Greg Edds, Chairman
Jim Greene, Vice- Chairman
Mike Caskey
Judy Klusman
Craig Pierce

Aaron Church, County Manager
Sarah Pack, Clerk to the Board
John W. Dees, II, County Attorney

Rowan County Board of Commissioners
130 West Innes Street · Salisbury, NC 28144
Telephone 704-216-8181 · Fax 704-216-8195

MINUTES OF THE MEETING OF THE ROWAN COUNTY BOARD OF COMMISSIONERS
January 16, 2024 – 6:00 PM
J. NEWTON COHEN, SR. ROOM
J. NEWTON COHEN, SR. ROWAN COUNTY ADMINISTRATION BUILDING

PRESENT:
Greg Edds, Chairman
Jim Greene, Vice-Chairman
Mike Caskey, Commissioner
Craig Pierce, Commissioner
Judy Klusman, Commissioner

County Manager Aaron Church, Clerk to the Board Sarah Pack, and County Attorney Jay Dees were also present. Finance Director Anna Bumgarner was absent.

Call to Order
Chairman Edds called the meeting to order at 6:00 p.m. Chaplain Michael Taylor provided the invocation. Chairman Edds lead the Pledge of Allegiance.

Consider Additions to the Agenda
There were no additions to the agenda.

Consider Deletions From the Agenda
There were no deletions from the agenda.

Consider Approval of the Agenda
On motion of Greene, seconded by Pierce, the Board voted 5-0 to approve the agenda as presented.

Consider Approval of the Consent Agenda
On motion of Pierce, seconded by Greene, the Board voted 5-0 to approve the Consent Agenda as presented:

A. *Consider Approval of the Minutes*
B. *West End Plaza - Piedmont Natural Gas Easement*
C. *State Highway Patrol Lease - Community Hangar*
D. *Award Crawford Building - CPL*
E. *Award DNP Red Wolf Habitat - G. W. Liles Construction Co., Inc*
F. *Request to approve GRANT AWARD 2023 Salisbury-Rowan Community Foundation Grant Cycle for Rowan One Church One Child*

G. *Request to Approve GRANT APPLICATION for North Carolina Science Museums Grant Program funding for Rowan Wild*
H. *REFUNDS FOR APPROVAL*
I. *2023 Principal Expense Report Form - Request to Approve*
J. *Scope/Agreement for Fountainworks*
K. *Ratify Resolution Recognizing January 15, 2024, as Dr. Martin Luther King, Jr. Day in Rowan County, as follows:*

RESOLUTION RECOGNIZING JANUARY 15, 2024, AS DR. MARTIN LUTHER KING, JR. DAY IN ROWAN COUNTY

WHEREAS, the Reverend Dr. Martin Luther King, Jr. was the leading civil rights advocate of his time, spearheading the civil rights movement in the United States during the 1950s and 1960s, earning worldwide recognition as an eloquent and articulate spokesperson for equality; and

WHEREAS, Dr. Martin Luther King, Jr. devoted his life to advancing social justice, affirming human rights, and unifying the community, which continues to inspire millions of North Carolinians to help others in their communities; and

WHEREAS, in 1983, the United States Congress designated Dr. Martin Luther King, Jr.'s birthday as a Federal holiday, and in 1994, designated the holiday as a National Day of Service; and

WHEREAS, Rowan County residents are encouraged to volunteer during the Dr. Martin Luther King, Jr. Day of Service, and work together to build their communities into places of justice, peace, and equality; and

WHEREAS, recognizing Dr. Martin Luther King, Jr. Day allows us all to reflect on the ongoing need to embrace those principles essential to Dr. King's message: loving our neighbors, ending poverty, creating equitable economic opportunities, and taking nonviolent, direct action against hatred, racism, and oppression of any kind.

NOW, THEREFORE, BE IT RESOLVED THAT the Rowan County Board of Commissioners does hereby name January 15, 2024, as Dr. Martin Luther King, Jr. Day in Rowan County, and encourages all residents to celebrate Dr. King as a civil rights leader by honoring his life and legacy through the promotion of justice, peace, service, and community engagement.

L. *Approve Human Slavery and Human Trafficking Proclamation, as follows:*

PROCLAMATION RECOGNIZING JANUARY 2024 AS HUMAN SLAVERY AND HUMAN TRAFFICKING AWARENESS MONTH IN ROWAN COUNTY AND JANUARY 11, 2024, AS NATIONAL HUMAN TRAFFICKING AWARENESS DAY

WHEREAS, by Presidential proclamation, each annual January has been designated National Human Slavery and Human Trafficking Prevention month; and

WHEREAS, each year, the 11th day of January has been designated as National Human Trafficking Awareness Day; and

WHEREAS, the issues of sex trafficking and labor trafficking are a violation of fundamental human rights; and

WHEREAS, the County of Rowan wishes to acknowledge the following organizations for their work to combat human trafficking: Project Light Rowan, Family Crisis Council, and the Terrie Hess House Advocacy Center; and

WHEREAS, Rowan County supports the three pillars, "Protect, Prevent, Prosecute," that are included in the United Nations Global Plan of Action; and

WHEREAS, human trafficking is recognized as a national, state, and local issue.

NOW THEREFORE BE IT PROCLAIMED that the Rowan County Board of Commissioners, on behalf of the County employees and Citizens of Rowan County, do hereby recognize the month of January 2024 as "HUMAN SLAVERY AND HUMAN TRAFFICKING PREVENTION MONTH" in the County of Rowan and recognize January 11, 2024, as NATIONAL HUMAN TRAFFICKING AWARENESS DAY. We urge our fellow citizens to educate themselves to protect, prevent, and support the prosecution of human traffickers and bring an end to slavery and human trafficking.

M. Budget Amendments, as follows:

Information Systems	*To budget security badge supplies expense and revenue in the IT Department*	*$1,700*
Parks and Recreation	*To budget contract change order 24083 – Red Wolf Project*	*$178,596*
Finance	*To budget Crawford Building Renovation Project*	*$270,000*

N. Sole-Source FY24 - Revised - Election Systems & Software Inc. (ES&S)

O. Revision to Policy 9.21 Drug and Alcohol Testing for DOT-Related Employees

P. Revision to Policy 3.7 New Employee Probation

Q. Award Signage - Justice Center - RiteLite Signs, Inc.

Special Recognition

Chairman Edds recognized David Whisenant for his outstanding service to his community and wished him a happy retirement. Chairman Edds read the following proclamation into record.

On motion of Edds, seconded by Pierce, the Board voted 5-0 to approve a Proclamation Recognizing and Honoring David Whisenant.

Mr. Whisenant was presented with a proclamation, as follows:

PROCLAMATION RECOGNIZING AND HONORING DAVID WHISENANT

WHEREAS, The Rowan County Board of Commissioners wishes to celebrate outstanding community members and their accomplishments and considers David Whisenant to be a valued community member worthy of recognition; and

WHEREAS, Mr. Whisenant began his career at local AM radio station WSTP before deejaying for Appalachian State University's campus station, WASU, and performing freelance work with Charlotte news station WBTV after graduation from college; and

WHEREAS, Mr. Whisenant is retiring from the WBTV at the end of 2023 after 30 years, where some of his biggest stories included Pillowtex/NC Research Campus developments, the Salisbury Millworks fire, the funeral of President Ronald Reagan, numerous NASCAR-related stories, coverage of Hurricane Katrina, and a story honoring a fallen local police deputy, along with being the only local station reporter in the Southeast U.S. to travel to London to report on the funeral for Queen Elizabeth II, bringing reports to affiliate stations throughout the United States; and

WHEREAS, outside of his professional role, Mr. Whisenant has engaged in his community through a variety of means, including serving on multiple boards and community organizations, speaking to many church and civic groups throughout the state, and encouraging listeners to take care of their mental health and to reach out to professionals for support and help, as well as serving at First Baptist Church for over 40 years; and

WHEREAS, Mr. Whisenant has been honored at the local and State levels for his professional achievements, and has won a variety of awards for various stories and projects.

NOW THEREFORE BE IT PROCLAIMED that the Rowan County Board of Commissioners recognizes the outstanding community service provided by David Whisenant throughout his career, and urges all citizens to join in congratulating David Whisenant on an outstanding career with Charlotte news station WBTV. Your work is appreciated by the community, and the Board of Commissioners thanks for your dedicated service and wishes you a joyful retirement.

Public Comment Period

Chairman Edds opened the floor for public comment.

Da'Tarvia Parrish, 123 Hemlock Drive, Salisbury, read her comments into record (Attachment A).

Legislative Hearing for Z 11-23: Dynamic Developers

Shane Stewart, Assistant Planning and Development Director, said Dynamic Developers of the Carolinas, LLC is requesting the rezoning of a 9.64-acre portion of their approximate 43.29 acre parcel identified as Parcel ID 137-012 located at the corner of Old Beatty Ford, Old Concord, and Ketner Farm Roads, from Rural Agricultural (RA) to Commercial, Business, Industrial with a Conditional District (CBI-CD).

The site plan indicates the rezoning portion would be developed as two (2) lots:

- Lot 1 proposes an approximate 12,768 square foot (sf) building with access from Ketner Farm Rd. and front/side street parking. Built-upon area (BUA) limitations suggest the project will be under the 12% allowed by right. Potential uses for the proposed building

are primarily in the following sectors: Wholesale Trade, Retail Trade, Finance/Insurance/Real Estate, and Service – Health Services.

- Lot 2 proposes an approximate 11,100 sf future fire station building with access from Old Concord Rd. and front/side street parking. This site will exceed the 12% built-upon area limit requiring a future Special Non-Residential Intensity Allocation (SNIA).

Rural Agricultural (RA) is developed to provide for a minimum level of land use regulations appropriate for outlying areas of the county. These outlying areas typically consist of rural single-family housing, larger tracts of land used for agricultural purposes, and instances of non-residential uses intermingled. Multifamily uses are discouraged in this district. This district would provide for protection from the most intensive land uses while containing provisions for a variety of home-based business opportunities and other non-residential uses deemed appropriate through a special use permit process. It is the intent of this district to rely upon development standards to protect residences from potential adverse impacts of allowed non-residential uses. The most intensive land uses would not be allowed in this district.

Commercial Business Industrial (CBI) allows for a wide range of commercial, business and light to medium industrial activities which support both the local and/or regional economies. The CBI district is generally appropriate in areas identified by an adopted land use plan that recommend "highway business" along identified NC and US highways; community/regional/potential development nodes; commercial corridors; and existing commercial areas. Areas served by public water/sewer represent significant public investment to foster tax base growth and employment opportunities for the citizens, which could be served through CBI designation. The CBI district may also exist or be created in an area other than listed in this subsection if the existing or proposed development is compatible with the surrounding area and the overall public good is served.

Conditional Districts (CD) are instances where certain uses may have significant impacts on the surrounding area and the county which cannot be predetermined and controlled by general district standards. As a result, a general zoning district designation is clearly inappropriate for a property, but a specific use or uses permitted as a conditional district subject to development requirements to address the anticipated impacts would be consistent with the spirit and intent of this chapter. This voluntary procedure must be petitioned by the property owner or their authorized agent as a firm development proposal and not for securing early zoning for tentative uses which may not be undertaken for a long period of time.

Mr. Stewart described the conditions in the vicinity and the potential impact on roads.

- North
    - Future residential development area owned by Dynamic Developers of the Carolinas LLC.
    - TEMP 01-24: Temporary Use Permit request for Dominion Energy North Carolina (DENC) for a temporary laydown yard for an associated natural gas pipeline project in Cabarrus and Rowan counties.
    - Cluster of houses along the 10700 block of Old Concord Road.
- South

    - The Drive Thru Store (formerly "Fox's General Store") at 4875 Old Beatty Ford Rd. (1.34 acres zoned CBI).
    - Agricultural cropland
    - Concentration of dwellings along Roy Cline Rd. and Neazer St.
- East
    - Ebenezer Lutheran Church at 4914 & 4990 Old Beatty Ford Rd.
    - Wooded area.
- West
    - Four (4) houses under construction and future residential development area owned by Dynamic Developers of the Carolinas LLC.
    - Wadsworth Acres – Eight (8) lot subdivision established in 2000 (Wadsworth Rd).
    - Significant concentration of houses along Old Beatty Ford Rd., Moose Rd., and adjacent roads.
    - Bostian Elementary School at 4245 Old Beatty Ford Rd. (.44 miles away).
    - Kannapolis Crossing Development LLC (City of Kannapolis jurisdiction) 1.18 miles away at Old Beatty Ford/Lentz Roads.

Ketner Farm Rd. (State Road 1347) –

- Classified as a dead-end local road approximately .69 miles in length.
- Unmarked and paved to a width of approximately eighteen (18) feet.
- Currently provides access to five (5) residences.
- NCDOT will grant access to Ketner Farm Rd. for proposed Lot 1 with improvements on Old Beatty Ford Rd.

Old Beatty Ford Rd. (State Road 1221) –

- Classified as a major thoroughfare.
- North Carolina Department of Transportation (NCDOT) will require a right turn lane from Old Beatty Ford Rd. to Ketner Farm Rd. No direct access to Old Beatty Ford Rd. will be granted by NCDOT.
- Most recent Annual Average Daily Traffic (AADT) count data collected in 2022 estimate 4,700 vehicle trips between Moose/Wadsworth Rds. and 4,300 between Old Concord/Roy Cline Rds.
- The 2019 Cabarrus-Rowan Metropolitan Planning Organization's (CRMPO) Comprehensive Transportation Plan (CTP) estimates road capacity at 14,600 vehicles per day (vpd).
- NCDOT safety project W-5313/09-09-205/1 widened Old Beatty Ford Rd. to eleven (11) foot lanes and two (2) foot shoulders from Chalk Maple Rd. to Lower Stone Rd. The 7.4 mile $11 million project was completed 1/5/21.

Old Concord Rd. (State Road 1002) –

- Classified as a major thoroughfare and identified in the CTP as an unfunded future 4 lane road with an observed right of way of 110 feet for setback and lot dimension standards.
- NCDOT will grant full access (i.e. driveway that permits both left and right turns) for Lot 2 based on the land use being a fire department and providing no vehicular connection to

Lot 1. Per NCDOT, the driveway would need to shift north by approximately thirty-five (35) feet.

- Most recent AADT count data collected in 2022 estimate 4,100 vehicle trips north of Crepe Myrtle Ln. (.44 miles) and 7,400 south of Roy Cline Rd. (1.15 miles south).
- The CTP estimates road capacity vehicles per day at 13,350 from Old Beatty Ford Rd. and north and 11,200 from Old Beatty Ford Rd. and south.
- Per local NCDOT officials, safety project 09-21-5323/1 was completed about a month ago, which re-striped the centerline and shoulder markings from four (4) to six (6) inches in width.

Any traffic volume increase estimates will vary widely without a known use(s). Using the Institute of Transportation Engineer's Trip Generation manual (7th edition), the following trip generation estimates are provided for select few land use types permitted in the applicant's list for Lot 1 (12,768 sf building). The manual does not contain an estimate for fire stations and therefore are not included herein.

- Medical-Dental Office = 462 trips
- Free standing Discount Store = 716 trips
- Garden Center Nursery = 461 trips
- Gasoline/Service Station with Convenience Market = 1,303 trips (assuming 8 gas pumps).

Prior to 2009, Old Concord Rd. traffic was permitted with the "through movement", while Old Beatty Ford Rd. traffic was stop controlled. Due to the high frequency of accidents, in 2010, NCDOT converted the intersection to a four (4) way stop with "rumble strips" while retaining the caution signal. NCDOT performed an evaluation of total crashes that occurred at the intersection prior to the four-way stop conversion (September 1, 2005 – January 31, 2010) and after (April 1, 2010 – August 31, 2014) and noted a reduction from 31 to 7 during this 4 year 5 month comparison period.

Section 21-61(b) indicates a CD application "…must include a site plan containing information from section 21-52 including the general location and size of buildings, proposed streets, parking areas, and other operational area improvements. While the applicant has discretion in the level of detail or conditions offered to govern the proposed conditional district, the application must contain sufficient content for a substantive evaluation by the board of commissioners."

East Area Land Use Plan contains the following recommendations:

- Located in Area 3:
    - Mixed use is encouraged in or near community nodes.
    - May include commercial components in residential development to serve proposed and surrounding neighborhoods.
    - Connectivity is encouraged between residential and commercial through open space that promote walking and biking.
    - Performance based standards that promote compatible land development patterns are encouraged when residential uses may be proposed adjacent to (among other uses) proposed commercial uses.

- Located Community Node [one (1) of seven (7) identified in the east plan].
    - Permitted commercial uses that support the existing population's need for retail goods/services are encouraged.
    - Nodal development with access management.
- Rural Businesses
    - Neighborhood Business (NB) is considered appropriate along identified thoroughfares including Old Beatty Ford and Old Concord Roads.
    - NB district may be enhanced by increasing allowed uses, considering maximum building size, appearance standards, and setbacks.

Both sites are subject to obtaining an individual well and septic system approval from the Environmental Health Office. Staff is unaware of any preliminary soil analysis for this property regarding septic suitability.

Community nodes identified in the East and West Land Use Plans denote the presence of features such as a school, fire department, church, or business(es) typically at a major crossroad often identified by name (i.e. Bostian Heights, Tamarac, Liberty, etc.). Existing non-residential uses are often zoned CBI or NB while a limited number of acres are undeveloped and "pre-zoned" the same in anticipation of future nonresidential development. For properties that require rezoning, node recognition is the initial "layer" in the question of whether the zone change is appropriate. Much like a corridor overlay, thoroughfare frontage, or other cited factor from the land use plan, the recognition of one or more of these features do not absolve an application from further scrutiny of its appropriateness, which may be revealed in a detailed site plan. Examples include:

- Z 08-15 – The Board of Commissioners (BOC) denied a CBI rezoning request in the Liberty node for several reasons including concerns from a required turn lane near the intersection further compromised by limited site distance and a significant number of traffic accidents.
- SNIA 03-22 – The BOC denied a watershed allocation in a regional node at Mooresville/Briggs Roads. While the property was zoned CBI, the development proposed a single use with access that significant restricted development potential on the residual lot. Applying the land use guidance suggested avoiding "strip development" in favor of "nodal" development with interconnectivity.

The subject property is located in the Dutch Buffalo Creek WSII BW (balance of watershed) water supply watershed, which limit single family development lot sizes to one (1) home per 40,000 sf (.918 acres) and BUA for all other development to twelve (12) percent by right. Alternatively, non-residential uses may apply for either:

1. SNIA approval (Conditional District to the Water supply Watershed Overlay (WSO)) for up to 70% BUA; or
2. Density Averaging (Special Use Permit, which secures sufficient acreage elsewhere in same watershed to collectively meet 12% BUA requirement).

Currently, six (6) parcels totaling 25.89 acres have received SNIA approval out of the possible 1,014.46 acres (988.57 acres remaining). The western limits of watershed area join the

municipal limits of two (2) fast growing municipalities China Grove (at NC 152) and Kannapolis (at Old Beatty Ford/Lentz Rds.) suggesting potential future growth pressures in the watershed.

In addition to the above criteria, section 21-362 (c) of the Zoning Ordinance indicates the primary question before the Planning Board in a rezoning decision is "whether the proposed change advances the public health, safety, or welfare as well as the intent and spirit of the ordinance." Additionally, the board "shall not regard as controlling any advantages or disadvantages to the individual requesting the change but shall consider the impact of the proposed zoning change on the public at large."

At their October 23rd meeting, the Planning Board received public comment from six (6) citizens – aside from the applicant and property owner. General statements include:

- Not everyone wants "goods/services" close to where they live.
- Concerns regarding adequacy of Ketner Farm Road for commercial use.
- Bus stop is located at Ketner Farm/Old Beatty Ford Roads, which is a safety concern.
- Concerns people will think Ketner Farm Road is a through road.
- Access should come from Old Concord Road.
- Traffic backups are common on Old Concord Road when Interstate-85 experiences problems.
- Including a fire department in the submittal confounds the rezoning decision.

The Planning Board expressed concern with site access and voted to close the hearing to allow the applicant additional time to gather final comments on other potential vehicular access options with NCDOT. At the November 27th meeting, the board received a revised site plan with a required right turn lane on Old Beatty Ford Road and condition of full access provided to Lot 2 if used exclusively for the fire department. Board members expressed concern with access from Ketner Farm Road instead of Old Concord or Old Beatty Ford. Safety concerns were expressed with turn movements for tractor trailer trucks and missed right turns from visitors into the new site on the dead-end road.

The Board voted 4-1 to recommend denial based on the following statement of reasonableness/consistency:
"Z 11-23 is consistent with the East Land Use Plan, however it is not appropriate because it is using a residential road for what potentially could be a high-volume retail use which could be to the detriment of the safety of the surrounding community."

The site plan for this request proposes two (2) sites functioning independently as a type of strip development. Furthermore, access to Ketner Farm Road seemed to be deciding factor the Planning Board cited as the application detail making the request inappropriate in the board's opinion. Board or citizen noted concerns with the request details may be addressed by plan conditions that address:

1. Compatibility between the development and surrounding area;
2. Anticipated impacts; or
3. Land use objectives or other concerns.

Only those conditions consented by the petitioner may be included in a rezoning decision.

Commissioner Klusman asked for clarification regarding land allocation for watershed. Mr. Stewart said there are 988.5 acres left. Commissioner Klusman asked why a public administration use is different from a business. Mr. Stewart explained the table of uses. Commissioner Klusman asked if there were any other zoning possibilities and Mr. Stewart said it wouldn't be required.

Commissioner Caskey asked how many acres total are at the site and Mr. Stewart said 9.64 acres. Lot 1 is roughly 7.75 acres.

Commissioner Klusman asked for a clarification of the length of part of the neighboring road and Mr. Stewart said he wasn't certain. Commissioner Klusman is concerned about potential traffic congestion and Mr. Stewart said the road meets DOT requirements.

Amanda Hodierne, 804 Greene Valley Road, Greensboro, Suite 202, is a Partner at Isaacson Sheridan and represents Dynamic Developers. Steve Ross and Justin Church, Blue Ridge Environmental, were also present. Captain Charles Sheeks from the fire department is available to answer questions. Ms. Hodierne differentiated this case from TEMP 01-24 and said the two agenda items are separate. There is no overlap between the two requests. She said this is a rezoning request; the analysis is what is the highest investment use for the property. She said we are not here to talk about tenants or business, just to establish proper land use.

Land use factors to consider include location. This location is near a major thoroughfare in close proximity to the interstate corridor. Ms. Hodierne showed a map of the area. Land use pattern analysis infuses opportunity for goods and services amongst critical masses of residential areas. There is symmetry to be created along Old Beatty Ford Road. People's needs should be met where they are.

Ms. Hodierne said the proposed zoning creates much needed transition between the major thoroughfare corridor of Old Beatty Ford Road and interior residential uses located north of the corridor. The proposed zoning capitalizes on the existing infrastructure; the location is ideal for proposed use list which is customized to include types of uses that should locate along a major thoroughfare in relative proximity to interstate interchange. The proposed zoning balances north side of this growing commercial corridor and provides existing and future residents with needed supporting services.

Ms. Hodierne said that the request is conditional, and she displayed a site plan. Lot 1 is the larger lot. The lot has been reviewed for compliance with County and State requirements. She reviewed the access requirements for the site. Lot 2 is included in the condition request. There is an end use in mind. The county has a need for a fire department in this area. There are commercial and institutional needs in this area. The sole goal here is a fire station. The DOT has approved full access to the site. They would not allow cross access between Lot 1 and Lot 2. She said there was careful elimination of several uses in order to curtail the incompatible uses. She displayed a list of the 13 things that are allowable on Lot 1 of the property. Lot 2 only has one allowable use. The owner of Lot 2 will apply for a SNIA at the time of development.

Ms. Hodierne described conformity with additional site planning considerations. Old Beatty Farm Road and Ketner Farm Road are both NCDOT roads, and the access is determined by the NCDOT, regardless of use. Any necessary improvements would be determined by the DOT. Developmental regulations include setbacks, impervious surface, landscaping, and buffering, all of which are indicated on the conditional zoning site plan.

Ms. Hodierne said the site can be found in the East Rowan Land Use Plan in Planning Area 3. The Future Land Use Recommendations for Area 3 indicate that "a mix of uses is encouraged in or near the Community Nodes within the Planning Area. This may include commercial components with residential development to serve proposed and surrounding neighborhoods…" The site is located in a Community Node where "permitted commercial uses that support the existing populations' need for retail goods and services are encouraged in the community nodes. Examples include but are not limited to, convenience stores, gas stations, office space, restaurants and retail/service businesses." Ms. Hodierne said this guidance is made in neutrality.

Ms. Hodierne said the request is reasonable and in the public interest for the following reasons:

- Zoning Conditions provide proper USE controls;
- Site plan commitment provides full predictability for the County in development plans for this property;
- Public administration / services component to this development proposal for public good and interest;
- Furthers the goals and objectives of the adopted East Rowan Land Use Plan;
- Furthers strong planning principals for land use pattern.

At 7:06 p.m. Chairman Edds opened the Public Hearing.

Tyler Wiethorn, 865 Ketner Farm Road, China Grove, is a land surveyor and small business owner. Ketner Farm Road is a narrow dead-end road with no striping and ends in a tiny cul-de-sac. There are concerns for the traffic generated from 60 trips to over 700 trips. There is no room for tractor trailers to turn around and they will need to back into the road. There is a school bus stop at Ketner Farm Road and Old Beatty Farm Road. The Planning Board gave opportunities to make changes but decided the driveway was a hazard. The developer said the North Carolina Department of Transportation's job is to confirm safety; however, they will approve anything that checks all the boxes. Theres so subjective review. The site plan includes the retail space and fire station which will have different impacts. Nothing is stopping the developer from moving forward with the fire station right now. Eventually homes will be in the area. With fourteen or more proposed homes, fire protection details will be triggered. This would mean new lots will not be in compliance with 22-111 of the Rowan County Ordinance. It is likely that the developer will move forward with the fire station. He asked for denial.

Don Safrit, 575 Ketner Farm Road, China Grove, said Ketner Farm Road was a dirt road when his home was built. In 2008 the road was paved with tar and gravel up to standard residential driveway. It is not designed to withstand the stress of over 700 vehicles and delivery trucks. There is no outlet on the north end of the road. The exit point of the convenience store is a left turn only. The driveway is 500 feet from Ketner Farm Road to Old Beatty Ford Road.

Ketner Farm Road is less than seven tenths of a mile from same entry point. Traffic flow is a concern. A dead-end road has no outlet. Occasionally he sees vehicles looking for an exit that must turn around in the small cul-de-sac. This design will lead to traffic congestion. People don't know that Ketner Farm Road is a dead-end road; people either don't see the "no outlet" sign or don't pay attention. The sign is not effective. He has heard that a roundabout is coming to Old Concord Road and Irish Potato Road which will change the traffic flow. This will greatly affect traffic trying to access Ketner Farm Road. He asked for denial. The plans sound good but not for this site.

Don Richmond, 365 Ketner Farm Road, China Grove, has safety concerns for the bus stop at Ketner Farm Road and Old Beatty roads. Traffic increase will increase the chance for an accident. There will be personal and commercial vehicles. He asked how much extra risk to personal safety we are willing to tolerate. The risk is not necessary. The traffic would likely continue down Ketner Farm Road. He asked for denial.

Scarlett Fleming, 10525 Old Concord Road, China Grove, shared photographs of areas near the property (Attachment B). She explained each photograph and the concerns she has about watershed in the area. She asked that buffers be considered to contain runoff and watershed. There is a convenience store half a mile from the site on Chalk Maple Road.

Hannah Wiethorn, 865 Ketner Farm Road, China Grove, said a school bus cannot turn around in the cul-de-sac, so the bus stop must be at the end of the road. The bus would have to back up all the way down the road. In 2015 Rowan County commissioned a study regarding the Rowan County 'brand.' She supports residential growth in the area and healthy development. Uses should focus on four targeted industries. She referenced the strategic goals and discussed small businesses that put local money back into the economy. There are nine discount retailers within a five-mile radius of her home. These erode community identity. Discount retailers don't take this into consideration. They only contribute 8-9 jobs that are low paying. Ketner Farm is a state road. Old Beatty Road and Old Concord Road are major thoroughfares. Ketner Farm Road at a level seven, this is the lowest level per North Carolina Department of Transportation regulated roads. Ms. Wiethorn said if modifying the site plan isn't an option, we need to vote no.

Hearing no further comments, Chairman Edds closed the Public Hearing at 7:30 p.m.

Ms. Hodierne addressed the concerns of the speakers. Side roads are meant to catch traffic from the larger roads. Roads develop and improve based on developments that happen there. The driveway permit process addressed road development. Signage has been addressed with the DOT, where people exiting the site can only turn left. Ms. Hodierne said they can be a partner with the schools. Bus stops move and follow needs and safety concerns. The client would be willing to build a new bus stop. The planning board predicated their decision on the access from Ketner Farm Road, which is not something anyone but the DOT can control. Basing a decision on this is not applicable when the experts have said that this is the way it has to happen. Roads should be used the way they are meant to for smart growth. This is what the comprehensive plan is trying to do.

Commissioner Klusman asked if the developer would be willing to install a roundabout. Ms. Hodierne said that's a DOT decision, it is not something the developer can control. If that's what the DOT required then the developer would do it. It was not what the DOT recommended. Commissioner Klusman said it's not always about what the DOT engineers say; it's about common sense. The local people know what works in their community. Ms. Hodierne said during the development process, there are protocols and mandates to follow which the developer has done.

Commissioner Pierce said the citizens do not want this and he doesn't see the benefit. He would like to see a fire department but not a convenience store. It's not going to benefit the citizens and there's too many detriments. The Planning Board listens to the citizens.

Commissioner Caskey said the road is very narrow. He knows a fire station in that area is needed. He agrees with the traffic issue. The fire station is needed but retail in that location could be an issue.

Vice-Chairman Greene said the fire station can be built without a rezoning and the potential donation of land is greatly appreciated. Water is one of the most harmful things when it gets out of control. A retail business would likely be damaged with flooding. Ketner Farm Rd. was not made to handle retail traffic or water. This request doesn't meet the feelings of the community.

Chairman Edds said retail follows residential. The request does not surprise him. It does qualify but is it appropriate? He visited the site as well. Retail or a convenience store could be useable in the area, but the access is a problem.

