

PERSON COUNTY BOARD OF COMMISSIONERS
MEMBERS PRESENT

SEPTEMBER 8, 2020
OTHERS PRESENT

B. Ray Jeffers
Jimmy B. Clayton
Kyle W. Puryear
Gordon Powell
C. Derrick Sims

Heidi York, County Manager
Brenda B. Reaves, Clerk to the Board
C. Ronald Aycock, County Attorney

The Board of Commissioners for the County of Person, North Carolina, met in regular session on Tuesday, September 8, 2020 7:00pm in the Person County Office Building Auditorium.

Chairman Jeffers called the meeting to order. Vice Chairman Powell offered an invocation and Commissioner Sims led the group in the Pledge of Allegiance. County Attorney, Ron Aycock attended the meeting via telephone conference.

DISCUSSION/ADJUSTMENT/APPROVAL OF AGENDA:

A **motion** was made by Commissioner Puryear and **carried 5-0** to approve the agenda.

PUBLIC HEARING:

PETITION SUP-01-20 - A REQUEST BY DUKE ENERGY PROGRESS, LLC TO CONSTRUCT A NEW 58.5-ACRE INDUSTRIAL LANDFILL (ASH BASIN LANDFILL), ACCESS ROADS, SUPPORTING INFRASTRUCTURE, AND LEACHATE POND AT THE DUKE ENERGY MAYO STEAM ELECTRIC PLANT ON LAND WITHIN 224.74 ACRES DESCRIBED IN DEED BOOK 134 PAGE 17 TRACT 21 AND 145.94 ACRES DESCRIBED IN DEED BOOK 148 PAGE 177 TRACT 22 LOCATED AT 10660 BOSTON ROAD IN THE RURAL CONSERVATION ZONING DISTRICT:

A **motion** was made by Commissioner Puryear and **carried 5-0** to open the duly advertised public hearing for a request by Duke Energy Progress, LLC to construct a new 58.5-acre Industrial Landfill (Ash Basin Landfill), Access Roads, Supporting Infrastructure, and Leachate Pond at the Duke Energy Mayo Steam Electric Plant on land within 224.74 acres described in Deed Book 134 Page 17 Tract 21 and 145.94 acres described in Deed Book 148 Page 177 Tract 22 located at 10660 Boston Road in the Rural Conservation Zoning District.

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The public hearing set to hear a Special Use Permit request by Duke Energy Progress, LLC to construct a new 58.5-acre Industrial Landfill (Ash Basin Landfill), Access Roads, Supporting Infrastructure, and Leachate Pond at the Duke Energy Mayo Steam Electric Plant on land within 224.74 acres described in Deed Book 134 Page 17 Tract 21 and 145.94 acres described in Deed Book 148 Page 177 Tract 22 located at 10660 Boston Road in the Rural Conservation Zoning District required a quasi-judicial zoning decision whereby witnesses are to be sworn in and subject to cross examination, no ex parte communication and requires findings of fact. Chairman Jeffers administered the Oath of Sworn Testimony to the following individuals who would offer testimony during the public hearing:

Ms. Lori Oakley, Ms. Kayla DiCristina, Ms. Tanya Evans, Mr. Ken Daly, Mr. Toby Coleman, Ms. Kimberlee Witt, Mr. Donald Long, Ms. Patricia “PJ” Gentry, and Mr. Howard Eastwood.

Planning Director, Lori Oakley introduced County Planner, Kayla DiCristina to introduce this SUP-01-20 request to the Board of Commissioners.

Ms. DiCristina stated all state statutes and planning ordinance requirements have been met for this public hearing. She shared the following presentation with the group:

Special Use Permit

SUP-01-20

Special Use Permit

SUP-01-20- Explanation of Request

Petition SUP-01-20 - A request by Duke Energy Progress, LLC to construct a new 58.5-acre industrial landfill (ash basin landfill) along with supporting infrastructure and a leachate pond at the Duke Energy Mayo Steam Electric Plant located at 10660 Boston Road on land within 224.74 acres described in Deed Book 134 Page 17 ("Tract 21") and 145.94 acres described in Deed Book 148 Page 177 ("Tract 22") located on Boston Road in the RC (Rural Conservation) Zoning District.

Ms. DiCristina noted the current use contains portions of the Mayo Plant, ash basin, and wooded areas and the land to the west of the property contains vacant

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properties and a few businesses. She further noted all land zoned RC on the tracts for the proposed development and the land surrounding those tracts.

9/8/2020

Special Use Permit

SUP-01-20 – Current Land Use

This petition is proposing development on two tracts within the Mayo Plant: Tracts 21 and 22.

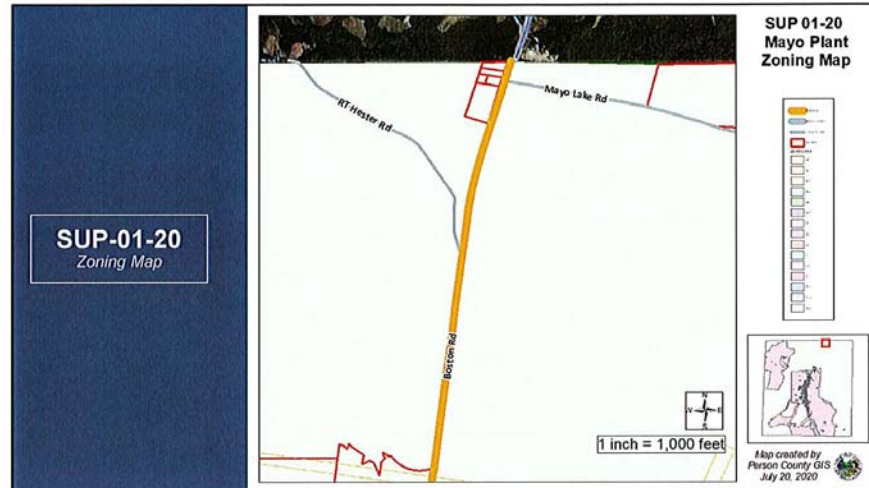
- Tract 21 is within the Mayo Plant and contains an ash basin and wooded areas. The entire property is zoned RC (Rural Conservation).
- Tract 22 is within the Mayo Plant and contains an ash basin and wooded areas. The entire property is zoned RC (Rural Conservation).



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The tracts are located on Boston Road adjacent to the VA/NC border.

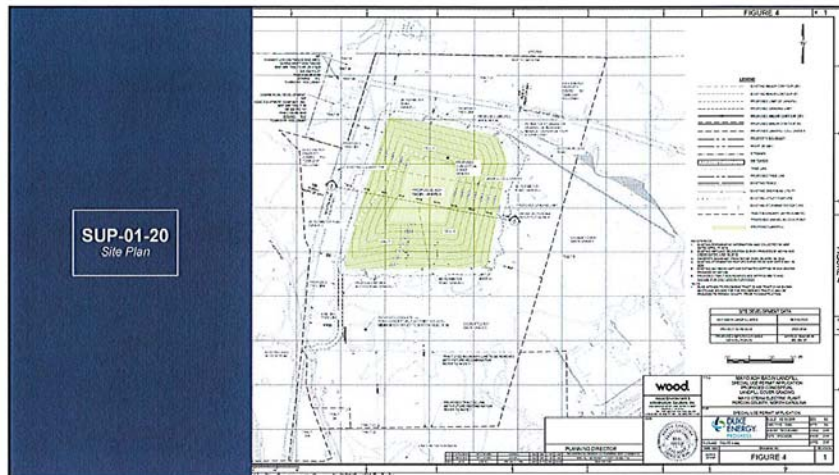
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Special Use Permit

SUP-01-20 – Planning Staff Analysis

- The Person County Planning and Zoning Department issued a Special Use Permit to Duke Energy Progress, LLC (formerly Carolina Power and Light) in 2010 for an on-site Industrial Landfill on the Mayo Plant on the western side of Boston Road. The existing landfill was approved for 118.4 acres, but only 31 acres have been used.
- The applicant is requesting to construct a new 58.5-acre industrial landfill and access roads in the center of Tract 21 and supporting infrastructure (including erosion and sediment control basins, ditches, leachate collection system, contractor parking, construction staging area, and portable contractor facilities) and stormwater management structures on the portion of Tract 22 to the east of Boston Road.



Special Use Permit

SUP-01-20 – Comprehensive Plan

The Person County Land use Plan identifies the proposed site as Rural Residential. Rural Residential is defined as:

Low-density residential (single site-built and manufactured homes); agriculture, forestry, churches; very limited commercial, office, or public/institutional uses meeting locational criteria. Most of the land within protected water supply watersheds should be placed in this category. Locational criteria for non-residential uses within this land use category would include frontage and access to a major State highway or secondary road, proximity to similar uses and spatial separation from non-compatible uses such as existing residential development. Land uses within this category would be expected to develop without public sewer, i.e., with private septic tank systems.

Special Use Permit

SUP-01-20 – Comprehensive Plan

Appendix O of the Land Use Plan lists goals and objectives for the county including the following:

- 1.0 – Promote an orderly and efficient land use development pattern, which allows for a variety of land uses while being sensitive to environmental concerns.*
- 2.0 – Provide a strong local planning environment that supports and enhances the economic growth potential of Person County.*

Special Use Permit

SUP-01-20 – Planning Staff Recommendation

Planning staff recommends that if the Board of Commissioners approves the request, the following conditions be placed on the Special Use Permit:

1. The applicant is to combine Tracts 21 and 22 following issuance of the Special Use Permit.
2. The applicant is to obtain all permits necessary from the following Person County Departments Environmental Health, Planning and Zoning, and Building Inspections.
3. The applicant is to obtain all permits necessary and provide copies to the Planning and Zoning Department for the following agencies US Army Corps of Engineers (USACE) and NC Department of Environmental Quality (NCDEQ).

Special Use Permit

SUP-01-20 – Planning Board Recommendation from August 13th, 2020 Meeting

At the August 13th, 2020 Planning Board meeting, the Board voted unanimously (7-0) to recommend approval of SUP-01-20 with staff's recommended conditions.

Special Use Permit

SUP-01-20– Findings of Fact

The Board of Commissioners shall issue the Special Use Permit if it has evaluated an application and determined:

1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;
2. That the use meets all of the required conditions and specifications;
3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity;
4. That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Comprehensive Plan.

Speaking in favor of the request by Duke Energy Progress, LLC to construct a new 58.5-acre Industrial Landfill (Ash Basin Landfill), Access Roads, Supporting Infrastructure, and Leachate Pond at the Duke Energy Mayo Steam Electric Plant on land within 224.74 acres described in Deed Book 134 Page 17 Tract 21 and 145.94 acres described in Deed Book 148 Page 177 Tract 22 located at 10660 Boston Road in the Rural Conservation Zoning District were the following:

Ms. Tanya Evans of 84 Flat River Circle, Timberlake and the District Manager for Duke in the Government Community Relations Department noted Mr. Toby Coleman, an attorney with Smith Anderson Law Firm of 150 Fayetteville St., Suite 2300, Raleigh representing Duke Energy has expertise in land use and zoning matters was helping Duke Energy prepare and submit its applications before the Board. Ms. Evans further noted Mr. Ken Daly, a principal engineer for environment infrastructure solutions with Wood PLC; she said Mr. Daly and his team developed the landfill designs and specifications for the requested permits and were available to answer questions. Ms. Evans introduced Kim Witt, who works at Duke Energy as the environmental lead for solid waste permitting and compliance; she is also available to answer any questions.

