



Orange County Planning and Inspections Department

APPLICATION FOR
CLASS A SPECIAL USE PERMIT

APPLICANT INFORMATION:

Date: 2/25/2015

Applicant: White Cross Solar, LLC and property owners
William and Carol Byron
Address: 176 Mine Lake Court, Suite 100
Raleigh, NC 27615

Phone: 407.963.2391
Cell Phone: same as above
E-mail: jluster@pinegatedev.com

*Suit
#0002*

Agent: Beth Trahos, Smith Moore Leatherwood, LLP
Address: 434 Fayetteville Street, Suite 2800
Raleigh, North Carolina 27601

Phone: 919.755.8760
Cell Phone: 919.306.1394
E-mail: beth.trahos@smithmoorelaw.com

Address of subject property: 1606 White Cross Road, Chapel Hill, NC

Parcel Identification Number (PIN): 9748 32 0786 Lot Size: 35.8± acres

Zoning Designation: AR Watershed Overlay: _____

Other Overlay Zoning Districts: _____

Request (include detailed description of proposed land use): Please see the attached brief.

SUBMITTAL INFORMATION Per Section 2.7.3 of the Unified Development Ordinance (UDO), all Class A Special Use Permit applications are required to submit the following:

- 1) 26 copies of a site plan prepared by a registered North Carolina land surveyor, landscape architect, architect, or engineer containing all required information detailed within Section 2.5 of the UDO. This site plan will also need to contain all relevant information demonstrating that the proposed special use compliance with all general and specific standards governing the proposed special use as detailed within Article(s) 5 and 6 of the UDO.
- 2) A detailed narrative outlining the proposed land use including operational requirements, the location of facility, appearance, etc.,
- 3) Documentation establishing compliance with Section 5.3.2 inclusive of the UDO.
- 4) The names and addresses of the owners involved with the project,
- 5) A list of property owners within 500 feet of the subject parcel and the name and address of each property owner, as currently listed in the Orange County tax records,
- 6) Elevations of all structures proposed to be used in the development,
- 7) 26 copies of the Environmental Assessment and/or Environmental Impact Statement if required by Section 6.16 of the UDO,
- 8) Statement outlining the anticipated development schedule for the completion of the project,

**** NOTE: It should be remembered that the review of all special use permit applications/modifications are carried out in a *quasi-judicial* format meaning that decisions relating to the approval or denial of an application are based solely on the sworn testimony of all parties involved with the case, both those for and against an application, as well as the review of competent material and substantial evidence submitted during the public hearing.**

Further the applicant has the burden of establishing, by the submission of competent material and substantial evidence, the existence of facts and conditions that demonstrate the projects compliance with the various requirements and standards detailed within the Unified Development Ordinance. **

I (we), the undersigned, have been made aware of the process for the review and action associated with a Class A Special Use Permit application and understand that only completed applications, containing all information required by the Orange County UDO shall be reviewed and acted upon by the County.

I (we) understand that it shall be my (our) responsibility to present evidence to the County in the form of sworn testimony, exhibits, documents, models, plans, and the like support the request for approval of the Class A Special Use Permit.

Further I (we) understand that any assistance I (we) may receive from County staff in preparing this application in no way guarantees a favorable recommendation by staff on the merits of this proposal nor does it guarantee an approval of the request by the County.

William Byers
Applicant

2/27/15
Date:

Carol A. Byers
Applicant

2-27-15
Date:

STATE OF NORTH CAROLINA

BEFORE THE BOARD OF
COMMISSIONERS AND PLANNING
BOARD

COUNTY OF ORANGE

IN RE: White Cross Solar, LLC- Solar Array- Public Utility
Orange County PIN: 9748 32 0786
Address: White Cross Road, Chapel Hill, North Carolina

**STATEMENT OF JUSTIFICATION IN SUPPORT OF THE
SPECIAL USE PERMIT APPLICATION**

NOW COMES THE PETITIONER, by and through counsel of record, and respectfully requests approval of their application for a special use permit to operate a Solar Array-Public Utility. In support of this request, Petitioner provides the following information:

I. Introduction

White Cross Solar, LLC proposes to construct a solar array-public utility on 35.8± acres of land owned by William and Carol Byron. The property is located on White Cross Road near its intersection with Old Greensboro Road. The property is currently zoned Agricultural Residential (AR). Adjacent properties are developed as homes, a church, a recreational area and farms. Adjacent properties are also zoned Agricultural Residential (AR).

An overarching theme of the Orange County Comprehensive Plan is a desire to create a sustainable future. In Chapter 1, the Plan Overview, the Orange County Comprehensive Plan states that “. . .we must seek to develop a community that meets the needs of the present generation without compromising the ability of future generations to meet their needs.” This solar farm fulfills the County’s goal to reduce dependence on fossil fuels and nuclear power and turn to a sustainable form of energy generation.

The solar array-public utility will contain rows of Photovoltaic (PV) cells mounted on posts set in the ground individually in an effort to minimize the amount of grading on site. These rows of PV cells are referred to as “solar arrays.” The solar arrays will be fixed in place facing south in order to receive the maximum amount of solar energy. This configuration contains no moving parts. The power generated from the solar farm will be sold to Duke Power Company for use by Orange County and consumers in place of power produced by non-sustainable means.

Solar energy is a public necessity. Demand for electricity has increased exponentially in recent years and our society is dependent upon conventional sources of power such as coal, gas, nuclear and hydro energy. Conventional sources of electricity are expensive, finite resources that require significant environmental disruption and public safety risk to maintain or extract. Solar energy is a clean, cheap, unlimited resource with little

environmental impact. The demand for power will not decline. We must embrace renewable means of power generation.

II. Statement in Support of Application

This Class A Special Use Permit application for a Solar Array - Public Utility meets all general standards for approval as required by Section 5.3.2 (A), those specific standards required by Section 5.3.2 (B), and the requirements of 5.9(C). This Statement addresses both general and specific standards as required by Orange County Ordinance.

A. The use will maintain or promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted.

The proposed solar array – public utility will not materially affect the public health or safety. Access to the site will be from White Cross Road. The site will generate virtually no traffic. The solar array – public utility will not be staffed daily. Employees are expected to visit the property weekly or less frequently to check and maintain the equipment, mow the grass and make repairs. Two gravel parking spaces will be provided for employee use.

The active area of the solar array – public utility will be enclosed by an eight foot (8') high fence and gated for security purposes. Access codes to the gate will be provided to local police, fire, and emergency service providers. Vehicular access to the site is adequate for the use proposed and for emergency services.

There will be no buildings or employees on the property so there is no need for sewage disposal facilities, solid waste, and water on the site.

The proposed solar array – public utility will protect against soil erosion and sedimentation. Care is taken to minimize grading on the site by hand setting poles to support the solar cells. The areas beneath the solar panels will be planted with grass or alfalfa to stabilize the site. During construction, erosion control measures will be maintained in accordance with the County regulations and the site will comply with County stormwater regulations. All environmental buffers will be maintained and respected.

B. The use will maintain and enhance the value of contiguous property (unless the use is a public necessity, in which case the use need not maintain or enhance the value of contiguous property).

The proposed use will maintain and enhance the value of contiguous properties. A solar array – public utility is virtually silent. The solar arrays proposed have no moving parts. The only sound is the quiet hum of electrical transformers, invertors and substation that deliver the solar power to the power grid. Similar facilities are located in neighborhoods to deliver power to homes. At night, when the sun is not available, there is no energy

being created and no noise on the site. Solar array – public utility generate far fewer vehicles trips than one average single-family home. Employees visit the site once a week or even less frequently. Solar panels are designed to absorb light, rather than reflect it.

C. The location and character of the use, if developed according to the plan submitted, will be in harmony with the area in which it is to be located and the use is in compliance with the plan for the physical development of the County as embodied in these regulations or in the Comprehensive Plan, or portion thereof, adopted by the Board of County Commissioners.

The proposed solar array – public utility is consistent with the land use pattern that exists in the area today. The site of the proposed solar array – public utility. In fact, there is an existing solar utility located along White Cross Road in this area. A Type D Land Use buffer will be provided in accordance with the Orange County Code.