*On motion of Edds, seconded by Pierce, the Board voted 5-0 that **Z 11-23** is inconsistent with the East Area Land Use Plan and not reasonable nor in the public interest based on the following factors: (Reference – East Area Land Use Plan page numbers and sections of the Rowan County Zoning Ordinance)*

1. *Section 21-32(f) indicates CBI is "generally" appropriate in areas identified by an adopted land use plan, including community nodes. Although the subject parcel is within a community node, requested uses in the conditional district are too broad to ensure future development would "…support the existing populations need for retail goods and services…" and therefore inconsistent with plan recommendation "D" on page 30.*

*On motion of Edds, seconded by Pierce, the Board voted 5-0 that **Z 11-23** is inconsistent with the East Area Land Use Plan and not reasonable nor in the public interest based on the following factors: (Reference – East Area Land Use Plan page numbers and sections of the Rowan County Zoning Ordinance)*

2. *The inability of Lot 1 to gain direct access to either thoroughfare road negates the benefit of being within a community node and its subsequent validation for commercial zoning. Furthermore, driveway access for a commercial use on a dead-end local road is not in the public interest.*

*On motion of Edds, seconded by Pierce, the Board voted 5-0 that **Z 11-23** is inconsistent with the East Area Land Use Plan and not reasonable nor in the public interest based on the following factors: (Reference – East Area Land Use Plan page numbers and sections of the Rowan County Zoning Ordinance)*

3. *Section 21-61(a) identifies the conditional district procedure as a method of submitting an actual development proposal and "…not for securing early zoning for tentative uses which may not be undertaken for a long period of time". In contrast, the submitted site plan include a speculative building and operational area labeled "Conceptual For Discussion Purposes Only". Additionally, the plan exceeds the low-density watershed requirements which the application indicates a future owner "…will apply for an SNIA at the time of development" necessary to construct.*

*On motion of Edds, seconded by Pierce, the Board voted 5-0 that **Z 11-23** is inconsistent with the East Area Land Use Plan and not reasonable nor in the public interest based on the following factors: (Reference – East Area Land Use Plan page numbers and sections of the Rowan County Zoning Ordinance)*

4. *The plan depicts two (2) sites functioning independently rather than following plan recommendation "E" on page 30, which encourages nodal development.*

On motion of Pierce, seconded by Klusman, the Board voted 5-0 to deny Z 11-23.

Quasi-Judicial Hearing for TEMP 01-24: Dominion Energy North Carolina

Chairman Edds said the hearing for consideration of TEMP 01-24 is now in session and will focus on an application submitted by Dominion Energy to operate a temporary construction laydown yard on part of Tax Parcels 137-012, 165, & 166 located along the 200 block of Ketner Farm Road. He said if any member of the Board may have a conflict of interest in hearing the case, please address the Board now prior to any testimony or information being presented.

When the Board enters into deliberations to decide the case, no further testimony may be presented. The Board will render one of the following three decisions:

1. Approve the permit as requested or with additional conditions;
2. Continue the request; or
3. Deny the request.

All parties who plan to testify in this case must be sworn in. Those who testify must state their name and address at the podium for the benefit of the Board's Clerk. All material presented must be given to the Clerk and will become part of the record. This Board can only accept sworn testimony. No hearsay evidence is admissible.

Clerk to the Board Sarah Pack swore in all those who wished to testify.

Chairman Edds said Shane Stewart, Assistant Planning and Development Director, will present the case for the County. Mr. Stewart presented a Powerpoint slideshow that follows these minutes as Exhibit 1.

Mr. Stewart said Dominion Energy North Carolina (DENC) is requesting a temporary use permit per section 21-281(2) of the Zoning Ordinance to operate a "laydown yard" associated

with their M-071 Kannapolis to Concord System Expansion – a twenty-four (24) mile natural gas pipeline expansion project between N. Enochville Ave/West C Street and south of Concord. Mr. Stewart described the project corridor. According to the application, the "expansion is to help support new growth in the area and to improve system reliability and pressure." The laydown yard is proposed on a 36.16-acre portion of Parcel IDs 137-012, 137-165, and 137-166 located along the 200 block of Ketner Farm Road north and west of the rezoning request Z 11-23.

According to the project description, the yard would be used as the base of operations consisting of construction office trailers, employee parking (approximately 250 employees), material and construction machinery storage, soil stockpiles, and a work area for pipe welding/bending. Mr. Stewart showed a property line map and displayed the limits of disturbance. If approved, DENC would commence construction in February of 2024 and operate Monday through Saturday between 6:00 AM to 7:00 PM for two (2) years. Additional information identified in the project description include:

- Heavy Equipment Traffic – Approximately twenty (20) daily transfer truck deliveries for one (1) month would be necessary to initially stock the yard and three (3) thereafter. Top and subsurface soil removed during off-site pipeline installation would be delivered on average once daily.
- Traffic Control – DENC proposes flagmen along Ketner Farm Road for traffic control during peak hours and high truck traffic.
- Noise – According to the description, DENC does not anticipate loud noises to be heard by neighbors. Most noise is anticipated from equipment backing up and other movement.
- Soil Stockpiles – Displaced soil from the project corridor will be either used for fill in the area, subsequently hauled off to another site, or used post-construction. Wet soils will be arranged to dewater and dry prior to subsequent use.
- Lighting – Temporary mobile lighting will be using before daylight and at dusk during the operational hours, which will be "downcast to prevent any nuisance to local landowners."
- Post Construction Restoration – The laydown site will return to the pre-existing conditions including removal of all graveled areas, which are considered built-upon area.

Mr. Stewart displayed a site plan (part of Exhibit 1) and discussed potential uses of the site and items that might be temporarily housed there. There will likely be stockpile areas of soil, pipe, and other construction related uses along with employee parking. There may be material storage, pod units, transfer truck boxes, trailers, et cetera. There are surrounding lots under development. The Erosion Plan would go to the DEQ for review. In the project narrative, the applicant referenced the information therein illustrates compliance with subsections A-C. The applicant has filed four (4) temporary driveway permit requests with NCDOT. In speaking with NCDOT staff, the department will require a bond to cover road improvements once the project is complete. The DOT approved a driveway permit for four access points. A staff concern was road condition. An asphalt service treatment and sealant would be required post-construction. There would also be a one-year bond requirement for the road access.

Section 21-281(1) of the Zoning Ordinance provides a basic list of allowed temporary uses, reviewable by staff, such as Christmas tree sales lots, yard sales, and activities by religious and civic organizations conducted less than forty-five (45) days in duration and no more than five (5) times per year. Subsection (2) indicates other temporary uses not listed are subject to review by the BOC and "in considering approval of a temporary use the board may attach reasonable and appropriate conditions to ensure that the public health, safety and welfare are protected. The approval of a temporary use shall be in accordance with the following:

a. The proposed use will not endanger the public health, safety and welfare;
b. The proposed use will not have a substantial negative impact on the adjoining properties;
c. The use will be approved for a specific period of time, not to exceed two (2) years unless deemed necessary by the Board of Commissioners in accordance with Sec. 21-11. Extension of the temporary use beyond the approved time shall require approval of the board of commissioners in the same manner as the original."

Historically, the BOC has considered a very small number of temporary use permits since initial ordinance adoption and, to Planning staff's knowledge, reviewed each in an "administrative" capacity (i.e. not as a legislative or quasi-judicial decision). Planning staff is of the opinion the above criteria is subjective in nature, which must be reviewed as quasi-judicial, rather than objective, which can be reviewed administratively by staff, the Planning Board, or BOC.

The built upon area will temporarily exceed the low-density limitation of twelve (12) percent. After conversations with North Carolina Department of Environmental Quality (NCDEQ) staff, if the gravel is removed prior to a final inspection required by the Erosion Control plan or within thirty (30) days of project completion, whichever occurs first, the site would remain in compliance with NCDEQ watershed standards.

Mr. Stewart reviewed operating hours and frequency of trucks. During the initial yard stocking, the site would expect around 20 trucks, which would then be reduced to 3 trucks daily. A 6' chain link fence will surround the site.

Commissioner Caskey asked for clarification regarding the two-year period. Mr. Stewart said there may be a month or two before approval is received from the state. The applicant requested to start construction in February but may not start until May. Commissioner Caskey asked if the applicant would have to come back in two years to request extensions and Mr. Stewart said yes. Commissioner Caskey asked what would happen if the Board didn't grant an extension. Mr. Stewart said that could be a possibility.

On January 3rd and 4th, Planning Staff notified approximately seventeen (17) area property owner and posted a sign on the property. While not specifically specified in the ordinance for a temporary use permit, staff provided meeting notice to property owners generally within 100 feet of the request and posted a sign on the property. As with any request, public input is an important part of this process and should focus on criteria A-C noted above. Fair and reasonable conditions that address the criteria may be required.

Mr. Stewart gave example findings, included as an addendum to these minutes as Exhibit 2.

Commissioner Klusman asked about how much traffic Ketner Farm Road could expect to see. Mr. Stewart said the anticipated number includes 250 employees, truck deliveries, et cetera.

Katherine Ross, Parker Poe, represents the applicant. She said the use of the property as temporary laydown yard doesn't endanger public health, safety, or welfare, and will not have a substantial negative impact on adjoining properties. The request is for 2 years from the start of operations. Ms. Ross showed Powerpoint presentation slides, attached to these minutes as an addendum as Exhibit 3.

Evidence will focus on the two aforementioned findings. Ms. Ross asked that the Board accept into record the temporary use permit application, which consists of the permit form, the project narrative, the site plan, and the project corridor map, and the staff report. These documents are included as an addendum to these minutes as Exhibit 4. The traffic count is 500 bidirectional. Restoration and maintenance of Ketner Farm Road will be addressed.

Commissioner Klusman said she is concerned about heavy equipment going in and out of the site. The road could be torn up. Ms. Ross said testimony will be presented addressing traffic and road maintenance. This is a very different site use and it is temporary.

Ms. Ross said that Brandon Aycock, manager of the Dominion Energy engineering projects team, will talk about the pipeline project and the need for the laydown yard. The laydown yard is critical to the pipeline project. Chad Jacobs, engineer for HDR Inc. is spearheading the engineering of the pipeline project and laydown yard. He will discuss traffic control and road usage. Erik Harwick, engineer at S&ME, was also available to answer questions.

Brandon Aycock, 800 Gaston Road, Gastonia, is representing Dominion Energy and said he manages the team that is over this project. He gave a brief history of his career with Dominion. Dominion Energy currently serves over 650,000 customers with natural gas, over 4,000 of whom reside in Rowan County. Approval of this request will further the critical mission of delivering natural gas. The natural gas pipeline includes 24 miles of pipe connecting Enochville to Concord. A laydown yard is required for a pipeline of that magnitude. The proposed location is centrally located on the corridor of the pipeline, which will promote economic and residential growth in the area. Nearly 60% of the pipeline is located in Rowan County. Dominion Energy and its partners have been working together for nearly 2 years, including talking to landowners, officials, and the DOT. Working with stakeholders is a priority.

The laydown yard will support the Kannapolis to Concord System Expansion project in China Grove. The Kannapolis to Concord system project will expand its system by installing a natural gas pipeline from Enochville to Concord. Once in service, the pipeline will provide the additional natural gas supply and system flexibility needed to deliver safe and reliable service to homes and businesses as this area continues to grow. To minimize impacts to the community and environment, the pipeline will be built predominantly along existing rights-of-way.

The laydown yard is temporary and will be utilized to store materials required for construction of the pipeline, parking for construction equipment when not in use, employee

parking, temporary construction trailers, and temporary storage of topsoil and soil displaced from pipe installation.

The laydown yard is regulated by numerous local, state and federal agencies – including building permits and compliance with the state building code, permits and approvals from the Department of Environmental Quality, permits from the Department of Transportation, compliance with the federal Clean Water Act, Oil Pollution Prevention Regulation, and other applicable rules and regulations. The DENC has internal standards, rules and procedures to ensure its projects minimize impacts to the land, the environment and the communities in which they are located. Often these standards exceed the requirements of applicable law.

Mr. Aycock said the pipeline project will be primarily along the road shoulder. Traffic control measures will be used not only along the pipeline, but also at the laydown site in order to keep workers and the community safe. This is something the company is familiar with.

Chad Jacobs, engineer for HDR Inc., 301 Grant Street, Pittsburgh, Pennsylvania, approached the stand. Ms. Ross presented three documents on his behalf: Mr. Jacobs' resume (Exhibit 5), an affidavit of Matthew Kunkle (Exhibit 6), and a rendering of the site plan (Exhibit 7). Ms. Ross asked that Mr. Jacobs be tendered as an expert witness.

Ms. Ross asked Mr. Jacobs for his post-high school educational background. Mr. Jacobs said he graduated from the Georgia Institute of Technology with a Bachelor of Science in Civil Engineering. He is a professional engineer registered in Florida, Louisiana, Pennsylvania, Ohio and West Virginia.

Ms. Ross asked Mr. Jacobs to describe his current role and position with HDR Inc. Mr. Jacobs said he is a program manager. His current role is managing this project for Dominion Energy and HDR. He oversees not only the engineering group, but the permitting group and the right-of-way acquisition group. When it is time for construction there will be a scope of work and he will oversee that as well, such as inspection and observation.

Ms. Ross asked Mr. Jacobs to generally describe his experience related to the design and development of laydown yards. Mr. Jacobs said he has been a consultant engineer for over 20 years. He has designed and permitted approximately fifty laydown yards in his career to date.

Ms. Ross asked the Board to tender Mr. Jacobs as an expert engineer in the design and construction of laydown yards. The Board did not object.

Mr. Jacobs, using Exhibit 7, displayed the site plan and pointed out aspects of the site. There is design intent with the circular driveways to move traffic off of Ketner Farm Road and allow queuing on the site. The construction waste storage area is a place where wet soil will be dumped to dry. Once dry, the soil will be disposed of at landfill. Stockpile areas increase buffers from intermittent work areas for homes in the area, which will provide noise mitigation.

Mr. Jacobs said the laydown yard will not endanger the public health, safety, or welfare for the following reasons:

- The laydown yard is a temporary use of existing vacant land.
- The site is designed and will be constructed in compliance with applicable rules, regulations and laws.
- The design of the laydown yard allows traffic movement on the site in a manner that minimizes queueing on Ketner Farm Road.
- DENC will have traffic controls, including on site traffic control personnel, that will monitor and direct traffic entering and exiting the site.
- DENC has received approval for four temporary driveways from the North Carolina Department of Transportation.
- DENC is required to restore Ketner Farm Road to substantially the same condition as prior to the start of construction of the laydown yard.
- The site is designed in accordance with industry standards and best practices, which includes containment measures to minimize the potential for any oil or fuel leakage or spillage such as use of parking and storage of vehicles and equipment on visqueen (plastic sheeting) and secondary containment vessels (i.e. drip pans) to collect drips.
- DENC is in the process of applying for erosion & sedimentation control permits and approvals from the North Carolina Department of Environmental Quality (DEQ).
- The basins and stormwater control measures have been designed to meet or exceed requirements of DEQ for the temporary use of the site as a laydown yard.
- As designed, the laydown yard does not impact floodplains, wetlands, water bodies or other environmentally sensitive areas.

Traffic control measures will be implemented, and truck deliveries will be scheduled. Traffic control personnel will allow local traffic access. The driveways must be maintained and repaired; Ketner Farm Road included. There is a bond in place to guarantee the long-term viability of the roadway restoration.

Mr. Jacobs said the laydown yard will not have a substantial negative impact on the adjoining properties. Work at the site is centralized to minimize impact on surrounding properties. There is a 15-foot-tall buffer of dirt or stacked pipe surrounding the site. There are no odors or fumes anticipated at the site. Fueling is contained to a fueling area and drip pans used. There is a secondary containment system in order to prevent groundwater or soil contamination. A geotextile barrier or timber matting are used in order to protect the native topsoil. In order to restore the site, the process is reversed. Timber matting is removed, followed by gravel and geotextiles. Sediment basins would be filled in and the grade returned to normal, along with vegetation added. The vegetation would exist to stabilize the sediment deposition into ditch lines. The site cannot be vacated until the permit is closed by the State saying that vegetation is established and permit conditions are reestablished. Mr. Jacobs said, in his opinion, this requested use does not endanger the public safety, health or welfare, nor does it have a substantial negative impact to the site or the surrounding properties.

Ms. Ross said they do have proposed conditions to offer, as follows:

1. The use shall be approved for two years from start of construction on the site (anticipated March 2024). DENC will notify the planning & development office of the date of start of construction.

2. The temporary use permit approval shall be contingent upon receipt of required local, state and federal permits. DENC, or its agent, shall provide a copy of the permits received for the laydown yard to the planning department upon receipt.
3. Operating hours of the laydown yard shall be 6:00am to 7:00pm, Monday through Saturday.
4. Any lighting on the site shall be interior facing and downcast to minimize light spilling on to adjoining properties and only light required for safety shall remain in use during non-operating hours.
5. DENC shall have traffic control personnel along Ketner Farm Road for traffic control during peak times of employee traffic to and from laydown yard as well as during high truck volume coming to and leaving from the site.
6. The site shall be fenced with a six-foot chain-link fence and access shall be restricted during non-operating house by locked gates.
7. DENC shall designate a point of contact for project status and community concerns and shall provide such contact to the planning & development department.

Commissioner Klusman asked if the perimeter would be established first and Mr. Jacobs said yes, perimeter controls would be enacted.

Commissioner Pierce asked if any other sites were considered for the laydown yard. Mr. Jacobs said this site is at the midpoint of the pipeline and close to Interstate 85. Other sites were considered, but when location and infrastructure are factored in, there was benefit in this location and land was available at this site. Commissioner Pierce asked if the other considered sites were in neighborhoods. Mr. Jacobs said he was not sure how to answer the question regarding neighborhoods but other sites were looked at, and the intent is to minimize impact to the community.

Vice-Chairman Greene said this Board has worked with economic development and supports the project going through as quickly as possible. He doesn't think the developers understand how overbearing the project is to the community. Old Concord Road has traffic issues already. He trusts that land will be restored, but this project is overbearing. He's not looking at engineering as much as he's counting nearby houses. If there was a major problem at the entrance, everyone at Ketner Farm Road will be stopped until the issue is resolved. It is not the best decision to pick this particular road.

Commissioner Caskey asked if the chain-link fence will be embedded and Mr. Jacobs said yes. Commissioner Caskey asked if local crime would increase with the addition of the site and Mr. Jacobs said he doesn't anticipate any additional crime. Commissioner Caskey asked if there were night guards and Mr. Jacobs said not at this time. Commissioner Caskey asked if property value would be affected and Mr. Jacobs said upcoming testimony would address this concern.

Ms. Ross said there was a registered appraiser available as a witness to answer questions, as this request is not the standard for a temporary use permit. She asked Mr. Jacobs to address questions about the site plan.

Mr. Jacobs said there will be traffic control at the site at all operating hours. Traffic control personnel are trained to ensure only one semi-truck passes through at a time and other trucks are held. Queuing would start at the site entrance. There would be no bidirectional instances of semi-trucks passing each other.

Ms. Ross confirmed that the following information was part of Mr. Jacobs' testimony: After initial stockpiling, it is anticipated that there will be 3 truck deliveries per day scheduled. There is an anticipated 250 employees, arriving in the morning and exiting in the afternoon, and traffic control would be present. All pedestrian traffic, children/school bus traffic, and other traffic would be controlled by traffic control personnel throughout the road from Old Beatty Ford Road to the driveways. He is familiar with other laydown yards in similar locations at the openings of neighborhoods.

Rich Kirkland, 9408 Northfield Court, Raleigh, registered appraiser of Kirkland's Appraisals, approached the stand. Ms. Ross presented Mr. Kirkland's resume (Exhibit 8) to the Board. In order to tender Mr. Kirkland as an expert witness, Ms. Ross asked him to state his post-high school educational background. Mr. Kirkland said he has a bachelor's degree in English from the University of Chapel Hill and has training through the North Carolina Appraisal Institute. He has been appraising as a state certified general appraiser for 28 years. He regularly completes impact analyses, which is why he is a witness for this matter. His company has been focusing on impact analyses for 15 years and he completes them regularly. Ms. Ross confirmed that Mr. Kirkland does two types of work to determine an opinion of value in his practice as an appraiser and Mr. Kirkland said yes. Ms. Ross confirmed that Mr. Kirkland completes impact analyses, which includes looking at the potential impact of one property or the use of one property on another, and Mr. Kirkland said that was correct. Ms. Ross requested that Mr. Kirkland be tendered as an expert appraiser in real property impact analysis. The Board did not object.

Mr. Kirkland added that he has a Member, Appraisal Institute (MAI) designation through the Appraisal Institute. He has reviewed the site plan and looked for similar uses around housing like this. This is a temporary use and he has not seen a situation where a temporary use affects adjoining parcels. Temporary uses are happening all around. This is part of a growing society, which the market perceives, and he is not seeing any resulting negative impacts from that. Dr. Randall Bell, MAI, wrote a textbook on appraising real estate damages. Mr. Bell looks at detrimental conditions, which include temporary uses as a class 4, similar in nature to properties experiencing bankruptcy or foreclosure. There have been no noted long-term impacts resulting from these benign detrimental conditions. They don't impact property value. He looked at a similar project in Huntersville called Soil Supply that has active equipment and moves dirt and mulch. A country club was built right next to it after Soil Supply had been in business for years. There are homes as close as 135 feet, and property lines as close as 50' from the site. These homes were selling for $500,000 to $600,000 in 2018 and 2019, which was before the inflation experienced in 2021 and 2022. This property had a similar use to the proposed site and had no impact on adjoining property values.

Commissioner Caskey asked if during the 2-year period of the site being active, if a house is sold, would value be affected? Mr. Kirkland said they aren't seeing that and gave an example of

a Wake County School being built on an old golf course that has homes overlooking the construction site. These homes sold in 2022 at a premium. Sales data isn't affected by the nature of temporary uses. Commissioner Caskey asked if it's fair to compare Wake County to Rowan County. Mr. Kirkland referenced Soil Supply. Commissioner Caskey said that business is in Mecklenburg County. Mr. Kirkland said a buyer here doesn't have substantially different motivations.

Attorney Jay Dees said it's important to differentiate between the prior decision (Z 11-23) and the current TEMP 01-24. If the applicant has met their burden of proof with competent material and substantial evidence, they are entitled to the permit. The burden shifts to the opponents to rebut what the applicant said. Context is relevant; competent material and substantial evidence must be presented rather than general concerns or hearsay. This is different from a legislative hearing; this quasi-judicial hearing has a different structure.

At 8:57 the Board recessed.

At 9:07 the Board reconvened.

At 9:07 p.m. Chairman Edds opened the Public Hearing and asked speakers to be succinct in their comments.

Tyler Wiethorn, 865 Ketner Farm Road, China Grove, presented a packet of information to the Board that is included as an addendum to these minutes as Exhibit 9. He is a professional land surveyor who owns a small business in the county. Prior to that he spent four years with a nationwide survey company where he managed land surveys for oil and gas pipeline construction, including many projects very similar to the proposed request. He has supported or managed land surveys for more than 500 miles of pipeline, including locating many laydown yards. He clarified that he was not only testifying as an impacted homeowner, but as someone with actual experience and knowledge regarding projects like this.

Mr. Wiethorn said his testimony was comprised of three points. First, the ordinance requires Dominion to prove two criteria. Second, what does proof look like? Third, he would analyze what Dominion says in their own words. Referring to the ordinance from section 21-281, Dominion must prove the proposed pipeline yard will not endanger the public health, safety and welfare. There's no qualifier here, there's no acceptable level of risk. The ordinance asks a yes or no question. Does the project endanger the public? Or does it not? Dominion must prove the answer is no, there will be no risk to public safety, or they fail this criteria. He asked the Board to consider the meeting attendees in the room and said this is the public the ordinance protects, not some faceless group. It's himself, his children, the handful of residents, the people in the meeting room.

Section 21-281 says Dominion must prove that the laydown yard will not have a substantial negative impact on the adjoining properties. He said his interpretation of "substantial negative impact" is when the regular day to day activities of life are made more difficult by the laydown yard's presence. It might also look like a hit on property values.

He questioned what Dominion provided in their application to prove their project meets these two requirements. In their application, Dominion included a four-page developers' narrative, and four pages of (what he believes) are disjointed claims and promises that are nearly devoid of any actual substance. There are no reports, no studies, no analysis, and there's no documentation to support most or all of the claims. Dominion is telling residents not to worry, but it's all unsubstantiated claims and non-committal promises which are not proof.

Mr. Wiethorn said in January of 2022, Verizon Wireless came to the Board to get a permit for a cell phone tower on Reimer Road. Verizon provided 100 pages of reports proving the tower would be safe, and a 40-page real estate study that proved property values would not be affected. Their burden was met and the permit was granted. How does Dominion know what proof looks like? In Buncombe County, also in January 2022, Dominion applied for a pipeline right of way permit. In that case, they provided a 200-page Environmental Assessment proving to the National Park Service there was no significant negative impact on the environment. Their burden was met, and that permit was granted.

Mr. Wiethorn quoted Dominion's application narrative, saying "utilizing a laydown yard is standard protocol for projects of this nature." He agrees that a laydown yard is standard for pipeline construction, but standard procedure doesn't also mean it's perfectly safe and won't be a nuisance, nor does it mean the Board should just rubber stamp the request as routine and normal. In Augusta County, Virginia, in 2018, Dominion's applications for laydown yards were denied not once, but twice for failing to prove the yard was not a dangerous nuisance. Documents related to this are included in Exhibit 9.

While the use of a laydown yard is typical, the way that Dominion has selected this location for this yard does not seem typical at all. In his career, he has not seen a laydown yard designed to straddle both sides of a residential street (per Dominion's site plan). Ketner Farm Road is the only access to both east and west areas of the yard. Dominion has designed this industrial site with all of its known hazards to fully surround a quiet residential road to make that road part of their compound. The site plan shows driveways crisscrossing Ketner Farm Road. Trucks, heavy equipment, machinery, and pedestrians will cross back and forth. Dominion isn't asking Ketner Farm residents to drive past their laydown yard; they want residents to drive right through the middle every single time they leave their homes.

Dominion is silent on the hazards from where these inner yards cross traffic, but they do offer a more general traffic safety plan. Mr. Wiethorn quoted again from Dominion's application narrative, stating "flagman will be utilized to manage the road during quote peak traffic and high truck volume." Not only are flaggers highly inconvenient, but just in acknowledging the need for flaggers Dominion admits their yard will create traffic conditions so hazardous the flaggers are necessary. Although that is a step in the right direction, they add a condition where flaggers are present only during peak traffic and high truck volume. Mr. Wiethorn questioned whether the Board was prepared to delegate Dominion the authority to determine on their own when they want to protect the public. It's their traffic, it's their flagman, and it's their dollars paying for it; Mr. Wiethorn doesn't think that system can be entrusted to protect residents. Dominion admits the dangers but then puts in an "opt out" to their own solution and claims this is proof that residents will be safe.

Dominion also predicts there will be 250 cars and up to 20 trucks in and out from 6:00 a.m. to 7:00 p.m. six days a week. By a conservative estimate, that is a 1,000% increase of the normal daily traffic on Ketner Farm Road and all of it is concentrated to two narrow windows. Mr. Wiethorn said 250 cars would create a convoy over a mile long, which is longer than the entirety of Ketner Farm Road. If only half of those cars come from Interstate 85 in the morning, the traffic stacking up to make an unprotected left turn onto Ketner Farm would back up past Bostian Elementary where it's going to get tangled up with school buses, teachers, and parents dropping off their kids. Whichever direction they come from, 250 cars arriving or departing Ketner Farm Road at the same time each day will be felt everywhere. In the evenings, residents who live behind this facility will be trapped behind a quarter-mile long line of cars stacked up at the stop sign. There is no other way out. There is no way around this bottleneck that will impact day to day life. Residents will sit and wait in this line at least 60 cars deep nearly every day for at least two years. Dominion gives no proof that they can safely mitigate these impacts. Mr. Wiethorn said the scariest traffic concern is that there is a Rowan County School Bus stop at the intersection of Ketner Farm Road and Old Beatty Ford Road, which is the epicenter of all this traffic. His child and the other kids on Ketner Farm Road ride this bus. The dangers are obvious.

His last point addressed water and storm runoff. He referred to a page in Exhibit 9 and said Dominion claims "no streams or associated wetlands will permanently be impacted by this laydown yard." Both the east and west yard drain into washes that dump into Dutch Buffalo Creek. The entire area is in the watershed of Dutch Buffalo, an area Rowan County Planning designates as sensitive and requires protections. Dominion's narrative implies that residents can expect polluted or contaminated water and that chemicals are used on the site. Then they offer no plan for the management or disposal of this contamination or what exposure to it might due to public health. Section 21- 281 requires proof that public health, safety, and welfare are not endangered. When it comes to proof that there will be no significant negative impacts to neighbors, Dominion has come nowhere close to meeting their burden. Mr. Wiethorn said this temporary use permit should be denied; not tabled, not continued, but denied. He asked the Board to put a stop to a project that is "rotten to its core" and let the people in the area get back to their lives.

Theresa Safrit, 575 Ketner Farm Road, China Grove, was born on Ketner Farm Road and moved away before moving back in 2002. She is concerned about the precedent on Ketner Farm Road for emergencies. When the house she was born in caught on fire, emergency responders could easily access the house. In the instances of other accidents, access has been available. There are four people on Ketner Farm Road who are over 80 years old. Due to this, there is a possibility that emergency medical services will be needed at some point. If emergency responders cannot get through Ketner Farm Road due to traffic congestion, people won't get the care they need.

Don Richmond, 365 Ketner Farm Road, China Grove, said at the corner of Ketner Farm Road and Old Beatty Ford Road is a bus stop. Additional traffic would increase the risk of an accident, along with increasing traffic for residents. His property borders the proposed laydown yard. His day-to-day way of life will be impacted. Noises from car doors slamming, trucks coming in and out, tailgates slamming shut, and aggregate being dumped will be disruptive.

There will be dirt and dust pollution. It will be virtually impossible to keep anything clean or spend time outside. His well sits right near his home; if waste is dumped too close to the well, dirty water could contaminate the well. When he bought his home in 2015, he noticed that the previous owners had to dig a ditch alongside the driveway because there is so much water runoff from proposed site. Since then, Mr. Richmond has paid for the ditch to be dug out, filled with aggregate, and a drain installed. He thinks Mr. Kirkland is incorrect regarding property values; property value will take a massive hit. He has worked to increase the value of his home and this would diminish the market value. He is also concerned about the sediment basin. Mr. Richmond said Dynamic Developers should be ashamed for not telling new area homeowners their intentions for the site before selling the adjoining property. There are more suitable places for a laydown yard than this. It's not about who is right, it's about what is right.