Ms. Evans said Mr. Toby Coleman would walk through the specifics for each site. Ms. Evans provided some background about the permit. Last year, state regulators, the environmental community and Duke Energy agreed to a plan to permanently close the company's remaining coal ash basins by excavating the ash into lined landfills in a manner that continues to protect people, communities and the environment. Ms. Evans stated this plan recognizes that drinking and recreational water supply are safe now and ensures that they remain protected. This plan has been approved by NCDEQ and in accordance with a Consent Order from the state and follows rules and regulations outlined under state law within the Coal Ash Management Act. Ms. Evans stated the landfill locations that are before the Board are a result of a detailed analysis that includes prioritizing the environmental protection, minimizing disruption to the communities, Duke's ability to comply with state and federal law, Duke's ability to meet regulatory deadlines, minimizing impacts to natural resources and minimizing costs for customers. Ms. Evans said it was important to note that as a result of this analysis, Duke is seeking permits to construct landfills at both Roxboro and Mayo on plant property and adjacent to or even within the existing footprint of the current ash basin.

Ms. Evans turned the presentation over to Mr. Toby Coleman to present the specifics about the projects and how they meet the required criteria for the permit.


Mr. Toby Coleman, attorney with Smith Anderson Law Firm in Raleigh representing Duke Energy Progress said Ms. Evans has summarized why they were before the Board for a plan triggering to close the existing ash basin. Mr. Coleman said it would involve a major undertaking involving the excavation and relocation of about 6.6M tons of coal ash that is currently in the ash basin for the safest and best option both for the community and public to an onsite landfill.

Duke Energy Progress - Mayo Ash Basin Closure Landfill
Person County Planning Board Meeting
 Thursday, August 13, 2020





Mayo Plant



Special Use Permit Application for Proposed Landfill

- Process triggered by closure of Mayo Plant's ash basin
- Closure involves excavation/relocation of approx. 6.6 million tons (5.5 million cy) of coal ash
- Safest option: onsite landfill
- County zoning: Special Use Permit required for proposed landfill

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Background: Closure of Ash Basin



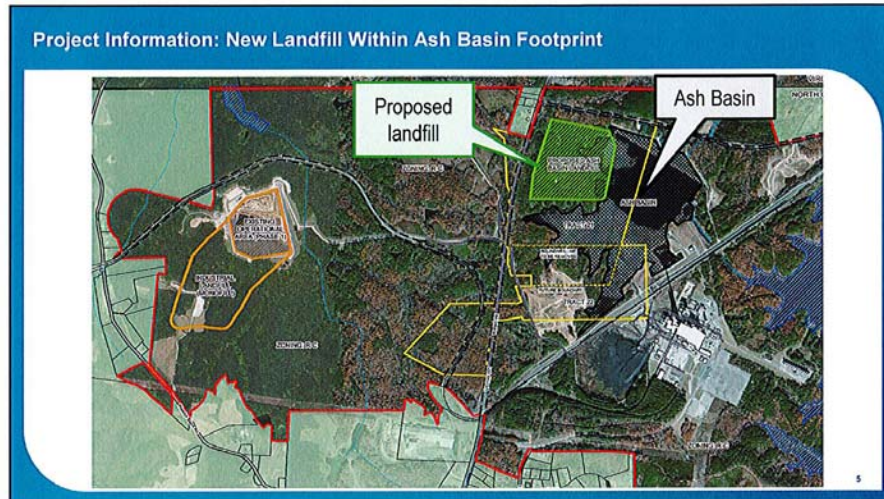
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Closure of Ash Basin by Excavation

- Ash Basin contains approximately 6.6 million tons (5.5 million cubic yards) of coal ash
- Closure required and overseen by state
- As part of closure, ash basin will be drained and coal ash will be excavated
- Landfill design/permitting/construction overseen by state

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Mr. Coleman stated the Coal Ash Management Act of 2014 and an environmental group Consent Order required closures by 2029 to protect public health and safety. The ash basin will be drained, excavated and placed into a new landfill that is subject to oversight and review by DEQ in the design, permitting, construction phases as well as management and operation phases. Mr. Coleman said Ms. DiCristina mentioned an existing Monofill that was permitted about a decade ago, when the Mayo Plant was still in operation; the area where Duke is currently proposing a landfill was not really an option in 2010 when Duke came before the Board to build a 100+ acre landfill for a place to send coal ash from existing operations. Mr. Coleman noted the ash basin was full with the goal to get it to a dry basin; creating a landfill on the existing ash basin was not an option at that time. Mr. Coleman explained what has changed from that time is the operations of burning coal and creating coal ash is going to stop as part of this process. As a result of the closure, the proposed landfill became a viable option. In doing the analysis, Duke found a number of things to make this a more viable option to use the approximately 60-acre area than expanding and using up the remaining 80-acres on this landfill. Mr. Coleman said this would reduce the amount of large trucks carrying coal ash that needed to cross Boston Road either by the construction of a new bridge or just driving across the road multiple times a day carrying tons and tons of coal ash. Mr. Coleman noted an environmental benefit noting both areas have an impact on streams but a lesser impact in the proposed area. In addition, construction will be under state regulations that ensure safety but in the event something happens, the surface impacts would go into the ash basin area which will be reclaimed as opposed to going into surface streams.



Project Meets Special Use Criteria

- Four criteria for Special Use Permits:
 1. Proposed use will not materially endanger public health/safety
 2. Proposed use meets required conditions and specifications set out in County ordinance
 3. Proposed use will not substantially injure adjoining property, or is a public necessity
 4. Proposed use is in harmony with area

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Mr. Coleman stated the staff report established that the proposed use meets the required conditions and specifications set out in the ordinance and Duke has more than exceeded the required setbacks, a use permitted by Special Use criteria and the request was in harmony with the area, on the power plant's land.

Chairman Jeffers asked if there were any homes in the Mayo community with the water treatment systems like the ones in the Hyco community. Ms. Evans said the water treatment systems were installed on any home that requested it and was within the one-half mile radius of the ash basin. Ms. Evans said she did not know the exact number but she could find out how many.

Mr. Ken Daly of 2113 Climbing Rose Lane, Matthews said he was available to questions related to the engineering design.

Commissioner Puryear asked if this was considered a subtitle D landfill. Mr. Daly stated yes, that it actually exceeds the subtitle D requirement in that it has a double liner system which includes two geo-membranes with a leak detection system in between it. Mr. Daly said it is going above and beyond an ordinary municipal solid waste landfill regulated under subtitle D.

Chairman Jeffers stated the request is for an industrial landfill (ash basin landfill) and asked what are other permitted items that can go into an industrial landfill. Ms. Kimberlee Witt of 7615 Middle Drive, Greensboro and Duke Energy employee said the ash basin landfill is just a name of the landfill noting it is an industrial landfill permitted under the industrial landfill rules of the state and the CCR rule with the EPA. Chairman Jeffers said he understood that but noted his question was what are other permitted items, other than coal ash, that can go into an industrial landfill. Ms. Witt said the industrial landfill is permitted for the same general waste that is permitted in the current Monofill that is across the road which is essentially waste produced during the power production process, i.e., it could be FGD, soil comingled with ash, sludge from the waste water treatment system; that list of waste materials as defined in the permit application.

Ms. Oakley stated per the County's Zoning Ordinance, it is anything non-hazardous and non toxic.

Vice Chairman Powell asked Mr. Coleman to clarify monitoring for decades. Mr. Coleman stated he would let the experts answer that question. Ms. Witt stated the state and federal rules for groundwater monitoring for closing a landfill facility is post closure monitoring for 30 years. After 30 years, depending on what is being seen in the groundwater, if anything, the state will decide if monitoring will be continued or if monitoring will be ceased. Mr. Coleman added the deadline for closure of this landfill is 2029 and from today, an approximately 10-year process for constructing, filling and closing the landfill. After the closure, Mr. Coleman stated there would be another 30 years of monitoring.

Chairman Jeffers asked if the current Monofill was at capacity to which Mr. Coleman stated only one phase of 31-acres had been built and therefore was not at capacity.

Chairman Jeffers asked what was the frame of thought of not just using the current Monofill at the Mayo plant where there is far less homes at least on the Boston Road area when this one was permitted, and just using one in the county instead of trying to permit another in the county in the Hyco area. Mr. Daly said the general answer was frankly that millions and millions of tons in coal ash; the goal is to transport it as short a distance as possible both for issues of traffic and environmental safety as you don't want coal ash dust spraying on homes, on roads, on cars and rather than attempting to haul coal ash from one power plant to another, the idea was to let's use the existing facilities. Mr. Daly said the ponds would have to be drained as part of the pond's cleanup, so the coal ash is to go into a landfill on both of these sites.

Mr. Donald Long of 9741 Virgilina Road, Roxboro, a lifelong native of Person County with education said he holds certification in storm water, waste water I, sub surface waste water certification, physical chemical waste water certification, and has made application of residual certification. He said Duke Energy, formerly CP&L, requested a permit and was given a permit when these facilities were built and built it based it on the permit that the state of NC gave them which was based on the best science at that time. Of course, now the science has changed and Duke has been a good corporate citizen of Person County and for the state of NC. The Division of Environmental Quality (DEQ) has done an exhaustive study and directed Duke on the expansion of this landfill. Mr. Long said he went to the two hearings that the DEQ had here, back earlier this year. Mr. Long believed it was brought up there were millions of tons of ash at the Hyco Plant, which is one reason you can't move from one location to another, across the county. Mr. Long requested that the permit as requested by Duke Energy be approved.

Ms. Patricia "PJ" Gentry of 541 Byrd Creek, Hurdle Mills thanked the Board for working for the county and noted her appreciations. She said she didn't have the credentials that Donald Long has but supported him in his statements. Ms. Gentry said Duke Power has been an excellent corporate partner in the county and they have done everything that has been requested of them trying to minimize the disruption of coal ash, doing it responsibly according to what the directives they have been given. Ms. Gentry stated support that they are doing the right things and she asked the Board to support them in their endeavors.

Mr. Coleman stated out of an abundance of caution, as this was a quasi-judicial procedure, moved that the Staff Report and all other documents that were provided to the Board related to this be entered into the record as evidence.

Speaking in opposition to the Duke Energy Progress, LLC to construct a new 58.5-acre Industrial Landfill (Ash Basin Landfill), Access Roads, Supporting Infrastructure, and Leachate Pond at the Duke Energy Mayo Steam Electric Plant on land within 224.74 acres described in Deed Book 134 Page 17 Tract 21 and 145.94 acres described in Deed Book 148 Page 177 Tract 22 located at 10660 Boston Road in the Rural Conservation Zoning District was the following:

Mr. Howard Eastwood of 309 Eastwood Long Lane, Roxboro stated he was not one of the friends of Duke cause they haven't really treated them too decent on that end. Mr. Eastwood said his property, 300 ft. to 500 ft. away with several wells with systems; he said his neighbor and people in Virginia don't even get a letter saying what's happening, and several houses on the other side of the dirt road. Mr. Eastwood stated the biggest thing they've been fighting the last few years with Southern Environmental Group, the group out of Virginia, and everywhere with the only reason they doing this now is that they sued them as they wanted to just put dirt on top of it, and leave it laying. He said he has been to several things and depositions to make them get the coal ash up. Mr. Eastwood said they begged them 10-years ago to please have the landfill across the road; they have 100s of acre over there, a whole lot farther away and 501 as you saw the 300 ft. barrier; the new 501 has to go through that crack. With 300 ft. when they come through there, you'll be looking at the landfill and have to listen to all this traffic, all beeping noise, all fly-ash for ten more years is sorta a slap in the face. He said the half-mile radius with his six tracts of land, three rental houses down there, two of his house was 130 ft. from the half-mile radius and they wouldn't talk to him about putting in the system. He said you always hear Duke is your friend and the only reason he heard they didn't want to be the safety of the road. Last year, they took over Mayo Lake Road construction area and it was hundreds of trucks all day long, dusting 501, dusting my property, and didn't have no problem with that. They were going up and down 501, now they just got to go one straight stretch with the wood yard right up the road, hundreds of trucks a day don't have no problem pulling in and pulling out on 501. Mr. Eastwood said he would like for Duke to carry it across the road where they have only used a section of it anyway with the same permits to add on and do on that side as they are doing on this side. Mr. Eastwood stated they haven't said how deep this is going to be; if they go down enough to put six million cubic yards of ash, and if their wells go dry, is anyone going to be responsible. Mr. Eastwood said no one said how deep they would have to go to put 6.5M tons of ash in it. Mr. Eastwood thought a better system could be worked out when they have hundreds of acres but they want to put it right up on the corner where everybody else is close around.