The proposed solar array – public utility is consistent with the Orange County Land Use Plan. Throughout the Orange County Land Use Plan references are made to the County's desire to encourage locally-generated alternative energy resources and to promote alternative and sustainable fuels. The Greenhouse Gas Emission Inventory and Reduction Action Plan initiated by Orange County in 2006 suggested that private alternative energy production be encouraged in the County. The Orange County Comprehensive Plan designates this as an area of Commercial-Industrial Transition. Allowing the subject property to develop as a solar array – public utility provides an opportunity for locally generated energy resources in Orange County and creates income for the property owners and tax base for the County.

The proposed solar array – public utility will consume practically no county services: no seats in county schools or on school buses, virtually no refuse or recycling needs, no special sheriff protection, no light pollution, no emissions of any kind, no demand for water from depleted aquifers and no sewage disposal.

D. The method and provision of sewage disposal facilities, solid waste and water is adequate.

This facility will be unmanned- there will be no space designed or utilized for human occupancy. Water and sewage disposal facilities are not necessary, and will not be provided to the site. Solid waste disposal will be similarly unnecessary. Any refuse generated by landscape maintenance or facility repair will be removed from the site and disposed of by the professional service providers using approved and safe methods.

E. Police, fire and rescue squad protection is sufficient to the site.

There will be little, if any demand for police fire or rescue squad protection at this location. The facility will be unmanned with no space designed or utilized for human occupancy.

F. Vehicular access to the site and traffic condition around the site are acceptable.

Access to the property will be directly off of White Cross Road. Traffic conditions around the site are acceptable. The proposed Solar Array- Public Utility will generate less traffic than one (1) single family home after construction.

G. The proposed Class A Special Use Permit is for a Solar Array - Public Utility subject to the requirements of Section 5.9.6 (C)(2) and (3) as follows:

(a) All on-site utility and transmission lines shall, to the extent feasible, be placed underground.

Utility and transmission lines shall be placed underground to the extent feasible.

(b) The height of proposed arrays and support structures shall not exceed 40 feet.

Arrays, support structures and invertors do not exceed forty feet (40') in height.

(c) Individual arrays/solar panels shall be designed and located in order to prevent reflective glare toward any inhabited buildings on adjacent properties as well as adjacent street rights-of-way.

Reflective glare is not ordinarily associated with solar panels. Solar panels absorb rather than reflect light. The Federal Aviation Administration has given permission for solar panels to be located at airports where reducing glare is of paramount importance. The site will be designed to avoid glare toward inhabited buildings on adjacent properties as well as adjacent street rights-of-way.

(d) A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

The site will be appropriately signed.

(e) All mechanical equipment of principal solar energy systems including any structure for batteries or storage cells, shall be completely enclosed by a minimum eight (8) foot high fence with a self-locking gate, and provided with screening in accordance with the provisions of Section 6.8.

The site will be enclosed in accordance with this section.

(f) The applicant shall submit proof of liability insurance covering bodily injury and property damage demonstrating a minimum coverage limit of \$ 500,000.00 per occurrence.

Appropriate liability insurance will be provided for the site.

(g) A Type D Land Use Buffer shall be provided along any portion of the perimeter of the parcel, easement, or leasehold area located adjacent to property zoned, or otherwise utilized for, residential use except where such property is owned, leased or consists of other utility easements currently used for electrical distribution or transmission purposes. Existing vegetation may be used to satisfy the landscaping requirements.

A buffer meeting the Orange County Code, Unified Development Ordinance is shown on the associated site plan and will be maintained on the subject property.

(h) Decommissioning

The applicant and owners, as appropriate, agree to the following as conditions in case the utility is to be abandoned:

(i) The owner/operator of the facility is required to notify the Orange County Planning Director in writing 60 days prior to the planned cessation or abandonment of the facility for any reason. This notice shall provide the exact date when the use of the facility will cease.

(ii) Documentation shall be provided indicating that the public utility purchasing the power has been made aware of the decision.

(iii) The facility shall be removed within 12 months from the date the applicant ceases use of the facility.

(iv) Once the infrastructure is removed the property, the owner shall obtain the necessary Erosion Control permits to re-stabilize the property. The time frame for completion shall be determined by the Orange County Erosion Control Officer.

(v) The owner shall provide financial security in form and amount acceptable to the County to secure the expense of dismantling and removing said structures.

(vi) Upon removal of the facility, the Department shall cause a notice to be recorded within the Orange County Registrar of Deeds office indicating that the Class A Special Use Permit has been revoked.

III. Anticipated Development Schedule for Completion of the Project

We expect to begin construction on the Solar Array-Public Utility within six (6) months of approval by Orange County. Construction should take roughly four months. We expect the facility to be operational by the end of 2016.

Application For Environmental Assessment

Project Name: White Cross Farm Solar Array – Public Utility

Applicant: White Cross Solar, LLC and William & Carol Byron

176 Mine Lake Court, Suite 100

Raleigh, NC 27615

Phone: (407)963-2391

Owner: William J. & Carol B. Byron

Address: 1606 White Cross Road, Chapel Hill, NC 27516

Phone: _____

Location of Property: S.R. 1951 (White Cross Road), Chapel Hill, Orange

County, NC

Acreage: 35.8 Ac **Township:** Bingham

Tax Map Reference: _____ **PIN(s):** 9748320786

For Department Use Only

Date Received: _____ **Reviewed by:** _____

Date Accepted/Rejected: _____

Summary Comments:

I. General Site Information:

TO BE COMPLETED BY THE APPLICANT, WITH ASSISTANCE FROM PLANNING DEPARTMENT AS NEEDED

A. Zoning and use of adjacent property:

North: AR; Wooded Land South: AR; Residential/Wooded Land
East: AR; Commercial/ West: AR; Residential/Wooded Land
Wooded land _____

B. Topography:

Highest Elevation: 580 ft. ±

Lowest Elevation: 535 ft. ±

General Direction of Slope: North and South

Estimated % of property with:

0-5% Slope: 0%

5-15% Slope: 100% (2 to 6% and 6-10% Slopes – Per USDA Soils Map)

15-25% Slope: 0%

More than 25% Slope: 0%

(Required only for the portion of the site associated with or impacted by the proposed activity)

C. Drainage:

Are there any streams or drainage easements located on the property?

Yes, one jurisdictional stream is located along the eastern property line near State Road 1951. There is a wetland located adjacent to the stream channel near State Road 1951 as well. (see attached map)

Is any of the site within a:

Watersupply Watershed: Yes – Haw River Protected

Water Quality Critical Area: No

Floodplain: No

Describe: _____

D. Does the property contain any of the following Inventory of Natural or Cultural Resources?

(As identified in the "Inventory of Sites of Cultural, Historical, Recreational, Biological, and Geological Significance in the Unincorporated Portions of Orange County" or the "Inventory of Natural Areas and Wildlife Habitats of Orange County, North Carolina".)

	<u>Yes</u>	<u>No</u>
1. Cemeteries	_____	<u>X</u>
2. Archaeological sites	_____	<u>X</u>
3. Historic sites	_____	<u>X</u>
4. Areas of geological significance	_____	<u>X</u>
5. Designated natural areas	_____	<u>X</u>
6. Designated habitat	_____	<u>X</u>
7. Other	_____	<u>X</u>

For each "yes" answer above, please indicate the location on site plan and complete the following, with the assistance of the Orange County Environmental Planner. Also complete Attachment A.

1. Type of Resource: _____
 Inventory reference no. or page: _____
 Description of Resource: _____

2. Type of Resource: _____
 Inventory reference no. or page: _____
 Description of Resource: _____

(Attach additional sheets if needed)

II. To Be Completed By Applicant:

A. Project Description:

1. Describe proposed use of property:

This project proposes the development of a solar electric power plant. The White Cross Farm is located on State Road 1951 (White Cross Road) in Chapel Hill, Orange County, North Carolina. The project site consists of a leased portion of one parcel. The property PIN is 9748320786 (35.8 acres). The project area contains approximately 22.0 acres of vacant wooded land. The site is surrounded primarily with wooded and residential lands with White Cross Recreational Center along the eastern property line. The existing soils within the project site are Appling sandy loam "ApB", Georgeville silt loam "GeB" and Georgeville silt loam "GeC". The entire site is in hydrologic soils group "B" (see attached soils map). The site surface drainage flows from a high point thru the middle of the proposed site north toward Wildcat Creek and south toward Terrells Creek. There is a jurisdictional stream located along the eastern property line near State Road 1951. There is a wetland located adjacent to the stream channel near State Road 1951 as well. FIRM Panel 3710974800J indicates the project limits do not lie within a special flood hazard area. The site is located in the Cape Fear River basin. Project site Latitude and Longitude is 35.901348° and -79.190065°.