Scarlett Fleming, 10525 Old Concord Road, China Grove, displayed a photograph (Exhibit 10) to show the proximity of the proposed site to her church and said she is the Council President in the congregation of Ebenezer Lutheran Church. The church is located at the corner of Old Concord Road and Old Beatty Ford Road, directly across from the site. She read into record a Declaration of Opposition (Exhibit 11) that was signed and endorsed unanimously by Minister Lucas Safrit and the entire Ebenezer Lutheran Church Council.

Hannah Wiethorn, 865 Ketner Farm Road, China Grove, presented a packet of information to the Board included as an addendum to these minutes as Exhibit 12. She questioned what "burden of proof" means. No environmental or real estate study was completed. She said it is impossible to find laydown yards on the Multiple Listing Service (MLS). Ordinances are established to protect citizens and quality of life. Noise Ordinance 241 sets the maximum noise levels to 70 decibels; a diesel truck runs at 90 decibels. This will be disruptive when equipment noise starts at 7:00 a.m. At this time, her child is getting ready for school and gets on the bus at 6:50 a.m. When it's cold, children aren't getting out of vehicles to stand by the bus stop; they wait in the car. There's no pull off area, so the vehicles wait in the road until the child gets on the bus. The vehicles then execute a three-point turn to drive back to their homes. This would not be possible if the site was approved. Approving this temporary use means residents are not crossing the construction zone, they are living in it. Rowan County has an ordinance for fumes and dust that says a nuisance cannot be created, and she assumes dust will be created when aggregate is dumped. There is also a vibration ordinance stating a site cannot produce a detectable vibration at the property line. Heavy equipment and trucks are going to create vibration, and there is no adequate buffer to mitigate this. There are also Native American artifacts on site and no archaeological study has been completed. No watershed study was completed. She said that Dominion has not met the required burden of proof.

Cedric Fleming, 10525 Old Concord Road, China Grove, is downstream from the site and is concerned about runoff. He referenced Photo 2 that was provided by Scarlett Fleming during the prior hearing for Z 11-23 and pointed out that there are roofs below a field holding water. Picture 3 of Ms. Fleming's showed a fully cleared field. Mr. Fleming questioned if Dominion returned the site to its pre-construction state, would that include replanting trees in the field. Pictures 8 and 9 of Ms. Fleming's display the effects of no vegetation. A silt fence is the only requirement. The runoff pond was created at a steep elevation. These pictures are the exception to the norm and show what happens when it rains. Picture 10 shows the six- to eight-foot raise in

water levels that occur when heavy rains come. A silt fence won't protect the community that is downstream from this location.

Robert Query, 340 Ketner Farm Road, China Grove, presented a letter to the Board that follows these minutes as an addendum as Exhibit 13. Mr. Query said there is a containment pond 100' from his horse pasture, which could stagnate and cause mosquitos. Mosquitoes are carriers of eastern equine encephalitis, which is deadly to horses. He is concerned for the safety of his grandsons, one of whom lives with him. His grandson catches the school bus at Ketner Farm Road and walks home (by choice) in the afternoon unless it's raining. Both of his grandsons play in open field and in the road. He said his grandsons are going to want to play on the equipment at the site. There will be dust and odors. His home is downhill from the site. Wind blows downhill. Contaminated ground water could come across his property. Rainwater runoff in drainage ditches turns into river.

Wayne Miller, 495 Chalk Maple Road, China Grove, said he is concerned about the safety of Bostian Elementary School. Getting vehicles in and out along Old Beatty Ford Road is a challenge. In the past, he spoke with the school board and the principal to get speed limit and school zone signs installed. He is concerned that there will be a traffic increase and increased chances for incidents to occur.

Rod Olmsted, 10760 Old Concord Road, China Grove, lives at an adjacent property. His two children attend Bostian Elementary School. Mr. Olmsted volunteers at Bostian and has directed traffic before a School Resource Officer was available; he sees the local traffic every day. He volunteers at the school in other ways as well. In 2016, he bought the property. The proposed site is less than 400 feet from his home. This request should be opposed due to concerns like pollution from equipment and trucks, dust with contaminants, and groundwater contamination. His property is downhill from the site and all water runoff runs through his yard. He distributed photographs to the Board (Exhibit 14). He can hear cars on Old Beatty Ford Road now that land is cleared and trees are gone. Pipes can degrade over time. The proposed barrier is insufficient to prevent seepage. The water quality of wells will be impacted. Health issues can arise from contaminants. Dutch Buffalo Creek provides water to lots of local farms, and the impact of contamination will be felt all the way down to Highway 152. Traffic congestion will be out of control with the site operating for 78 hours in a six-day period. Maintenance will be needed on Ketner Farm, Old Concord, and Old Beatty Ford roads. Hazards will increase with increased traffic. He asked the Board to deny the request. Water runoff that flows over his yard flows into the creek and his well; he doesn't want contaminants in his well.

Jean Hohwiesner, 220 Ketner Farm Road, China Grove, said she and her husband moved into their new home on December 7, 2023. During the purchase process, they were informed and provided a map showing that the land in Section 137-12 was intended to eventually have 12 homes built. They were told that these homes would likely not be built in the next few years. Prior to closing on the home, they were informed that the land next to, behind, and across from the home was intended to be used as a construction laydown yard. That area would be used to base operations for construction, have a construction office and trailers, have 250 employees, construction machinery, soil stockpiles, a work area for pipe welding and bending, and semi-trucks coming in and out as well as flagman directing traffic. The main entrance is going to be

right across the street from her home. They also learned that this would be going on six days a week for 13 hours a day and is struggling to see how it would have would not have a negative impact on residents. According to the plans, the site will be operational for at least two years. She said if they had known about the plans for a laydown yard, they never would have purchased this home. They are struggling to understand why this information and these plans would not have been disclosed to prospective buyer or the real estate agent so that they could have made an informed decision. They were told the nearby vacant 10 acres were going to be donated to Rowan County for construction of a new fire station and Dollar General Store.

She said if these plans are approved, she and her husband will not be able to stay and will not be comfortable in their own home. She is 75 years old, and her husband is 82 years old. Her husband is disabled and needs a wheelchair or a walker. He had two strokes two years ago and he has Parkinson's disease. According to the Parkinson's website, whether it's short term or long-term, stress can negatively impact mental and physical health for people with Parkinson's. People with Parkinson's disease commonly report that acute stress worsens their motor symptoms such as freezing of gait and hand tremors. People with Parkinson's also notice that chronic stress worsens non-motor symptoms, such as anxiety and depression. Studies have also shown that chronic stress can accelerate Parkinson's disease.

Besides the inconvenience of the presence of the construction efforts, she is concerned about her husband's health living in the middle of a construction site. Construction dust can cause a wide range of health and lung problems including cardiovascular and respiratory disease, as well as cancer. Construction noise can induce chronic stress leading to various mental health problems such as anxiety, irritability, and reduced concentration. Welding gases can produce ozone and carbon monoxide gases known to cause kidney cancer and lung cancer.

Increased traffic on Ketner Farm Road will be intolerable. Dealing with this for 13 hours a day six days a week for two to three years is an alarming and upsetting thought. She is concerned about seepage of contaminants into well water from all the construction activity. How can she be assured that the water source will not be compromised by this activity? She currently experiences a lot of water collection areas and minor flooding in the yard around her house when it rains. She showed a photograph (Exhibit 15) to the Board. If there are several stockpiles of various soils and gravel around her home, she would expect the problem to get worse. Moving from home to home is not easy for her or her husband; her husband needs a home that is handicap accessible, which is not easily found. Her home is an investment and with all this construction activity surrounding my house, the property and resale value will certainly decline. Once the construction has been completed, can the company guarantee that the value of her home will be the same due to this activity? She asked that the company not be permitted to proceed with using this area, and that the construction laydown yard and plan be reconsidered.

Lisa Burgess, 166 Crepe Myrtle Lane, China Grove, is concerned about water runoff. There are creeks all around the area and lots of springs. She shared photographs that had been previously entered into evidence. Trees have been cut down. The land is sloped down away from the proposed site. There has to be allowance for human error; drip pans are supposed to be used, but what if employees forget? She is concerned about the catch basin 300’ off of her property line. There are wells located at the backs of houses. The area is in a floodplain. Traffic,

the bus stop, school safety, and well water are all concerns. She asked how wildlife will be affected. This land is her heritage that she plans to pass on to her children. Saying the site is not a concern for public safety is an opinion. Mature trees were cleared which affects air quality. The wind has picked up. The site may only be operational for two years, but what lifelong impact will it have? The piping used for the pipeline is dangerous and can be damaged.

Ms. Ross asked for a brief recession in order to review evidence.

Chairman Edds temporarily recessed the public hearing at 10:13 p.m. to give Ms. Ross time to review evidence and moved to the next agenda item.

Road Name Change Public Hearing – Freshwater Lane, Overflow Trail, and Twist Lane

Pamela Ealey, Planning Technician, said the following road name changes have been submitted to the Rowan County Planning Department and are presented for approval by the Board of Commissioners:

1. Currently Known As: No name driveway
Proposed Name: Freshwater Lane
Location: 300 block of Shore Acres Road (SR 2137)
Property Owners: Richard and Bernice Yarbrough, CB Operations LLC, John and Heidi Thalmann, and Lam Kham
Reason for Change: Zoning Permit applied for 4th structure accessing this drive, per ordinance the drive must be named. Unanimous petition received, name choice approved by GIS and Emergency Services.

2. Currently Known As: No name driveway
Proposed Name: Overflow Trail
Location: 2600 block of Faith Road (SR 1006)
Property Owners: Maria Guzman, Rigo and Ruth Medina, Colby and Leanna Taylor
Reason for Change: Three (3) residences access this drive; per ordinance the drive must be named. Letter requesting drive be named mailed 11/8/23 with no response. Name selected by staff and approved by GIS and Emergency Services.

3. Currently Known As: No name driveway
Proposed Name: Twist Lane
Location: 500 block of Gin Road (SR 2347)
Property Owners: Toby and Leanne Weast, Dalton and Madison Moose
Reason for Change: Two (2) residences access this drive and were assigned addresses out of the block range. APA requests to name this drive to correct this error and for any future development. Letter requesting drive be named mailed 10/17/23 with no response. Name selected by staff and approved by GIS and Emergency Services.

At 10:17 p.m. Chairman Edds opened the public hearing and closed it after no one wished to speak. Three people had signed up, but then did not respond when called for comment.

On motion of Pierce, seconded by Greene, the Board voted 5-0 to approve the road name changes for Freshwater Lane, Overflow Trail, and Twist Lane as presented.

Chairman Edds moved up Z 13-23: Sunset Pointe Homeowners Association (HOA) in the agenda order.

Public Hearing for Z 13-23: Sunset Pointe HOA

Shane Stewart, Assistant Planning Director, said in 2004 - 2005, the Sunset Pointe at High Rock Lake development received approval from the Planning Board and Board of Commissioners (BOC) for a Planned Development Subdivision (PDS 01-04) and rezoning request (Z 21-04) for the 240 acre gated development located at the 6700 block of Goodman Lake Road consisting of 97 proposed single family lots, a future residential clustering area (small single family "patio home" lots) totaling 24 acres, a future multi-family area totaling 40 acres, common area recreation, and future commercial use. Final unit numbers for both the patio lots and multi-family units were not included in the concept plan as both development types were subject to final approval by the BOC during a special use permit process.

In 2006, the BOC approved rezoning request PCUR 03-06 to accommodate two (2) restaurants, a gas station/marina, and dry boat storage on a 4.82-acre tract, identified as Parcel ID 606H-001, located at the corner of Goodman Lake Rd., Sunset Pointe Dr., and Marina Pointe Rd., which was never constructed. In 2019, staff received rezoning petition Z 08-19 for a restaurant/event space, marina with gas facilities for boaters, and kayak rental. After the Planning Board meeting, the applicants elected to withdraw their request.

On October 12, 2021, Sunset Pointe on High Rock Lake HOA, Inc. (hereinafter, HOA) purchased the 4.82-acre parcel and discussed various development options with planning staff – all of which require rezoning since the current zoning was established based on a conditional district. The HOA is requesting a rezoning of the subject parcel from Commercial, Business, Industrial with a Conditional District (CBI-CD) to Rural Agricultural (RA) and subsequent amendment to PDS 01-04, previously noted as "future commercial". The revised layout proposes four (4) residential lots and a common area lot for the boat ramp, which is not specifically tied to the rezoning request (i.e. not a new conditional district).

Rural Agricultural (RA) districts are developed to provide for a minimum level of land use regulations appropriate for outlying areas of the county. These outlying areas typically consist of rural single-family housing, larger tracts of land used for agricultural purposes, and instances of non-residential uses intermingled. Multifamily uses are discouraged in this district. This district would provide for protection from the most intensive land uses while containing provisions for a variety of home-based business opportunities and other non-residential uses deemed appropriate through a special use permit process. It is the intent of this district to rely upon development standards to protect residences from potential adverse impacts of allowed non-residential uses. The most intensive land uses would not be allowed in this district.

To remain consistent with adjacent areas of Sunset Pointe and lots 34-41 in Pebble Point, the requested district is RA. The tract is located in Area 2, which encourages medium density residential development. Mr. Stewart described surrounding areas. While the RA district allow rural home occupations, HOA restrictions would apply.

Since no access will be granted to Goodman Lake Rd., future lots will be served by private internal streets maintained by the HOA. Even though the roads are privately maintained, they were constructed to NCDOT minimum design standards. This request would allow four (4) additional lots based on the preliminary plat; there will be minimal impact to schools.

Wastewater is served by a private drip irrigation sewer system operated by the HOA subject to regulatory oversight by the North Carolina Department of Environmental Quality. Water would be provided by individual on-site wells.

In addition to the above criteria, sec. 21-362 (c) of the Zoning Ordinance indicates the primary question before the Planning Board in a rezoning decision is "whether the proposed change advances the public health, safety, or welfare as well as the intent and spirit of the ordinance." Additionally, the board "shall not regard as controlling any advantages or disadvantages to the individual requesting the change but shall consider the impact of the proposed zoning change on the public at large."

No public comment was received at the Planning Board meeting. The Board voted 5-0 to recommend approval based on the following statement of reasonableness/consistency: "Z 13-23 is consistent with the East Land Use Plan and appropriate based on the following: 1. It benefits the current landowner and the surrounding community. 2. It is consistent with the zoning in the surrounding area."

At 10:18 p.m. Chairman Edds opened the public hearing and closed it after no one wished to speak.

On motion of Edds, seconded by Pierce, the Board voted 5-0 to approve a Statement of Consistency and Reasonableness that Z 13-23 is consistent with the East Land Use Plan and appropriate based on the following:

1. *It benefits the current landowner and the surrounding community.*
2. *It is consistent with the zoning in the surrounding area.*

On motion of Pierce, seconded by Greene, the Board voted 5-0 to approve Z 13-23.

Chairman Edds moved Special Non-residential Intensity Allocation (SNIA) 03-23: Rob Downing up in the agenda order.

Public Hearing for SNIA 03-23: Rob Downing

Shane Stewart, Assistant Planning Director, said in 1989, the North Carolina General Assembly passed the Water Supply Watershed Protection Act directing the state's Emergency Management Commission (EMC) to develop measures to protect water supply sources in the state. Over the next few years, the EMC identified water supply watershed boundary limits, established classifications for each, and developed minimum standards for development which were issued as a mandate for counties to adopt and enforce within a local program by January 1, 1994.

Mooresville Motorsports Center is a 104 acre industrial park located at the 1100 block of Wilkinson Road near the Iredell County line established by subdivision plat on 12/2/1988. According to office records, thirteen (13) lots were developed prior to the adoption of the watershed requirements including a 10,500 sf building and parking area on Lot 19 (Parcel ID 239-024; 502 Performance Rd.). In 1999, the property owner of Lots 19 proposed a 7,500 sf addition and an 18,000 sf on Lot 20 (Parcel ID 239-109; 504 Performance Rd.), which required a Special Non-Residential Intensity Allocation (SNIA 06-99) based on a proposed Lot reconfiguration of 3.16 acres. The resulting recombination ended up being all of Lot 19 and 20 for an approximate total of 7.34 acres. Since SNIA requests were first come/first served at that time, the additional acreage was not removed from the allocation total.

Planning staff have been in discussion with Rob Downing, owner of Lot 19, regarding a current septic failure with no suitable on-site options for repair at 502 Performance Rd. Downing's soil scientist identified suitable soil on Lot 20 behind the 504 building to serve the existing 502 building and an additional 8,000 sf building. Plans indicate a .219 acre portion of Lot 20 that would be recombined with Lot 19 to ensure the parcel does not exceed 70% coverage.

Since only 3.16 acres were removed during SNIA 06-99, an additional 4.21 acres would need to be removed to address the current septic failure and proposed expansion at 502 and future expansion currently considered at 504.

Applicant: Rob Downing
Zoning: IND
Tax Parcel: 239-109
Watershed: WS II BW (Coddle Creek)

Owner: KB Titan LLC
Location: 504 Performance Rd.
Purpose: Race Shop

Land use plan recommendations for SNIA requests include the following:

- General recommendation for the maximum acreage of removal for a single parcel is 2 acres: Request would remove 4.21 ac. (Revised Lot 19 would total 2.509 acres) and revised Lot 20 would total 4.861 acres).
- Increase in tax base and/or job creation proportionate to acreage requested for removal: Lots 19 and 20 would contain (current and proposed) buildings totaling 24,000 sf and 31,200 sf respectively, which are similarly sized and proportionate to the lot acreage as other lots in the park.
- Consider identified capital improvement plans or other public property needs within the watershed: None to knowledge.
- Consider request in comparison to undeveloped non-residential zoned acreage: Mooresville Motorsports Center was established in 1988 creating 66 lots on 104 acres for industrial use. Aside from the thirteen (13) lots developed prior to 1994 and those that have already received SNIA designation, six (6) lots would remain subject to the 12% built upon limitation approved for SNIA.
- Comply with all other land use plan recommendations: Site is located within a Commercial/Industrial area noted on the future land use map.

- Designations within existing Commercial/Industrial parks within a WS II area established prior to 2023 are encouraged: Mooresville Motorsports was zoned IND during countywide zoning in 1998.

No one provided public comment during the Planning Board courtesy hearing. The board voted unanimously (5-0) to recommend approval as requested with no conditions based on the following statement: "SNIA 03-23 is consistent with the West Area Land Use Plan and reasonable/appropriate based on the following: 1. It benefits the current owner and allows them to maintain their business with the current septic failure. 2. It is in the best interest of the entire development.

At 10:23 p.m. Chairman Edds opened the public hearing and closed it after no one wished to speak.

On motion of Pierce, seconded by Edds, the Board voted 5-0 that SNIA 03-23 is consistent with the West Area Land Use Plan and reasonable/appropriate based on the following:

1. *It benefits the current owner and allows them to maintain their business with the current septic failure.*
2. *It is in the best interest of the entire development.*

On motion of Pierce, seconded by Greene, the Board voted 5-0 to approve SNIA 03-23.

Public Hearing for Condemnation Consideration – 265 Duke Drive

Ed Muire, Planning and Development Director, said Planning and Development Staff received a petition from neighboring residents on May 16, 2023, regarding the blighted condition of a structure located at 265 Duke Drive. As required by the Unsafe Buildings (Article III) and Minimum Housing Standards (Article V) contained in Chapter 7 of the Rowan County Code, Staff have conducted the requisite inspections, administrative hearings and issued corrective orders to no avail. The owner's relative making claim to the property has not appealed the Corrective Order and due to lack of compliance at the site, the final determination as to the appropriate course of action resides with the Commission. Property taxes haven't been paid since 2011. Mr. Muire showed photos of the site.

As the property owner is deceased, notification of this hearing was mailed and hand-delivered to the owner's relative making claim to the property on January 5, 2024. Notice of this hearing was posted on the property on January 3, 2024. Public notice of this hearing was advertised in the Salisbury Post on January 4, 2024.

At 10:29 p.m. Chairman Edds opened the public hearing and closed it after no one wished to speak.

On motion of Edds, seconded by Pierce, the Board voted 5-0 to make the following Necessary Finding:

1. *The Structure is in such a dilapidated or substandard state of disrepair as to:*
    a. *Constitute a fire or safety hazard; or*
    b. *Dangerous to life, health, or other property; or*

c. Is a public nuisance.

On motion of Edds, seconded by Pierce, the Board voted 5-0 to make the following Necessary Finding:

2. *The owner or owner's relative making claim to the property has failed or refused to take such other steps as may be necessary to abate the nuisance and remove the hazards found to exist.*

Vice-Chairman Greene asked if the owner still owns the property after the house is torn down. Mr. Dees said the County would put a lien on the property and could foreclose on it.

On motion of Edds, seconded by Pierce, the Board voted 5-0 that it is conclusively presumed that the continued presence of the structure located at 265 Duke Drive (Rowan County Tax Parcel 411A-01402) in such condition as is found to exist constitutes a clear and present danger amounting to a situation of emergency involving the public health, safety and general welfare, which requires entry upon private property for the summary abatement and removal of such danger, in the public interest. Therefore, the Rowan County Board of Commissioners directs Staff to demolish and remove the structure located at 265 Duke Drive, which also includes:

a. Releasing RFP or RFQ to acquire demolition/abatement services
b. Taxing and filing all costs associated with abatement against the property by way of lien as authorized by NCGS 105-355 and 153A-140
c. Preparing and processing all related documents necessary to facilitate condemnation of this structure

** For purposes of this project, Staff means employees of the Rowan County Manager's Office, Finance, Purchasing, and Planning Departments and Rowan County Attorney.*

TEMP 01-24 Continued

At 10:30pm, the hearing for TEMP 01-24 resumed.

Ms. Ross presented her rebuttal.

Mr. Jacobs said the DOT collected traffic data showing 4700 average daily trips along Old Beatty Ford Road, whereas there will be a predicted 500 bidirectional trips at the site: 500 each way out of Ketner Farm Road. Old Beatty Ford Road is currently operating at a Service Level C, meaning it is a functioning road. Roads are divided into services levels A-F, where E and F are failing roads. 14,000 trips is the capacity of Old Beatty Ford Road, which would put the road into a failing status. Even with laydown yard, the average daily trips would only increase to 5700, which would leave 3500 trips per day before the level of services would begin degrading.

Chairman Edds asked about the rating for Ketner Farm Road. Mr. Jacobs said the DOT does not have traffic numbers on Ketner Farm Rd. Chairman Edds recalled that someone said there was a rating on Ketner Farm. Mr. Jacobs said he is unaware of any rating on Ketner Farm Road. Chairman Edds asked if not every road or if Mr. Jacobs just doesn't know the rating of this particular road. Mr. Jacobs said he doesn't know what the rating is; it wasn't available for Ketner Farm Road when traffic engineers searched for that information. Chairman Edds asked if

a rating of A is good and F is bad. Mr. Jacobs said roads with ratings A-D are serviceable. Roads with ratings of E and F need maintenance.

Ms. Ross clarified that Mr. Stewart's testimony was in a legislative context in regards to references to it. She asked Mr. Jacobs if the DOT had issues permits for temporary driveways and Mr. Jacobs said yes. Ms. Ross asked if there were any road upgrades required in order to issue the permit and Mr. Jacobs said no. Ms. Ross said there was a requirement that the road be restored if there was any degradation and Mr. Jacobs said yes. Ms. Jacobs confirmed that Dominion had posted a bond with respect to the permit and Mr. Jacobs said yes.

Ms. Ross introduced **Erik Hartwick** of S&ME and asked for his background. She presented his resume to the Board (Exhibit 16). Mr. Hartwick said he has a bachelor's degree in engineering technology with a major in civil engineering from the University of North Carolina at Charlotte. Ms. Ross asked him to describe his role with respect to the laydown yard. Mr. Hartwick said he is managing the S&ME team that worked with HDR. They are responsible for the permitting and due diligence for the laydown yard.

Ms. Ross asked if Mr. Hartwick was familiar with the affidavit of Mr. Kunkle that was put into record (Exhibit 6). Mr. Hartwick confirmed. Ms. Ross asked if Mr. Hartwick oversaw Mr. Kunkle in his work at S&ME and Mr. Hartwick said yes. Ms. Ross asked if Mr. Hartwick was familiar with the stormwater and soil erosion control plans that are designed for the laydown yard and Mr. Hartwick said yes.

Ms. Ross asked Mr. Hartwick to describe the erosion control measures at the site. Mr. Hartwick said the erosion sediment control plan for this site has not been submitted to the NCDEQ yet. He referred to a map included in Exhibit 3 and said this does not depict all of the measures that are currently designed for that site. The temporary sediment basins are visible on the map and take in to consideration what many residents are concerned about. He is proposing to temporarily put gravel down which will change the way the water flows over the surface. It's not going to go into the soil and absorb as quickly. The basins are oversize for that condition. Calculations are conservative and the entire sites won't be covered with gravel. As they're currently designed, the sediment basins act as if all of this area's completely gravel, which on a vast majority of it is. The sediment basins, as Mr. Jacobs had described earlier, are going to receive all of the water from inside of the laydown yard area and there will be different diversion berms constructed that are going to help direct that flow to these basins.

Mr. Hartwick said there are concerns with stormwater, so the basins have been overdesigned to account for that. The basins will restrict the flow to allow that sediment to dissipate, and then discharge it to the outfall, which is then going to go further into what's called a plunge pool. This is another mechanism to help dissipate that energy before it discharges off into existing drainage patterns on the site. This is designed to not overburden or impact adjoining properties. Ms. Ross clarified that control plans had not been submitted to the NCDEQ and asked if Mr. Hartwick was ready to submit them with any changes that may come as a result of the hearing and Mr. Hartwick said yes.

Mr. Hartwick said there is some stormwater diversion at the site. Runoff that is outside of the project area is diverted from coming onto the area so that the stormwater is not mixing with sediment laden water the site that will be treated. There will be a berm with erosion control blankets to help stabilize vegetation. The vegetation is going to add a level of retardants to help slow that water down. There is also a series of very conservative spacing of excelsior models which are those straw tubular items often seen in ditches. There are designs to try to slow down that water so it doesn't gain the erosive velocity that can pick up and erode the ditches.

Ms. Ross clarified that the site was designed on already cleared land. If the trees not been timbered by the landowner, the design wouldn't have needed timbering. The laydown yard design was created around the existing topography and trees within the limits of disturbance.

Mr. Hartwick said he oversees a professional wetland scientist who performs a regulated surface water sediment assessment and threated endangered species habitat assessment in conjunction with other permits for this project. Ms. Ross asked if a cultural resources assessment of the site was performed and Mr. Hartwick said yes. Mr. Hartwick said there was a phase one environmental assessment performed for the limits of disturbance that were prepared, but not for the entire parcel. Ms. Ross concluded that based on the assessments and opinions that have been provided, there will not be any impact to wetlands, streams, or environmentally sensitive features and Mr. Hartwick agreed.

Mr. Aycock said the land clearing was not by completed by Dominion Energy. He has been involved in the operation of laydown yards in substantially similar positions (near residential areas). In Buncombe County, there is a laydown yard near a school, with residential homes across from it.

Ms. Ross thanked the Board and said she felt that the evidentiary burden had been met. She reminded the Board that NC Statutes provide for certain evidence to presented and that cannot be lay testimony; it must come from expert witness. She distributed an attachment (Exhibit 17) to the Board. She said generalized fear and speculation cannot be the basis for this decision. There is no evidence of contaminants at the site. She distributed two case studies to the Board (Exhibit 18 and Exhibit 19, respectively) and also distributed proposed findings of fact (Exhibit 20). Ms. Ross said the evidence is clear, competent, and substantial: the laydown yard will not endanger public health, safety, or welfare, or cause substantial injury or a have a negative impact on adjoining properties. She asked the Board to approve the request with the proposed conditions.

Chairman Edds asked Ms. Ross to define “substantial injury.” Ms. Ross said that a substantial injury would be considered a long lasting negative impact. Temporary use will not cause a substantial injury to property value. Cutting off access to a property, for example, would be substantial injury. There will be measures mitigate any potential negative impacts. The laydown yard doesn’t propose danger or a substantial negative impact.

Chairman Edds asked Ms. Wiethorn to clarify the road rating she mentioned. She responded that she had looked it up on the NCDOT website.

Chairman Edds thanked the companies involved in providing natural gas and questioned the cost of the pipeline corridor project. Mr. Aycock said the cost is approximately $113 million. Chairman Edds asked if this project would have been begun if the use of natural gas was not going to continue and Mr. Aycock said no.

Chairman Edds said this process is difficult. Expert witnesses can be used by applicants but not by citizens. The applicants provided facts, whereas the citizens did not. There are three choices in regards to TEMP 01-24: to approve, deny, or continue.

Mr. Dees advised meeting attendees that the Board was not to discuss facts of the case before the matter was fully decided and reminded the Board not to discuss case facts.

At 11:05 p.m. *On motion of Edds, seconded by Pierce, the Board voted 5-0 to table the Quasi-judicial hearing for TEMP 01-24 until the February 19, 2024, regular Commissioners meeting.*

Public Hearing for Z 12-23

Aaron Poplin, Planning Technician, said Bobby Vangiller is petitioning to rezone the parcel owned by Rowan Clearing Partners at the 8200 Block of Statesville Blvd from Commercial Business Industrial with a Conditional District (CBI-CD) to Rural Residential (RR). This property can be further referenced as county tax parcel 751 038.

Back in 2020 Rowan Clearing Partners rezoned the property from RR to CBI-CD so they could move their operations to this site. Since approval no work was ever conducted on site and the site has sat vacant. Rowan Clearing Partners listed the property for sale and the applicant Bobby Vangiller is planning to buy it.

The applicant is looking to build two houses on the property. The current zoning of CBI-CD only allows for the construction of a Land Clearing contractor's workshop. The RR district would allow the applicant to subdivide the property and build two houses.

This property is located in Area one of the Western Area Land Use Plan and is located within the US 70 Highway Corridor Overlay. The US 70 Corridor Overlay encourages commercial and industrial uses having transportation dependency due to rail availability and US highway. The only residential recommendation in Area one is to encourage Major Subdivisions to have direct access to a recognized thoroughfare.