Ms. DiCristina assisted Mr. Eastwood to put the map back up on the screen to illustrate his property. Mr. Eastwood said he might not live to see the 501 built but it takes a 300 ft. right-of-way and if anything has to be moved, who is liable to pay to change any of that. Mr. Eastwood said he didn't see how the state could turn over the Mayo Lake Road to contractors. He said he has called Ms. Evans and asked if anybody was going to stop and pay for washing houses when dust come across 501. He said that was dangerous noting he had to threaten two or three times before they finally started to watering the road. The only deal they seem to be worried about is crossing the road and keep dragging it on and ten years is a long time to listen to the noise and stuff to do. Mr. Eastwood said it is on the corner of property lines of the state of VA and NC noting over 800 acres on the other side with a landfill and a road going through it. Just the dangers of crossing the road over a 10-year period; companies work at night when not much traffic on the road. Mr. Eastwood said in 10-years you can safely cross 501 and use the landfill. If a new park comes, Mr. Eastwood said they would look at how many coal ash landfills

is Person County going to have and how many chances of leaks in the future. Mr. Eastwood said to put one anywhere you want noting you change from one field and build another over here. Is anybody said if Duke leaves in nine years and still have those landfills, are stuff from other places to be dumped since they have a designated dump. Does anybody got anybody's word when it ends that it closes up with nothing in the future coming from other counties and other states cause you leave an open door, nobody said with this one closed – need to ask a lot more questions.

A **motion** was made by Vice Chairman Powell and **carried 5-0** to close the public hearing for a request by Duke Energy Progress, LLC to construct a new 58.5-acre Industrial Landfill (Ash Basin Landfill), Access Roads, Supporting Infrastructure, and Leachate Pond at the Duke Energy Mayo Steam Electric Plant on land within 224.74 acres described in Deed Book 134 Page 17 Tract 21 and 145.94 acres described in Deed Book 148 Page 177 Tract 22 located at 10660 Boston Road in the Rural Conservation Zoning District.

CONSIDERATION TO GRANT OR DENY REQUEST BY DUKE ENERGY PROGRESS, LLC TO CONSTRUCT A NEW 58.5-ACRE INDUSTRIAL LANDFILL (ASH BASIN LANDFILL), ACCESS ROADS, SUPPORTING INFRASTRUCTURE, AND LEACHATE POND AT THE DUKE ENERGY MAYO STEAM ELECTRIC PLANT ON LAND WITHIN 224.74 ACRES DESCRIBED IN DEED BOOK 134 PAGE 17 TRACT 21 AND 145.94 ACRES DESCRIBED IN DEED BOOK 148 PAGE 177 TRACT 22 LOCATED AT 10660 BOSTON ROAD IN THE RURAL CONSERVATION ZONING DISTRICT:

A **motion** was made by Commissioner Puryear and **carried 4-1** to approve SUP-01-20, a request by Duke Energy Progress, LLC to construct a new 58.5-acre Industrial Landfill (Ash Basin Landfill), Access Roads, Supporting Infrastructure, and Leachate Pond at the Duke Energy Mayo Steam Electric Plant on land within 224.74 acres described in Deed Book 134 Page 17 Tract 21 and 145.94 acres described in Deed Book 148 Page 177 Tract 22 located at 10660 Boston Road in the Rural Conservation Zoning District with the following conditions:

1. The applicant is to combine Tracts 21 and 22 following issuance of the Special Use Permit.
2. The applicant is to obtain all permits necessary from the following Person County Departments Environmental Health, Planning and Zoning, and Building Inspections.
3. The applicant is to obtain all permits necessary and provide copies to the Planning and Zoning Department for the following agencies US Army Corps of Engineers (USACE) and NC Department of Environmental Quality (NCDEQ).

The Board of Commissioners determined SUP-01-20 met the following findings of fact:

1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;
2. That the use meets all of the required conditions and specifications;
3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity;
4. That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Comprehensive Plan.

Chairman Jeffers stated there were too many landfills in Person County: one in the southern part of the county and he voiced concern of permitting an industrial landfill with other items permitted to dump in this landfill. Chairman Jeffers said he was on the Board ten years ago when the Monofill was approved and with the Monofill not being at capacity in phase I, he said he was not in favor of granting a SUP to construct a new landfill. Chairman Jeffers cast the lone dissenting vote.

Commissioner Sims stated with the comments Duke has made and covered the environmental issues. He noted his concern was with the water and wells around the ash basin facility. Commissioner Sims said Duke would be monitoring the ground water.

PUBLIC HEARING:

PETITION SUP-02-20 - A REQUEST BY DUKE ENERGY PROGRESS, LLC TO EXPAND THE EXISTING INDUSTRIAL LANDFILL BY 80 ACRES AT THE DUKE ENERGY ROXBORO STEAM ELECTRIC PLANT LOCATED AT 1700 DUNNAWAY ROAD ON LAND WITHIN 231.13 ACRES DESCRIBED IN DEED BOOK 98 PAGE 90 TRACT 31, 244.74 ACRES DESCRIBED IN DEED BOOK 98 PAGE 39 TRACT 32, 187.88 ACRES DESCRIBED IN DEED BOOK 98 PAGE 605 TRACT 38, AND 28.25 ACRES DESCRIBED IN DEED BOOK 98 PAGE 279 TRACT 91 IN THE RESIDENTIAL ZONING DISTRICT:

A **motion** was made by Vice Chairman Powell and **carried 5-0** to open the duly advertised public hearing for a request by Duke Energy Progress, LLC to expand the existing industrial landfill by 80 acres at the Duke Energy Roxboro Steam Electric Plant located at 1700 Dunnaway Road on land within 231.13 acres described in Deed Book 98 Page 90 Tract 31, 244.74 acres described in Deed Book 98 Page 39 Tract 32, 187.88 acres described in Deed Book 98 Page 605 Tract 38, and 28.25 acres described in Deed Book 98 Page 279 Tract 91 in the Residential Zoning District.

The public hearing set to hear a Special Use Permit request by Duke Energy Progress, LLC to expand the existing industrial landfill by 80 acres at the Duke Energy Roxboro Steam Electric Plant located at 1700 Dunnaway Road on land within 231.13 acres described in Deed Book 98 Page 90 Tract 31, 244.74 acres described in Deed Book 98 Page 39 Tract 32, 187.88 acres described in Deed Book 98 Page 605 Tract 38, and 28.25 acres described in Deed Book 98 Page 279 Tract 91 in the Residential Zoning District required a quasi-judicial zoning decision whereby witnesses are to be sworn in and subject to cross examination, no ex parte communication and requires findings of fact. Chairman Jeffers administered the Oath of Sworn Testimony to the following individuals who would offer testimony during the public hearing:

Ms. Lori Oakley, Ms. Kayla DiCristina, Ms. Tanya Evans, Mr. Ken Daly, Mr. Toby Coleman, Ms. Kimberlee Witt, Mr. Donald Long and Ms. Patricia “PJ” Gentry

Planning Director, Lori Oakley introduced County Planner, Kayla DiCristina to introduce this SUP-02-20 request to the Board of Commissioners.

Ms. DiCristina stated all state statutes and planning ordinance requirements have been met for this public hearing.

Special Use Permit

SUP-02-20

Special Use Permit

SUP-02-20– Explanation of Request

Petition SUP-02-20 - A request by Duke Energy Progress, LLC to expand the existing industrial landfill with an 80 acre ash basin landfill at the Duke Energy Roxboro Steam Electric Plant located at 1700 Dunnaway Road on land within 231.13 acres described in Deed Book 98 Page 90 ("Tract 31"), 244.74 acres described in Deed Book 98 Page 39 ("Tract 32"), 187.88 acres described in Deed Book 98 Page 605 ("Tract 38"), and 28.25 acres described in Deed Book 98 Page 279 ("Tract 91") in the R (Residential) Zoning District.

Ms. DiCristina stated the tracts are located off of Dunnaway Road within the Roxboro Plant, and currently contain portions of the Roxboro Plant, ash basin, and woodlands. Properties east of the site contain vacant land and scattered single-family residences (over 1,000 ft. away).

Tracts to the north of Dunnaway Road are zoned R (residential) (Tract 31, 32, part of 38, and 91). Tracts to the south of Dunnaway Road are zoned GI (Part of Tract 38). RC zoning is present east of the site.

9/8/2020

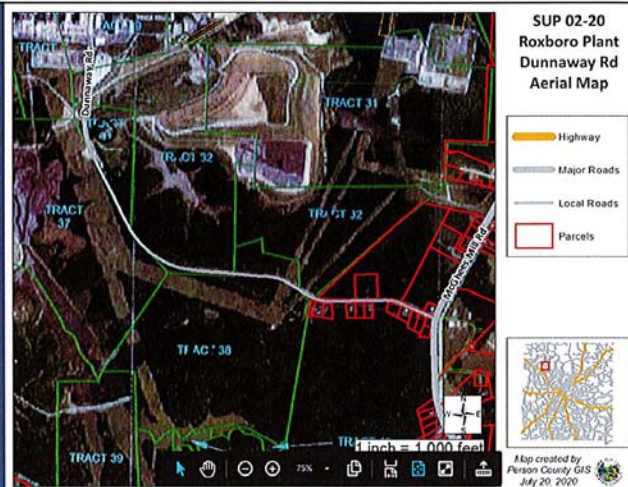
Special Use Permit

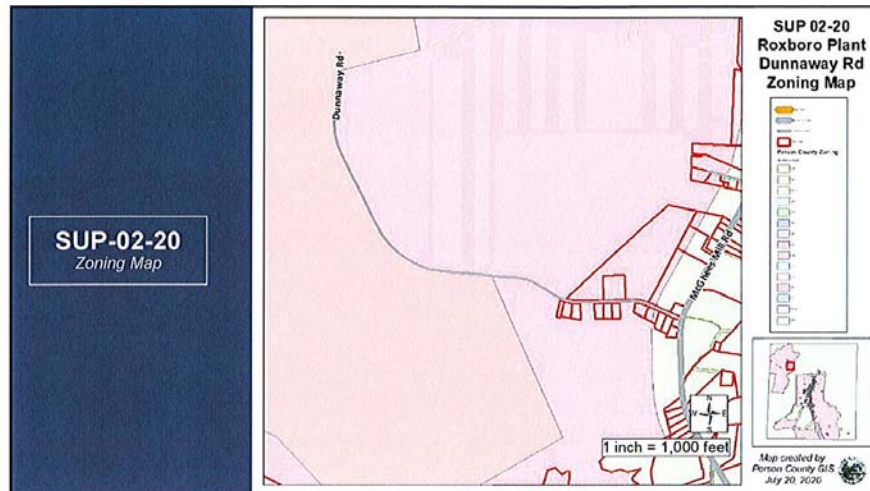
SUP-02-20 – Current Land Use

This petition proposes development on four tracts within the Roxboro Plant: Tracts 31, 32, 38, and 91.

- Tract 31 is within the Roxboro Plant. The property is zoned R (Residential).
- Tract 32 is within the Roxboro Plant. Tract 32 contains a portion of the existing landfill and wooded areas. The property is zoned R (Residential).
- Tract 38 is within the Roxboro Plant and contains an industrial area and woodlands. The property is split-zoned with GI (General Industrial) on the western side of the property and R (Residential) on the eastern side of the property.
- Tract 91 is within the Roxboro Plant and contains a portion of the existing landfill and woodlands. The property is zoned R (Residential).