The proposed solar farm will consist of fixed solar panels, inverter/transformer areas and a chain link fence along the perimeter of the array. The project will also include temporary laydown and parking areas and a permanent driveway apron along State Road 1951. The installation of the solar panels themselves will not generally create significant land disturbance. The panels will be mounted to racks, which are supported by a series of posts. The posts will be driven directly into the existing ground without excavation or land disturbance and the existing ground cover will be allowed to remain to the extent possible. The project area true disturbance caused by rubber tire vehicles accessing the site to distribute and install above grade material, a dozen or so small trenches (2' wide, 36" deep) for wiring the array and rack posts mechanically driven directly into the ground, is typically about a third of the project limits. All areas downslope of disturbed areas will be protected by silt fence, diversion ditches and sediment basins as needed. No change in drainage patterns (site drainage remains as sheet flow) or ponding of water will occur as a

result of this project. At the completion of construction, the entire site will be seeded to create a good stand of grass.

The typical construction schedule for these standard farms is approximately three months. Energy generated by the farm will be distributed to Duke Energy customers.

2. Number of lots: 0

3. Number of structures: 0

4. Estimated square footage of area to be graded for development of attached residential units (excluding roads, but including parking areas): 0

5. Estimated square footage of area to be graded for non-residential use (excluding roads) Approx. 4,000 sf (Inverter Pad areas)

6. Estimated area to be graded for roads 0

7. Road Type: Public N/A Private
Class A N/A
Class B N/A

8. Hours of operation for commercial or industrial use:
The solar farm will operate year round and generate electricity during daylight hours. The facility will be monitored remotely. Security and minimum maintenance are the only periodic activities anticipated. Daily operation does not require permanent on-site employees.

B. State Permits Required:

1. Does the project involve the mining of earth products?

If so, how many cubic feet of material are expected to be excavated?

No - N/A

Has an application for a Mining Permit been submitted to NCDRCD?

N/A

Please attach map indicating expected extent of proposed activity.

N/A

2. Does the project involve generation or storage of hazardous or toxic wastes, as identified by the Environmental Protection Agency? (A listing of all hazardous materials is available from the Planning Department)

Describe the wastes to be generated. There will be no hazardous material stored or introduced on site.

How much material is expected to be generated per month?

N/A

Will any material be treated onsite? No

Volume? _____

Will any material be stored onsite? No

Volume? _____

Where will disposal of the material take place?

N/A

How will materials be transported to the disposal site?

N/A

What measures are proposed to protect water quality and air quality in case of spills?

N/A

3. Will the project involve a land application system for treatment of wastewater? No wastewater treatment is proposed for this project.

If yes, describe _____

Has an application for a non-discharge permit been submitted to the NC

Department of Environmental Management or Orange County Department of Environmental Health? N/A

4. Is a septic tank system proposed which as a design capacity of more than 3000 gallons per day?

If yes, describe No septic systems are proposed for this project.

Has an application for a non-discharge permit been submitted to the NC Department of Environmental Management or Orange County Department of Environmental Health? N/A

5. Does the activity involve sludge disposal? No

If yes, where is the source of the sludge? N/A

Describe where and how the sludge is being disposed.

N/A

Has a NPDES permit from the NC Division of Environmental Management been issued? N/A

6. Water Usage: N/A

a. Estimated no. of employees x 25 gpd = gpd

b. Estimated water use for climate control = gpd

c. Process water:

 % consumed

 % discharged to septic system

 % discharged to surface (including storm sewers)

(describe:)

 % evaporated

 % reclaimed/reused

 % other

100%

d. Water used for cooling, heating, etc., in association with production or manufacturing

 % reused

_____ % consumed
_____ % discharged

(describe: _____)

100%

_____ gpd
Total Water Usage

e. Describe source of water:

N/A – No new water connections or changes are proposed with this project.

ATTACHEMENT A
TO BE COMPLETED ONLY IF INVENTORY SITES ARE IDENTIFIED
IN I.E.

(ATTACH ADITIONAL SHEETS IF NECESSARY)

1.

a. Impact on Resource from Proposed Development

b. Proposed Mitigation

2.

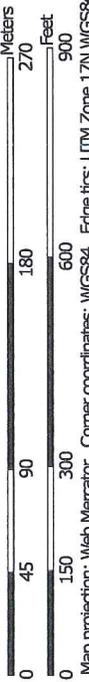
a. Impact on Resource from Proposed Development

b. Proposed Mitigation

Soil Map—Orange County, North Carolina
(White Cross Solar)



Map Scale: 1:3,310 if printed on A landscape (11" x 8.5") sheet.



Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 17N WGS84

MAP LEGEND

 Area of Interest (AOI)	 Spoil Area
 Soils	 Stony Spot
 Soil Map Unit Polygons	 Very Stony Spot
 Soil Map Unit Lines	 Wet Spot
 Soil Map Unit Points	 Other
Special Point Features	Special Line Features
 Blowout	 Streams and Canals
 Borrow Pit	Water Features
 Clay Spot	 Rails
 Closed Depression	 Interstate Highways
 Gravel Pit	 US Routes
 Gravelly Spot	 Major Roads
 Landfill	 Local Roads
 Lava Flow	Background
 Marsh or swamp	 Aerial Photography
 Mine or Quarry	
 Miscellaneous Water	
 Perennial Water	
 Rock Outcrop	
 Saline Spot	
 Sandy Spot	
 Severely Eroded Spot	
 Sinkhole	
 Slide or Slip	
 Sodic Spot	

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:20,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL: <http://websoilsurvey.nrcs.usda.gov>
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Orange County, North Carolina
Survey Area Data: Version 14, Sep 10, 2014

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: May 10, 2010—Apr 30, 2011

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Map Unit Legend

Orange County, North Carolina (NC135)			
Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
ApB	Appling sandy loam, 2 to 6 percent slopes	6.0	25.4%
GeB	Georgeville silt loam, 2 to 6 percent slopes	13.7	58.3%
GeC	Georgeville silt loam, 6 to 10 percent slopes	3.8	16.3%
Totals for Area of Interest		23.5	100.0%

The Approximate Wetland Lines depicted on this drawing were flagged and surveyed with a Trimble GeoExplorer XH 6000 Series GPS with GNSS receiver in the field by Terracon Consultants on 01/19/15. Each survey point was at sub-meter accuracy.

Approximate Total Jurisdictional RPWs: 400 Linear Feet
 Approximate Total Jurisdictional Wetlands: 0.14 Acres
 Approximate Total Uplands: 22.86 Acres
 Approximate Total Site Acreage: 23 Acres

Jurisdictional RPW, Tributary, 1
 (Approximately 400 Linear Feet)

Jurisdictional Wetland, 1
 (Approximately 0.14 Acres)

DP-2

DP-1

DP-3

Legend

- Approximate_Site_Boundary
- ▲ Upland_Data_Point
- Wetland_Data_Point
- Jurisdictional_RPW_Tributary
- Jurisdictional_Wetland