The Rural Residential, RR, zoning district is comprised of areas of the county in which moderate levels of single-family housing has occurred or is occurring. In this district, agricultural uses have been replaced to a significant degree with single-family housing. The regulations in this district are intended to provide a landowner with an opportunity to engage in limited business or commercial activities. Multifamily uses are not allowed.

The RR district is primarily a residential district and is slightly more restrictive than the RA district. Most non-residential uses are only allowed as a Rural Home Occupation. Rural Home

Occupations in the RR district are only allowed up to 2,000 Sq Ft. All adjoining properties are currently zoned RR.

The section of Statesville Blvd. between Hildebrand Rd and NC 801 is comprised of RR and CBI zoning. Most of the RR zoned lots are undeveloped with a few having single family residences on them. The CBI zoned lots are concentrated at the intersection of Statesville Blvd. and NC 801. All but two of the CBI lots have an active commercial use and their uses cover a wide variety of industrial classifications. Statesville Blvd. has a design capacity of 35,100 vehicles per day and as of 2019 the average daily traffic was 13,000 vehicles per day. The property has access to Salisbury-Rowan Utilities (SRU) water but will need to utilize onsite septic.

The Planning Board conducted a courtesy hearing for Z 12-23 at their November meeting. No one spoke in opposition of the request. The Planning Board adopted the following statement of reasonableness and consistency: "Z 12-23 is consistent with the West Rowan Land Use Plan and appropriate based on the following: the zoning change to RR is consistent with the surrounding current land use." The board approved this motion 5-0.

At 11:17 p.m. Chairman Edds opened the public hearing and closed it after no one wished to speak.

On motion of Edds, seconded by Pierce, the Board voted 5-0 that Z 12-23 is consistent with the West Rowan Land Use Plan and appropriate based on the following: the zoning change to RR is consistent with the surrounding current land use.

On motion of Pierce, seconded by Greene, the Board voted 5-0 to approve Z 12-23.

Public Hearing for Nuisance Abatement – 1540 Stonewood Drive

Ed Muire, Planning and Development Director, said Planning and Development Staff received a minimum housing petition on March 23, 2023 from neighboring residents regarding the blighted condition of a residence located at 1540 Stonewood Drive. As required by the Minimum Housing Standards (Article V) contained in Chapter 7 of the Rowan County Code, Staff have conducted the requisite inspections, administrative hearings and issued corrective orders to no avail; the accompanying Enforcement Report summarizes the actions taken. The owners did not appeal the Order to Take Corrective Action and due to lack of compliance at the site, the final determination as to the appropriate course of action resides with the Commission.

The property owners were mailed and hand-delivered notice of this hearing on January 5, 2024. Notice of this hearing was posted on the property on January 3, 2024. Public notice of this hearing was advertised in the Salisbury Post on January 4, 2024.

Mr. Muire said this is a nuisance abatement, not a condemnation, due to unsanitary conditions inside the house. He referenced the following sections of the ordinance:

- Section 7-232(b) – "…unsafe or unsanitary, dangerous and detrimental to health and safety…"

- Section 7-252(1) – "Walls…rafters or other structural members shall not list lean or buckle, and…shall not have holes or cracks which admit rodents."
- Section 7-252(2) – "Floors or roofs shall have adequate supporting members and strength to reasonably be safe for the purpose used."
- Section 7-252(6) – "Interior walls, floors, and ceilings of all rooms,…shall be finished of suitable materials, which will by use of reasonable household methods promote sanitation and cleanliness, and shall be maintained in a manner…"
- Section 7-253(1)(b) – "All plumbing fixtures shall be maintained in a state of good repair and in good working order."
- Section 7-255(2) – "Every floor, interior wall and ceiling…shall be safe to use and capable of supporting the loads which normal use would cause to be placed thereon."
- Section 7-256(2) – "Garbage, rubbish and materials to be recycled shall be stored in a manner that will resist harborage to rodents and vectors and will not create a fire hazard."

Chairman Edds asked what the remedy is and if there are currently people living here. Mr. Muire said no one is living there. The remedy is to hire a contractor, clean the home up, and board up the structure.

Commissioner Pierce asked if the County is responsible for making the home structurally sound and Mr. Muire said no; the County doesn't want to be responsible for the structure. From a nuisance standpoint, all that is necessary is to pick up trash.

At 11:27 p.m. Chairman Edds opened the public hearing.

Gina Basinger, 1540 Stonewood Drive, Salisbury, co-owns the property with her sister. She said the house had been broken into and 90% of the work had been completed in order for them to move back in. The last weekend in April of 2022 the house was broken into and ransacked. Trash was spread around out of bags and items were stolen. The house didn't look like that until it was broken into. During the week of July 4th someone broke in again. They dumped out cabinets, drawers, et cetera. Ms. Basinger said she and her sister have been trying to clean the house up but it was too hot in the summer. They have made progress. She is disabled and her sister has a back problem. They go to the home during the day. The people who broke in even cooked food on the stove. Ms. Basinger and her sister are dealing with family issues and trying to get the house cleaned up.

Commissioner Caskey asked if Ms. Basinger lived there. Ms. Basinger said no, they bought the property in 2017. Commissioner Caskey asked if Ms. Basinger planned to live in it, and she said yes, they lived in it but moved out. Commissioner Caskey asked if vagrants moved in, and Ms. Basinger said they were just there twice. Commissioner Caskey asked where all of the trash came from. Ms. Basinger said there were water issues. Commissioner Caskey asked if they needed help and she said yes.

Mr. Muire said there would be a lien on the home, but the taxes are paid.

Chairman Edds said the County can get a contractor in to take care of the situation.

Ms. Basinger said she would like to keep the clothing that is in the house.

Commissioner Klusman stepped away from the meeting at 11:38 p.m.

At 11:38 p.m. Chairman Edds closed the public hearing after hearing no additional comments.

On motion of Edds, seconded by Pierce, the Board voted 4-0 (Klusman was not present for the vote) to make the following findings of deteriorated structure:

1. *Apparent violations for standards of fitness related to unsanitary conditions; structural soundness of walls and floors; plumbing fixtures operational; garbage, rubbish and materials recycled or stored appropriately*
2. *Failure to comply with the order to repair, vacate or close*
3. *Dwelling is "deteriorated"*

Mr. Muire asked for clarification from the Board regarding whether they wanted to clean and board up the structure.

Chairman Edds said clean the house out and secure it.

Mr. Muire said Planning will continue to work with Ms. Basinger and her sister.

On motion of Edds, seconded by Pierce, the Board voted 4-0 (Klusman was not present for the vote) that the nuisance conditions that exist at 1540 Stonewood Drive (Rowan County Tax Parcel 355A-063) are found to be unsafe, unsanitary, dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the County. In order to protect, the health, safety and welfare of the residents of the County, the Commission hereby adopts the accompanying ordinance ordering Staff to have the nuisance conditions abated and cause the dwelling to be vacated, closed and placarded. In doing so, the Commission authorizes:*

a. *Releasing an RFP or RFQ to acquire demolition/abatement services*
b. *Taxing and filing all costs associated with abatement against the property by way of liens as authorized by NCGS 105-355 and 153A-140*
c. *Preparing and processing all related documents necessary to facilitate condemnation of this structure*

** For purposes of this project, Staff means employees of the Rowan County Manager's Office, Finance, Purchasing, and Planning Departments and Rowan County Attorney.*

Commissioner Klusman reentered the meeting at 11:43 p.m.

Closed Session

At 11:43 p.m. on motion of Pierce, seconded by Edds, the Board voted 5-0 to enter into closed session pursuant to NCGS 143-318.11(a)(1) to consider approval of the minutes of the Closed Session held on January 2, 2024, as described by NCGS 143-318.10(e) providing that minutes or an account of a closed session may be withheld from public inspection so long as

public inspection would frustrate the purpose of a closed session, and pursuant to NCGS 143-318.11(a)(5)(i) to establish or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease.

Regular Session

At 11:52 p.m. regular session resumed.

Adjournment

At 11:53 p.m., on motion of Pierce, seconded by Klusman, the Board voted 5-0 to adjourn.

_____

Sarah Pack, NCCCC
Clerk to the Board

AAUW

Salisbury (NC) Branch

January 16, 2024

Dear Rowan County Representatives:

We, members of the Salisbury Branch of American Association of University Women (AAUW) call to your attention Executive Order 93, whereas North Carolina enacted a state-wide law that went into effect on April 2, 2019, as Governor Roy Cooper passed this Executive Order that state agencies may not request pay information from applicants nor rely upon previously obtained historical salary information when determining an applicant's salary. As AAUW is committed to workplace and economic equity, we recognize certain systemic practices contribute to the very real, persistent, and harmful - gender pay gap.

Did you know, white women working full time in the U.S. are paid just 84 cents to every dollar earned by white men, black women earn 71 cents and latinx women earn 53 cents — and the consequences of this gap affect women throughout their lives. The pay gap even follows women into retirement: As a result of lower lifetime earnings, they receive less in Social Security and pensions. In terms of overall retirement income, women have only 70% of what men do.

The gender pay gap is the result of many factors, inextricably linked to the history of labor in America, including race and ethnicity, disability, access to education and age. As a result, different groups of women experience very different gaps in pay. The gender pay gap is a complex issue that warrants inclusive solutions; and that's why AAUW is in support of the possibilities Executive Order 93 can create if fully implemented throughout the state, according to the governor's request.

Permit us to share, AAUW NC has recently conducted an audit of county job applications statewide to gain a clearer picture of the practice of requesting salary history data of job applicants within our state. Moreover, in viewing sample job applications, we found Rowan County is non-compliant with the Governor's order, as multiple applications request work experience details questioning the candidate's prior salary.

We, the members of AAUW know certain questions, especially about previous salary, disadvantage those who may have experienced low pay due to gender and/or ethnicity bias. More specifically, the gender wage gap hurts North Carolina's families, businesses and economy, and North Carolina women deserve more. However, women in North Carolina currently earn 19 percent less than men on average. If current trends continue, working women in North Carolina will not see equal pay until 2060—and women of color will have to wait even longer.

It's the simple truth and statistics show, women in North Carolina and across the country continue to earn less than men. While median earnings for men in North Carolina are $45,000, women in our state earn just $36,400, putting women's pay in North Carolina 32nd in the nation. With women historically earning less on average than men, requiring job applicants to report salary history can perpetuate gender pay inequities. Research shows women get paid less than

men in their very first jobs, even when controlling for occupation, college major, hours worked, location and demographics. Furthermore, women are less likely to negotiate their salaries—and when they do negotiate, women are more likely to receive negative feedback and less likely to be promoted. Relying on salary history can perpetuate the pay gap, based on wrong assumptions that the prior salary was fair or free from bias.

Did you know, many states across the country are increasingly enacting salary history bans; and a growing body of evidence demonstrates a correlation with subsequent higher pay rates for women. The Executive Order is fair and just as it prohibits state agencies under the Governor's oversight from requesting salary history from job applicants and directs them to avoid relying on previously obtained salary history to determine an applicant's income. Executive Order No. 93 also directs the North Carolina Office of State Human Resources to remove employment salary history fields from state employment applications as soon as possible. As state employee salary history is a public record, the Executive Order mandates that the Office of State Human Resources work to ensure previous salary information is not used in a discriminatory way. Thus, we are standing to ask the County to comply with the precedent set by the state of North Carolina, and remove salary history information from the Rowan County job application, and further - revise human resources policies to stipulate a ban on the consideration of salary history in pay packages. Simply put, the same work deserves the same pay.

Your prompt attention and action to this matter is greatly appreciated. We look forward on moving progressively to pay equity in America.

Respectfully submitted,

Da'Tarvia Parrish

Da'Tarvia Parrish, President
with the Members of AAUW Salisbury

Photo 1

Photo 2

Photo 3

Photo 4

Photo 5

Photo 6

Photo 7

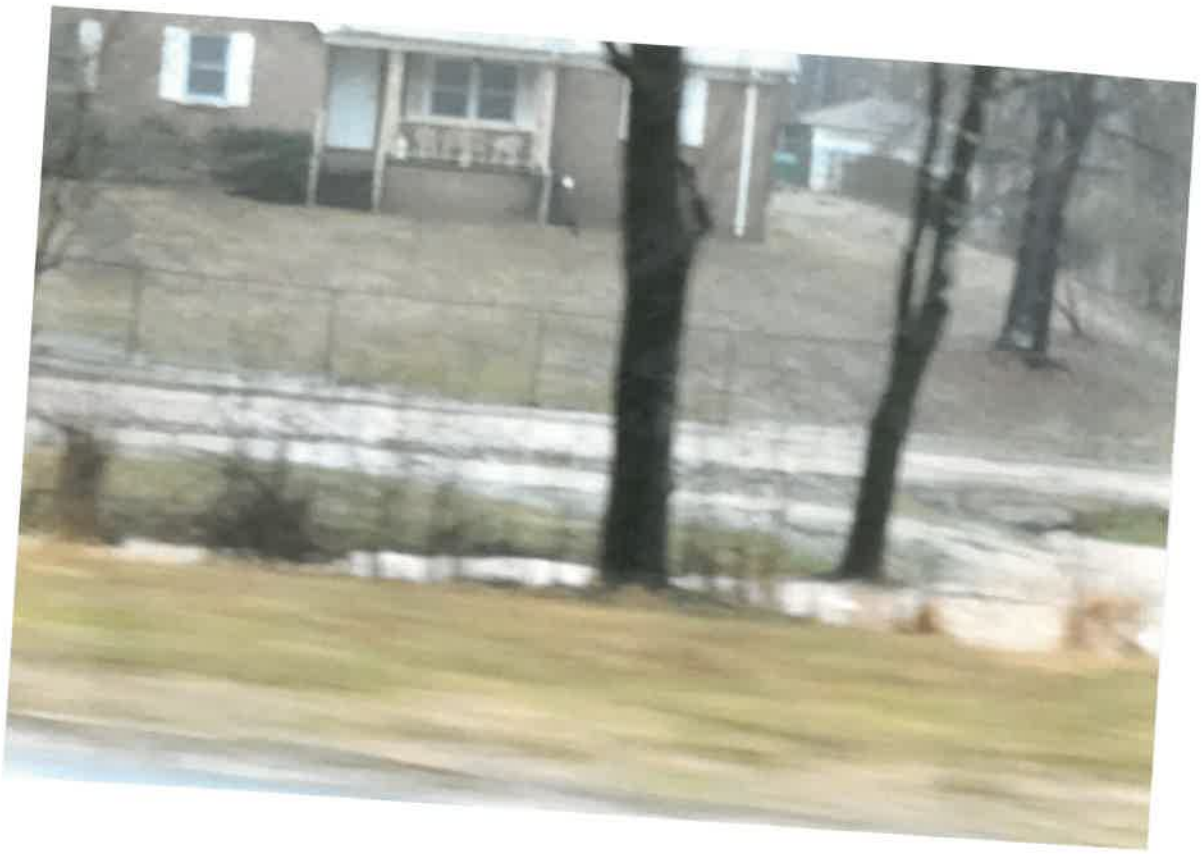


Photo 8

Photo 9

Photo 10

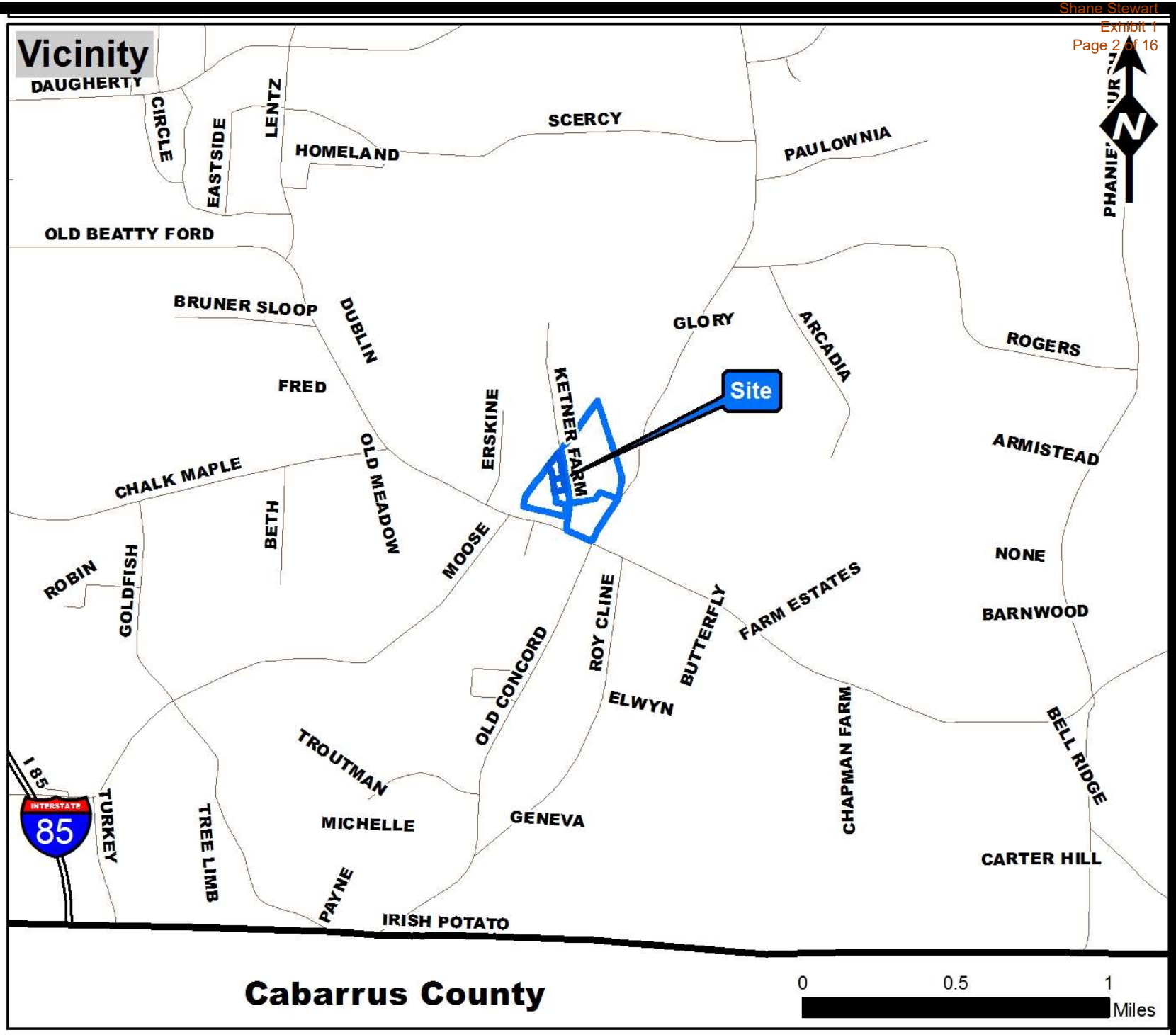
Quasi-judicial Hearing
TEMP 01-24

ROWAN COUNTY
NORTH CAROLINA
Be an original.

JANUARY 16, 2024

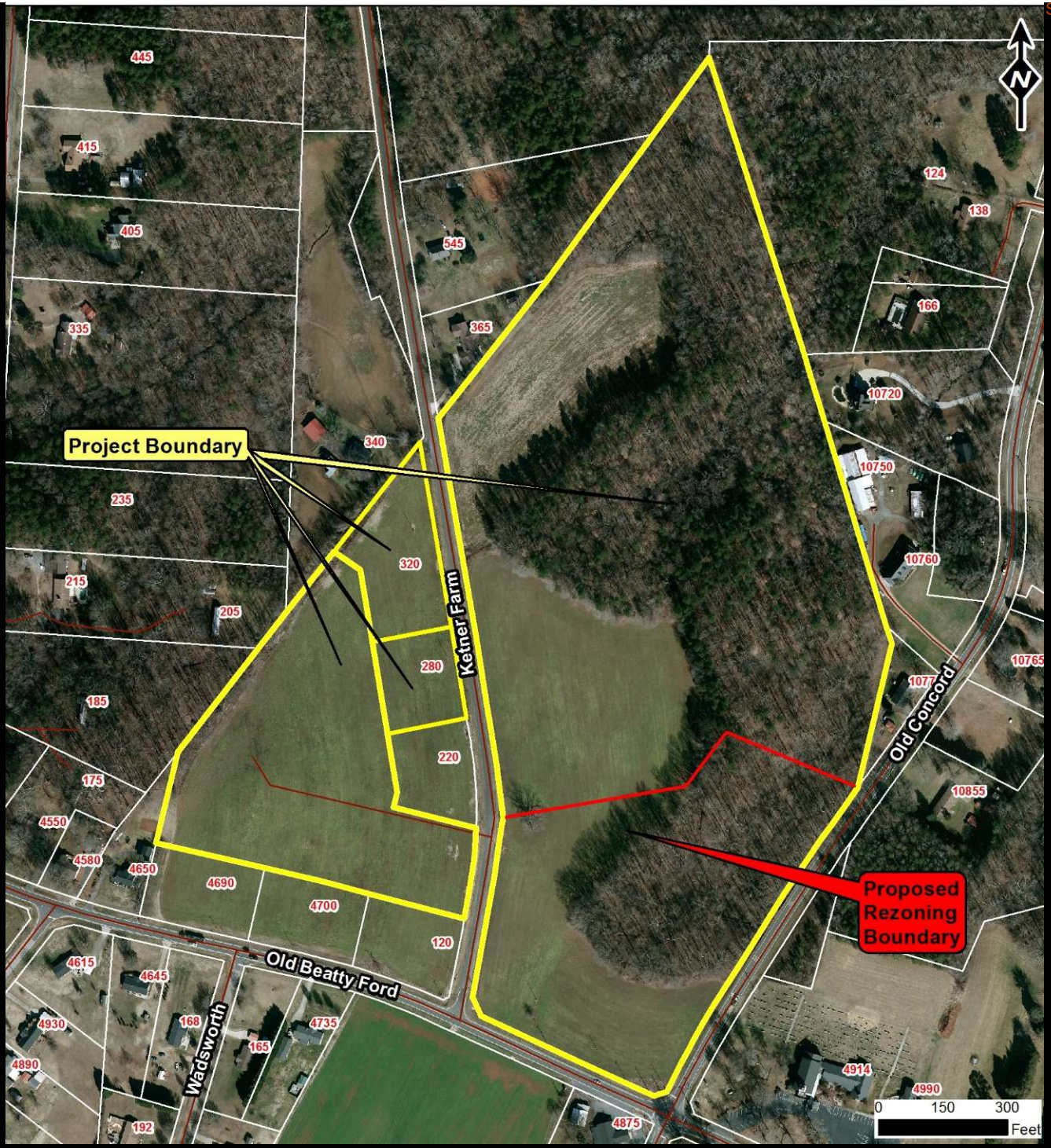
Owner: Dynamic Developers of the Carolinas LLC
Applicant: Dominion Energy North Carolina

Location: 200 block Ketner Farm Rd.
Tax Parcels: p/o 137-012, 165, & 166



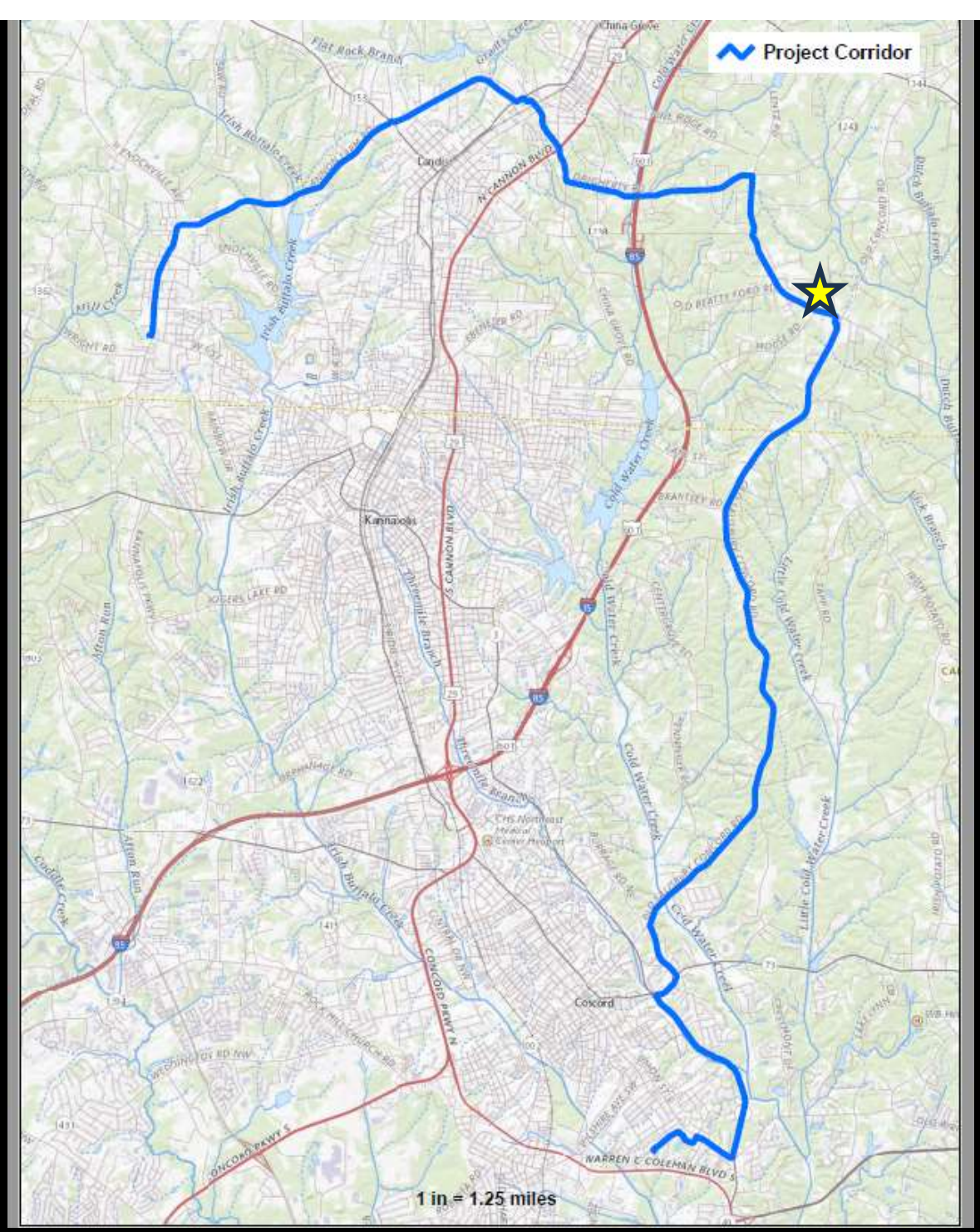
ROWAN COUNTY
NORTH CAROLINA
Be an original.

Vicinity



ROWAN COUNTY
NORTH CAROLINA
Be an original.

Laydown Yard Area



ROWAN COUNTY
NORTH CAROLINA
Be an original.