SUP-02-20 Aerial

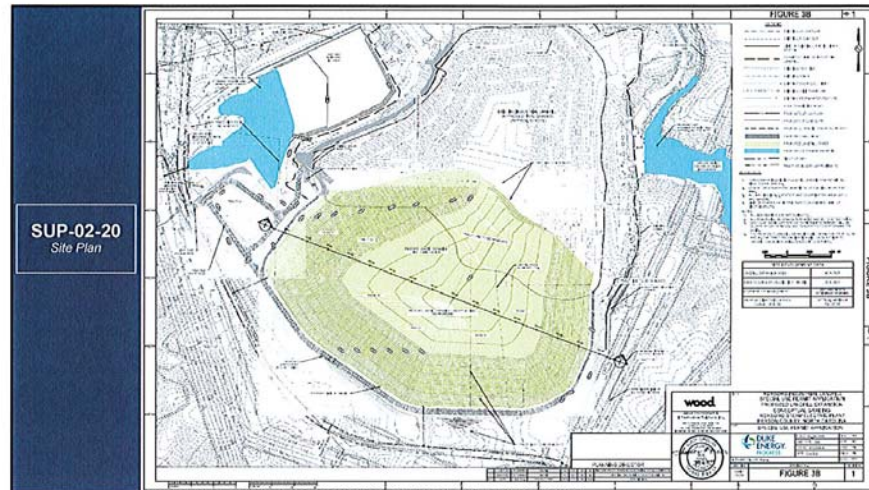




Special Use Permit

SUP-02-20 – Planning Staff Analysis

- Prior to the creation of the Planning Ordinance, Duke Energy Progress LLC (formerly Carolina Power and Light) was permitted to construct the existing industrial landfill at the Roxboro Plant. The existing landfill is approximately 90 acres.
- The applicant is requesting to expand the existing industrial landfill by 80 acres on Tracts 31, 32, 38, and 91. The expansion will encompass 25 acres of the existing landfill resulting in a net increase of 55 acres of landfill area. The applicant is also requesting to construct two stormwater basins and a surrounding gravel road on the same tracts.



Special Use Permit

SUP-02-20 – Comprehensive Plan

The Person County Land use Plan identifies the proposed site as Rural Residential/Agricultural. Rural Residential/Agricultural is defined as:

Low-density residential (single site-built and manufactured homes); agriculture, forestry, churches; very limited commercial, office, or public/institutional uses meeting locational criteria. Most of the land within protected water supply watersheds should be placed in this category. **Locational criteria for non-residential uses within this land use category would include frontage and access to a major State highway or secondary road, proximity to similar uses and spatial separation from non-compatible uses** such as existing residential development. Land uses within this category would be expected to develop without public sewer, i.e., with private septic tank systems.

Special Use Permit

SUP-02-20 – Comprehensive Plan

Appendix O of the Land Use Plan lists goals and objectives for the county including the following:

- 1.0 – Promote an orderly and efficient land use development pattern, which allows for a variety of land uses while being sensitive to environmental concerns.*
- 2.0 – Provide a strong local planning environment that supports and enhances the economic growth potential of Person County.*

Special Use Permit

SUP-02-20 – Planning Staff Recommendation

Planning staff recommends that if the Board of Commissioners recommends approval of the request, the following conditions be placed on the Special Use Permit:

1. The applicant is to combine Tracts 31, 32, 38, and 91 following issuance of the Special Use Permit.
2. The applicant is to obtain all permits necessary from the following Person County Departments Environmental Health, Planning and Zoning, and Building Inspections.
3. The applicant is to obtain all permits necessary and provide copies to the Planning and Zoning Department for the following agencies US Army Corps of Engineers (USACE) and NC Department of Environmental Quality (NCDEQ).

Special Use Permit

SUP-02-20 – Planning Board Recommendation from August 13th, 2020 Meeting

At the August 13th, 2020 Planning Board meeting, the Board voted unanimously (7-0) to recommend approval of SUP-02-20 with staff's recommended conditions.

Special Use Permit

SUP-02-20– Findings of Fact

The Board of Commissioners shall issue the Special Use Permit if it has evaluated an application and determined:

1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;
2. That the use meets all of the required conditions and specifications;
3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity;
4. That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Comprehensive Plan.

Chairman Jeffers requested Ms. DiCristina to illustrate on the aerial map if occupied residential homes were located within Tracts 32 and 38 to which she replied affirmatively. Chairman Jeffers asked what was the required buffer to which Ms. DiCristina stated the required buffer is 150 ft. from the landfill noting the occupied residential homes were over 1,000 ft. away which exceeds the buffer requirement. She added the proposed landfill and the accessory structures, i.e., storm water basins and the gravel road go onto Tract 38. Chairman Jeffers asked if there were structures on both sides of the road and Ms. DiCristina stated no noting Tract 38 goes across Dunnaway Road and the proposed structures are all above Dunnaway Road.

Speaking in favor of the request by Duke Energy Progress, LLC to expand the existing industrial landfill by 80 acres at the Duke Energy Roxboro Steam Electric Plant located at 1700 Dunnaway Road on land within 231.13 acres described in Deed Book 98 Page 90 Tract 31, 244.74 acres described in Deed Book 98 Page 39 Tract 32, 187.88 acres described in Deed Book 98 Page 605 Tract 38, and 28.25 acres described in Deed Book 98 Page 279 Tract 91 in the Residential Zoning District were the following:

Ms. Tanya Evans of 84 Flat River Circle, Timberlake and the District Manager for Duke in the Government Community Relations Department said her previous comments are reflective of what she had to say.


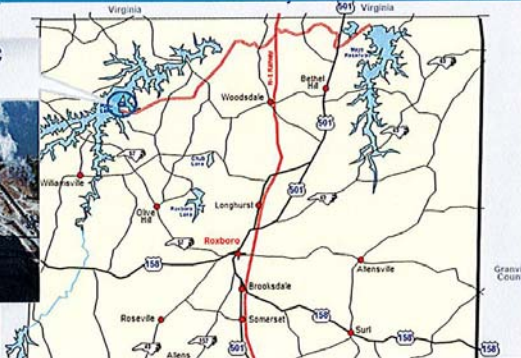
Mr. Toby Coleman, attorney with Smith Anderson Law Firm of 150 Fayetteville Street, Suite 2300, Raleigh and representing the applicant, Duke Energy Progress moved that the Staff Report and all documents in the packet be entered into evidence in this quasi-judicial hearing.

Mr. Coleman stated this hearing was very similar situation as Mayo, a coal plant with a coal ash pond that needs to close under state law. The Roxboro Plant has approximately 16.9M tons of coal ash for closure and relocation of two ash basins located on the facility. Mr. Coleman said the goal was to move the coal ash in as short of a distance as possible. He stated there was an existing landfill onsite so the goal was to expand the existing landfill.

Duke Energy Progress - Roxboro Industrial Landfill Expansion
Person County Planning Board Meeting
 Thursday, August 13, 2020

SAFETYFirst

Roxboro Steam Electric Plant

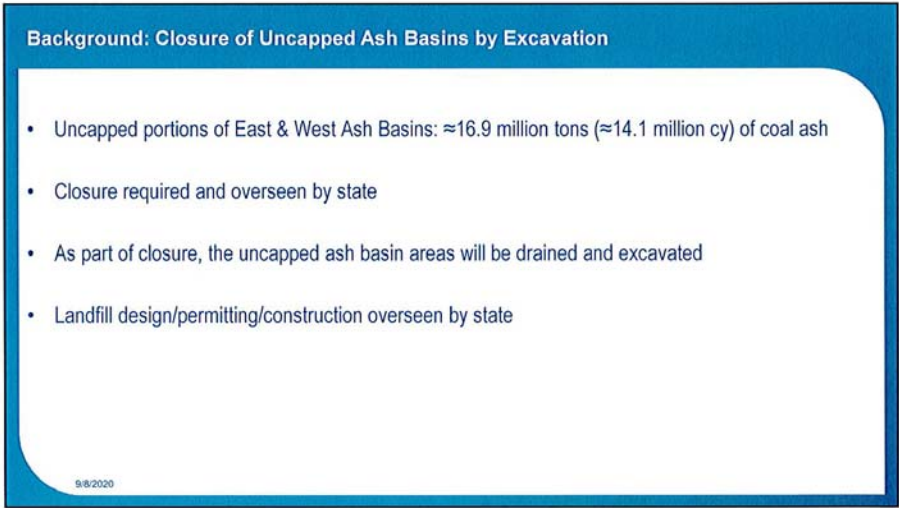



Special Use Permit Application for East Ash Basin Landfill Expansion

- Process triggered by closure of Roxboro Plant's ash basins
- Closure involves excavation/relocation of approx. 16.9 million tons (14.1 million cy) of coal ash
- Safest option: expand onsite landfill (East Ash Basin Landfill)
- County zoning: Special Use Permit required for expansion of East Ash Basin Landfill

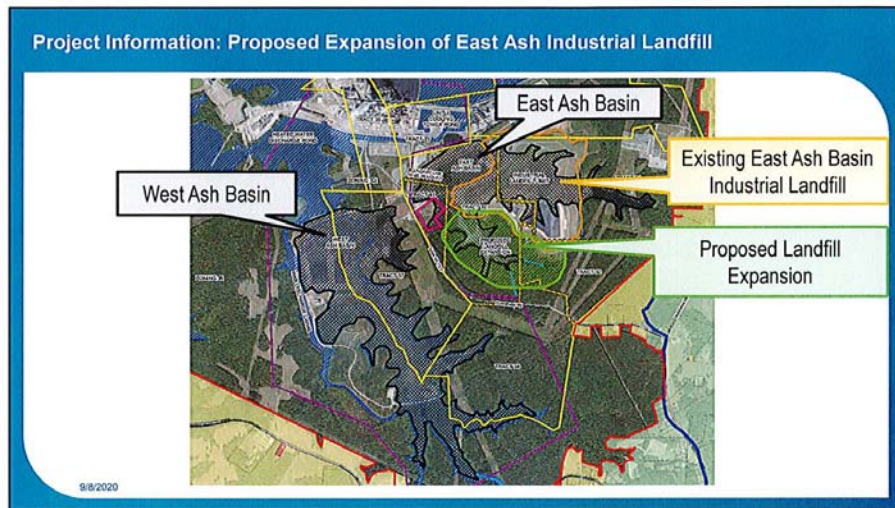
9/8/2020

Mr. Coleman stated the two ash basins, known as the West Ash Basin and the East Ash Basin/Landfill were south of the Roxboro Hyco Plant.



Mr. Coleman illustrated on the below slide how the landfill barely touches Tract 38. The SUP will be associated with the Site Plan boundaries with the goal to not use all of Tract 38.

9/2/2020



Project Meets Special Use Criteria

- Four criteria for Special Use Permits:
 1. Proposed use will not materially endanger public health/safety
 2. Proposed use meets required conditions and specifications set out in County ordinance
 3. Proposed use will not substantially injure adjoining property, or is a public necessity
 4. Proposed use is in harmony with area

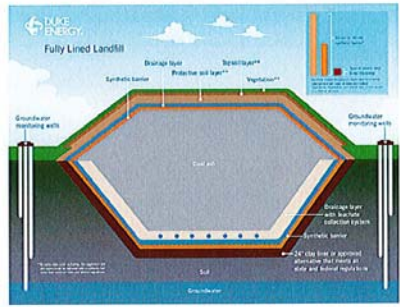
9/8/2020

Mr. Coleman noted it has been established that the request has met the required conditions and specifications of the County ordinance as set out in the Staff Report and adjoining to an existing landfill on power plant property noting it is in harmony in the area and zoned for this use as a SUP.