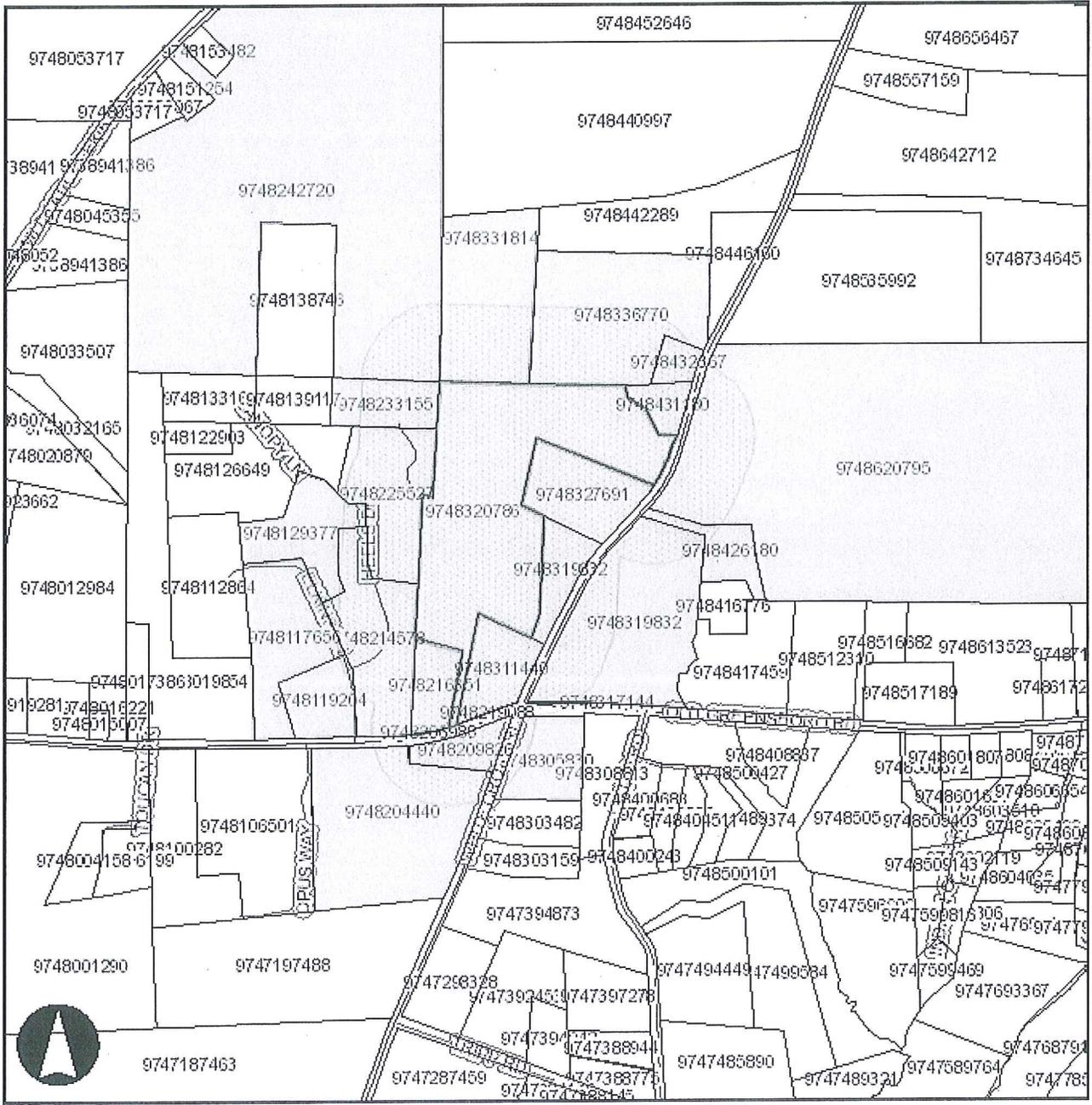
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

Project No. EM157002	PM: JAR	Approved By: JAR	Date: 02/12/15	EXHIBIT NO. A
Terracon				White Cross Solar
1450 Fifth Street West N.Charleston, SC 29405 Phone: 843.864.1234 Fax: 843.864.9234				North Carolina
Approximate Depiction of Aquatic Resources				Orange County



Orange County, NC GIS

Adjacent Properties - 500-foot Buffer



1 inch = 1000 feet.
Created on 2/25/2015. Orange County, North Carolina.

PIN	OWNER1_LAST	OWNER1_FIRST	OWNER2_LAST	OWNER2_FIRST	ADDRESS1	CITY	STATE	ZIPCODE
9748432367	DUKE ENERGY	CORPORATION			OLD HWY 86	HILLSBOROUGH	NC	27278
9748431180	HACKNEY	DAVID G	HACKNEY		3038 MANNS CHAPEL RD	PITTSBORO	NC	27312
9748426180	FARRELL	ROBERT B JR	FARRELL		P O BOX 1021	CARRBORO	NC	275101021
9748216351	MACCALIMAN	BARBARA A	MACCALIMAN		4525 OLD GREENSBORO RD	CHAPEL HILL	NC	275168504
9748620795	HACKNEY	JEAN WHITFIELD	HACKNEY		3038 MANNS CHAPEL RD	PITTSBORO	NC	273127049
9748233155	GOODMAN	MARY CHAMBERS			1034 HANKS CHAPEL RD	PITTSBORO	NC	273129782
9748209826	LLOYD	JERRY LEO			1514 WHITE CROSS RD	CHAPEL HILL	NC	275167338
9748336770	HAGGERTY	JULIA A	null		2213 ST MARYS ST	RALEIGH	NC	27608
9748225527	ELKINS	STEVEN D	WEBER		6048 HEELS DR	Chapel Hill	NC	27516
9748311440	BYRON	CAROL B	BYRON		1606 WHITE CROSS RD	CHAPEL HILL	NC	27514
9748305830	LLOYD	JERRY WAYNE	LLOYD		1441 WHITE CROSS RD	CHAPEL HILL	NC	27516
9748319832	ANTIOCH BAPTIST CHURCH OF ORANGE	COUNTY INC			1707 WHITE CROSS RD	CHAPEL HILL	NC	27516
9748319832	ANTIOCH BAPTIST CHURCH OF ORANGE	COUNTY INC			1707 WHITE CROSS RD	CHAPEL HILL	NC	27516
9748119204	ELKINS	LARRY T			4701 OLD GREENSBORO RD	CHAPEL HILL	NC	275168508
9748320786	BYRON	CAROL B	BYRON		1606 WHITE CROSS RD	CHAPEL HILL	NC	27516
9748129377	HADDEN	JAMES C	HADDEN		2062 ELKINS LN	CHAPEL HILL	NC	27516
9748204440	LLOYD	BERNARD E			1500 WHITE CROSS RD	CHAPEL HILL	NC	275167338
9748206988	DEPARTMENT OF	TRANSPORTATION			PO BOX 9278	GREENSBORO	NC	27408
9748117656	MOORE	LINDA T	MOORE		2039 ELKINS LN	Chapel Hill	NC	27516
9748317144	DEPARTMENT OF	TRANSPORTATION			PO BOX 9278	GREENSBORO	NC	27408
9748219088	DEPARTMENT OF	TRANSPORTATION			PO BOX 9278	GREENSBORO	NC	27408
9748242720	JOHN THOMAS BRADSHAW FAMILY	LIMITED PARTNERSHIP			2227 WILDCAT CREEK RD	CHAPEL HILL	NC	275169792
9748214578	ELKINS	STEVE W	null		4605 OLD GREENSBORO RD	CHAPEL HILL	NC	275168506
9748327691	WHITE	CROSS RECREATION	WHITE		1800 WHITE CROSS RD	CHAPEL HILL	NC	27516
9748331814	HAGGERTY	STEVEN A	null		318 AVE A	MELBOURNE BEACH	FL	32951

BALLENTINE ASSOCIATES, P.A.
 111 PROSPECT ROAD, SUITE 100, CHARLOTTE, NC 28202
 (704) 366-1111
 www.balentine.com



REVISION#	DATE

OWNER INFORMATION
 CHAPEL HILL, ORANGE COUNTY, NORTH CAROLINA
 111 PROSPECT ROAD, SUITE 100, CHARLOTTE, NC 28202
 (704) 366-1111

DATE
 02 MAR 18

ISSUED
 02 MAR 18

DATE
 02 MAR 18

WHITE CROSS FARM
SOLAR ENERGY SYSTEM
SITE PLAN DRAWINGS

JOB NUMBER: 1100210
DATE: 02 MAR 18
SCALE: AS SHOWN
DRAWN BY: J.L.C.
REVISIONS BY: C.A.B.

SHEET
C1002



SECTION KEY MAP
 SCALE: N.E.S.