M-071 Kannapolis to Concord 24 Mile Project Corridor

TEMPORARY USE PERMIT

M-071 KANNAPOLIS TO CONCORD SYSTEM EXPANSION LAYDOWN YARD

ROWAN COUNTY, NORTH CAROLINA

NOVEMBER 8, 2023 (REVISED DECEMBER 4, 2023) 1

SITE DATA

PROJECT LOCATION:

STREET ADDRESS:	0 OLD BEATTY FORD ROAD
CITY OR TOWNSHIP:	CHINA GROVE
COUNTY:	ROWAN
STATE:	NORTH CAROLINA
ZIP CODE:	28023
LATITUDE:	35°31'23.9"N (35.5233°)
LONGITUDE:	80°32'04.3"W (-80.5344°)

REVIEWING AGENCY:

MUNICIPALITY:	ROWAN COUNTY
DEPARTMENT:	PLANNING & DEVELOPMENT

PROJECT SCHEDULE:

DATE TO BEGIN:	FEBRUARY 2024
DATE TO END:	FEBRUARY 2026

DISTURBANCE:

PARCEL ACREAGE:	17.73 ACRES
NCDOT ROW ACREAGE:	0.65 ACRES
TOTAL PROJECT ACREAGE:	18.38 ACRES
PROPOSED TEMPORARY IMPERVIOUS AREA:	7.60 ACRES

WATERBODY INFORMATION:

RIVER BASIN:	YADKIN PEE DEE
WATERSHED:	MIDDLE ROCKY RIVER (03040105030)
RECEIVING WATERBODY:	DUTCH BUFFALO CREEK
WATERBODY INDEX NUMBER:	13-17-11-(1)
CLASSIFICATION:	WS-III; HQW
WATERS OF THE US/STATE:	NOT PRESENT
IMPACTS:	NOT APPLICABLE
USACE 404 PERMIT OR 401 CERTIFICATION:	NOT REQUIRED
NC NAVIGABLE WATERS (NCNW):	NOT PRESENT

FEMA FLOODPLAIN/FLOODWAY IMPACTS:

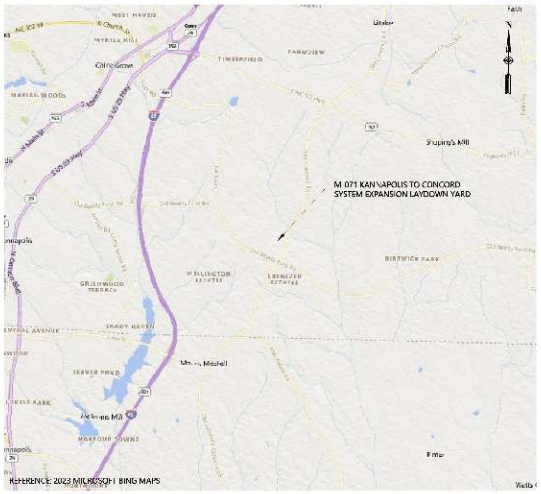
MAP NUMBER:	3710564400J
FLOODWAY IMPACTS:	NOT APPLICABLE
100-YEAR FLOODPLAIN IMPACTS:	NOT APPLICABLE
WATERCOURSE ALTERATION OR RELOCATION:	NOT APPLICABLE

PRIMARY PERMITTEE INFORMATION:

COMPANY:	DOMINION ENERGY NORTH CAROLINA
PROJECT NUMBER:	0072297
ENVIRONMENTAL COMPLIANCE COORDINATOR:	JOSH PRZYWARA
E-MAIL ADDRESS:	JOSHUA.PRZYWARA@DOMINIONENERGY.COM
TELEPHONE NUMBER:	704-214-4580
PRIMARY SITE CONTACT:	KATY MAYS, M.P.
E-MAIL ADDRESS:	KATY.DMAYS@DOMINIONENERGY.COM
TELEPHONE NUMBER:	803 569 4964
PROJECT MANAGER:	WILLIAM (MIKE) LEWIS, P.E.
E-MAIL ADDRESS:	WILLIAM.LEWIS@DOMINIONENERGY.COM
TELEPHONE NUMBER:	828-230-6874

CONSULTANT INFORMATION:

ENGINEERING FIRM:	S&ME, INC.
NC ENG. FIRM LICENSE NUMBER:	F-0176
PROJECT NUMBER:	2135001
PROJECT MANAGER:	FRED L. HARTWICK
E-MAIL ADDRESS:	E-HARTWICK@SMEINC.COM
TELEPHONE NUMBER:	704 564 4743



VICINITY MAP
SCALE: 1" = 5,000'

SITE LOCATION
SCALE: 1" = 2,000'

PREPARED FOR

Dominion Energy®

800 GASTON ROAD
GASTONIA, NC 28056

PREPARED BY

2016 AYRSLEY TOWN BLVD., SUITE 2-A
CHARLOTTE, NC 28273

DRAWINGS

NUMBER	TITLE
0	COVER
1	OVERALL SITE INDEX
2	EXISTING CONDITIONS
3	TEMPORARY LAYDOWN YARD - EAST AREA
4	TEMPORARY LAYDOWN YARD - WEST AREA
5	RESTORATION PLAN
6	DETAILS (1 OF 3)
7	DETAILS (2 OF 3)
8	DETAILS (3 OF 3)

ADDITIONAL SITE DATA

GENERAL INFORMATION:

PROPOSED USE:	TEMPORARY LAYDOWN YARD FOR PIPELINE CONSTRUCTION SUPPORT
HOURS OF OPERATION:	MONDAY THROUGH SATURDAY 6 AM TO 7 PM
NUMBER OF EMPLOYEES	225
REQUIRED PARKING	250 (225 EMPLOYEES + 25 COMPANY VEHICLES)
PARKING PROVIDED	262
TRUCKS PER DAY	20
PRIVATELY OWNED VEHICLE (POV) PER DAY	250

PARCELS DATA	AREA (ACRES)
PIN: 5644-01-39-4568:	1.58 AC
PIN: 5644-01-39-5219:	2.93 AC
PIN: 5644-01-49-0465 (WEST):	7.19 AC
PIN: 5644-01-49-0465 (EAST):	26.46 AC
TOTAL ACRES:	38.16 AC

BUILT UPON AREA (BUA)	BUA ACRES (% BUA)
EXISTING BUA:	0.00 AC (0.0%)
PROPOSED TEMPORARY BUA: (RELATIVE TO TOTAL PARCEL ACREAGE)	7.60 AC (21.02%)
POST-CONSTRUCTION BUA:	0.00 AC (0.0%)

ROADWAY FRONTAGE	LENGTH (LF)
WEST LAYDOWN:	432.01 LF
EAST LAYDOWN:	975.44 LF

REFERENCE:

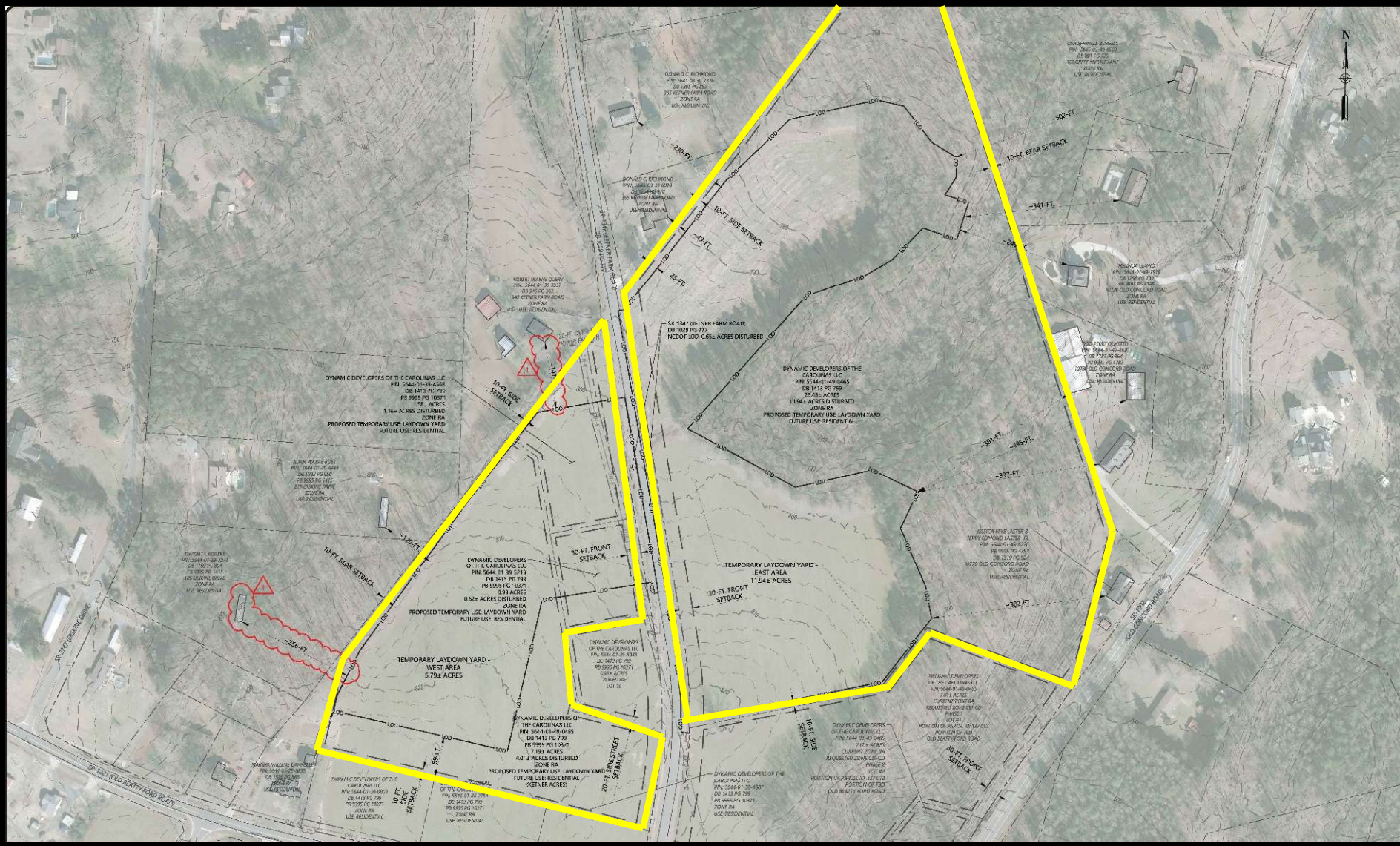
1. TAX PARCEL DATA OBTAINED FROM THE ROWAN COUNTY, NORTH CAROLINA GEOGRAPHIC INFORMATION SYSTEMS (GIS) DEPARTMENTS FOR ADJOINING PARCELS. ROADWAY RIGHT-OF-WAYS, PARCELS & EASEMENTS WERE PROVIDED BY SGC SURVEY OBTAINED OCTOBER 23, 2023.
2. 2018 TOPOGRAPHIC CONTOURS DERIVED FROM NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY EMERGENCY MANAGEMENT (NCDPS) NORTH CAROLINA SPATIAL DATA DOWNLOAD TOOL. THIS DIGITAL ELEVATION MODEL (DEM) IN PROJECT COUNTY, NORTH CAROLINA WAS CONVERTED INTO 2-FOOT CONTOURS USING ESRI ARCGIS SPATIAL ANALYST.
3. AERIAL ORTHOIMAGERY OBTAINED FROM NCONEMAP, DATED JANUARY 2022.
4. REGULATED SURFACE WATERS ASSESSMENT PERFORMED BY SAME PERSONNEL ON OCTOBER 13, 2023.
5. THE PROPOSED LIMITS OF DISTURBANCE BASED ON INFORMATION PROVIDED BY THE OWNER.
6. SURVEY CONDUCTED & COMPLETED BY SGC, DATED OCTOBER 23, 2023.
7. STRUCTURAL FOOTPRINTS WERE DIGITIZED AND ARE APPROXIMATED BASED ON AERIAL IMAGERY.
8. IMPACTED PARCEL BOUNDARY DIMENSIONS ARE APPROXIMATED BASED ON PROVIDED SITE PLANS. EAST LAYDOWN YARD DIMENSIONS ARE BASED ON RECORDED PLAT BY SPARKS SURVEYING, PLLC DATED 01/26/2023. WEST LAYDOWN YARD DIMENSIONS ARE APPROXIMATED FROM SITE PLAN DEVELOPED BY RIEC DATED 09/15/2023. 1

THESE DRAWINGS HAVE BEEN PREPARED BY S&ME FOR OUR CLIENT'S USE. WRITTEN APPROVAL FROM S&ME SHALL BE OBTAINED PRIOR TO ANY THIRD-PARTY USE, MODIFICATION, AND REPRODUCTION, OR RELIANCE, EXCEPT AS REQUIRED BY LAW. S&ME ACCEPTS NO RESPONSIBILITY, AND DENIES ANY LIABILITY WHATSOEVER, TO ANY PARTY THAT USES OR RELIES ON THESE DRAWINGS WITHOUT S&ME'S EXPRESS WRITTEN CONSENT.

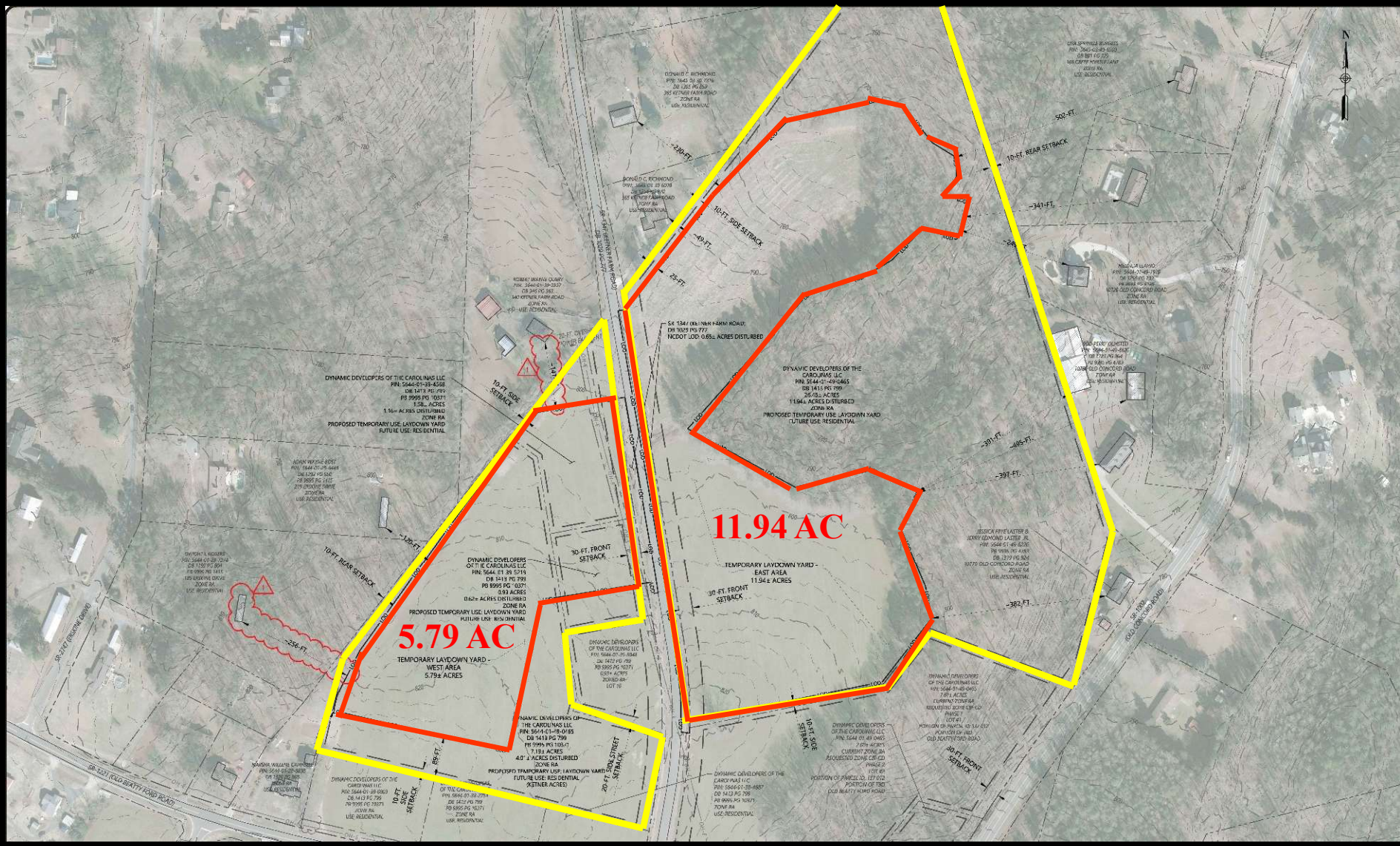
CALL OR CLICK 811 BEFORE YOU DIG — 811 — SAFE DIGGING PARTNER

ROWAN COUNTY NORTH CAROLINA Be an original.

Laydown Yard Plans



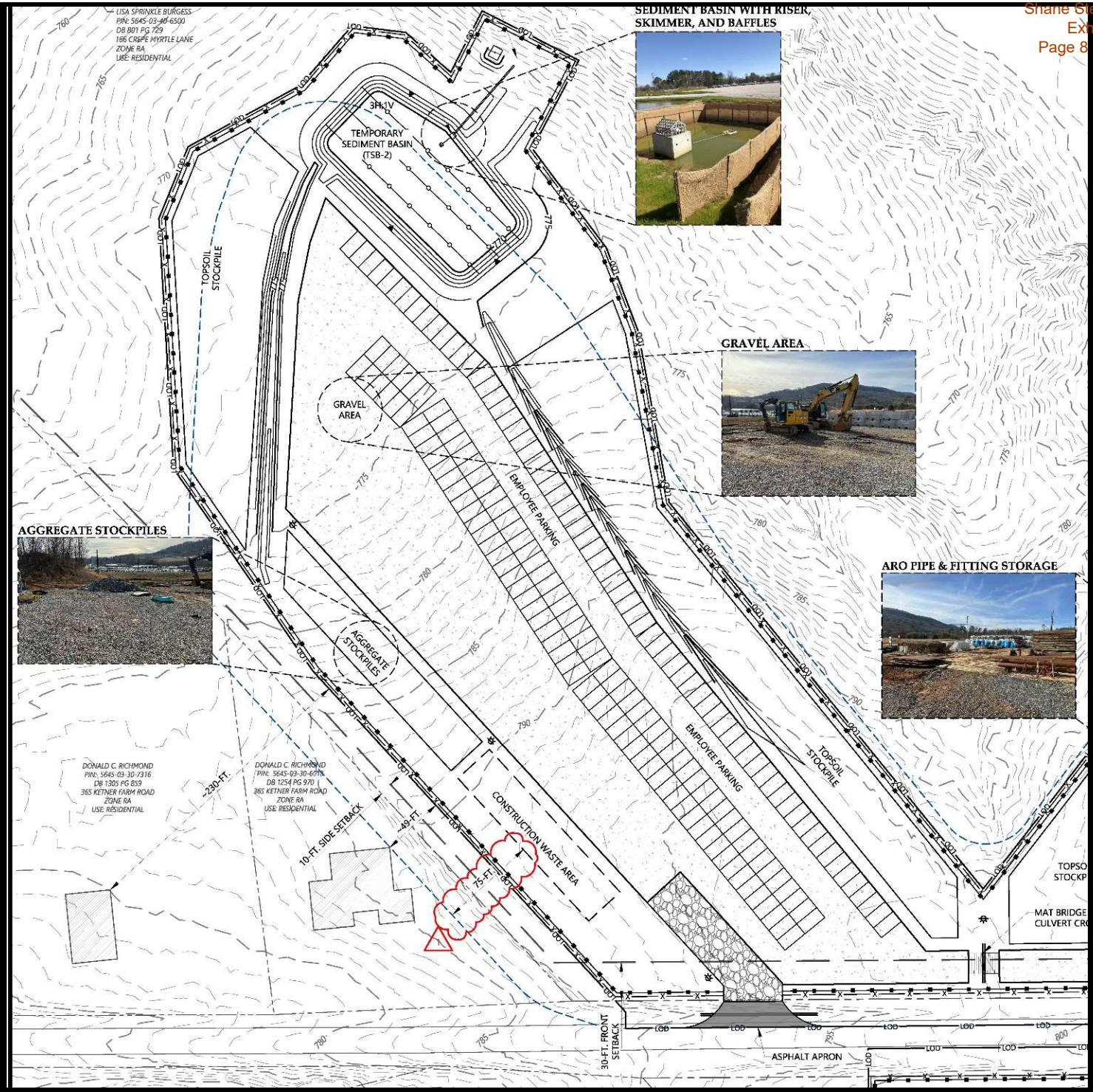
Laydown Yard Area



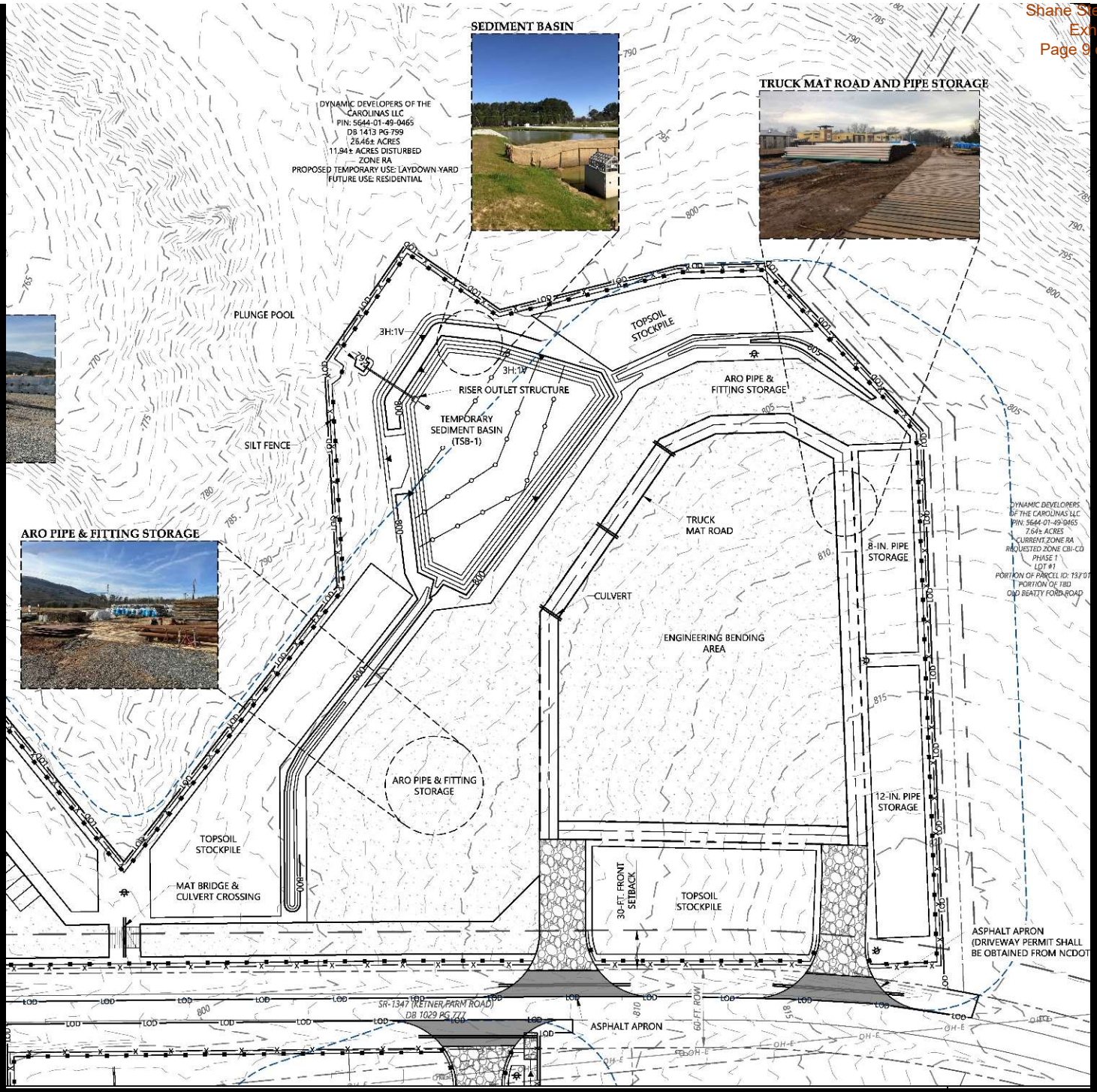
36.16 AC Boundary **17.73 AC Disturbed**

ROWAN COUNTY
NORTH CAROLINA
Be an original.

Laydown Yard Area



Northeast Portion



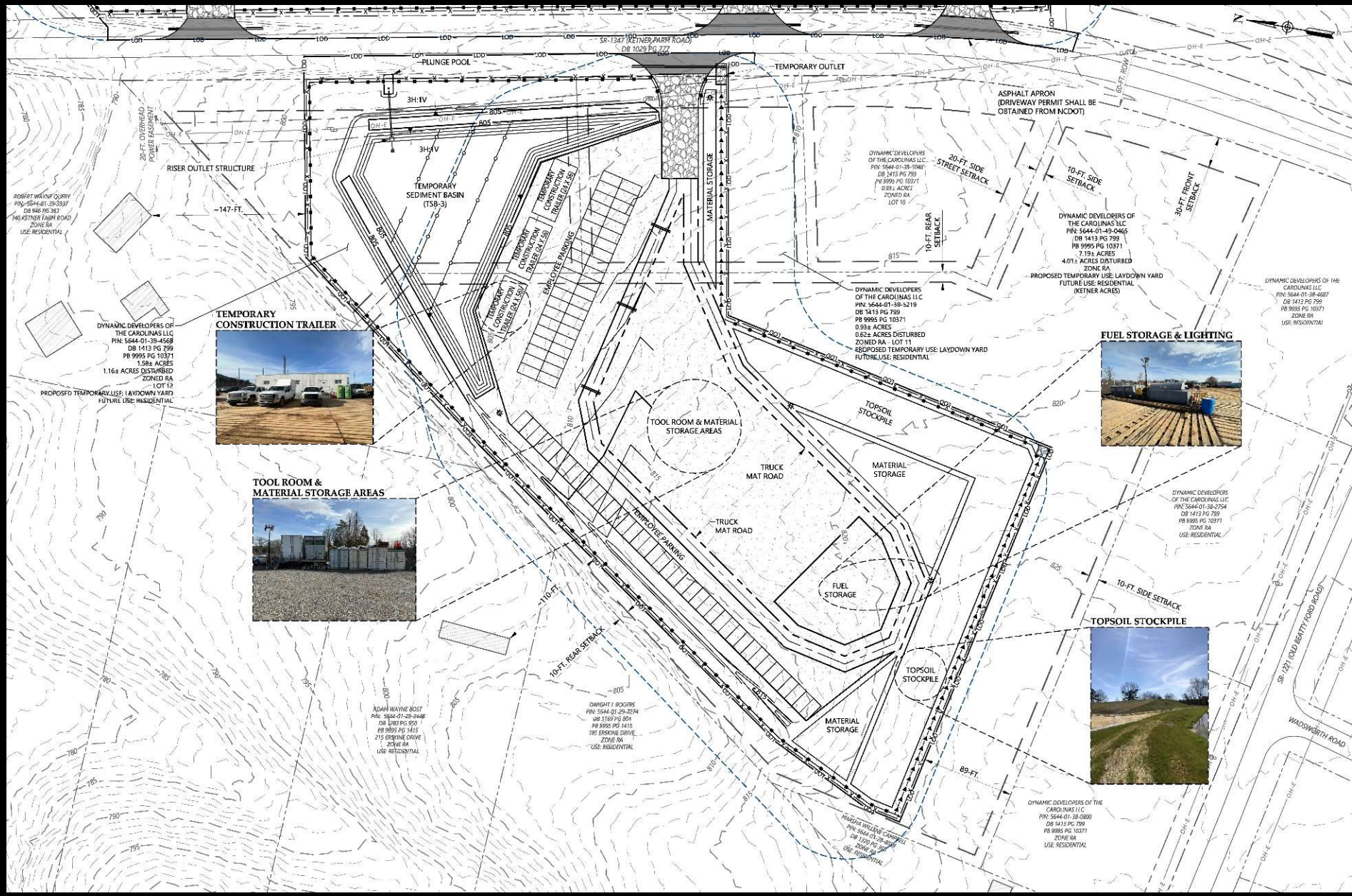
Southeast Portion

ARO PIPE & FITTING STORAGE

TRUCK MAT ROAD AND PIPE STORAGE

ROWAN COUNTY
NORTH CAROLINA
Be an original.

Southeast Portion Detail



ROWAN COUNTY
NORTH CAROLINA
Be an original.

Western Portion

TEMPORARY CONSTRUCTION TRAILER

FUEL STORAGE & LIGHTING

TOOL ROOM & MATERIAL STORAGE AREAS

TOPSOIL STOCKPILE

Western Portion Detail

ROWAN COUNTY
NORTH CAROLINA
Be an original.

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ROY COOPER
GOVERNOR

J.R. "JOEY" HOPKINS
SECRETARY

January 10, 2024

Rowan County – SR 1347 (Ketner Farm Rd.)

Permit No.: D091-080-23-00115

Subject: Dominion Energy – Driveway Permit Approval

Ms. Tara Bauer
HDR Engineering, Inc.
9450 West Bryn Mawr Avenue, Suite 400
Rosemont, Illinois 60018
(tara.bauer@hdrinc.com)

Dear Ms. Bauer,

Enclosed, please find the approved driveway permit application for the Dominion Energy site onto Ketner Farm Road in Rowan County. This permit is contingent upon compliance with the attached provisions.

- Please see Standard Provisions Attachment.
- Please contact County Maintenance Engineer, Michael Hedrick prior to construction.
- A copy of this approval package should be on site at all times.
- All Utilities will need to be approved under separate encroachments.
- Approval of this driveway permit application allows the applicant to establish a connection to an existing state-maintained roadway and does not constitute approval of the proposed commercial site plan or subdivision design.

Sincerely yours,

Kelly Seitz, P.E.
District Engineer

PKS: cas

Attachments(s)
pc: Mr. S.P. Ivey, PE, Division Engineer
Mr. Michael Hedrick, PE, County Maintenance Engineer
Mr. Shane Stewart, Rowan County Planning Department

Mailing Address:
NC DEPARTMENT OF TRANSPORTATION
DIVISION 9/ DISTRICT 1
4770 SOUTH MAIN STREET
SALISBURY, NC 28147

Telephone: (704) 630 3200
Fax: (704)639-7566
Customer Service: 1-877-368-4968

Website: www.ncdot.gov

Location:
4770 SOUTH MAIN STREET
SALISBURY, NC 28147

ROWAN COUNTY
NORTH CAROLINA
Be an original.

Approved Driveway Permit

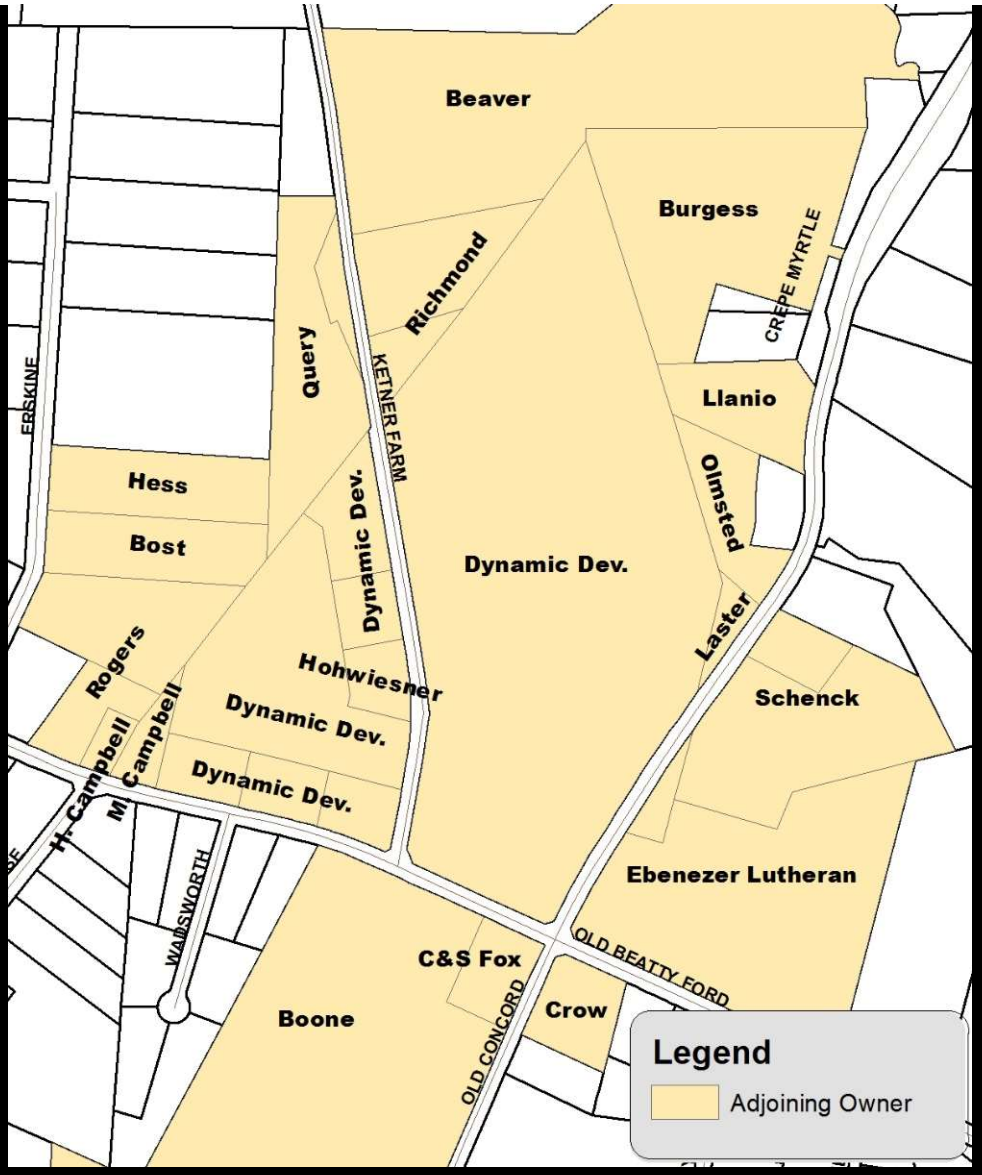
A. The proposed use will not endanger the public health, safety and welfare.