9/2/2020

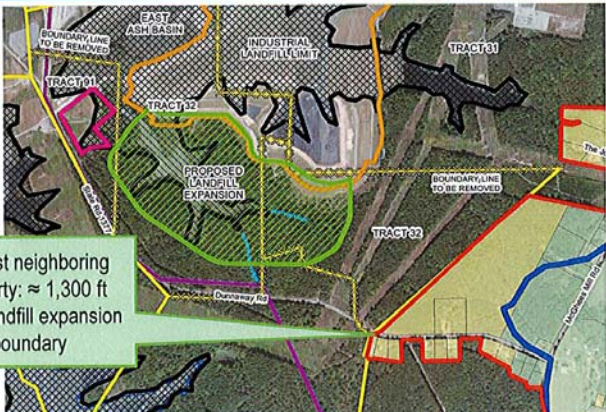
Protecting Public Health/Safety and Adjoining Properties

- Environmental groups, regulators and Duke Energy all agree that on-site landfill will protect people and environment
- Engineered containment system
 - Double liner system – with leak detection
 - Cover system
 - Groundwater monitoring network
- Landfill will be closely monitored for decades



9/8/2020

Protecting Adjoining Properties: Setback



Closest neighboring property: ≈ 1,300 ft from landfill expansion boundary

Mr. Coleman said the large trucks will be able to move between the existing coal ash basins on the facility rather than hauling coal ash out a residential road, which is a primary access to this property.

Commissioner Clayton asked if the current coal ash was in a pond that is flooded, with water standing to which Mr. Coleman stated there are two wet ponds. Commissioner Clayton said by moving from wet storage to dry storage with draining and protection should cut down on the lechtate to which Mr. Coleman affirmed noting that is why state law requires the closure of the existing coal ash ponds for the purpose to improve environmental protections. Commissioner Clayton noted he had been around a long time and remember when coal ash got in the lake and caused a silinem problem in the late 70's or 80's which took quite a while to get straightened out. He added he knew you can get things out of coal ash and understood Chairman Jeffers' concern about it being within a certain distance of houses and roads. Commissioner Clayton stated it appears to him that what Duke is fixing to do is better than what has been done in the past so it should be an improvement. Commissioner Clayton opined this was a different landfill and not like a landfill that takes garbage and everything including coal ash. He added the Duke landfill will include one product with the assumption that Duke was not putting something else in this landfill unless permitted for it to which Mr. Coleman affirmed. Commissioner Clayton noted it's on Duke's property, entirely owned by Duke and should be an improvement from what is out there now. Commissioner Clayton stated he understood the gentlemen's comments about dust and different things but Duke's site is close enough by to cut down on a lot of transportation to haul that many millions of tons of coal ash. He pointed out the lined bottom and lined top and built according to specifications should be okay and be an improvement to the groundwater and the area to the well. Mr. Coleman wholeheartedly agreed with Commissioner Clayton's statement. He said he has been around a while and usually oppose landfills for the neighborhood but in this situation, he thought it would be an improvement over what we have now.

Chairman Jeffers noted as a permitted industrial landfill he asked Mr. Coleman to say his intent was to only have coal ash but it is permitted for other uses. Mr. Coleman stated that was correct. Chairman Jeffers added non hazardous and non toxic items can go in it as it does not say just coal ash.

Commissioner Sims asked if the water treatment system was requested, would they would receive it to which Ms. Evans stated by law they had to provide water treatment systems to any residents that requested who live within that half-mile radius. She said if she had known about the question, she would have been able to provide the Board with the numbers of residents who had received the water system; she said she would certainly follow up. Commissioner Sims stated with the expanding landfill and should someone come to you for the water treatment system, would Duke still do that. Ms. Evans noted this landfill is still within that half-mile boundary so it does not extend the boundary from what was originally used to determine who was eligible for a water treatment system. Commissioner Sims asked her if they came now and was eligible and

didn't request a system earlier but now wanted one, could they get one, to which Ms. Evans stated she did not know.

Chairman Jeffers voiced concerns from the community in that area who were outside the half-mile boundary that did not get a water treatment system and was supposed to trust their water when their neighbor inside that boundary received a water treatment system. Ms. Evans stated she hears the concern but at some point, the line has to stop; she added she would assure those who are concerned that based on the groundwater studies that the water is flowing away from the ponds anyway so the data does not support that the ash basins are affecting wells with Duke's neighbors but they provided the water treatment systems nonetheless.

Mr. Ken Daly, a principal engineer for environment infrastructure solutions with Wood PLC of 2113 Climbing Rose Lane, Matthews and Ms. Kimberlee Witt of 7615 Middle Drive, Greensboro and works at Duke Energy as the environmental lead for solid waste permitting and compliance both stated they were available for questions.

Mr. Donald Long of 9741 Virgilina Road, Roxboro stated his previous comments were reflective of his support of Duke Energy's request. He said he agreed with Commissioner Clayton as the science has improved and it will be a great improvement over what is there now. He urged the Board to approve the request.

Ms. Patricia "PJ" Gentry of 541 Byrd Creek Lane, Hurdle Mills stated her previous comments were reflective of her support of Duke Energy's request.

There was no individuals appearing before the Board to speak in opposition to the request by Duke Energy Progress, LLC to expand the existing industrial landfill by 80 acres at the Duke Energy Roxboro Steam Electric Plant located at 1700 Dunnaway Road on land within 231.13 acres described in Deed Book 98 Page 90 Tract 31, 244.74 acres described in Deed Book 98 Page 39 Tract 32, 187.88 acres described in Deed Book 98 Page 605 Tract 38, and 28.25 acres described in Deed Book 98 Page 279 Tract 91 in the Residential Zoning District. Chairman Jeffers noted that the commissioners had at their seats a letter that was mailed to Ms. DiCristina from Mr. Phillip Bentjey of 3781 McGhees Mills Road, Roxboro.

A **motion** was made by Commissioner Sims and **carried 5-0** to close the public hearing for a request by Duke Energy Progress, LLC to expand the existing industrial landfill by 80 acres at the Duke Energy Roxboro Steam Electric Plant located at 1700 Dunnaway Road on land within 231.13 acres described in Deed Book 98 Page 90 Tract 31, 244.74 acres described in Deed Book 98 Page 39 Tract 32, 187.88 acres described in Deed Book 98 Page 605 Tract 38, and 28.25 acres described in Deed Book 98 Page 279 Tract 91 in the Residential Zoning District.

CONSIDERATION TO GRANT OR DENY REQUEST BY DUKE ENERGY PROGRESS, LLC TO EXPAND THE EXISTING INDUSTRIAL LANDFILL BY 80 ACRES AT THE DUKE ENERGY ROXBORO STEAM ELECTRIC PLANT LOCATED AT 1700 DUNNAWAY ROAD ON LAND WITHIN 231.13 ACRES DESCRIBED IN DEED BOOK 98 PAGE 90 TRACT 31, 244.74 ACRES DESCRIBED IN DEED BOOK 98 PAGE 39 TRACT 32, 187.88 ACRES DESCRIBED IN DEED BOOK 98 PAGE 605 TRACT 38, AND 28.25 ACRES DESCRIBED IN DEED BOOK 98 PAGE 279 TRACT 91 IN THE RESIDENTIAL ZONING DISTRICT:

A **motion** was made by Commissioner Puryear and **carried 4-1** to approve SUP-02-20, a request by Duke Energy Progress, LLC to expand the existing industrial landfill by 80 acres at the Duke Energy Roxboro Steam Electric Plant located at 1700 Dunnaway Road on land within 231.13 acres described in Deed Book 98 Page 90 Tract 31, 244.74 acres described in Deed Book 98 Page 39 Tract 32, 187.88 acres described in Deed Book 98 Page 605 Tract 38, and 28.25 acres described in Deed Book 98 Page 279 Tract 91 in the Residential Zoning District with the following conditions:

1. The applicant is to combine Tracts 31, 32, 38, and 91 following issuance of the Special Use Permit.
2. The applicant is to obtain all permits necessary from the following Person County Departments Environmental Health, Planning and Zoning, and Building Inspections.
3. The applicant is to obtain all permits necessary and provide copies to the Planning and Zoning Department for the following agencies US Army Corps of Engineers (USACE) and NC Department of Environmental Quality (NCDEQ).

The Board of Commissioners also found that the request met the following Findings of Fact:

1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;
2. That the use meets all of the required conditions and specifications;
3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity;
4. That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Comprehensive Plan.

Chairman Jeffers stated his previous comments were reflective of his opposition to the permitting more landfills in Person County. He added that the Mayo Plant has the waterline going out on Boston Road noting there was no waterline anywhere near McGhees Mill and Ceppo communities. Chairman Jeffers said the Mayo Plant was in a Rural Conservation District and he noted his opposition to approve this request in a Residential Zoning area. Chairman Jeffers cast the lone dissenting vote.

PUBLIC HEARING:

PETITION TA-03-20 – A REQUEST BY THE PERSON COUNTY PLANNING DEPARTMENT STAFF ON BEHALF OF THE PERSON COUNTY BOARD OF COMMISSIONERS TO REPEAL THE EXISTING SOLAR ENERGY SYSTEM REGULATIONS IN THE PERSON COUNTY PLANNING ORDINANCE NOTE #2 INDUSTRIAL AND MANUFACTURING OPERATIONS AND NOTE #10 SOLAR ENERGY SYSTEMS AND ENACT A FREE-STANDING SOLAR ENERGY SYSTEM ORDINANCE:

A **motion** was made by Commissioner Clayton and **carried 5-0** to open the duly advertised public hearing for a request by the Person County Planning Department staff on behalf of the Person County Board of Commissioners to repeal the existing solar energy system regulations in the Person County Planning Ordinance Note#2 Industrial and Manufacturing Operations and Note #10 Solar Energy Systems and enact a free-standing Solar Energy System Ordinance.

Planning Director, Lori Oakley introduced County Planner, Kayla DiCristina to introduce this TA-03-20 request to the Board of Commissioners.

Ms. DiCristina stated all state statutes and planning ordinance requirements have been met for this public hearing.

Text Amendment *TA-03-20*

Text Amendment

TA-03-20– Explanation of Request

Petition TA-03-20 is a request by the Person County Planning Department on behalf of the Person County Board of Commissioners to repeal the existing solar energy system regulations in the Person County Planning Ordinance Note #2 – Industrial and Manufacturing Operations and Note #10 – Solar Energy Systems (SES) and enact a free-standing solar energy system ordinance to address community concerns and better regulate solar energy systems.

Text Amendment TA-03-20 – Requested Ordinance Overview		
ARTICLE 1. GENERAL PROVISIONS	ARTICLE 2. SITE DEVELOPMENT REQUIREMENTS	ARTICLE 3. LEGAL PROVISIONS
1.1 Title	2.1 General Regulations	3.1 Procedure for Solar Farm Development Approval
1.2 Purpose	2.2 Setbacks	3.2 Penalties for Violations
1.3 Authority and Grant of Power	2.3 Height	3.3 Severability
1.4 Jurisdiction and Applicability	2.4 Buffers and Landscaping	3.4 Variance
1.5 Definitions	2.5 Aviation Notification	3.5 Amendments
	2.6 Decommissioning and Abandonment	3.6 Abrogation
		3.7 Effective Date

Text Amendment
TA-03-20– Requested Ordinance Overview

The new ordinance regulates SES by type of system (ground or roof mounted), acreage of panels proposed, and zoning district. Depending on the aforementioned factors, SESs are approved at either staff level or require a Special Use Permit.

Staff Changes:
~~Removed Text~~
Added Text

Staff Changes:
Reassigned Text
Added Text

3

Ms. DiCristina clarified that Solar would be governed by the free-standing ordinance. The Planning Ordinance would direct people to where to find information and references when the text was removed.

Text Amendment

TA-03-20– Planning Staff Analysis

- In the spring of 2020, the Board of Commissioners enacted a six (6) month moratorium on new solar energy systems in Person County. At the same time, the Board instructed the Person County Planning Department staff to research and craft a free-standing solar energy system ordinance to better regulate solar energy systems in the county.
- Staff utilized free-standing solar energy system ordinances from multiple jurisdictions and the Template for Solar Energy Development Ordinance for North Carolina developed by the NC Sustainable Energy Association and NC Clean Energy Technology Center. Staff also incorporated commentary from the Economic Development Commission, Farm Bureau, and Airport Committee to the extent feasible.