CYPRESSCREEK
 ARCHITECTURE

SITE PLAN SECTIONS
 (GRAPHIC SCALE IN FEET)
 REVIEW DRAWING
 NOT FOR CONSTRUCTION

Site Assessment for PIN:9748-32-0786

Site Data

Zoning: AR - Agricultural Residential
 Acreage: 34.41 acres
 Overlay Districts: Haw River Protected
 Plat/Legal Description: DB 4881 / PG 313 Plat Book 81 / PG 31
 Recorded Declarations/Covenants: Not Found

Zoning Requirements

Min. Lot Size: 40,000 sq. ft.
 Min. lot width: 150'
 Maximum height: 25'
 Building Setbacks:
 -Front (and Corner lots) = 40' from public rights-of-way
 -Side Setbacks = 20' from side lot lines
 -Rear Yard Setback = 20' from rear lot lines

Note: Lot size, building setbacks and stream buffers may increase based on Private Road Justification (UDO 7.8.5).

Environmental Features

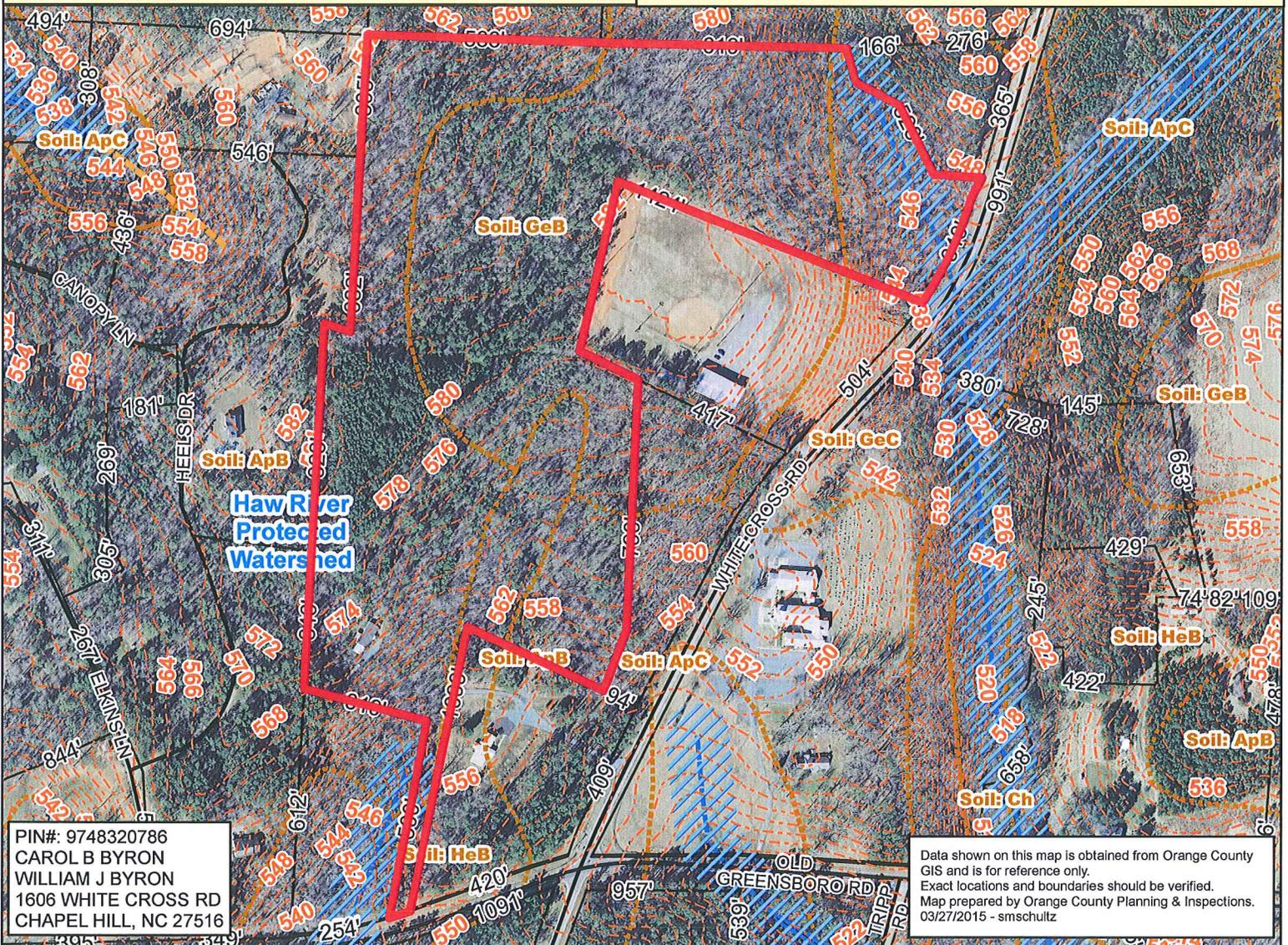
-Stream buffer located on lot. Stream buffer is 80 ft (method A 9.6%).

Impervious Surface Limits: 24% max. (359,735.9 sq. ft. max based on 34.41 acres).

Land Disturbance Thresholds

- 1) Environmental Control Permit required if disturbing more than 20,000 sq.ft.; and
- 2) Stormwater Management Permit required if disturbing more than 43,560 sq. ft. for residential structures.

Date Site Assessment Completed: 3/27/2015 by SMS



PIN#: 9748320786
 CAROL B BYRON
 WILLIAM J BYRON
 1606 WHITE CROSS RD
 CHAPEL HILL, NC 27516

Data shown on this map is obtained from Orange County GIS and is for reference only. Exact locations and boundaries should be verified. Map prepared by Orange County Planning & Inspections. 03/27/2015 - smschultz

- Streams (Deleted)
- Soils Survey Stream
- OC Updated Stream
- Stream Buffer 80ft
- 2' Contours (NCDOT)
- Parcels
- Zoning
- Watershed
- Soils

1 inch = 400 feet
 0 100 200 Feet

PLANNING & INSPECTIONS DEPARTMENT
Craig N. Benedict, AICP, Director

Current Planning
(919) 245-2575
(919) 644-3002 (FAX)
www.orangecountync.gov



131 W. Margaret Lane
Suite 201
P. O. Box 8181
Hillsborough, NC 27278



March 23, 2015

NOTICE OF NEIGHBORHOOD INFORMATION MEETING (NIM):

RE: NOTIFICATION OF A NEIGHBORHOOD INFORMATION MEETING

REVIEW of a Special Use Permit (Class A) application proposing development of a parcel of property totaling 35.8 acres located on in the northeastern quadrant White Cross Road (SR 1951) and Old Greensboro Road (SR 1005) within the Bingham Township into a solar-array public utility.

Dear Property Owner:

The Orange County Planning Department has received a Special Use Permit (Class A), submitted by White Cross Solar, LLC proposing the development of a 35.8 acre parcel of property located at 1606 White Cross Road into a solar array public utility.

The subject parcel is further identified utilizing Orange County Parcel Identification Number (PIN) 9748-32-0786, located within the Bingham Township of Orange County, and zoned Agricultural Residential (AR). Please refer to the attached vicinity map for additional site information and location details.

The application calls for the development several rows or solar arrays of mounted Photovoltaic Cells. This system will generate electricity that in turn be sold to Duke Power for the purpose of contributing to the power service grid for the area.

In accordance with Section 2.7 of the Orange County Unified Development Ordinance (UDO), the County is required to hold a Neighborhood Information Meeting (NIM) for all Class A Special Use Permit applications. This meeting is intended to provide property owners within 500 feet of the request an opportunity to meet with the applicant and discuss the specifics of the project. This allows for an open dialogue between the applicant and local residents to share information and address potential concerns associated with the project. Staff's role is to facilitate this meeting and explain the development review process and the requirements associated with the project.

A NIM has been scheduled for **April 9, 2015** from 5:30-7:00pm in the ground floor conference room of the West Campus Office building located at 131 West Margaret Lane in Hillsborough. Please see attached map outlining the location of the building. Parking spaces are available within the adjacent, County owned, parking deck free of charge.

Please note, the public hearing for this item is not scheduled to occur until May 26, 2015. Additional notices shall be sent informing you of the date/location/time of this meeting.

As previously indicated, part of this meeting is to afford you with an opportunity to learn the intricacies and elements associated with the processing, review, and action on the proposed SUP.

The review of all SUP applications are carried out in a *quasi-judicial* format meaning that decisions relating to the approval or denial of an application are based solely on the sworn testimony of all parties involved with the case, both those for and against an application, as well as the review of competent material and substantial evidence submitted during the public hearing.