B. The proposed use will not have a substantial negative impact on the adjoining properties.

C. The use will be approved for a specific period of time, not to exceed two (2) years unless deemed necessary by the Board of Commissioners in accordance with Sec. 21-11. Extension of the temporary use beyond the approved time shall require approval of the board of commissioners in the same manner as the original

ROWAN COUNTY
NORTH CAROLINA
Be an original.

21-281(2) Criteria



ROWAN COUNTY
NORTH CAROLINA
Be an original.

Rowan County Department of Planning & Development
402 North Main Street – Suite 204 – Salisbury, NC 28144
Phone: (704) 216-8588 www.rowancountync.gov/planning

NOTICE OF HEARING

To: Adjoining Property Owner
From: Rowan County Planning Department
Date: November 8, 2023
Subject: **Rezoning Request Z 10-23 & SUP 03-23: Lea Jaunakais (Tiger World)**

The Rowan County Board of Commissioners will conduct separate legislative and quasi-judicial hearings on Monday, November 20, 2023, beginning at 6:00 PM in the J. Newton Cohen Sr. Room on the 2nd Floor of the J. Newton Cohen Sr. Rowan County Administration Building located at 130 W. Innes St. Salisbury, NC to consider the following applications:

Legislative Hearing – Z 10-23: Lea Jaunakais is requesting the rezoning of approximately 35.88 acres identified as Parcel IDs 425-011, 087, 095, 113, 115, 117, and 145, located at 4400 Cook Rd., from Rural Agricultural (RA) to Rural Agricultural with a Conditional District (RA-CD). Rezoning to a conditional district would make the existing zoo (Tiger World) a conforming use and accommodate proposed expansions including a new park entrance at the 4300 block of E. NC 152 Hwy. leading to a new visitor parking, ticket office, admission / gift shop, restrooms, and future exhibit area. The hearing will also include naming three (3) access roads on the zoo campus proposed as Big Cat Trail, Leopard Loop, and Tiger Trail.

Quasi-judicial Hearing – SUP 03-23: If rezoning petition **Z 10-23** is approved, Lea Jaunakais is requesting a Special Use Permit (SUP) to accommodate a seventeen (17) unit campground for recreational vehicles and "glamping" sites.

Significant change to these applications may occur as a result of comments or information received during the hearings.

This notice is for your information only; participation is optional. Public comments regarding **Z 10-23** may also be submitted to www.rowancountync.gov/PublicComment until 5:00 PM on November 17th. Be advised that **SUP 03-23** is an evidentiary hearing based on sworn testimony provided by individuals able to demonstrate a clear and distinct connection to or potential damage from the matter being considered. For more information about meeting procedures, contact planning staff at the above listed number.

For more information regarding these requests, contact the Rowan County Planning Department, located at 402 N. Main St., Ste. 204 Salisbury, NC 28144, at (704) 216-8588

ROWAN COUNTY
NORTH CAROLINA
Be an original.

Notice: 1/3 & 4 – Letters Mailed; 1/4 – Sign Posted

Procedures

- ✓ **MOTION TO ADOPT FINDINGS OF FACT**
  - **THREE SEPARATE MOTIONS FOR FINDINGS OF FACT (SEE STAFF EXAMPLE FINDINGS)**
- ✓ **APPROVE / DENY / TABLE TEMP 01-24 INCLUDING ANY CONDITIONS**

ROWAN COUNTY
NORTH CAROLINA
Be an original.

Example Findings to Approve

TEMP 01-24: Dominion Energy

1. **The proposed use will not endanger the public health, safety and welfare.**

   FACT: The operational area will be secured by a six (6) foot chain link fence to prevent unauthorized access.

   FACT: According to the project narrative, traffic control flaggers will be present along Ketner Farm Road during peak traffic and high truck volume to and from the site.

   FACT: Proposed erosion control measures are subject to review and approval by the North Carolina Department of Environmental Quality.

2. **The proposed use will not have a substantial negative impact on the adjoining properties.**

   FACT: On January 10, 2024, NCDOT approved four (4) temporary driveway connections subject to a series of conditions including asphalt surface treatment on Ketner Farm Road upon removal of the laydown yard and a performance bond for one (1) year after completion of road improvements.

   FACT: According to the site plan, there are three (3) residences within one hundred (100) feet of the proposed fenced limits.

   FACT: The temporary duration of proposed activities coupled with the site plan and operations detail indicate this use will not have substantial long term negative impacts.

3. **The use will be approved for a specific period of time, not to exceed two (2) years.**

   FACT: As evidenced from the application date, the laydown yard may be operational for a two (2) year period from the date of commencement of grading activities permitted in the erosion control plan – anticipated in February of 2024.

Dominion Energy North Carolina Temporary Use Permit – Laydown Yard

Rowan County Board of County Commissioners

January 16, 2024

Dominion Energy®

The legal name is Public Service Company of North Carolina Incorporated d/b/a Dominion Energy North Carolina

Temporary Use – Ordinance Sec 21-281

- Other temporary uses not listed may be granted by the Board of Commissioners.
- The approval of a temporary use shall be in accordance with the following:

  a. The proposed use will not endanger the public health, safety and welfare;

  b. The proposed use will not have a substantial negative impact on the adjoining properties;

  c. The use will be approved for a specific period of time, not to exceed two (2) years... Extension of the temporary use beyond the approved time shall require approval of the board of commissioners in the same manner as the original.
- In considering approval of a temporary use the board may attach reasonable and appropriate conditions to ensure that the public health, safety and welfare are protected.
- DENC submits to the Board the temporary use permit application, including the application form, project narrative and site plan, as well as the testimony of Brandon Aycock, Chad Jacobs, and Erik Hartwick.

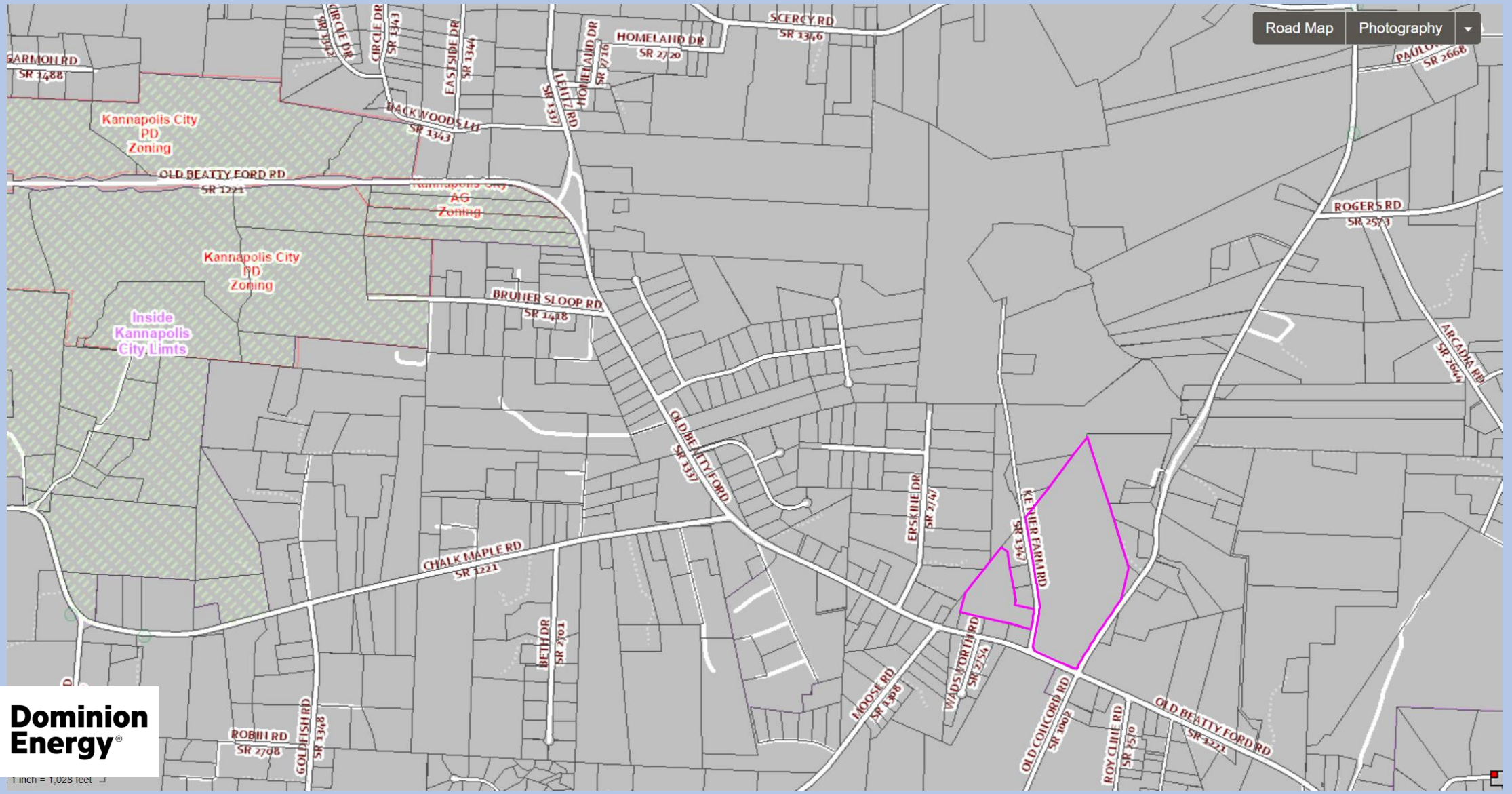
Dominion Energy®

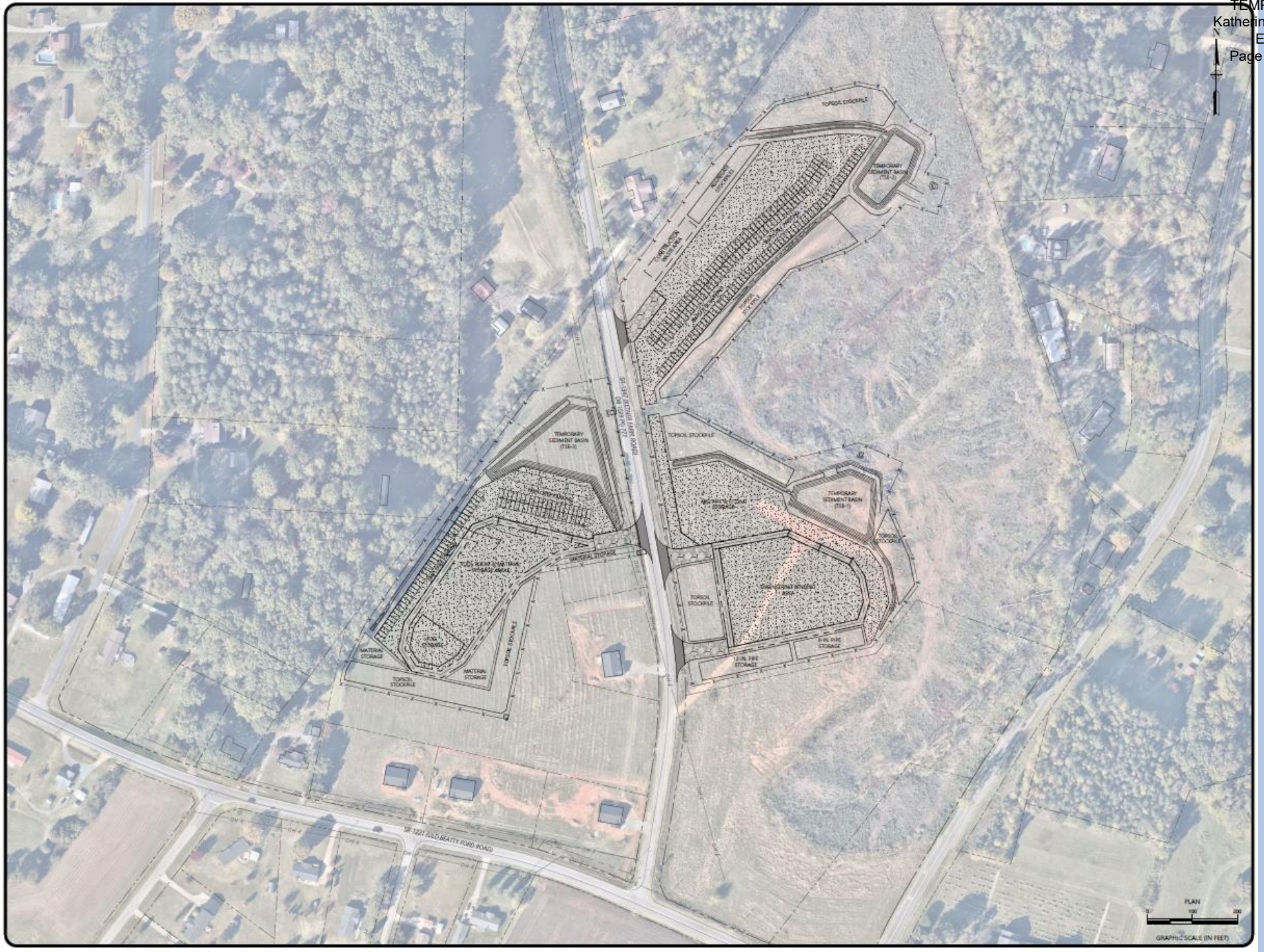
Laydown yard will support the Kannapolis to Concord System Expansion project in China Grove, North Carolina

- The Kannapolis to Concord system project will expand its system by installing a natural gas pipeline from Enochville to Concord. Once in-service, the pipeline will provide the additional natural gas supply and system flexibility needed to deliver safe and reliable service to homes and businesses as this area continues to grow. To minimize impacts to the community and environment, the pipeline will be built predominantly along existing rights-of-way.
- The laydown yard is temporary and will be utilized to store materials required for construction of the pipeline, parking for construction equipment when not in use, employee parking, temporary construction trailers, and temporary storage of topsoil and soil displaced from pipe installation.
- The laydown yard is regulated by numerous local, state and federal agencies – including building permits and compliance with the state building code, permits and approvals from the Department of Environmental Quality, permits from the Department of Transportation, compliance with the federal Clean Water Act, Oil Pollution Prevention Regulation, and other applicable rules and regulations.
- DENC has internal standards, rules and procedures to ensure its projects minimize impacts to the land, the environment and the communities in which they are located. Often these standards exceed the requirements of applicable law.

Dominion Energy®

The Laydown Yard – 18 acres located near the intersection of Ketner Farm Road & Old Beatty Ford Road




N
TOPSOIL STOCKPILE
TEMPORARY SEDIMENT BASIN (TSB-2)
TEMPORARY SEDIMENT BASIN (TSB-1)
MATERIAL STORAGE
8-IN PIPE STORAGE
12-IN PIPE STORAGE
SR 1221 (OLD BEATTY FORD ROAD)
PLAN
GRAPHIC SCALE (IN FEET)

The laydown yard will not endanger the public health, safety and welfare.

- The laydown yard is a temporary use of existing vacant land.
- The site is designed and will be constructed in compliance with applicable rules, regulations and laws.
- The design of the laydown yard allows traffic movement on the site in a manner that minimizes queueing on Ketner Farm Road.
- DENC will have traffic controls, including on site traffic control personnel, that will monitor and direct traffic entering and exiting the site.
- DENC has received approval for four temporary driveways from the North Carolina Department of Transportation.
- DENC is required to restore Ketner Farm Road to substantially the same condition as prior to the start of construction of the laydown yard.

Dominion Energy®

The laydown yard will not endanger the public health, safety and welfare.

- The site is designed in accordance with industry standards and best practices, which includes containment measures to minimize the potential for any oil or fuel leakage or spillage such as use of parking and storage of vehicles and equipment on visqueen (plastic sheeting) and secondary containment vessels (i.e. drip pans) to collect drips.
- DENC is in the process of applying for erosion & sedimentation control permits and approvals from the North Carolina Department of Environmental Quality (DEQ).
- The basins and stormwater control measures have been designed to meet or exceed requirements of DEQ for the temporary use of the site as a laydown yard.
- As designed, the laydown yard does not impact floodplains, wetlands, water bodies or other environmentally sensitive areas.

Dominion Energy®

The laydown yard will not have a substantial negative impact on the adjoining properties.

- The use is temporary in nature and after restoration of the site, the property will be able to be used for any legally allowable use.
- The laydown yard is not anticipated to generate significant noise. The site has been designed to reduce any such noise through location of activity that may generate noise occurring interior to the site and through the use of buffering that will mitigate noise migrating off site.
- The activity on the laydown yard will not generate odors or fumes that impact adjoining properties.
- Stormwater control measures are designed to ensure post-construction stormwater runoff levels are below current/pre-construction levels to avoid impact to neighboring properties.
- At the end of the use as a laydown yard, the site will be restored to substantially its current condition, included re-establishment to substantially the same grade.

Dominion Energy®

Temporary Use Permit Proposed Conditions

1. The use shall be approved for two years from start of construction on the site (anticipated March 2024). DENC will notify the planning & development office of the date of start of construction.
2. The temporary use permit approval shall be contingent upon receipt of required local, state and federal permits. DENC, or its agent, shall provide a copy of the permits received for the laydown yard to the planning department upon receipt.
3. Operating hours of the laydown yard shall be 6:00am to 7:00pm, Monday through Saturday.
4. Any lighting on the site shall be interior facing and downcast to minimize light spilling on to adjoining properties and only light required for safety shall remain in use during non-operating hours.
5. DENC shall have traffic control personnel along Ketner Farm Road for traffic control during peak times of employee traffic to and from laydown yard as well as during high truck volume coming to and leaving from the site.
6. The site shall be fenced with a six foot chain link fence and access shall be restricted during non-operating house by locked gates.
7. DENC shall designate a point of contact for project status and community concerns and shall provide such contact to the planning & development department.

Dominion Energy®

Questions

Appendix

Resources

- Kannapolis to Concord
- Project Corridor
- Application Site Plan (with topo)
- Images from T-72
  - Construction Trailer
  - Laydown Storage
  - Laydown yard
  - Aggregate
  - Stormwater basin

ROWAN COUNTY
A COUNTY COMMITTED TO EXCELLENCE

130 West Innes Street - Salisbury, NC 28144
TELEPHONE: 704-216-8180 * FAX: 704-216-8195

FROM: Shane Stewart, Assistant Planning and Development Director
DATE: 1/16/2024
SUBJECT: Quasi-judicial Hearing for TEMP 01-24: Dominion Energy North Carolina

---

Dominion Energy North Carolina (DENC) is requesting a temporary use permit per section 21-281(2) of the Zoning Ordinance to operate a “laydown yard” on a 36.16 acre portion of Parcel IDs 137-012, 137-165, & 137-166 located along the 200 block of Ketner Farm Road. Per the project description, the yard would be used as the base of operations consisting of construction office trailers, employee parking, material and construction machinery storage, soil stockpiles, and a work area for pipe welding / bending. The proposed two (2) year laydown yard would be used in conjuction with DENC’s twenty-four (24) mile natural gas pipeline expansion project in Cabarrus and Rowan counties.

ATTACHMENTS:

1. BOC Chairmans Speech
2. Staff Report
3. Site Plans
4. Project Narrative
5. kannapolis-concord-project-map
6. Application
7. Application Addendum

Greg Edds, Chairman

TEMP 01-24 CHAIRMAN'S SPEECH

The hearing for consideration of TEMP 01-24 is now in session and will focus on an application submitted by Dominion Energy to operate a temporary construction laydown yard on part of Tax Parcels 137-012, 165, & 166 located along the 200 block of Ketner Farm Road.

If you feel that any member of the Board may have a conflict of interest in hearing the case, please address the Board now prior to any testimony or information being presented.

When the Board enters into deliberations to decide the case, no further testimony may be presented. The Board will render one of the following three decisions:

1. Approve the permit as requested or with additional conditions;
2. Continue the request; or
3. Deny the request.

All parties who plan to testify in this case may come forward and be sworn in. Those who testify must state their name and address at the podium for the benefit of the Board's Clerk. All material presented must be given to the Clerk and will become part of the record. This Board can only accept **sworn** testimony. **No** hearsay evidence is admissible.

Shane Stewart will present the case for the County.

Rowan County Department of Planning & Development
402 North Main Street – Suite 204 – Salisbury, NC 28144
Phone: (704) 216-8588
www.rowancountync.gov/planning

MEMORANDUM

TO: Rowan County Board of Commissioners
FROM: Shane Stewart, Assistant Planning Director
DATE: January 4, 2024
RE: **TEMP 01-24: Dominion Energy**

BOARD OF COMMISSIONER'S ACTION

❒ Sworn oath for those testifying ❒ Receive staff report ❒ Petitioner comments ❒ Conduct quasi-judicial hearing ❒ Close hearing and discuss
❒ Two separate motions to adopt findings of fact ❒ Motion to Approve / Deny / Table **TEMP 01-24**

REQUEST Dominion Energy North Carolina (DENC) is requesting a temporary use permit per section 21-281(2) of the Zoning Ordinance to operate a "laydown yard" associated with their *M-071 Kannapolis to Concord System Expansion* – a twenty-four (24) mile natural gas pipeline expansion project between N. Enochville Ave / West C Street and south of Concord (see below map of corridor). According to the application, the "expansion is to help support new growth in the area and to improve system reliability and pressure." The laydown yard is proposed on a 36.16 acre portion of Parcel IDs 137-012, 137-165, and 137-166 located along the 200 block of Ketner Farm Road north and west of the rezoning request **Z 11-23.**

OPERTAION DETAILS According to the project description, the yard would be used as the base of operations consisting of construction office trailers, employee parking (approximately 250 employees), material and construction machinery storage, soil stockpiles, and a work area for pipe welding / bending. If approved, DENC would commence construction in February of 2024 and operate Monday through Saturday between 6 AM to 7 PM for two (2) years. See enclosed project narrative and site plan details. Additional information identified in the project description include:

- Heavy Equipment Traffic – Approximately twenty (20) daily transfer truck deliveries for one (1) month would be necessary to initially stock the yard and three

(3) thereafter. Top and subsurface soil remove during off-site pipeline installation would be delivered on average once daily.

- Traffic Control – DENC proposes flagmen along Ketner Farm Road for traffic control during peak hours and high truck traffic.

- Noise – According to the description, DENC does not anticipate loud noises to be heard by neighbors. Most noise is anticipated from equipment backing up and other movement.

- Soil Stockpiles – Displaced soil from the project corridor will be either used for fill in the area, subsequently hauled off to another site, or used post-construction. Wet soils will be arranged to dewater and dry project to subsequent use.

- Lighting – Temporary mobile lighting will be using before daylight and at dusk during the operational hours, which will be "downcast to prevent any nuisance to local landowners".

- Post Construction Restoration – The laydown site will return to the pre-existing conditions including removal of all graveled areas, which are considered built-upon area.

Source:https://www.dominionenergy.com/projects-and-facilities/natural-gas-projects/kannapolis-concord-system-expansion-project

SECTION 21-281 CRITERIA

Section 21-281(1) of the Zoning Ordinance provide a basic list of allowed temporary uses, reviewable by staff, such as Christmas tree sales lots, yard sales, and activities by religious and civic organizations conducted less than forty-five (45) days in duration and no more

than five (5) times per year. Subsection (2) indicates other temporary uses not listed are subject to review by the Board of Commissioners (BOC) and **"in considering approval of a temporary use the board may attach reasonable and appropriate conditions to ensure that the public health, safety and welfare are protected. The approval of a temporary use shall be in accordance with the following:**

a. The proposed use will not endanger the public health, safety and welfare;

b. The proposed use will not have a substantial negative impact on the adjoining properties;

c. The use will be approved for a specific period of time, not to exceed two (2) years unless deemed necessary by the Board of Commissioners in accordance with Sec. 21-11. Extension of the temporary use beyond the approved time shall require approval of the board of commissioners in the same manner as the original."

Historically, the BOC has considered a very small number of temporary use permits since initial ordinance adoption and, to staff's knowledge, reviewed each in an "administrative" capacity (i.e. not as a legislative or quasi-judicial decision). Staff is of the opinion the above criteria is subjective in nature, which must be reviewed as quasi-judicial, rather than objective, which can be reviewed administratively by staff, the Planning Board, or BOC.

In the project narrative, the applicant referenced the information therein illustrates compliance with subsections A-C.

NCDOT DRIVEWAY PERMIT

The applicant has filed four (4) temporary driveway permit requests with NCDOT. In speaking with NCDOT staff, the department will require a bond to cover road improvements once the project is complete.

WATERSHED REQUIREMENTS

The built upon area will temporarily exceed the low-density limitation of twelve (12) percent. After conversations with North Carolina Department of Environmental Quality (NCDEQ) staff, if the gravel is removed prior to a final inspection required by the Erosion Control plan or within thirty (30) days of project completion, whichever occurs first, the site would remain in compliance with NCDEQ watershed standards.

PUBLIC NOTICE

On January 3rd and 4th, Planning Staff notified approximately seventeen (17) area property owner and posted a sign on the property.

STAFF COMMENTS

While not specifically specified in the ordinance for a temporary use permit, staff provide meeting notice to property owners generally within 100 feet of the request

and post a sign on the property. As with any request, public input is an important part of this process and should focus on criteria A-C noted above. Fair and reasonable conditions that address the criteria may be placed on the required.

TEMPORARY USE PERMIT

M-071 KANNAPOLIS TO CONCORD SYSTEM EXPANSION LAYDOWN YARD

ROWAN COUNTY, NORTH CAROLINA

NOVEMBER 8, 2023 (REVISED DECEMBER 4, 2023) 1

SITE DATA

PROJECT LOCATION:

STREET ADDRESS:	0 OLD BEATTY FORD ROAD
CITY OR TOWNSHIP:	CHINA GROVE
COUNTY:	ROWAN
STATE:	NORTH CAROLINA
ZIP CODE:	28023
LATITUDE:	35°31'25.9"N (35.5239°)
LONGITUDE:	80°32'04.0"W (-80.5344°)

REVIEWING AGENCY:

MUNICIPALITY:	ROWAN COUNTY
DEPARTMENT:	PLANNING & DEVELOPMENT

PROJECT SCHEDULE:

DATE TO BEGIN:	FEBRUARY 2024
DATE TO END:	FEBRUARY 2026

DISTURBANCE:

PARCEL ACREAGE:	17.73 ACRES
NCDOT ROW ACREAGE:	0.65 ACRES
TOTAL PROJECT ACREAGE:	18.38 ACRES
PROPOSED TEMPORARY IMPERVIOUS AREA:	7.60 ACRES

WATERBODY INFORMATION:

RIVER BASIN:	YADKIN PEE DEE
WATERSHED:	MIDDLE ROCKY RIVER (0304010503)
RECEIVING WATERBODY:	DUTCH BUFFALO CREEK
WATERBODY INDEX NUMBER:	13-17-11-(1)
CLASSIFICATION:	WS-II; HQW
WATERS OF THE U.S./STATE:	NOT PRESENT
IMPACTS:	NOT APPLICABLE
USACE 404 PERMIT OR 401 CERTIFICATION:	NOT REQUIRED
NC NAVIGABLE WATERS (NCNW):	NOT PRESENT

FEMA FLOODPLAIN/FLOODWAY IMPACTS:

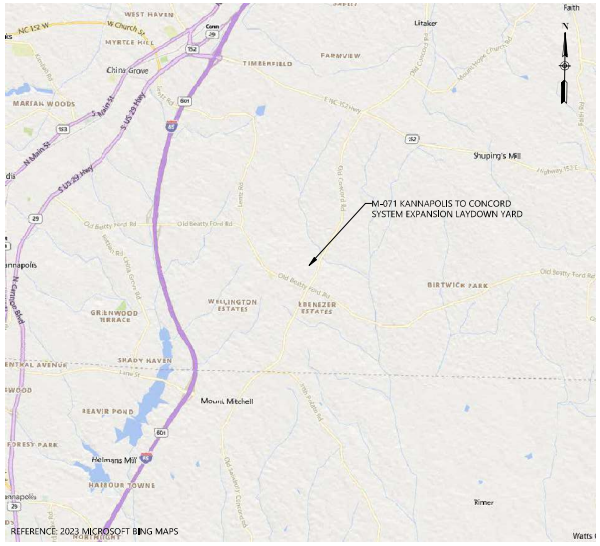
MAP NUMBER:	3710564400J
FLOODWAY IMPACTS:	NOT APPLICABLE
100-YEAR FLOODPLAIN IMPACTS:	NOT APPLICABLE
WATERCOURSE ALTERATION OR RELOCATION:	NOT APPLICABLE

PRIMARY PERMITTEE INFORMATION:

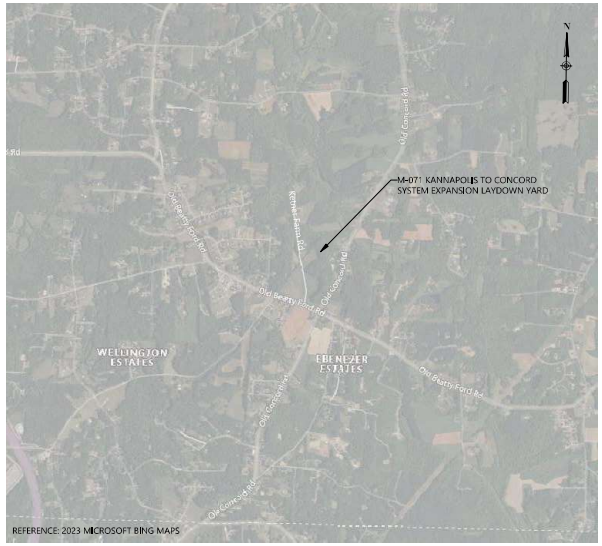
COMPANY:	DOMINION ENERGY NORTH CAROLINA
PROJECT NUMBER:	0070297
ENVIRONMENTAL COMPLIANCE COORDINATOR:	JOSH PRZYWARA
E-MAIL ADDRESS:	JOSHUA.J.PRZYWARA@DOMINIONENERGY.COM
TELEPHONE NUMBER:	704-214-4580
PRIMARY SITE CONTACT:	KATY MAYS, M.P.
E-MAIL ADDRESS:	KATY.D.MAYS@DOMINIONENERGY.COM
TELEPHONE NUMBER:	803-563-4964
PROJECT MANAGER:	WILLIAM (MIKE) LEWIS, P.E.
E-MAIL ADDRESS:	WILLIAM.LEWIS@DOMINIONENERGY.COM
TELEPHONE NUMBER:	828-230-6874