Text Amendment

TA-03-20– Planning Staff Recommendation

Planning staff recommends approval of TA-03-20. The proposed free-standing ordinance will address community concern and better regulate solar energy systems. Repealing the existing regulations ensures that solar energy systems are governed solely by the free-standing ordinance.

Text Amendment

TA-03-20– Modifications from Planning Board

At the August 13th, 2020 Planning Board meeting, the Board developed the following modifications to the proposed Solar Energy System Ordinance. The modifications in this PowerPoint are color coordinated with the documents provided.

Text Amendment

TA-03-20 – Modifications from Planning Board

The Planning Board had no modifications to the proposed changes in the Planning Ordinance Appendix C Table of Permitted Uses Note 2 or Note 10.

Text Amendment

TA-03-20 – Modifications from Planning Board

Board Changes:

~~Removed Text~~

Added Text

Article 1 Section 1.5 Definitions

d) Major Modifications...

1. Significant changes in the zoning lot's boundaries, unless the purposes of this ordinance or of the County's plan for the comprehensive development of the area within which the lot is located are satisfied to an equivalent or greater degree. Substantial Significant change in the boundaries of the site if public purposes are not satisfied to an equivalent or greater degree;

i) Solar Energy Systems...

1. b. Ground-mounted on an area of up to 50% of the footprint of the primary structure on the parcel but less than 1/2 acre.

2. b. Highway Commercial (B-1) ≤ 10-acre 1/2 acre

d. General Industrial (GI) ≤ 10-acre 1/2 acre

e. Rural Conservation (RC) ≤ 10-acre 1/2 acre

Text Amendment

TA-03-20 – Modifications from Planning Board

Board Changes:

~~Removed Text~~

Added Text

Article 2 Section 2.1 General Regulations

TABLE 2.1 GENERAL REGULATIONS FOR SOLAR ENERGY SYSTEMS IN PERSON COUNTY

P = Permitted Use ; SUP = Special Use Permit ; X = Prohibited					
	Residential (R)	Highway Commercial (B-1)	Neighborhood Shopping (B-2)	General Industrial (GI)	Rural Conservation (RC)
Ground-mounted					
Level 1 - <u>Up to 50% of the footprint of the primary structure < 1/2 acre</u>	P	P	P	P	P

Text Amendment

TA-03-20 – Modifications from Planning Board

Board Changes:

~~Removed Text~~

Added Text

Article 2 Section 2.2 Setbacks

TABLE 2.2 SETBACK REQUIREMENTS FOR SOLAR ENERGY SYSTEMS IN PERSON COUNTY

X = Prohibited	Residential (R)	Highway Commercial (B-1)	Neighborhood Shopping (B-2)	General Industrial (G)	Rural Conservation (RC)
Level 1 – Roof-mounted, parking lot cover, or building integrated	Per District Regulations <u>contained in Person County Planning Ordinance</u>				
Ground-mounted					
Level 1 – up to 50% of the footprint of the primary structure < 1/2 acre	Per District Regulations <u>contained in Person County Planning Ordinance</u>				
Level 2 ≤ 1/2 acre	50'	Per District Regulations <u>contained in Person County Planning Ordinance</u>			

Text Amendment

TA-03-20 – Modifications from Planning Board

Board Changes:

~~Removed Text~~

Added Text

Article 2 Section 2.4 Buffers and Landscaping

b) Solar collectors, accessory equipment, and associated outside storage for Level 2 and Level 3 systems between 1/4 and 10 acres shall be completely screened with a 50' vegetative buffer from view from all public streets and adjacent residences. Buffers shall include at a minimum, evergreen shrubs and a combination of deciduous and evergreen trees as follows...

~~c) Solar collectors, accessory equipment, and associated outside storage for all Level 2 and Level 3 systems greater than or equal to 10 acres shall be completely screened with a 60' vegetative buffer from view from all public streets and adjacent residences. Buffers shall include at a minimum, evergreen shrubs and a combination of deciduous and evergreen trees as follows:~~

~~Every 500 square feet of buffer shall include one evergreen or deciduous tree that shall be a minimum of 3' at planting and have a height and spread of at least 30' within 10 years; and, 5 evergreen shrubs, or 3 evergreen and 2 deciduous shrubs that shall be a minimum of 3' at planting and have a height and spread of at least 5' in 10 years.~~

~~Existing vegetation may be counted toward the required plantings when identified on a landscape plan and certified by an arborist, landscape architect, landscape designer. Plants identified for the buffer must be protected from all land disturbing activities and construction at a distance equal to the drip line of the plant(s) to be used toward the buffer.~~

Text Amendment

TA-03-20 – Modifications from Planning Board

Article 2 Section 2.6 Decommissioning and Abandonment

c) 3. Removal of all non-utility owned equipment, conduit, structures, fencing, solar panels, ~~roads~~, and foundations.

Board Changes:

~~Removed Text~~

Added Text

Text Amendment

TA-03-20– Modifications to Planning Board Changes by Staff

Following the August 13th, 2020 Planning Board meeting, staff reviewed the Board's modifications and found that the proposed changes created inconsistencies throughout the ordinance. The following modifications incorporate the Planning Board's changes while ensuring the ordinance provides consistent regulation.

Text Amendment

TA-03-20 – Modifications from Staff

Board Changes:

~~Removed Text~~

Added Text

Staff Changes:

~~Removed Text~~

Added Text

Article 1 Section 1.5 Definitions

d) Major Modifications...

1. Significant changes in the zoning lot's boundaries, unless the purposes of this ordinance or of the County's plan for the comprehensive development of the area within which the lot is located are satisfied to an equivalent or greater degree. Substantial ~~Significant~~ change in the boundaries of the site if public purposes are not satisfied to an equivalent or greater degree;

i) Solar Energy Systems...

1. Level 1 Solar Energy Systems (SES) – Includes the following in all Person County Zoning Districts:

- ii. Ground-mounted on an ~~area of up to 50% of the footprint of the primary structure on the parcel~~ but less than 1/2 acre.
2. Level 2 Solar Energy System (SES) – Ground mounted systems greater than or equal to 1/2 acre and less than ten (10) acres in all Person County Zoning Districts, ~~not included in Level 1 that meet the area restrictions listed below:~~

- i. Residential (R) < 10 acre 1/2 acre
- ii. Highway Commercial (B-1) < 10 acre 1/2 acre
- iii. Neighborhood Shopping (B-2) < 10 acre 1/2 acre
- iv. General Industrial (GI) < 10 acre 1/2 acre
- v. Rural Conservation (RC) < 10 acre 1/2 acre

3. Level 3 Solar Energy System (SES) – Ground mounted systems greater than or equal to ten (10) acres in all Person County Zoning Districts, ~~that do not satisfy the parameters for a Level 1 or 2 Solar Energy System.~~

Text Amendment

TA-03-20 – Modifications from Staff

Board Changes:

~~Removed Text~~

Added Text

Staff Changes:

~~Removed Text~~

Added Text

Article 2 Section 2.1 General Regulations

TABLE 2.1 GENERAL REGULATIONS FOR SOLAR ENERGY SYSTEMS IN PERSON COUNTY

P = Permitted Use ; SUP = Special Use Permit ; X = Prohibited

	Residential (R)	Highway Commercial (B-1)	Neighborhood Shopping (B-2)	General Industrial (GI)	Rural Conservation (RC)
Level 1 – Roof-mounted– parking lot cover, or building integrated	P	P	P	P	P
Ground-mounted					
Level 1 – Up to 50% of the footprint of the primary structure < 1/2 acre	P	P	P	P	P
Level 2 < 1/2 acre	SUP	P	SUP P	P	P
Level 2 > 1/2 acre	X	SUP	SUP	P	P
Level 3	X	SUP	X	SUP	SUP

Text Amendment

TA-03-20 – Modifications from Staff

Board Changes:

~~Removed Text~~

Added Text

Staff Changes:

~~Removed Text~~

Added Text

Article 2 Section 2.2 Setbacks

TABLE 2.2 SETBACK REQUIREMENTS FOR SOLAR ENERGY SYSTEMS IN PERSON COUNTY

X = Prohibited	Residential (R)	Highway Commercial (B-1)	Neighborhood Shopping (B-2)	General Industrial (GI)	Rural Conservation (RC)
Level 1 – Roof-mounted – parking lot cover, or building integrated	Per District Regulations <u>contained in Person County Planning Ordinance</u>				
Ground-mounted	Per District Regulations <u>contained in Person County Planning Ordinance</u>				
Level 1 – Up to 50% of the footprint of the primary structure < 1/2 acre	Per District Regulations <u>contained in Person County Planning Ordinance</u>				
Level 2 < 1/2 acre	50'	Per District Regulations <u>contained in Person County Planning Ordinance</u>	50'	Per District Regulations contained in Person County Planning Ordinance	
Level 2 > 1/2 acre	X	50'	50'	50'	50'
Level 3	X	50'	X	50'	50'

Text Amendment

TA-03-20 – Modifications from Staff

Board Changes:

~~Removed Text~~

Added Text

Staff Changes:

~~Removed Text~~

Added Text

Article 2 Section 2.4 Buffers and Landscaping

a) ~~Roof- and ground-mounted~~ Level 1 systems ~~less than 1/2 acre~~ shall be exempt from buffering and landscaping requirements.

b) Solar collectors, accessory equipment, and associated outside storage for Level 2 and Level 3 systems between 1/4 and 10 acres shall be completely screened with a 50' vegetative buffer from view from all public streets and adjacent residences. Buffers shall include at a minimum, evergreen shrubs and a combination of deciduous and evergreen trees as follows:

c) ~~Solar collectors, accessory equipment, and associated outside storage for all Level 2 and Level 3 systems greater than or equal to 10 acres shall be completely screened with a 50' vegetative buffer from view from all public streets and adjacent residences. Buffers shall include at a minimum, evergreen shrubs and a combination of deciduous and evergreen trees as follows:~~

~~Every 500 square feet of buffer shall include one evergreen or deciduous tree that shall be a minimum of 3" at planting and have a height and spread of at least 30" within 10 years; and, 6 evergreen shrubs, or 3 evergreen and 2 deciduous shrubs, that shall be a minimum of 3" at planting and have a height and spread of at least 5" in 10 years.~~

~~Existing vegetation may be counted toward the required plantings when identified on a landscape plan and certified by an arborist, landscape architect, landscape designer. Plants identified for the buffer must be protected from all land-disturbing activities and construction at a distance equal to the drip line of the plant(s) to be used toward the buffer.~~

Text Amendment

TA-03-20 – Modifications from Staff

Article 2 Section 2.5 Aviation Notification

a) ~~Roof- and ground-mounted~~ Level 1 systems ~~and Level 2 systems less than 1/4-acre~~ shall be exempt from aviation notification requirements.

b) For all Level 2 and 3 systems ~~greater than or equal to 1/4-acre in size~~, a map analysis showing a radius of five (5) nautical miles from the center of the solar energy system with any airport operations within this area highlighted shall be submitted with the initial application.

Board Changes:

~~Removed Text~~
Added Text

Staff Changes:

~~Removed Text~~
Added Text

Text Amendment

TA-03-20 – Modifications from Staff

Article 2 Section 2.6 Decommissioning and Abandonment

a) Decommissioning and abandonment requirements shall only apply to Level 2 and 3 solar energy systems ~~greater than or equal to 1/4-acre~~.

1. ~~Roof- and ground-mounted~~ Level 1 systems ~~and Level 2 systems less than 1/4-acre~~ shall be exempt from decommissioning and abandonment requirements.

c) 3. Removal of all non-utility owned equipment, conduit, structures, fencing, solar panels, ~~roads~~, and foundations.