Quasi-judicial hearings, and decisions, require a 'fair trial standard' including accepting only competent, material and substantial evidence. Public comments in the form of sworn testimony meeting evidentiary standards can be accepted. Personal, anecdotal, or hearsay comments, however, shall not be accepted as they do not represent '*competent, material, and substantial evidence*'.

While County regulations and State law do not require that parties be represented by an attorney, it may be in your best interests to secure legal council to represent your interests at the hearing.

Further, the applicant has the burden of establishing, by the submission of competent material and substantial evidence, the existence of facts and conditions that demonstrate the projects compliance with the various requirements and standards detailed within the UDO. Those opposing approval of the application shall have the burden of establishing, also through the submission of competent material and substantial evidence, the specific manner in which the proposal does not satisfy the requirements for approval of the application.

Staff has included a SUP fact sheet in order to provide additional information related to the processing of said application.

The NIM has been scheduled as follows:

Date: April 9, 2015

Time: 5:30 to 7:00 p.m.

Location: Lower Level – Conference Room Number 4
West Campus Office Building (W.C.O.B.)
131 West Margaret Lane
Hillsborough, North Carolina 27278

A map has been attached denoting the location of the West Campus Office Building.

If you require additional assistance, please contact a Department staff member at (919) 245-2575. Thank you for your attention to this matter.

Sincerely,



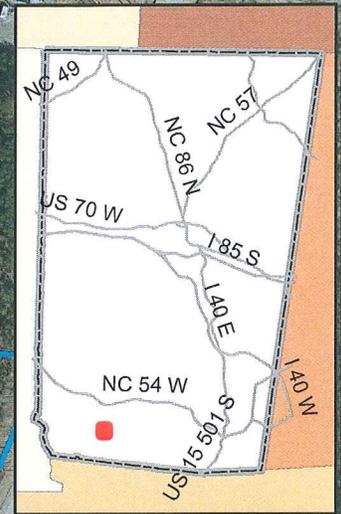
Michael D. Harvey AICP, CFO, CZO
Current Planning Supervisor
Orange County



Patrick Mallett
Planner II
Orange County

CC: File
Attachments: Vicinity map of Subject Property; NIM Vicinity Map

White Cross Solar Facility (Class A Special Use Permit)
Bryon Property
Vicinity Map



PIN#: 9748320786
 CAROL B BYRON
 WILLIAM J BYRON
 1606 WHITE CROSS RD
 CHAPEL HILL, NC 27516

- RGB**
- Red: Band_1
 - Green: Band_2
 - Blue: Band_3

N

1 inch = 294 feet

Orange County Planning and Inspections Department
03/04/2015



SPECIAL USE PERMIT FACT SHEET

The purpose of this fact sheet is to provide a breakdown of Orange County's Special Use Permit submittal and review process.

The information contained herein provides an explanation on the nature of the permit proceedings, the presentation of evidence, burden of proof, what constitutes testimony and who can present evidence, and your rights with respect to challenging a decision to either approve or reject a SUP application.

1. *What is a Special Use Permit?*

A Special Use Permit (SUP) is a permit allowing for the establishment of certain uses, in certain districts, that are considered worthy of additional scrutiny in their proposed location. Such uses typically require special review for design, location, and impact on surrounding properties.

Orange County has 2 different categories of SUP, specifically:

- i. **Class A** reviewed and acted upon by the Board of County Commissioners (BOCC), with a recommendation from the Planning Board, and
- ii. **Class B** reviewed and acted upon by the Orange County Board of Adjustment.

2. *What is considered a 'Special Use'?*

A SUP is required for those specific land uses identified within the Orange County Unified Development Ordinance (UDO) Table of Permitted Uses contained within Section 5.2.

These uses are identified in the UDO's Table of Permitted Uses with an 'A' for Class A SUP and a 'B' for a Class B SUP. Some uses may be permissible in certain districts without restriction (referred to as "uses by right"), but require the SUP in districts where their impact calls for special consideration. Applicants are entitled to be granted a SUP if they can show that specific standards would be met.

3. *When are such applications reviewed?*

Review of a SUP application occurs during a previously scheduled and advertised public hearings held by either the BOCC or the Board of Adjustment.

The review of an application is carried out in a quasi-judicial process.

The typical cadence associated with the review of a SUP is broken down in Section 2.7 of the UDO and can be summarized using the following flow chart:

4. *What does quasi-judicial process mean?*

Quasi-judicial decisions arise in a variety of local government settings.

During a quasi-judicial hearing, the Board (i.e. BOCC or Board of Adjustment) responsible for rendering a decision acts much like a panel of judges. The Board hears factual evidence and sworn testimony presented at the public hearing and then makes a determination on whether the permit can be issued based on the competent, substantial, and material evidence presented.

Put differently a quasi-judicial decision is one that requires the board hearing the matter to find facts and make decisions by applying those facts to the standards in the Unified Development Ordinance.

5. *Who may speak or present evidence at the public hearing?*

Both individual applicants and those individuals supporting, or opposed to, the application are encouraged to attend. Individuals may represent themselves or be represented by an attorney and they may have expert witnesses testify for them.

The cost for attorneys or expert witnesses is borne by the individual seeking counsel or expert testimony, not the County. The County will not pay for, or reimburse, expenses incurred by an individual in their quest to support or oppose a SUP application.

While not required by State or County regulations, all parties with an interest in a SUP application are strongly advised to have an attorney represent them.

Engineers, architects, real estate agents, planners and other non-attorneys may only appear as expert witnesses; they may not represent an applicant or those opposed to an application.

Only those with standing may speak or present evidence.

6. *What are the responsibilities of the applicant?*

The applicant bears the ultimate responsibility for producing and submitting competent, substantial, and material evidence for the body reviewing the application to conclude the proposal complies with applicable County regulations.

If they fail to submit evidence demonstrating compliance, the request is denied.

If, however, the applicant proves they comply, and there is insufficient evidence submitted to the board hearing the case demonstrating they do not comply, the applicant is entitled to have the application approved.

7. *What standards must be met by the applicant?*

All applicants must show compliance with the General Standards for all SUPs, as detailed within Section 5.3.2 of the UDO, and any specific development standards associated within the proposed use.

The General Standards, as contained in Section 5.3.2, read as follows:

- (a) *The use will maintain or promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted;*
- (b) *The use will maintain or enhance the value of contiguous property (unless the use is a public necessity, in which case the use need not maintain or enhance the value of contiguous property); and*
- (c) *The location and character of the use, if developed according to the plan submitted, will be in harmony with the area in which it is to be located and the use is in compliance with the plan for the*

subject. In this case it would not be considered as 'competent' evidence and would be inadmissible.

- ii. Substantial evidence: evidence that which a 'reasonable mind' would regard as sufficiently supporting a specific result.

Would this persuade the average person to make a certain conclusion? Does it do more than speculate?

- iii. Material evidence: evidence that is relevant to the issue being considered.

For example if a board is reviewing an application for a kennel (i.e. a place where dogs/cats are housed and cared for a period of time) an individual who is opposed may submit documentation denoting noise complaints from other kennels throughout Orange County. This could be construed as 'material evidence'.

Documentation denoting animals have died in kennels throughout the county and, as a result, this specific application should be denied is not relevant to the case at hand as it has no specific relationship to what is being proposed. This would be deemed immaterial evidence and would not be admissible.

As a general rule, anyone with knowledgeable information (i.e. relevant) to the case may provide factual information, but only experts may provide opinion testimony.

Even expert testimony must be competent (i.e. the expert has qualifications relevant to the issue) and material before the decision-making board can rely on it.

Hearsay evidence is testimony that the witness does not know of his or her own personal knowledge, including that which someone else told the witness and the use or introduction of signed petitions and letters.

The board may only hear testimony that focuses on the applicable standards and criteria established in the UDO. Unless they are a qualified expert, witnesses are not competent to testify about the impact of a proposed land use on the value of nearby property, the danger to public safety resulting from increases in traffic or other matters that require special training or expertise like the level of noise that will be generated.

13. *Can conditions be imposed on a SUP?*

Generally, the board hearing the application may attach conditions to the approval of an SUP as it relates to compliance with applicable standards. For example, a condition may require the applicant to increase the size of a required setback or land use buffer in order to ensure the project complies with that specific standard as detailed within the UDO. The Board cannot impose conditions addressing an issue not related to an existing standard such as establishing hours of operation, color of buildings, etc.