CONSULTANT INFORMATION:

ENGINEERING FIRM:	S&ME, INC.
NC ENG. FIRM LICENSE NUMBER:	F-0176
PROJECT NUMBER:	21350021
PROJECT MANAGER:	ERIK L. HARTWICK
E-MAIL ADDRESS:	EHARTWICK@SMEINC.COM
TELEPHONE NUMBER:	704-564-4743



VICINITY MAP
SCALE: 1" = 5,000'



SITE LOCATION
SCALE: 1" = 2,000'

PREPARED FOR

Dominion Energy®

800 GASTON ROAD
GASTONIA, NC 28056

PREPARED BY

2016 AYRSLEY TOWN BLVD., SUITE 2-A
CHARLOTTE, NC 28273

DRAWINGS

NUMBER	TITLE
0	COVER
1	OVERALL SITE INDEX
2	EXISTING CONDITIONS
3	TEMPORARY LAYDOWN YARD - EAST AREA
4	TEMPORARY LAYDOWN YARD - WEST AREA
5	RESTORATION PLAN
6	DETAILS (1 OF 3)
7	DETAILS (2 OF 3)
8	DETAILS (3 OF 3)

ADDITIONAL SITE DATA

GENERAL INFORMATION:

PROPOSED USE:	TEMPORARY LAYDOWN YARD FOR PIPELINE CONSTRUCTION SUPPORT
HOURS OF OPERATION:	MONDAY THROUGH SATURDAY 6 AM TO 7 PM
NUMBER OF EMPLOYEES	225
REQUIRED PARKING	250 (225 EMPLOYEES + 25 COMPANY VEHICLES)
PARKING PROVIDED	262
TRUCKS PER DAY	20
PRIVATELY OWNED VEHICLE (POV) PER DAY	250

PARCELS DATA	AREA (ACRES)
PIN: 5644-01-39-4568:	1.58 AC
PIN: 5644-01-39-5219:	0.93 AC
PIN: 5644-01-49-0465 (WEST):	7.19 AC
PIN: 5644-01-49-0465 (EAST):	26.46 AC
TOTAL ACRES:	36.16 AC

BUILT UPON AREA (BUA)	BUA ACRES (% BUA)
EXISTING BUA:	0.00 AC (0.0%)
PROPOSED TEMPORARY BUA: (RELATIVE TO TOTAL PARCEL ACREAGE)	7.60 AC (21.02%)
POST-CONSTRUCTION BUA:	0.00 AC (0.0%)

ROADWAY FRONTAGE	LENGTH (LF)
WEST LAYDOWN	432.01 LF
EAST LAYDOWN	925.44 LF

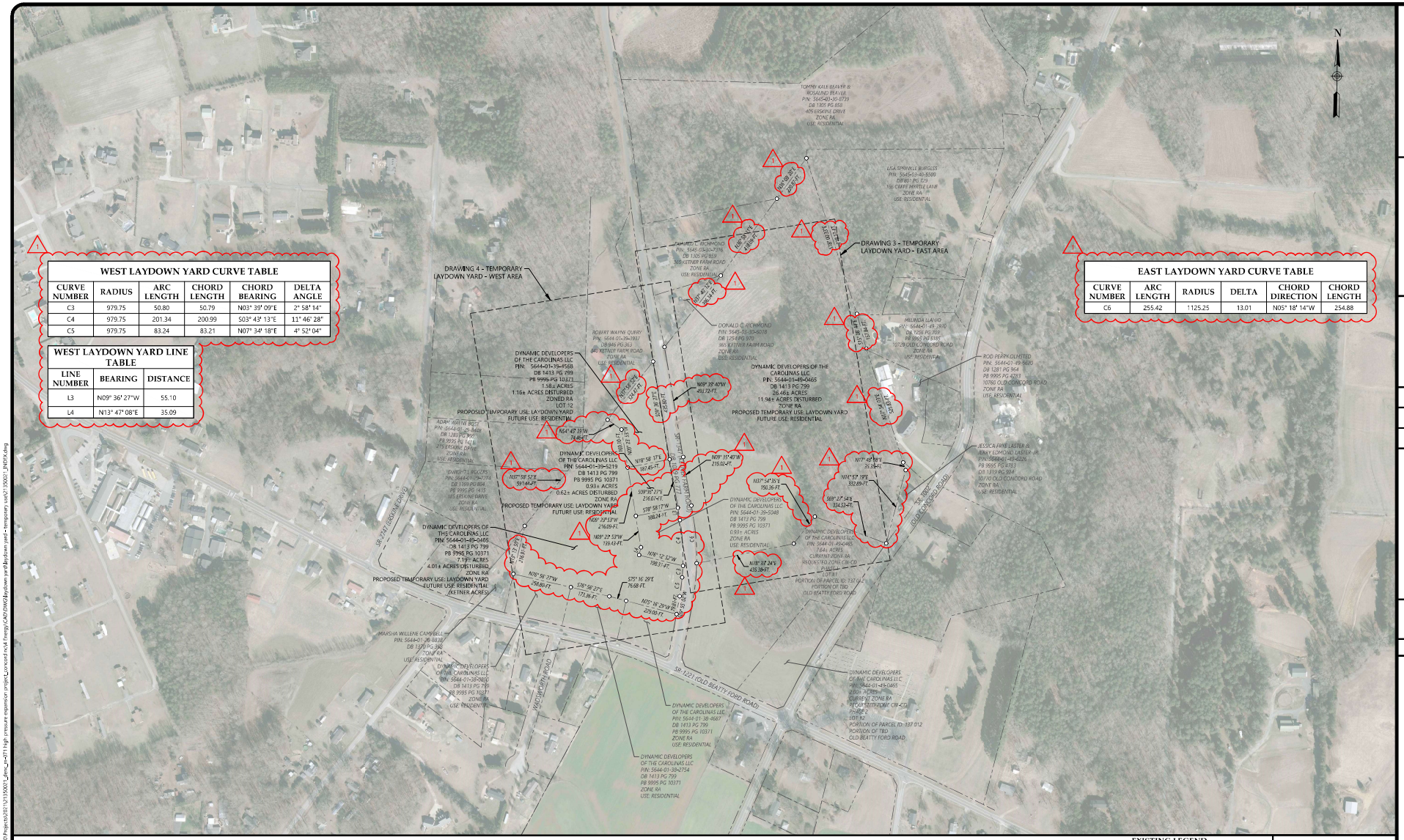
REFERENCE:

1. TAX PARCEL DATA OBTAINED FROM THE ROWAN COUNTY, NORTH CAROLINA GEOGRAPHIC INFORMATION SYSTEMS (GIS) DEPARTMENTS FOR ADJOINING PARCELS. ROADWAY RIGHT-OF-WAYS, PARCELS & EASEMENTS WERE PROVIDED BY SGC SURVEY OBTAINED OCTOBER 23, 2023.
2. 2018 TOPOGRAPHIC CONTOURS DERIVED FROM NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY EMERGENCY MANAGEMENT (NCDPS) NORTH CAROLINA SPATIAL DATA DOWNLOAD TOOL THIS DIGITAL ELEVATION MODEL (DEM) IN PROJECT COUNTY. NORTH CAROLINA WAS CONVERTED INTO 2-FOOT CONTOURS USING ESRI ARCGIS SPATIAL ANALYST.
3. AERIAL ORTHOIMAGERY OBTAINED FROM NCONEMAP, DATED JANUARY 2022.
4. REGULATED SURFACE WATERS ASSESSMENT PERFORMED BY S&ME PERSONNEL ON OCTOBER 13, 2023.
5. THE PROPOSED LIMITS OF DISTURBANCE BASED ON INFORMATION PROVIDED BY THE OWNER.
6. SURVEY CONDUCTED & COMPLETED BY SGC., DATED OCTOBER 23, 2023.
7. STRUCTURAL FOOTPRINTS WERE DIGITIZED AND ARE APPROXIMATED BASED ON AERIAL IMAGERY.
8. IMPACTED PARCEL BOUNDARY DIMENSIONS ARE APPROXIMATED BASED ON PROVIDED SITE PLANS. EAST LAYDOWN YARD DIMENSIONS ARE BASED ON RECORDED PLAT BY SPARKS SURVEYING, PLLC DATED 01/26/2023. WEST LAYDOWN YARD DIMENSIONS ARE APPROXIMATED FROM SITE PLAN DEVELOPED BY BREC DATED 09/15/2023. 1

THESE DRAWINGS HAVE BEEN PREPARED BY S&ME FOR OUR CLIENT'S USE. WRITTEN APPROVAL FROM S&ME SHALL BE OBTAINED PRIOR TO ANY THIRD-PARTY USE, MODIFICATION, AND REPRODUCTION, OR RELIANCE, EXCEPT AS REQUIRED BY LAW. S&ME ACCEPTS NO RESPONSIBILITY, AND DENIES ANY LIABILITY WHATSOEVER, TO ANY PARTY THAT USES OR RELIES ON THESE DRAWINGS WITHOUT S&ME'S EXPRESS WRITTEN CONSENT.

CALL OR CLICK 811 BEFORE YOU DIG 811 SAFE DIGGING PARTNER

DRAWING PATH: I:\Shared\S&ME Projects\2021\21350021_Dmng_m071 high pressure expansion project\Current\4-x-4 Energy\CAD\PWD\Laydown yard\Laydown yard - temporary use\21350021_COVER.dwg



WEST LAYDOWN YARD CURVE TABLE

CURVE NUMBER	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C3	979.75	50.80	50.79	N03° 39' 09"E	2° 58' 14"
C4	979.75	201.34	200.99	S03° 43' 13"E	11° 46' 28"
C5	979.75	83.24	83.21	N07° 34' 18"E	4° 52' 04"

WEST LAYDOWN YARD LINE TABLE

LINE NUMBER	BEARING	DISTANCE
L3	N09° 36' 27"W	55.10
L4	N13° 47' 08"E	35.09

EAST LAYDOWN YARD CURVE TABLE

CURVE NUMBER	ARC LENGTH	RADIUS	DELTA	CHORD DIRECTION	CHORD LENGTH
C6	255.42	1125.25	13.01	N05° 18' 14"W	254.88

PARCELS DATA	AREA (ACRES)
PIN: 5644-01-39-4568:	1.58 AC
PIN: 5644-01-39-5219:	0.93 AC
PIN: 5644-01-49-0465 (WEST):	7.19 AC
PIN: 5644-01-49-0465 (EAST):	26.46 AC
TOTAL ACRES:	36.16 AC
ROADWAY FRONTAGE	**LENGTH (LF)**
WEST LAYDOWN	432.01 LF
EAST LAYDOWN	925.44 LF

ZONE RA = RURAL AGRICULTURAL
ZONE CBI-CD = COMMERCIAL, BUSINESS, INDUSTRIAL WITH A CONDITIONAL DISTRICT.
REFER TO COVER DRAWING FOR REFERENCES.

EXISTING LEGEND:
PROPERTY BOUNDARY
ROW/ROAD EASEMENT
PROPERTY CORNER

PLAN
0 200 400
GRAPHIC SCALE (IN FEET)

2016 AYRSLEY TOWN BLVD.
SUITE 2-A
CHARLOTTE, NC 28273
(704) 523-4726
ENGINEERING FIRM LICENSE NUMBER: F-0176

Dominion Energy

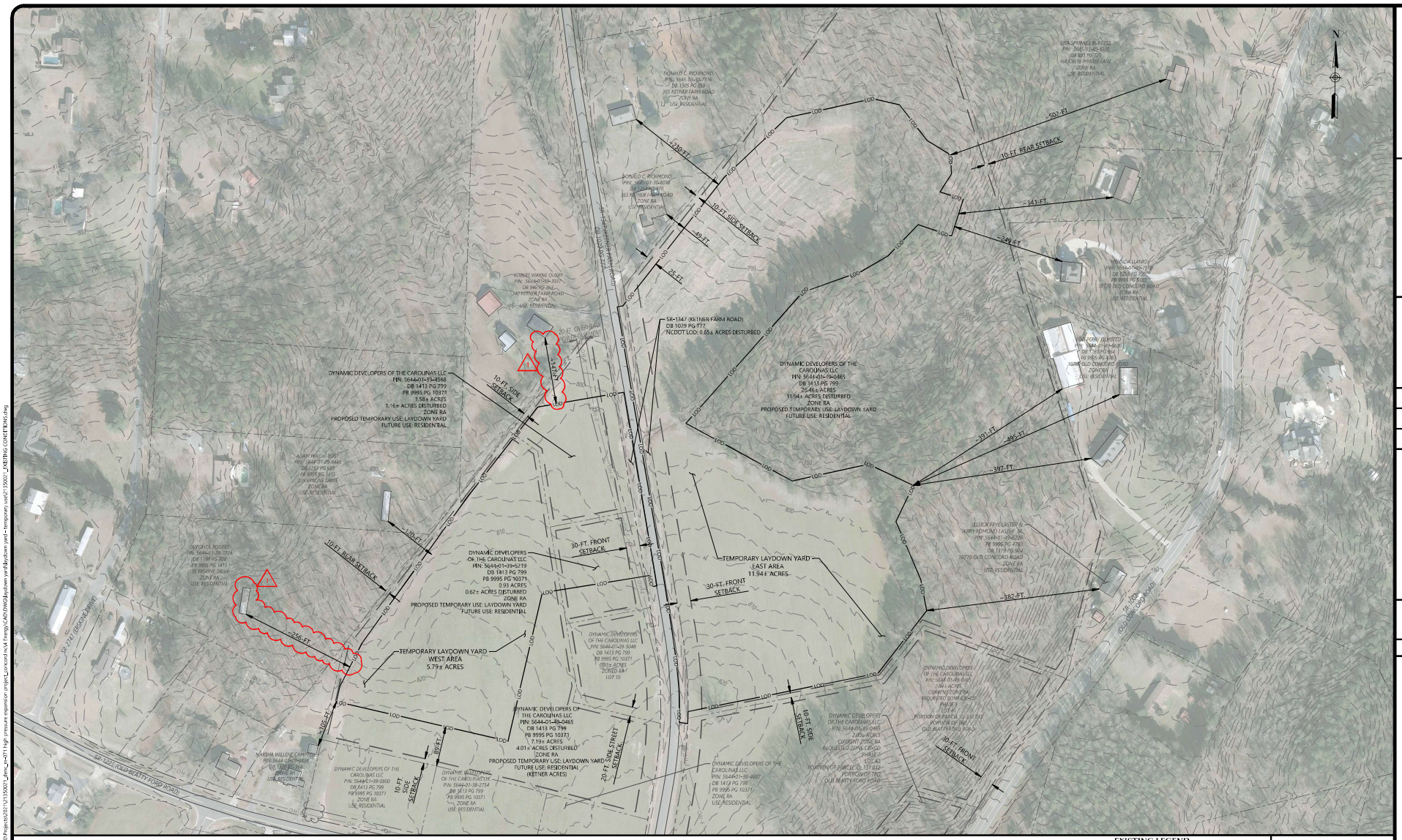
NO.	DATE	DESCRIPTION	DWG	BY	CHK	CJS	APV
1	12/04/2023	RESPONSE TO ROWAN COUNTY COMMENTS			ELH	CJS	
0	11/09/2023	ISSUED FOR REVIEW					

OVERALL SITE INDEX

TEMPORARY USE PERMIT
M-071 KANNAPOLIS TO CONCORD SYSTEM EXPANSION LAYDOWN YARD
ROWAN COUNTY, NORTH CAROLINA

PROJECT NUMBER
21350021
DRAWING NUMBER
1 8

DRAWING PATH: I:\Active Jobs\350\Projects\0021\21350021_dmc_m071 high pressure expansion project\Current\4-Civil Energy\CAD\DWG\laydown yard\laydown yard - temporary use\21350021_LYNOT.dwg



PARCELS DATA	AREA (ACRES)
PIN: 5644-01-39-4568:	1.58 AC
PIN: 5644-01-39-5219:	0.93 AC
PIN: 5644-01-49-0465 (WEST):	7.19 AC
PIN: 5644-01-49-0465 (EAST):	26.46 AC
TOTAL ACRES:	36.16 AC
ROADWAY FRONTAGE	**LENGTH (LF)**
WEST LAYDOWN	432.01 LF
EAST LAYDOWN	925.44 LF

ZONE RA = RURAL AGRICULTURAL
ZONE CBI-CD = COMMERCIAL, BUSINESS, INDUSTRIAL WITH A CONDITIONAL DISTRICT.
REFER TO COVER DRAWING FOR REFERENCES.

EXISTING LEGEND:

- MAJOR CONTOUR (10-FT.)
- MINOR CONTOUR (2-FT.)
- PROPERTY BOUNDARY
- DOT/ROAD EASEMENT
- UTILITY EASEMENT
- PROPERTY SETBACK
- EDGE OF ROAD
- OVERHEAD LINE
- UTILITY POLE
- BUILDING / STRUCTURE

PLAN
0 100 200
GRAPHIC SCALE (IN FEET)

2016 AYRSLEY TOWN BLVD.
SUITE 2-A
CHARLOTTE, NC 28273
(704) 523-4726
ENGINEERING FIRM
LICENSE NUMBER: F-0176

Dominion Energy

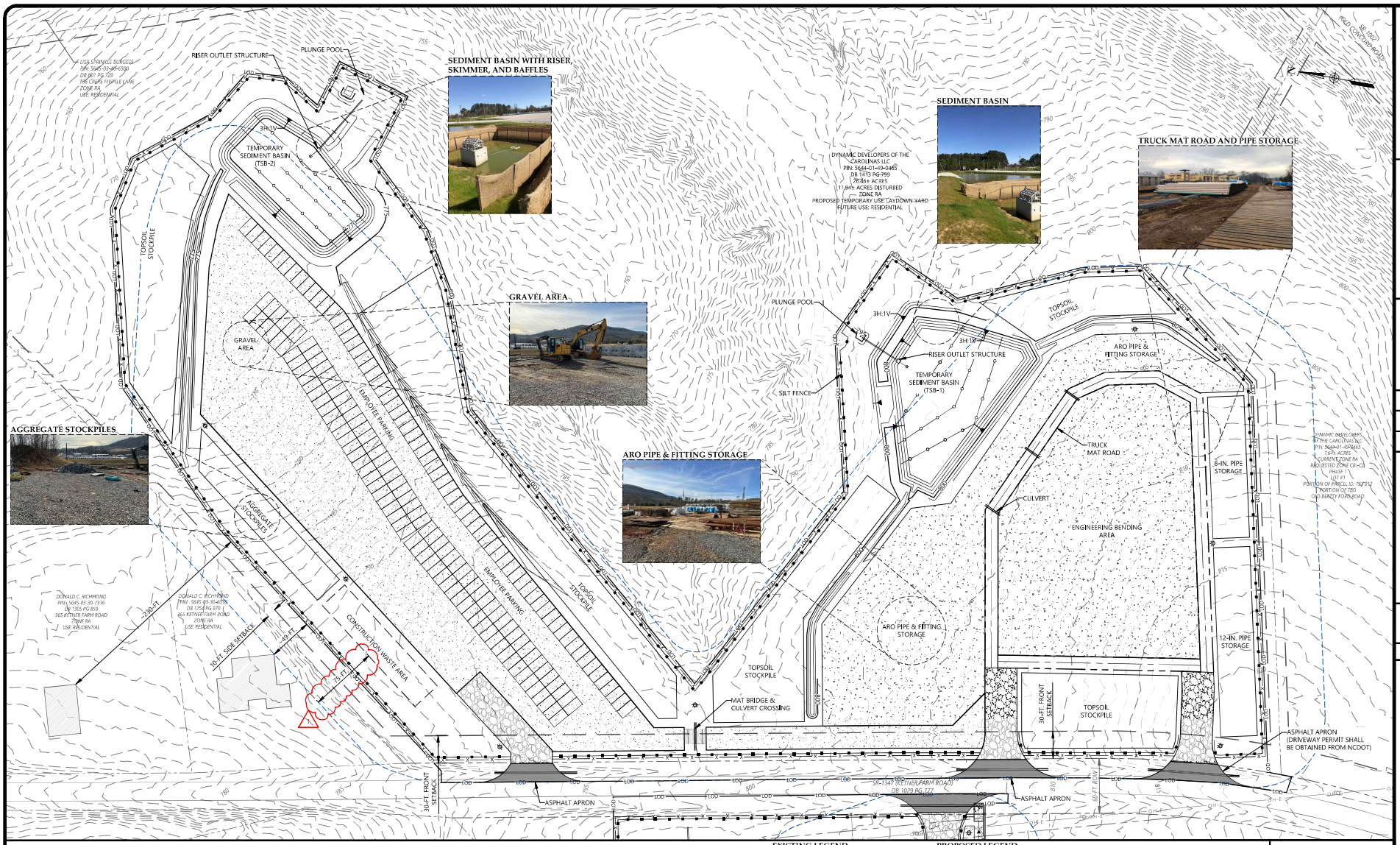
NO.	DATE	DESCRIPTION	BY	CHK	APV
1	12/04/2023	RESPONSE TO ROWAN COUNTY COMMENTS	DMG	EJH	CJS
0	11/09/2023	ISSUED FOR REVIEW	DMG	EJH	CJS

EXISTING CONDITIONS

TEMPORARY USE PERMIT
M-071 KANNAPOLIS TO CONCORD SYSTEM EXPANSION LAYDOWN YARD
ROWAN COUNTY, NORTH CAROLINA

PROJECT NUMBER
21350021
DRAWING NUMBER
2 8

DRAWING PATH: I:\Active Jobs\350\Projects\0021\21350021_dmg_r071 high pressure expansion project\Current\4x4 Energy\CAD\DWG\laydown yard\laydown yard - temporary use\21350021_DNETWG CONDITION.dwg



PARCELS DATA	AREA (ACRES)
PIN: 5644-01-39-4568:	1.58 AC
PIN: 5644-01-39-5219:	0.93 AC
PIN: 5644-01-49-0465 (WEST):	7.19 AC
PIN: 5644-01-49-0465 (EAST):	26.46 AC
TOTAL ACRES:	36.16 AC
ROADWAY FRONTAGE	**LENGTH (LF)**
WEST LAYDOWN	432.01 LF
EAST LAYDOWN	925.44 LF

ZONE RA = RURAL AGRICULTURAL
ZONE CBI-CD = COMMERCIAL, BUSINESS, INDUSTRIAL WITH A CONDITIONAL DISTRICT.
REFER TO COVER DRAWING FOR REFERENCES.

GENERAL NOTES:

1. EROSION AND SEDIMENT CONTROL MEASURES TO BE INSTALLED PER NCDEQ-DEMLR APPROVED EROSION AND SEDIMENT CONTROL PLAN.
2. ADJUSTMENTS TO PLANNED WORK AREAS SHALL TAKE INTO CONSIDERATION THE POTENTIAL NEGATIVE AFFECTS TO ADJACENT PROPERTY OWNERS, SUCH AS LOCATION OF WORK ACTIVITIES, POSITION OF LIGHTING, CONSIDERATION FOR NOISE LEVELS, ETC., AND WORK TO MINIMIZE THOSE AFFECTS.
3. ELECTRICAL PERMITS WILL BE OBTAINED PRIOR TO CONSTRUCTION.
4. THE LOCATION OF THE PROPOSED LAND DISTURBANCE AREA IS APPROXIMATE AND BASED ON INFORMATION PROVIDED BY THE OWNER.
5. REPRESENTATIVE PHOTOS ARE PROVIDED AS AN EXAMPLE. INDIVIDUAL ITEMS MAY VARY BASED ON SITE CONDITIONS.
6. THE PLANNED BUFFER SHOWN ON THE DRAWINGS REPRESENTS A BUFFER FROM DAILY ACTIVITIES THAT WILL OCCUR ON THE LAYDOWN YARD TO RESIDENTIAL OR COMMERCIAL STRUCTURES.

EXISTING LEGEND:

- 800 — MAJOR CONTOUR (5-FT.)
- 801 — MINOR CONTOUR (1-FT.)
- PROPERTY BOUNDARY
- DOT/ROAD EASEMENT
- UTILITY EASEMENT
- PROPERTY SETBACK
- EDGE OF ROAD
- OHE — OVERHEAD LINE
- UTILITY POLE
- BUILDING / STRUCTURE

PROPOSED LEGEND:

- LOD — LIMITS OF DISTURBANCE
- 800 — MAJOR CONTOUR (5-FT.)
- 801 — MINOR CONTOUR (1-FT.)
- X — X — CHAIN LINK FENCE
- SILT FENCE
- POROUS BAFFLE
- TIMBER MAT
- CULVERT
- WATER DIVERSION CHANNEL
- CONSTRUCTION ENTRANCE
- GRAVEL
- TEMPORARY LIGHT PLANT
- 75-FT. PLANNED BUFFER

PLAN
0 50 100
GRAPHIC SCALE (IN FEET)

2016 AYRSLEY TOWN BLVD.
SUITE 2-A
CHARLOTTE, NC 28273
(704) 523-4726
ENGINEERING FIRM
LICENSE NUMBER: F-0176

Dominion Energy

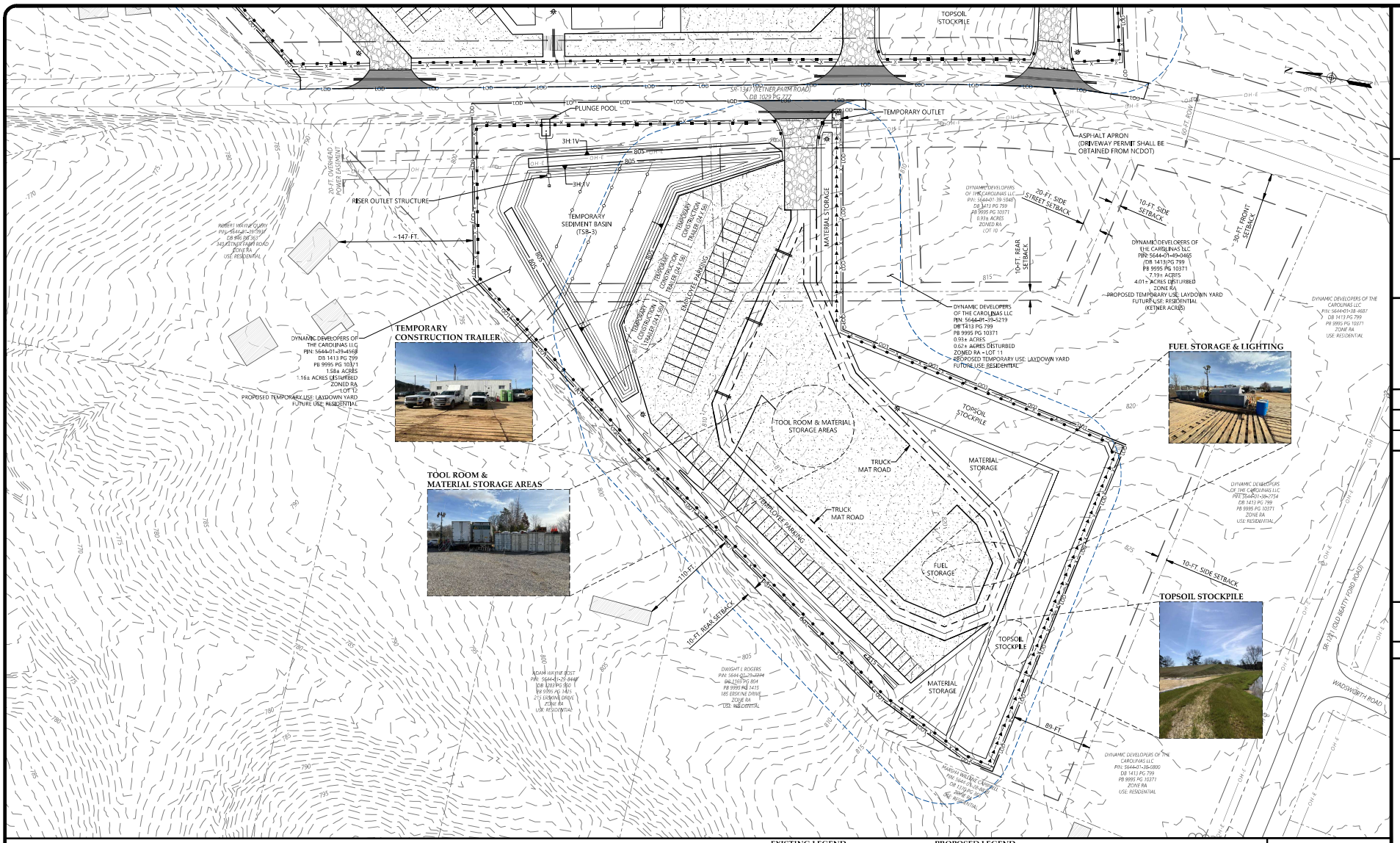
NO.	DATE	DESCRIPTION	DWG	CHK	QS
1	12/04/2023	RESPONSE TO ROWAN COUNTY COMMENTS	EJH	EJH	APV
0	11/09/2023	ISSUED FOR REVIEW	BH		

TEMPORARY LAYDOWN YARD - EAST AREA

TEMPORARY USE PERMIT
M-071 KANNAPOLIS TO CONCORD SYSTEM EXPANSION LAYDOWN YARD
ROWAN COUNTY, NORTH CAROLINA

PROJECT NUMBER
21350021
DRAWING NUMBER
3 8

DRAWING PATH: I:\Charlotte-21350\Projects\21350021_dvnc_m-071 high pressure expansion project_concord nc\4 Energy\CAD\DWG\layout\layout\layout



PARCELS DATA	AREA (ACRES)
PIN: 5644-01-39-4568:	1.58 AC
PIN: 5644-01-39-5219:	0.93 AC
PIN: 5644-01-49-0465 (WEST):	7.19 AC
PIN: 5644-01-49-0465 (EAST):	26.46 AC
TOTAL ACRES:	36.16 AC
ROADWAY FRONTAGE	**LENGTH (LF)**
WEST LAYDOWN	432.01 LF
EAST LAYDOWN	925.44 LF

ZONE RA = RURAL AGRICULTURAL
ZONE CBI-CD = COMMERCIAL, BUSINESS, INDUSTRIAL WITH A CONDITIONAL DISTRICT.
REFER TO COVER DRAWING FOR REFERENCES.