Board Changes:

~~Removed Text~~
Added Text

Staff Changes:

~~Removed Text~~
Added Text

Text Amendment

TA-03-20– Planning Board Recommendation from August 13th, 2020 Meeting

At the August 13th, 2020 meeting of the Planning Board, the Board voted unanimously (7-0) to recommend approval of the requested text amendment TA-03-20 with the Board's modifications to staff's text with the Reasonableness and Consistency Statement.

Text Amendment

TA-03-20 – Reasonableness and Consistency Statement

The Board of Commissioners is required to make a motion on the Reasonableness and Consistency statement.

Reasonableness and Consistency Statement: The text amendment request is consistent with the Person County Land Use Plan and future planning goals of the county, is reasonable, and in the public interest as it meets several objectives listed in the Person County Land Use Plan. Specifically, Goal 2.0 to provide a strong local planning environment that supports and enhances the economic growth potential of Person County citizens, Goal 4.0 to maintain and enhance the character and identity of Person County including established rural communities, farmland and woodland, historic sites, and other features that represent the area's heritage, and Goal 7.0 to protect water quality, significant natural features, and other natural resources that have ecological, recreational, or other important values.

Ms. DiCristina stated there were additional comments from the Airport's consultant after the Planning Board meeting; those comments are in the Board's packet.

PERSON COUNTY SOLAR REGULATIONS COMPARISON

SES = Solar Energy System

SUP = Special Use Permit

Current Planning Ordinance Regulations (Appendix C Note 2 and Note 10)

- SESs are prohibited in R (Residential) Zoning District.
- SESs are allowed by right (approved at staff level with no public hearing) in all other Zoning Districts UNLESS within 250' of a residence measured from solar panel to wall. If within 250' of a residence, the SES requires a SUP.
- SESs are required to buffer 50' with evergreen and deciduous plants between public roads and residences.
- Decommissioning plan and bond required.

Proposed SES Ordinance

- SESs are divided in to three levels based on the acreage of panels NOT lot size.
 - Level 1 < ½ acre
 - Level 2 ½-10 acres
 - Level 3 > 10 acres
- Level 1 SESs are allowed by right (approved at staff level with no public hearing) in all Zoning Districts.
- Level 2 SESs are allowed by right (approved at staff level with no public hearing) in B-1, GI, and RC Zoning Districts. Requires a SUP in R and B-2 Zoning Districts (SUP has two opportunities for public comment and the BOC may attach conditions with their approval).
- Level 3 SESs are prohibited in R and B-2 Zoning Districts. Requires a SUP in B-1, GI, and RC Zoning Districts (SUP has two opportunities for public comment and the BOC may attach conditions with their approval)
- Setbacks are standard with the model ordinance and other freestanding ordinances in similar and surrounding counties. Additionally, 50' is the largest setback currently required for all structures in the county. Primary structures have setbacks between 8' and 40'. However, if the structure is on a property in the B-1, B-2, or GI Zoning Districts that abuts a property zoned R, the setback is 50'.
- Buffers:
 - Level 1 SESs require no buffer.
 - Level 2 and 3 SESs match what is required by Planning Ordinance for light industrial uses. 50' with evergreen and deciduous plants between public roads and residences.
 - ****For all SES requiring an SUP, the SUP process encourages community members to ask the BOC for larger requirements on a case by case basis****

- Aviation Notification
 - Comes from model ordinance. Requires documentation sent to appropriate department confirming there are no impacts to the local airport for SESs within 5 miles of airport. Standard language.
- Decommissioning plan and bond required.

MAJOR CHANGES

When SESs are allowed by right (approved at staff level with no public hearing) and when SUP and public comment are required.

KEY TAKEAWAYS

- 1) Provides more opportunities for public comment than Planning Ordinance regulations and more opportunities for decision makers to require more intense conditions on a case-by-case basis rather than overall while still enabling solar development to be a viable business and property owners to have the option of applying for SESs on their land.
- 2) SUP process requires notification of landowners within 500' of the property, signage of a zoning proposal, placed on the property for at least two months, and legal advertisements run in the local newspaper.

Commissioner Sims asked about the decommissioning plan for the half-acre Level 1 to which Ms. DiCristina stated the intent for Level 1 SES is a smaller, roof-mounted system on homes, more like an accessory use. Ms. Oakley stated the Level 1 are single-family homeowners noting they did not want to require a bond for that use. Ms. DiCristina said the Levels 2 and 3, much larger SES where the bond and decommissioning requirement in the ordinance would protect the County.

Vice Chairman Powell voiced concerns whereby a homeowner disposes the SES panels on their property may impact adjoining property owners. Ms. DiCristina said that would be a violation of the Junkyard Ordinance. Ms. Oakley stated as staff have exempted Level 1 from the decommissioning plan to which the Board may require decommissioning plans on all three levels or reduce the size of Level 1 to something even smaller, i.e. rooftop only, Level 2 up to 10-acres on the ground.

Commissioner Puryear asked what two areas are prohibited for Level 3 SES to which Ms. DiCristina stated (R) Residential and (B-2) Neighborhood Shopping.

Commissioner Sims asked about SES regulations at the Airport. Ms. DiCristina stated Section 2.5 Aviation states that if within five nautical miles for Level 2 or 3 SES, language is written that addresses the glare from the panels do not impact the airport. Level 1 is exempt from this section. Vice Chairman Powell asked Mr. Bill Tougas, FBO Operator at the Airport if he agreed to which he replied affirmatively.

Commissioner Clayton noted the FAA rules are incorporated into the ordinance.

Commissioner Clayton asked if a request comes to the county for 300-acres, a SUP will be required to which Ms. DiCristina stated a public hearing for the SUP will be required at both the Planning Board and the Board of Commissioners. In addition there are mailed notices to surrounding property owners for each public hearing, signage and legal ads. Commissioner Clayton confirmed that the Board of Commissioners could modify the request or place conditions to which Ms. Oakley stated any such changes in the request or conditions on the SUP, the applicant has to agree or the Board may deny the request if it did not meet the findings of fact or be in harmony with the surrounding area.

Chairman Jeffers asked for the appeal process should the SUP be denied to which Ms. Oakley said the applicant must wait one-year unless there are significant changes with the action by the Board of Commissioners final. Commissioner Clayton asked if the Board of Commissioners desired to modify the SUP request and the applicant does not agree, what is the appeal process to which County Attorney, Ron Aycock stated he was not sure there was an appeal to Superior Court.

Commissioner Sims asked how many Level 2 and Level SES are in Person County to which Ms. DiCristina stated Person County currently has six SES considered a Level 3 and three that are considered a Level 2. Based on panel acreage the largest SES currently contains 37 acres.

There were no individuals appearing before the Board to speak in favor of the request to repeal the existing solar energy system regulations in the Person County Planning Ordinance Note #2 Industrial and Manufacturing Operations, and Note #10 Solar Energy Systems and enact a freestanding Solar Energy System Ordinance.

Speaking in opposition of the request to repeal the existing solar energy system regulations in the Person County Planning Ordinance Note #2 Industrial and Manufacturing Operations, and Note #10 Solar Energy Systems and enact a freestanding Solar Energy System Ordinance were the following:

Mr. Paul Lynch of 395 Union Grove Church Road, Hurdle Mills disclosed he has professional experience with solar projects with the design and installation of equipment commonly used. Mr. Lynch stated he was not against solar energy however urged the Board to be careful as there are many serious environmental concerns, economic concerns that will impact the community particularly with Level 2 and Level 3 scale projects. Mr. Lynch said there were issues that need to be addressed in the ordinance under consideration. He noted he did not have time to go into detail, i.e. site maintenance, onsite energy storage, security, etc. that should be adopted into a land use ordinance. Mr. Lynch noted he would like to put these concerns in the form of a letter to the Board or the Planning officials for consideration. He asked if there would be more public hearings to which Chairman Jeffers said the ordinance could be adopted as presented or brought back at a later board meeting for public input. Mr. Lynch requested the Board to not adopt the ordinance as presented; he stated his support of the two-month extension moratorium.

Mr. Ray Foushee of 8930 Hurdle Mills Road, Hurdle Mills stated his was not against solar farms or their concept but supported adopting more significant guidelines to establish in particular to the larger solar farms to help in blending into the community. In Hurdle Mills, the community consists of woodlands and farm land not larger solar farms. Mr. Foushee said he respects what land owners would like to do with their property but opposed any landowner negatively affecting the community. He described a proposed 800-acre solar farm for the Hurdle Mills community that would run 1.8 linear miles down the Hurdle Mills Road, and at times, on both sides of the roadway. Mr. Foushee stated his son resides at 8019 Hurdle Mills Road which landed him in the middle of the 800-acres and could have solar panels on all four sides of his property and within 100 ft. of this home. Mr. Foushee noted the 800-acres solar farm proposal has rescinded some of the property down to the current proposal containing 376-acres which would be located on three sides of his son's home and within 100 ft. Mr. Foushee further noted he did not want to prohibit solar farms but to include guidelines to help co-exist in the community. Mr. Foushee stated the proposed solar ordinance before the Board calls for a decision on a case by case and asked the Board if they wished to consider each as a case by case or consider modify the ordinance to take care of some of the cases up front. Mr. Foushee asked the Board to consider including the following in the ordinance:

- Areas currently zoned residential that would have to be rezoned for a solar farm be restricted to 50-acres or less on any parcel or property,
- All solar farms greater than 10-acres, increase the vegetative buffer from 50 ft. to 100 ft., and
- All solar farms greater than 10-acres, make the minimum distance between the solar panels and any residential structure at least 300 ft.

Mr. Anthony Horton of 7233 Hurdle Mills Road, Hurdle Mills stated he was in agreement with much of what Ray Foushee stated. He stated support of size limits especially in the residential area, if the residential area has to be rezoned. Mr. Horton requested a larger buffer between adjoining properties of at least a minimum of 150 ft., which is the standard buffer for landfills. He equated a solar energy system to a landfill as it harbors toxic chemicals. Mr. Horton said if these chemicals leach into the land, a larger buffer would help the adjoining properties barring streams and creeks. He asked who is responsible for cleanup and compensating the landowners for land deemed inoperable due to leached toxics. He wondered the impact a natural disaster to spread the panels and its contents on adjacent properties. Mr. Horton asked for a 500 ft. buffer from houses to protect water sources from leached solar panels. He noted the 376-acres proposed solar farm is currently in the NC Utilities Commission. Mr. Horton provided logistic examples of an 800 mega watts would consist of 400,000 solar cells; he supported regulations as he opined solar farms would not be in harmony with residential or rural conservation. He asked the Board to delay a vote on the solar ordinance and to consider limiting the size and scope of the solar energy systems to protect the surrounding areas.

Ms. Patricia "PJ" Gentry of 541 Byrd Creek Rd., Hurdle Mills asked the Board to consider putting an industrial facility in a residential area using the example of not letting Duke put in a landfill for coal ash in a residential agricultural community so why would solar panels that are large and toxic be allowed. Ms. Gentry said solar has been around since 1973 and its getting better but to subject the community of Hurdle Mills to the test to see what this technology yield is a disservice at this time. Hurdle Mills is a rural, residential community and to consider and industrial process which need to be in an industrial park or land already zoned for commercial/industrial use.

Mr. Rex Young, Development Attorney with Oakhurst Energy located at 606 Wade Avenue, Suite 102, Raleigh stated he previously submitted comments to the Board for consideration but wanted to appear before the Board to highlight the following:

- 2017 legislation provided for solar project sizes to increase and for the most economically competitive projects to be built.
- Streamline the ordinance to reflect changes in the industry to be more straightforward for developers and administration of the SUP process.
- Screening requirement of planting or preserving 50' ft. vegetative buffer adequate from adjoining landowner.
- Eliminate the requirement to preserve trees by bringing in an arborist or a landscape architect/designer to sign off on plan.
- Duplicating the regulations already under the purview of the FAA which extend the development timeline. For Section 2.5 where the proposal ordinance addresses the air space and the FAA requirements, he recommended taking out entirely as it duplicates the job of the FAA or to expand that requirement to all types of construction.