Conditions cannot require the applicant to take action with regard to a piece of property that is not a part of the application being considered, and conditions cannot require the alteration of a special use permit previously issued to a third party.

14. *Is there a record of the proceedings?*

Complete records must be kept of the hearings. Detailed minutes must be kept noting the identity of witnesses and giving a complete summary of their testimony. Any exhibits presented are retained by the board and become a part of the file on that case. An audio recording of the hearing is also made.

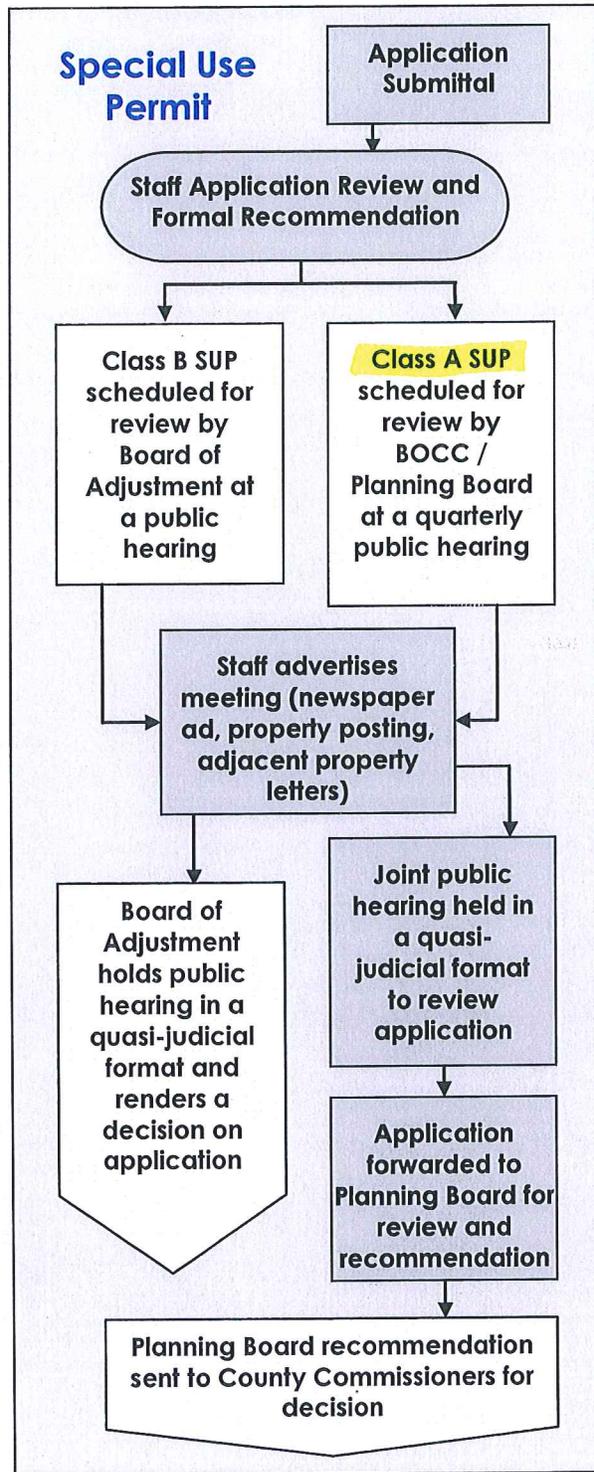
15. *How are parties notified of the decision?*

The board rendering a decision on the application is required to make a formal decision on the application (i.e. approve or deny) in writing and shall be based on the determination of facts and their application to the specific standards for the particular use and the general standards contained in the

SECTION 2.7: SPECIAL USE PERMITS

2.7.1 Generally

- (A) Any use or development designated by applicable zoning district regulations contained within Article 5 as a special use, or as allowed only pursuant to a special use permit (either Class A or Class B), may be established in that district only after the use or development is authorized by a validly issued and recorded special use permit.
- (B) This section sets forth required review and approval procedures for submittal, review, and approval of applications for special use permit.
- (C) A special use permit authorizes its holder to use or develop a particular parcel of land in a particular way, as specified by the terms and conditions of the special use permit.
- (D) A special use permit imposes on its holder the responsibility of ensuring that the authorized use or development continues to comply with the terms and conditions of approval.
- (E) Issuance of a special use permit does not relieve the holder of the special use permit of the additional responsibility of obtaining a building permit or any other permit or approval required by any other applicable law.



2.7.2 Review and Approval Flow Chart

The review and approval process for Special Use Permits is shown in the procedure's flowchart.

2.7.3 Application Requirements

- (A) Applications for a Special Use shall be submitted on forms provided by the Planning Department in accordance with Section 2.2 of this Ordinance.
- (B) Applications shall include:
 - (1) A full and accurate description of the proposed use, including its location, appearance, and operational characteristics.
 - (2) The name(s) and address(es) of the owner(s) of the property involved.
 - (3) Relevant information needed to show compliance with the general and specific standards governing the Special Use (See Articles 5 and 6).

- (4) For Class A Special Uses 26 copies of the site plan, and for Class B Special Uses 10 copies of the site plan, prepared by a registered North Carolina land surveyor, landscape architect, architect, or engineer, which shall contain the information listed in Section 2.5.
- (5) If the application involves a Preliminary Subdivision Plat, 26 copies of the Plat prepared in accordance with Section 7.14 shall be provided.
- (6) A list of all parcels located within 500 feet of the subject parcel and the name and address of each property owner, as currently listed in the Orange County tax records.
- (7) Elevations of all structures proposed to be used in the development.
- (8) For Class A Special Uses 26 copies and for Class B Special Uses 10 copies of the Environmental Assessment and/or Environmental Impact Statement, if required by Section 6.16.
- (9) Method of disposal of trees, limbs, stumps and construction debris associated with the permitted activity, which shall be by some method other than open burning.
- (10) Statement from the applicant indicating the anticipated development schedule for the build-out of the project.
- (11) Statement from the applicant in justification of any request for vesting for a period of more than two years (five years maximum).

2.7.4 Staff Review

- (A) The Planning Director shall cause an analysis to be made of the application by qualified representatives of the County and other agencies or officials as appropriate.
- (B) The Planning Director shall submit the analysis to the Board of County Commissioners and the Planning Board, in the case of Class A Special Uses, or the Board of Adjustment, in the case of Class B Special Uses.
- (C) The appropriate Board reviewing the application shall receive and enter the analysis into evidence during the public hearing. The analysis shall be subject to examination by all interested parties and the Planning Director shall be subject to cross-examination regarding the analysis.
- (D) The Planning Director shall not make a recommendation on the general findings detailed within Section 5.3 of this Ordinance

2.7.5 Neighborhood Information Meeting

- (A) Before a Public Hearing may be held for a Special Use the applicant is required to schedule a minimum of one neighborhood information meeting. The purpose of the meeting is to obtain surrounding property owner input and comments on the proposed development project and allow staff an opportunity to explain the review process associated with the request.
- (B) The applicant shall obtain property owner mailing address information from the Orange County Planning Department, which shall utilize Orange County Land Records data, and shall mail certified notices of the meeting date and time to each property owner within 500 feet of the property for which a Special Use has been requested.
- (C) The applicant shall mail notice of the Neighborhood Information Meeting a minimum of 14 days prior to the date of the meeting.
- (D) The applicant shall post a sign on the property advertising the date, place, and time of the meeting a minimum of 10 days prior to the date of the meeting.
- (E) The meeting shall be held a minimum of 45 days prior to the date of the Public Hearing.

- (F) Neighborhood information meetings for telecommunication facilities shall be held in accordance with the provisions of Section 5.10.8 (B) (2).

2.7.6 Notice Requirements for Class A Special Use Permits

- (A) The Planning Director shall give public notice of the date, time and place of the public hearing to be held to receive comments, testimony and exhibits pertaining to the application for a Special Use.
- (B) Such notice shall be published in a newspaper of general circulation in Orange County once a week for two successive weeks, with the first notice to be published not less than ten days nor more than 25 days prior to the date of the hearing. In computing the notice period, the day of publication is not to be included, but the day of the hearing is to be included.
- (C) The Planning Director shall post on the affected property a notice of the public hearing at least ten days prior to the date of said hearing.
- (D) Written notice shall be sent by certified mail to all adjacent property owners not less than 15 days before the hearing date. Adjacent property owners are those whose property lies within five hundred feet of the affected property and whose names and addresses are currently listed in the Orange County tax records.

