions. He confirmed for the Board that neighbors have had no communication with the developer. He asked if communication from the developer was required or if the Board could table this request so that community input can occur.

Mr. Leonard said that the developer could agree to postpone this hearing for 30 days to meet with neighbors to try and address their questions.

Chair Jones stated that although it is not required, the Board generally encourages applicants to have a community meeting. The Board cannot force the applicant to have a community meeting but there has been a request for one. He asked Mr. Matey if he would be interested in a motion to postpone this matter for 30 days to meet with the neighbors. Mr. Matey indicated he would have to consult the applicants about a postponement. He said they are not compelled to meet as they are asking for a conventional rezoning. He asked if any conditions that might be placed on the property could be worked out tonight. Chair Jones pointed out that this is a general RS-40 rezoning request, not a conditional rezoning. There has been a request for a continuance and he asked Mr. Matey for a yes or no response to the request. Mr. Matey said that if the application is not subject to conditions and is considered straight rezoning, he did not know what else they could do. They are requesting the least dense residential zoning district for the property which obviously complies with the ordinance.

Ms. Hayworth asked if the Board could request a continuance on their own.

Ms. Hayworth moved to continue this case until the next regularly scheduled meeting, seconded by Mr. Leonard.

Since this is an open public hearing, Mr. Bell asked if there was anyone present in the audience who would like to be heard if they may not be able to come back to next month's meeting. No one in the audience came forward.

Ms. Hayworth said that the purpose of her motion was to allow a meeting between the developer and the neighbors to get their questions answered since they only had one week of notice. Mr. Bass clarified that the notice was mailed 10 days prior to when it was received. Ms. Hayworth stood by her motion.

The Board voted 4-3 in favor of the motion to continue the case until the December 12, 2018 at 6:00 pm meeting. (Ayes: Jones, Hayworth, Geter, Leonard. Nays: Thompson, Apple, Alexander.)

At the request of Mr. Matey, Chair Jones explained that the continuance is not contingent upon the applicant meeting with the neighbors. It is the Board's preference that the applicant meets with the neighborhood; however, it is the applicant's prerogative to facilitate a meeting.

Non-Public Hearing Items:

NEW SPECIAL USE PERMIT APPLICATION:

Mr. Bell stated that members are in receipt of a revised Special Use Permit application that provides the applicant an opportunity to write in the findings of fact to be better prepared for the meeting.

APPROVAL OF THE 2019 PLANNING BOARD MEETING SCHEDULE:

Mr. Bell asked Board members to consider approval of the 2019 Planning Board meeting schedule as distributed in the information packet. Chair Jones requested that the meeting scheduled for September 11, 2019 be moved to September 18, 2019.

Mr. Leonard moved to approve the 2019 Planning Board meeting schedule, subject to moving the September 11, 2019 meeting to September 18, 2019. The motion was seconded by Ms. Hayworth. The Board voted unanimously by acclamation in favor of the motion.

ADJOURNMENT:

There being no further business before the Board, the meeting adjourned at 7:12 p.m.

Respectfully submitted,

Frankie Jones, Chairman

J. Leslie Bell, AICP
Guilford County Planning & Development Director

FJ:sm/jd