- Decommissioning is enforced through a bond; the ground lease agreement with land owners requires the site to be restored. The Environmental Management Commission is currently drafting rules for disposal of solar panels.
- Urged the Board to remove the bond requirement of Section 2.6.

A **motion** was made by Commissioner Puryear and **carried 5-0** to close the public hearing for a request by the Person County Planning Department staff on behalf of the Person County Board of Commissioners to repeal the existing solar energy system regulations in the Person County Planning Ordinance Note #2 Industrial and Manufacturing Operations, and Note #10 Solar Energy Systems and enact a freestanding Solar Energy System Ordinance.

CONSIDERATION TO GRANT OR DENY REQUEST BY THE PERSON COUNTY PLANNING DEPARTMENT STAFF ON BEHALF OF THE PERSON COUNTY BOARD OF COMMISSIONERS TO REPEAL THE EXISTING SOLAR ENERGY SYSTEM REGULATIONS IN THE PERSON COUNTY PLANNING ORDINANCE NOTE #2 INDUSTRIAL AND MANUFACTURING OPERATIONS AND NOTE #10 SOLAR ENERGY SYSTEMS AND ENACT A FREESTANDING SOLAR ENERGY SYSTEM ORDINANCE:

A **motion** was made by Chairman Jeffers and **carried 5-0** to table consideration of this item until the Board's regular schedule meeting on October 5, 2020 at 7:00pm.

PUBLIC HEARING:

EXTENSION OF SOLAR ENERGY SYSTEMS DEVELOPMENT APPROVAL MORATORIUM ORDINANCE FOR A PERIOD OF TWO MONTHS:

A **motion** was made by Commissioner Powell and **carried 5-0** to open the duly advertised public hearing for an Extension of Solar Energy Systems Development Approval Moratorium Ordinance for a period of two months.

Planning Director, Lori Oakley presented an Extension of Solar Energy Systems Development Approval Moratorium Ordinance to further extend the moratorium by a period of two months (60 days) due to COVID-19 and the County's Cyber Incident. Ms. Oakley noted Planning staff desired to have a proposed solar energy systems ordinance before the Board of Commissioners earlier than this date for consideration but due to unforeseen circumstances, it was delayed to September. She added the proposed extension was drafted and reviewed by the County Attorney.

Chairman Jeffers noted the Board's action to table action on the proposed solar ordinance until its October 5, 2020 meeting which was 27 days and asked Ms. Oakley should the extension moratorium ordinance coincide with the October 5th date or should the Board consider the 60 days. Ms. Oakley recommended the extension period be 60 days as it was advertised that way but confirmed should the Board adopt its ordinance regulating solar energy systems, the extension moratorium could be rescinded at the date the ordinance is effective.

Speaking in favor of the Extension of Solar Energy Systems Development Approval Moratorium Ordinance for a period of two months were the following:

Mr. Paul Lynch of 395 Union Grove Church Road, Hurdle Mills stated support of the extension of solar energy systems moratorium ordinance for two months.

Ms. Patricia "PJ" Gentry of 541 Byrd Creek, Hurdle Mills stated support of the extension of solar energy systems moratorium ordinance for two months.

There were no individuals appearing before the Board to speak in opposition to the Extension of Solar Energy Systems Development Approval Moratorium Ordinance for a period of two months.

A **motion** was made by Commissioner Sims and **carried 5-0** to close the public hearing for an Extension of Solar Energy Systems Development Approval Moratorium Ordinance for a period of two months.

CONSIDERATION TO GRANT OR DENY REQUEST FOR AN EXTENSION OF SOLAR ENERGY SYSTEMS DEVELOPMENT APPROVAL MORATORIUM ORDINANCE:

A **motion** was made by Chairman Jeffers and **carried 5-0** to approve an Extension of Solar Energy Systems Development Approval Moratorium Ordinance for 60 days.

Extension of Solar Energy Systems Development Approval Moratorium Ordinance

Pursuant to North Carolina General Statutes 153A-340 and 153A-323, the Person County Board of County Commissioners hereby adopts an extension of the following ordinance to wit:

Section 1 - This ordinance shall be known and cited as Solar Energy System Development Approval Moratorium Ordinance.

Section 2 - This ordinance shall be applicable to all solar energy systems development applications, projects or endeavors which are not exempted by state law. Solar energy systems as accessory uses, including rooftop systems as well as ground-mounted incidental systems for both residential and nonresidential uses would be exempt.

Section 3 - The Person County Board of County Commissioners reiterates the findings of its original ordinance adopted on March 9, 2020 as follows that:

- (a) An updated and clear regulatory system for Solar Energy Systems is necessary to insure that business promotion and residential activities are properly coordinated; and
- (b) Compliance with all Federal laws including the Federal Aviation Administration regulations is necessary; and
- (c) Compliance with all State laws including all environmental regulations is necessary; and
- (d) The current County regulatory scheme may not adequately address the issues in subsections a, b and c above; and
- (e) A moratorium as herein provided for will enable the County to research all applicable considerations necessary for the proper enactment of a regulatory scheme for solar energy systems, which is fair and equitable to all interests; and
- (f) The Board of County Commissioners hereby finds that a piecemeal revision of its regulatory approach to solar energy systems development would result in inconsistent and sometimes unlawful development decisions and that a comprehensive examination is in the public interest.

Section 3.1 - The Person County Board of County Commissioners further finds that:

- (a) Diligent efforts have been made to develop a comprehensive ordinance in a timely manner
- (b) Since the adoption of the original ordinance Person County has experience two extraordinary events to wit:
 - (i) A state of emergency due to the COVID-19 pandemic
 - (ii) A cyber incident with its information technology system
- (c) The events specified in this section 3.1 have prevented completion of the comprehensive Solar Energy System Development Ordinance.

Section 4 - This extension ordinance shall be effective upon its adoption and shall terminate on November 9th, 2020 (60 days) unless sooner terminated by the Person County Board of County Commissioners. The Person County Board of County Commissioners finds that a period of 60 days is reasonable in order to comply with statutory requirements and complete development of a comprehensive ordinance.

Section 5 - The County Manager shall insure that under the leadership of the Planning Department all county departments and agencies shall cooperate and participate as necessary in all aspects of this examination and development of a proper, modern and updated development and regulatory system for solar energy systems. In particular, the Planning Department shall so schedule its activities, examinations and recommendations such that the Planning Board shall have sufficient time to consider any proposed new regulatory system and report its recommendations to the Board of County Commissioners before the termination of this moratorium.

Adopted, this the 8th day of September 2020.




B. Ray Jeffers, Chairman
Person County Board of Commissioners

Attest: 
Brenda B. Reaves, Clerk to the Board

September 8, 2020

INFORMAL COMMENTS:

There were no comments from the public.

DISCUSSION/ADJUSTMENT/APPROVAL OF CONSENT AGENDA:

A **motion** was made by Commissioner Puryear and **carried 5-0** to approve the Consent Agenda with the following items:

- A. Approval of Minutes of August 17, 2020, and
- B. Budget Amendment #4

NEW BUSINESS:**REQUEST FOR COUNTY ASSISTANCE FOR RESIDENTIAL WELL ISSUES AT 24 VICTORIA LANE, ROXBORO:**

County Manager, Heidi York stated the Board at its August 3, 2020 meeting heard from Ms. Anita Banks who requested County assistance for her residential well issues of very low flow. Ms. York stated Ms. Banks requested assistance from the County including an extension of a City waterline to her residence at 24 Victoria Lane. Ms. York noted the County does not provide water, however the County has a long-standing agreement with the City of Roxboro to partner on extending waterlines. Ms. York further noted the City was not able to send a representative to the meeting; however the City has provided a tentative cost estimate for running a waterline although they do not extend a waterline for a single residence. The tentative cost estimate for running a 6" water line to the house on Victoria Lane includes installation of 500' of 6" DI water line along Dee Long Rd and a 60' bore under NC 49 plus engineering and permitting by a private contractor would be approximately \$110,000. There would be water quality issues due to the distance and limited flow for usage.

Ms. York said the Agreement between the City and County details the process for extensions. The applicant would have to submit an application to the City Manager. City Council and the Board of Commissioners would have to approve any such waterline extension.

Ms. Banks noted her willingness to go through the process. She said her neighbors who built their home less than a year ago were present in the audience and experience the same issues. Based upon the size of their lots, Ms. Banks said they do not have the availability to do more drilling. Ms. Banks stated her neighbors located in the Landmark North and Landmark South have indicated similar issues noting that of the 17 homes within that neighborhood, 10 have wells produce around two gallons of water per minute.

Al & Melissa Salisbury of 68 Victoria Lane said they moved into their house in March this year. Ms. Salisbury said they drilled their well to 690 ft. with no water, continued to drill to 1,240 ft. as well as fracked the well with a result of about a gallon per hour, all costing \$26,000.

Commissioner Clayton requested the Health Department staff present at the meeting to provide their assessment. Environmental Health Director, Harold Kelly told the group the residents have described the situation accurately. Mr. Kelly stated, according to the well log, three homes have barely enough water to live off with a half-dozen homes with less than two gallons per minute.

Vice Chairman Powell asked approximately how many lots are having issues to which Ms. Banks stated approximately 10-12 with another 10-12 in the Landmark community.

Chairman Jeffers asked Ms. York if a Water and Sewer Construction Fund currently exists to which she replied affirmatively. Chairman Jeffers stated in last year's budget there was an appropriation of \$1M for waterline extension; he asked if any of those funds be used to which Ms. York stated by action of the Board, those funds could be used.

Chairman Jeffers asked Ms. York to outline the application process to the City and County. Ms. York stated an application is made to the City Manager. The City Manager will make a recommendation to City Council and to the Board of Commissioners. Ms. York said the City would approve all engineering and contract documents. The City and County each approves all plans authorizing an extension. No commitment can be made unless both governing boards by resolution approve the extension.

Chairman Jeffers recommended to Ms. Banks to complete the application and for Ms. York to check on the Water Fund and/or Water and Sewer Construction Fund balances and how to transfer from one fund to another, if needed.

CHAIRMAN'S REPORT:

Chairman Jeffers stated he met with the President and Vice Chair of the new board for the Woodsdale Volunteer Fire Department (WVFD). He requested to add this topic to the Board's October 5, 2020 agenda for a request to appropriate monthly funding. Chairman Jeffers said currently invoices are brought to the County and the County will review and pay. He noted some invoices have been paid late and incurred late fees. Chairman Jeffers said he asked the WVFD board members to provide a budget of the funding needs for this fiscal year as they pursue recertification. That budget request was delivered to the Clerk today and he asked the Clerk to share a copy with all the commissioners. Chairman Jeffers further noted in the adopted budget there was approximately \$99,000 in unspent funds from the fire tax revenue. He stated a

Memorandum of Understanding would be needed between the County and the WVFD board to outline any unspent funds would revert to the county.

MANAGER'S REPORT:

County Manager, Heidi York introduced the newly hired Assistant County Manager, Katherine Cathey. Ms. Cathey's first day was on August 24, 2020 and she will oversee the County's Public Safety, Cultural Arts and Development services.

COMMISSIONER REPORT/COMMENTS:

Commissioner Sims thanked those in the audience for staying for the Board's long meeting and thanked the Board of Commissioners for working together on the issues before them.

Commissioner Clayton urged everyone to be counted in the Census 2020. He explained how funding was connected to the population. Commissioner Clayton asked if the Health Department should consider a moratorium on the development in the subdivision until the water issues are resolved.

Commissioners Puryear and Powell had no report.

ADJOURNMENT:

A **motion** was made by Commissioner Sims and **carried 5-0** to adjourn the meeting at 9:22pm.

Brenda B. Reaves
Clerk to the Board

B. Ray Jeffers
Chairman

September 8, 2020