2.7.7 Notice Requirements for Class B Special Use Permits

Notice Requirements for Class B Special Use Permits shall follow the procedures in Section 2.12.6.

2.7.8 Nature of Proceedings

- (A) The review of Special Use Permit applications shall be conducted during a public hearing by the decision-making board.
- (B) The review of a Special Use Permit application is a quasi-judicial process, where the Board responsible for rendering a decision acts much like a panel of judges. The Board hears factual evidence and sworn testimony presented at an evidentiary hearing, and then makes findings of fact supported by competent, substantial, and material evidence.
- (C) The chair or presiding officer of the hearing shall swear all parties intending to present evidence or testimony during the hearing.
- (D) The chair or presiding officer may take whatever action is necessary to limit testimony to the presentation of new factual evidence that is material to the application, to ensure fair and orderly proceedings, and to otherwise promote the efficient and effective gathering of evidence. Such actions may include:
 - (1) Barring the presentation of obvious hearsay evidence,
 - (2) Barring the presentation of non-expert opinion,
 - (3) Interrupting digressions into immaterial testimony,
 - (4) Interrupting repetitive testimony,
 - (5) Reasonably limiting the time allotted each witness or cross-examination,
 - (6) Providing for the selection of spokespersons to represent groups of persons with common interests,
 - (7) Interrupting personal attacks, and/or
 - (8) Ordering an end to disorderly conduct.
- (E) Where the Board finds compliance with the general standards, specific rules governing the specific use, and that the use complies with all required regulations and standards,

- (C) Where vesting in excess of two years is requested, the project is located in an area where current issues under study do not involve potential amendments to the Comprehensive Plan and/or this Ordinance.

2.7.11 Required Findings

- (A) A resolution or motion to approve the application must include the findings of fact and conclusions of law that support the decision. Any proposed conditions of approval must also be included in the resolution or motion to approve the application.
- (B) A resolution or motion to deny the application must state findings of fact and conclusions of law that support the decision.
- (C) If a resolution or motion to approve the application fails, the application is deemed denied. Those members voting against the resolution or motion must state which of the conclusions of law they could not reach as well as findings of fact on which their inability to reach the conclusions is based.

2.7.12 Conditions of Approval

- (A) The Board of County Commissioners or the Board of Adjustment, as appropriate, may impose such reasonable conditions upon approval of a Special Use as will afford protection of the public health, safety and general welfare, ensure that substantial justice is done, and equitable treatment provided.
- (B) Conditions shall run with the land and use, and shall be binding on the original applicant(s) as well as all successors, assigns and heirs.
- (C) The Special Use Permit shall include a statement that if any condition of a Special Use Permit shall be held invalid or void, then the permit itself shall be void and of no effect.
- (D) It shall be stated in the Special Use Permit that the Permit shall automatically expire within 12 months of the date of approval if the use has not commenced or construction has not commenced or proceeded unless a timely application for extension of this time limit is approved by the Board of County Commissioners as provided in Section 2.7.13.

2.7.13 Notification of Board Action

- (A) The Planning Director shall send a notice of the relevant Board's action on the application by certified mail to the applicant. A copy of the decision shall be filed in the Planning Department within five business days of the relevant Board's action.
- (B) The Planning Director, in the case of approval or approval with conditions, shall issue the necessary permit in accord with the Board's action.
- (C) The Planning Director, but not a designee, shall certify that the Special Use Permit with any imposed conditions is as approved by the Board of County Commissioners or Board of Adjustment, as appropriate, with a report provided to the County Manager.
- (D) Once the Special Use Permit has been certified, the applicant shall record the permit with the Orange County Register of Deeds in a format prepared by the Planning Director. Failure to do so within 90 days from certification shall invalidate the Special Use Permit.

2.7.14 Time Limits and Extensions

- (A) If a request is received before the Special Use permit expires, the Board of County Commissioners, for good cause shown, may extend the expiration deadline six months upon the favorable recommendation of the Planning Board.
- (B) The application for an extension request shall be submitted a minimum of six months prior to the expiration of the Special Use Permit.

- (C) No changes shall be made to the terms and/or conditions of approval.
- (D) Only one approval of a time extension is permitted, and it shall be based on evidence presented by the applicant showing that permits have been pursued in a timely manner, and that delays have resulted from factors beyond the control of the applicant.
- (E) For developments which require approval of a Special Use Permit, the applicant may request that the Special Use Permit be vested as a Site Plan for a period of not less than two nor more than five years. For vesting purposes, Site Plans and Preliminary Plats may also be approved as a Special Use Permit at the request of the applicant. See Section 2.5 for information regarding site plans.

2.7.15 Changes to Approved Plans

- (A) The Planning Director is authorized to approve minor changes in the approved plans of Special Uses, as long as they are in harmony with action of the approving Board, but shall not have the power to approve changes that constitute a modification of the approval. A modification shall require approval of the Board having jurisdiction.
- (B) The following criteria shall constitute a modification:
 - (1) Any change in a condition imposed during the approval of a special use permit.
 - (2) Any change in use or enlargement of approved use.
 - (3) Any increase in intensity of use. An increase in intensity of use shall be considered to be an increase in usable floor area and/or an increase in the number of dwelling or lodging units.
 - (4) Structural alterations which significantly affects the basic size, form, style, ornamentation, and/or character of the building as shown on the approved site plan or described in the applicant's narrative.
 - (5) Substantial change in the amount and/or location of open space, recreation facilities or landscape screening.
 - (6) Any increase in the size or number of approved signs.
 - (7) Any change in parking areas resulting in an increase or reduction of 5% or more in the number of spaces approved.
 - (8) Substantial changes in pedestrian and/or vehicular access or circulation.
 - (9) Any change in a setback required by the provisions of this Ordinance or imposed as a condition of approval.
 - (10) Any change in the location or extent of street and utility improvements or rights-of-way, including water, sewer and storm drainage facilities, which would provide a different level of service.
 - (11) For telecommunication facilities, a modification shall also include the following:
 - (a) An increase in the existing vertical height of the structure by more than:
 - (i) 10% in the height of the tower, or
 - (ii) The height of 1 additional antenna with separation from the nearest existing antenna not to exceed 20 feet
 - (b) A substantial change to the physical dimensions of the wireless support structure which alters facts or conditions relied upon by the County when granting the original permit. It shall be the County's burden to demonstrate that such a scenario constitutes a substantial change to the physical dimensions of the wireless support structure.

- (c) The addition of an appurtenance to the body of the telecommunication facility that protrudes horizontally from the edge of the wireless support structure the greater of:
 - (i) More than 20 feet or
 - (ii) More than the width of the wireless support structure at the level of the appurtenance.

Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable.
 - (d) Increasing the square footage of the existing equipment compound by more than 2,500 square feet
- (C) The Planning Director shall, before making a determination as to whether a proposed action is a minor change or a modification, review the record of the proceedings on the original application for approval of the Special Use. The determination shall be based upon the request of the applicant, the review of the record of the approval of the original request and the Planning Director's findings under the criteria of subsection (B) above.
- (D) The Planning Director shall, if it is determined that the proposed action is a minor change, state the findings in writing to the applicant. The applicant shall file an amended site plan, or written statement, outlining in detail the minor change(s) proposed. The Planning Director shall file the amended site plan or written statement with the approved site plan.
- (E) If it is determined that the proposed action is a modification, the Planning Director shall require the applicant to submit a request for modification of the approved special use permit. The following procedures shall be adhered to in the case of a modification:
- (1) The applicant shall provide an amended site plan and written narrative outlining the specific changes requested.
 - (2) The Planning Director shall submit the request to the Board that approved the original application.
 - (3) The Board shall set a public hearing to receive testimony concerning the modification request. Any public hearing called pursuant to a modification of an approved special use permit shall be held in conformity with the relevant public notification requirements contained in this Article.
 - (4) The Board may approve, approve with conditions, or deny the application for a modification.
 - (5) The Planning Director shall file the Board's action in the Planning Department as an amendment request to the original application and shall notify the applicant of the Board's action.