GENERAL NOTES:

1. EROSION AND SEDIMENT CONTROL MEASURES TO BE INSTALLED PER NCDEQ-DEMLR APPROVED EROSION AND SEDIMENT CONTROL PLAN.
2. ADJUSTMENTS TO PLANNED WORK AREAS SHALL TAKE INTO CONSIDERATION THE POTENTIAL NEGATIVE AFFECTS TO ADJACENT PROPERTY OWNERS, SUCH AS LOCATION OF WORK ACTIVITIES, POSITION OF LIGHTING, CONSIDERATION FOR NOISE LEVELS, ETC., AND WORK TO MINIMIZE THOSE AFFECTS.
3. ELECTRICAL PERMITS WILL BE OBTAINED PRIOR TO CONSTRUCTION.
4. THE LOCATION OF THE PROPOSED LAND DISTURBANCE AREA IS APPROXIMATE AND BASED ON INFORMATION PROVIDED BY THE OWNER.
5. REPRESENTATIVE PHOTOS ARE PROVIDED AS AN EXAMPLE. INDIVIDUAL ITEMS MAY VARY BASED ON SITE CONDITIONS.
6. THE PLANNED BUFFER SHOWN ON THE DRAWINGS REPRESENTS A BUFFER FROM DAILY ACTIVITIES THAT WILL OCCUR ON THE LAYDOWN YARD TO RESIDENTIAL OR COMMERCIAL STRUCTURES.

EXISTING LEGEND:

- 800 — MAJOR CONTOUR (5-FT.)
- 801 — MINOR CONTOUR (1-FT.)
- PROPERTY BOUNDARY
- DOT/ROAD EASEMENT
- UTILITY EASEMENT
- PROPERTY SETBACK
- EDGE OF ROAD
- OH-E — OVERHEAD LINE
- UTILITY POLE
- BUILDING / STRUCTURE

PROPOSED LEGEND:

- LOD — LIMITS OF DISTURBANCE
- 800 — MAJOR CONTOUR (5-FT.)
- 801 — MINOR CONTOUR (1-FT.)
- CHAIN LINK FENCE
- SILT FENCE
- POROUS BAFFLE
- TIMBER MAT
- CULVERT
- WATER DIVERSION CHANNEL
- CONSTRUCTION ENTRANCE
- GRAVEL
- TEMPORARY LIGHT PLANT
- 75-FT. PLANNED BUFFER

PLAN
0 50 100
GRAPHIC SCALE (IN FEET)

2016 AYRSLEY TOWN BLVD.
SUITE 2-A
CHARLOTTE, NC 28273
(704) 523-4726
ENGINEERING FIRM
LICENSE NUMBER: F-0176

Dominion Energy

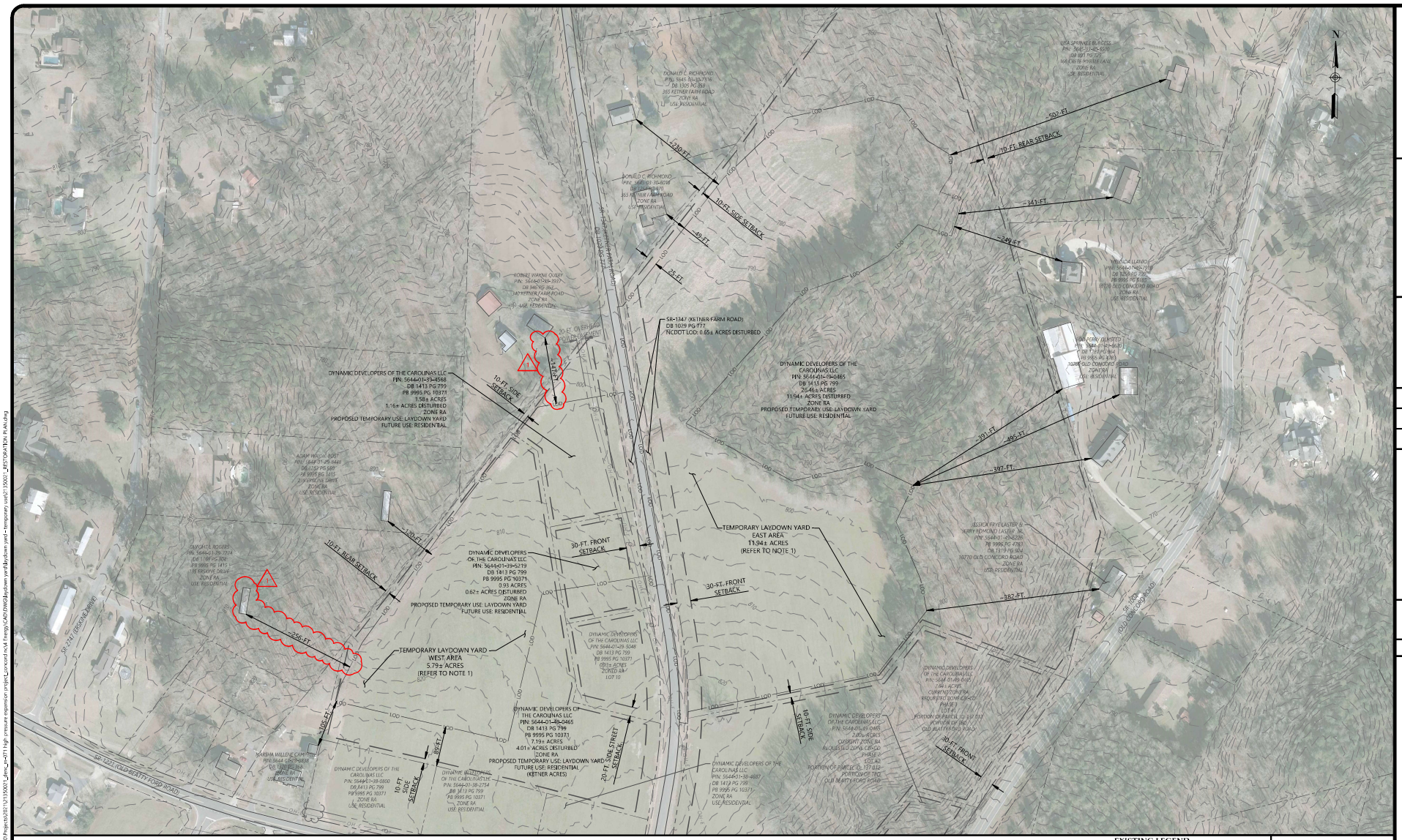
NO.	DATE	DESCRIPTION	DWG	CHK	APV
1	12/04/2023	RESPONSE TO ROWAN COUNTY COMMENTS	EJH	CJS	
0	11/09/2023	ISSUED FOR REVIEW	EJH	CJS	

TEMPORARY LAYDOWN YARD - WEST AREA

TEMPORARY USE PERMIT
M-071 KANNAPOLIS TO CONCORD SYSTEM EXPANSION LAYDOWN YARD
ROWAN COUNTY, NORTH CAROLINA

PROJECT NUMBER
21350021
DRAWING NUMBER
4 8

DRAWING PATH: I:\Charlotte-3\Projects\2021\21350021_dvnc_dn-071 high pressure expansion project_concord nc\4 Design\CAD\LDWG\layout\swm yard\layout\swm yard - temporary use\21350021_LAYDOWN YARD (1 OF 2).dwg



PARCELS DATA	AREA (ACRES)
PIN: 5644-01-39-4568:	1.58 AC
PIN: 5644-01-39-5219:	0.93 AC
PIN: 5644-01-49-0465 (WEST):	7.19 AC
PIN: 5644-01-49-0465 (EAST):	26.46 AC
TOTAL ACRES:	36.16 AC
ROADWAY FRONTAGE	**LENGTH (LF)**
WEST LAYDOWN	432.01 LF
EAST LAYDOWN	925.44 LF

GENERAL NOTE:

1. RESTORATION WILL ENCOMPASS RETURNING THE LAYDOWN YARD AREAS TO ORIGINAL GRADE AND STABILIZE THE AREAS.
2. VEGETATION WILL BE ESTABLISHED FOLLOWING THE SEEDING SCHEDULE FOUND IN THE APPROVED NCDEQ-DEMLR EROSION & SEDIMENT CONTROL PLAN.

ZONE RA = RURAL AGRICULTURAL
ZONE CBI-CD = COMMERCIAL, BUSINESS, INDUSTRIAL WITH A CONDITIONAL DISTRICT, REFER TO COVER DRAWING FOR REFERENCES.

EXISTING LEGEND:

- MAJOR CONTOUR (10-FT.)
- MINOR CONTOUR (2-FT.)
- PROPERTY BOUNDARY
- DOT/ROAD EASEMENT
- UTILITY EASEMENT
- PROPERTY SETBACK
- EDGE OF ROAD
- OVERHEAD LINE
- UTILITY POLE
- BUILDING / STRUCTURE

PLAN
0 100 200
GRAPHIC SCALE (IN FEET)

2016 AYRSLEY TOWN BLVD.
SUITE 2-A
CHARLOTTE, NC 28273
(704) 523-4726
ENGINEERING FIRM
LICENSE NUMBER: F-0176

Dominion Energy

NO.	DATE	DESCRIPTION	BY	CHK	APV
1	12/04/2023	RESPONSE TO ROWAN COUNTY COMMENTS	DMG	EJH	CJS
0	11/09/2023	ISSUED FOR REVIEW	DMG	EJH	CJS

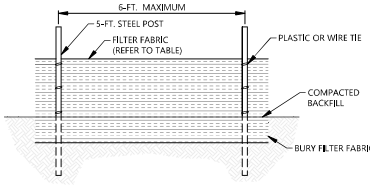
RESTORATION PLAN

TEMPORARY USE PERMIT
M-071 KANNAPOLIS TO CONCORD SYSTEM EXPANSION LAYDOWN YARD
ROWAN COUNTY, NORTH CAROLINA

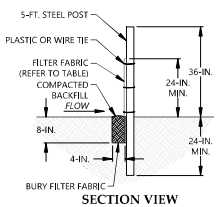
PROJECT NUMBER
21350021

DRAWING NUMBER
5 8

DRAWING PATH: I:\Active Jobs\350\Projects\0021\21350021_dmg_r071 high pressure expansion project\Current\4x4 Energy\CAD\DWG\layouts per attorney\layout yard - temporary use\21350021_RESTORATION PLAN.dwg



PROFILE VIEW



SECTION VIEW

GENERAL NOTES

1. SILT FENCE SHOULD BE INSTALLED PRIOR TO EARTH DISTURBING ACTIVITIES IN THE AREA.
2. CONSTRUCT THE FILTER FABRIC FROM A CONTINUOUS ROLL CUT TO THE LENGTH OF THE SILT FENCE TO AVOID JOINTS.
3. WHEN JOINTS ARE NECESSARY, SECURELY FASTEN THE FILTER FABRIC ONLY AT A SUPPORT POST WITH 4 FEET MINIMUM OVERLAP TO THE NEXT POST.
4. ATTACH FILTER FABRIC TO THE STEEL POSTS USING PLASTIC OR WIRE TIE (MIN. 50-LB. TENSILE STRENGTH) THAT ARE EVENLY SPACED WITHIN THE TOP 8-IN. OF THE FABRIC.
5. INSTALL THE SILT FENCE PERPENDICULAR TO THE DIRECTION OF THE STORMWATER FLOW AND PLACE THE SILT FENCE THE PROPER DISTANCE FROM THE TOE OF STEEP SLOPES TO PROVIDE SEDIMENT STORAGE AND ACCESS FOR MAINTENANCE AND CLEANOUT.
6. INSTALL SILT FENCE CHECKS (TIE-BACKS) EVERY 50-100-FT., DEPENDENT ON SLOPE, ALONG SILT FENCE THAT IS INSTALLED WITH SLOPE AND WHERE CONCENTRATED FLOWS ARE EXPECTED OR ARE DOCUMENTED ALONG THE PROPOSED/INSTALLED SILT FENCE.
7. DO NOT ATTACH FILTER FABRIC TO EXISTING TREES.
8. THE TRENCH SHOULD BE BACKFILLED AND COMPACTED ON BOTH SIDES OF THE FABRIC TO MINIMIZE WATER INFILTRATION WHICH COULD LEAD TO UNDERMINING.

POST REQUIREMENTS

1. SILT FENCE POSTS MUST BE 5-FT. LONG STEEL POSTS THAT MEET, AT A MINIMUM, THE FOLLOWING PHYSICAL CHARACTERISTICS.
   1.1. WEIGH 1.25 POUNDS PER FOOT
   1.2. 1-3/8-IN. WIDE MEASURED PARALLEL TO THE FENCE
2. POSTS SHALL BE EQUIPPED WITH PROJECTIONS TO AID IN FASTENING OF FILTER FABRIC.
3. STEEL POSTS MAY NEED TO HAVE A METAL SOIL STABILIZATION PLATE WELDED NEAR THE BOTTOM WHEN INSTALLED ALONG STEEP SLOPES OR INSTALLED IN LOOSE SOILS. THE PLATE SHOULD HAVE A MINIMUM CROSS SECTION OF 14-SQUARE -IN. AND BE COMPOSED OF 15 GAUGE STEEL, AT A MINIMUM. THE METAL SOIL STABILIZATION PLATE SHOULD BE COMPLETELY BURIED.
4. INSTALL POSTS TO A MINIMUM DEPTH OF 24-IN. A MINIMUM HEIGHT OF 1-IN. ABOVE THE FABRIC SHALL BE MAINTAINED, AND A MAXIMUM HEIGHT OF 36-IN. SHALL BE MAINTAINED ABOVE THE GROUND.
5. POST SPACING SHALL BE AT A MAXIMUM OF 6-FT. ON CENTER.
6. UTILITY LOCATES SHOULD BE COMPLETED PRIOR TO SILT FENCE INSTALLATION.
7. WOODEN POSTS ARE ALLOWED WHEN CROSSING UTILITIES. OWNER'S DESIGNATED ENVIRONMENTAL REPRESENTATIVE SHALL APPROVE LOCATIONS WHERE WOODEN POST ARE TO BE USED PRIOR TO INSTALLATION.

FABRIC REQUIREMENTS

1. SILT FENCE MUST BE COMPOSED OF WOVEN GEOTEXTILE FILTER FABRIC THAT CONSISTS OF THE FOLLOWING REQUIREMENTS:
   1.1. USE A SYNTHETIC FILTER FABRIC OF AT LEAST 95% BY WEIGHT OF POLYOLEFINS OR POLYESTER, WHICH IS CERTIFIED BY THE MANUFACTURER OR SUPPLIER AS CONFORMING TO THE REQUIREMENTS IN ASTM D 6461;
   1.2. SYNTHETIC FILTER FABRIC SHOULD CONTAIN ULTRAVIOLET RAY INHIBITORS AND STABILIZERS TO PROVIDE A MINIMUM OF 6 MONTHS OF EXPECTED USABLE CONSTRUCTION LIFE AT A TEMPERATURE OF 0 TO 120 DEGREES FAHRENHEIT;
   1.3. FREE OF ANY TREATMENT OR COATING WHICH MIGHT ADVERSELY ALTER ITS PHYSICAL PROPERTIES AFTER INSTALLATION;
   1.4. FREE OF ANY DEFECTS OR FLAWS THAT SIGNIFICANTLY AFFECT ITS PHYSICAL AND/OR FILTERING PROPERTIES; AND,
   1.5. HAVE A MINIMUM WIDTH OF 36-IN.
2. 12-IN. OF THE FABRIC SHOULD BE PLACED WITHIN EXCAVATED TRENCH AND SECURED WHEN THE TRENCH IS BACKFILLED.
3. FILTER FABRIC SHALL BE PURCHASED IN CONTINUOUS ROLLS AND CUT TO THE LENGTH OF THE BARRIER TO AVOID JOINTS.
4. FILTER FABRIC SHALL BE INSTALLED AT A MINIMUM OF 24-IN. ABOVE THE GROUND.

TABLE: EXTRA STRENGTH WOVEN FILTER FABRIC

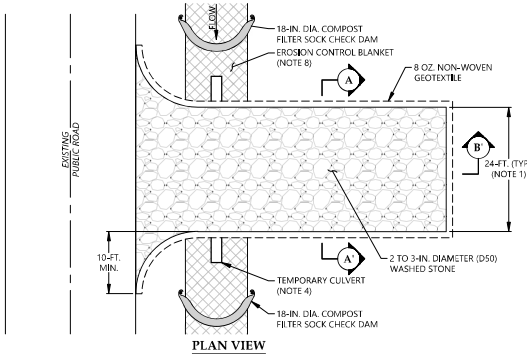
PROPERTY	TEST	VALUE
GRAB TENSILE STRENGTH	ASTM D4632	125-LBS. MARV
GRAB TENSILE ELONGATION	ASTM D4632	100-LBS. MARV
PERMITTIVITY	ASTM D4491	0.05 (SEC-1) MARV
APPARENT OPENING SIZE	ASTM D4751	US SIEVE #30
ULTRAVIOLET STABILITY AT 500 HR OF EXPOSURE	ASTM D4355	70% TYPICAL

MAINTENANCE NOTES

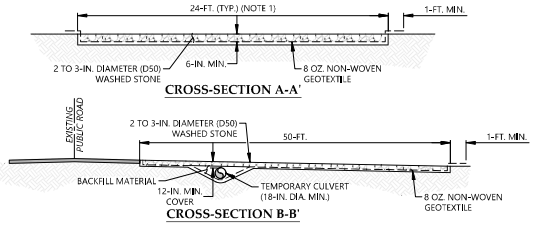
1. THE KEY TO FUNCTIONAL SILT FENCE IS INSPECTIONS, ROUTINE MAINTENANCE, AND REGULAR SEDIMENT REMOVAL.
2. INSPECT AT LEAST ONCE PER SEVEN (7) CALENDAR DAYS AND WITHIN 24 HOURS OF A RAIN EVENT GREATER THAN OR EQUAL TO 1.0-IN. IN 24 HOURS.
3. ATTENTION TO SEDIMENT ACCUMULATIONS ALONG THE SILT FENCE IS EXTREMELY IMPORTANT. ACCUMULATED SEDIMENT SHOULD BE CONTINUALLY MONITORED AND REMOVED WHEN NECESSARY.
4. REMOVE ACCUMULATED SEDIMENT WHEN IT REACHES 1/2 THE HEIGHT OF THE SILT FENCE.
5. REMOVED SEDIMENT SHALL BE PLACED IN STOCKPILE STORAGE AREAS OR SPREAD THINLY ACROSS DISTURBED AREA. STABILIZE THE REMOVED SEDIMENT AFTER IT IS RELOCATED.
6. CHECK FOR AREAS WHERE STORMWATER RUNOFF HAS ERODED A CHANNEL BENEATH THE SILT FENCE, OR WHERE THE FENCE HAS SAGGED OR COLLAPSED DUE TO RUNOFF OVERTOPPING THE SILT FENCE. INSTALL CHECKS/TIE-BACKS AND/OR REINSTALL SILT FENCE, AS NECESSARY.
7. CHECK FOR TEARS WITHIN THE SILT FENCE, AREAS WHERE SILT FENCE HAS BEGUN TO DECOMPOSE, AND FOR ANY OTHER CIRCUMSTANCE THAT MAY RENDER THE SILT FENCE INEFFECTIVE. REMOVE DAMAGED SILT FENCE AND REINSTALL NEW SILT FENCE IMMEDIATELY.
8. SILT FENCE SHOULD BE REMOVED WITHIN 30 DAYS AFTER FINAL STABILIZATION IS ACHIEVED AND ONCE IT IS REMOVED, THE RESULTING DISTURBED AREA SHALL BE PERMANENTLY STABILIZED.

REFERENCE: DETAIL BASED ON NCDEQ EROSION AND SEDIMENT CONTROL PLANNING AND DESIGN MANUAL, CHAPTERS 6 AND 8 REVISED, MAY 2013.

1/6 SILT FENCE
SCALE: N.T.S.



PLAN VIEW



CROSS-SECTION A-A'

CROSS-SECTION B-B'

GENERAL NOTES

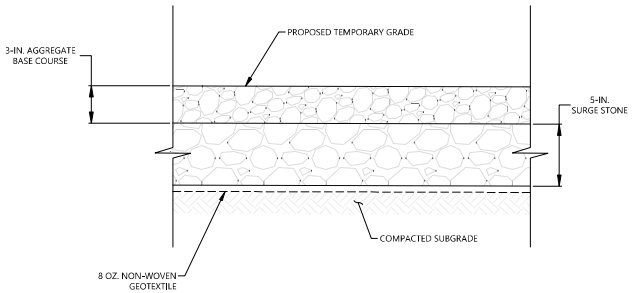
1. DUE TO SITE CONSTRAINTS THE WIDTH AND LENGTH MAY BE ADJUSTED BASED ON CONDITIONS IN THE FIELD.
2. APPROPRIATE SIGNAGE WILL BE POSTED ALONG THE ROAD TO INFORM THE GENERAL PUBLIC OF POTENTIAL CONSTRUCTION TRAFFIC PER REQUIREMENTS.
3. STOCKPILE TOPSOIL FROM CONSTRUCTION ENTRANCE INSTALLATION. USE TOPSOIL FOR BACKFILL AFTER REMOVAL OF CONSTRUCTION ENTRANCE DURING FINAL CLEANUP.
4. THE NEAREST UPSLOPE AND DOWNSLOPE CULVERT DIAMETER(S) WILL BE OBSERVED AT EACH LOCATION A CONSTRUCTION ENTRANCE IS TO BE INSTALLED WITHIN A ROADSIDE SWALE/DITCH. DIAMETER OF TEMPORARY CULVERT SHALL BE THE LARGER OF EITHER THE CULVERT, BUT NO LESS THAN 18-IN. IN DIAMETER. CONTRACTOR SHALL FIELD VERIFY AND DETERMINE APPROPRIATE CULVERT TO BE USED.
5. INSTALL 18-IN. DIA. COMPOST FILTER SOCK CHECK DAMS IN ROADSIDE SWALE/DITCH AT UPSLOPE AND DOWNSLOPE LOCATIONS OF LIMITS OF DISTURBANCE. INSTALL UPSLOPE COMPOST FILTER SOCK AT REASONABLE DISTANCE FROM THE INLET OF CULVERT TO PREVENT CLOGGING.
6. THE CONSTRUCTION ENTRANCE AND CULVERT (IF PRESENT), WILL BE REMOVED WHEN CONSTRUCTION ACTIVITIES CEASE ON THE PROJECT. THE REMOVED STONE AND SEDIMENT FROM THE ENTRANCE WILL BE HAULED OFF-SITE AND DISPOSED OF PROPERLY.
7. UPON REMOVAL OF THE CONSTRUCTION ENTRANCE, THE CONTRACTOR SHALL BRING THE AREA TO ORIGINAL GRADE AND STABILIZE IT. IF A TEMPORARY CULVERT WAS UTILIZED IN CONJUNCTION WITH THE CONSTRUCTION ENTRANCE, THE CONTRACTOR SHALL INSTALL EROSION CONTROL BLANKET AND 18-IN. DIA. COMPOST FILTER SOCK CHECK DAMS WITHIN ROADSIDE SWALE/DITCH.
8. EROSION CONTROL BLANKETS SHALL BE NORTH AMERICAN GREEN OR ENGINEER APPROVED ALTERNATIVE. REFER TO PLAN VIEW DRAWINGS FOR NORTH AMERICAN GREEN'S PRODUCT NAME FOR SPECIFIC GRADE OF EROSION CONTROL BLANKET FOR EACH ROADSIDE SWALE/DITCH.
9. INSTALL THREE 18-IN. DIA. COMPOST FILTER SOCK CHECK DAMS IN EACH IMPACTED SWALE/DITCH; UPSLOPE, DOWNSLOPE, AND MIDDLE OF OF SWALE/DITCH.

MAINTENANCE NOTES

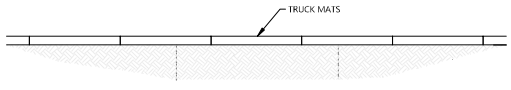
1. INSPECT AT LEAST ONCE PER SEVEN (7) CALENDAR DAYS AND WITHIN 24 HOURS OF A RAIN EVENT GREATER THAN OR EQUAL TO 1.0-IN. IN 24 HOURS.
2. THE ENTRANCE WILL BE MAINTAINED IN A CONDITION THAT WILL PREVENT TRACKING OR FLOWING OF SEDIMENT ONTO EXISTING ROADWAYS. SEDIMENT TRACKED, SPILLED, DROPPED OR OTHERWISE DEPOSITED ONTO ROADWAYS WILL BE SWEPT UP AS SOON AS PRACTICAL AND PLACED BACK WITHIN THE APPROVED DISTURBED AREA.
3. IF EXCESS SEDIMENT HAS CLOGGED THE STONE, THE ENTRANCE WILL BE TOPDRESSED WITH NEW STONE AS NEEDED. REPLACEMENT OF THE STONE MAY BECOME NECESSARY WHEN THE STONE BECOMES ENTIRELY FILLED WITH SEDIMENT AND MUD.

REFERENCE: DETAIL BASED ON NCDEQ EROSION AND SEDIMENT CONTROL PLANNING AND DESIGN MANUAL, CHAPTERS 6 REVISED, MAY 2013.

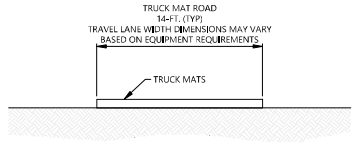
2/6 CONSTRUCTION ENTRANCE
SCALE: N.T.S.



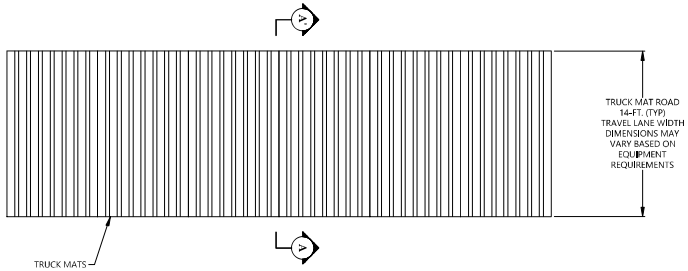
3/6 GRAVEL SECTION
SCALE: N.T.S.



TRUCK MAT ROAD SECTION VIEW



CROSS-SECTION A-A'



PLAN VIEW

MAINTENANCE NOTES

1. INSPECT AT LEAST ONCE PER 7 CALENDAR DAYS AND WITHIN 24 HOURS OF A RAIN EVENT GREATER THAN OR EQUAL TO 1.0-IN. IN 24 HOURS. INSPECT MORE FREQUENTLY DURING PERIODS OF HEAVY USE.
2. TRUCK MATS AND ALL OTHER MATERIALS SHALL BE COMPLETELY REMOVED DURING FINAL CLEAN-UP. REMOVAL OF THIS STRUCTURE IS NOT CONTINGENT UPON ESTABLISHMENT OF PERMANENT VEGETATION.

4/6 TRUCK MAT ROAD
SCALE: N.T.S.

2016 AYRSLEY TOWN BLVD.
SUITE 2-A
CHARLOTTE, NC 28273
(704) 523-4726
ENGINEERING FIRM
LICENSE NUMBER: F-0176

Dominion Energy

NO.	DATE	DESCRIPTION	DWG	CHK	APV
1	12/04/2023	RESPONSE TO ROWAN COUNTY COMMENTS	EJH	EJH	CJS
2	11/09/2023	ISSUED FOR REVIEW	DWG	BJT	CJS

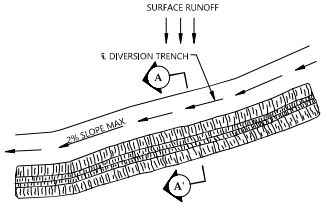
DETAILS (1 OF 3)

TEMPORARY USE PERMIT
M-071 KANNAPOLIS TO CONCORD SYSTEM EXPANSION LAYDOWN YARD
ROWAN COUNTY, NORTH CAROLINA

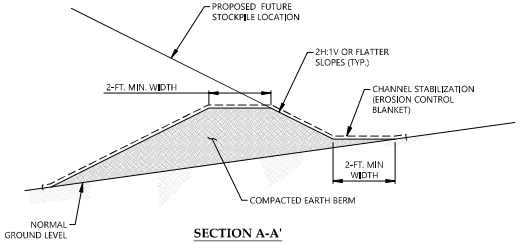
PROJECT NUMBER
21350021

DRAWING NUMBER
6 8

DRAWING PATH: K:\Active Jobs\350\Projects\0021\21350021_dmsg_v071 High pressure expansion joint\Concord to K Energy\CAD\DWG\Laydown yard\Laydown yard - temporary use\21350021_DPP1A1.dwg



PLAN VIEW



SECTION A-A'

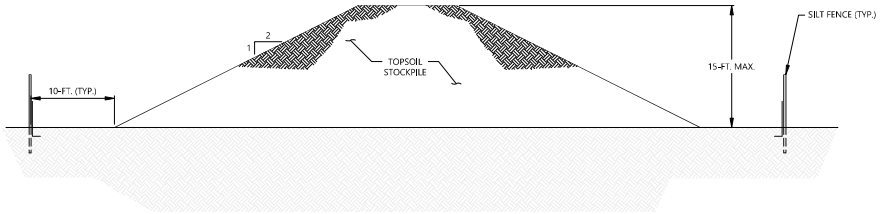
GENERAL NOTES:

1. DURING CONSTRUCTION, DIVERSION BERMS SHALL BE GRADED CONCURRENTLY WITH THE SEDIMENT BASINS AND PRIOR TO EARTHWORK PROPOSED UPSLOPE IN THE LAYDOWN YARD.
2. DIVERSION BERM SLOPES SHALL BE STABILIZED WITH A HYDROSEED MIX OR EROSION CONTROL BLANKET.
3. AFTER EARTH DISTURBING WORK HAS BEGUN, DIVERSION BERMS SHALL BE INSTALLED AS SOON AS IS PRACTICABLE AS SHOWN ON THE DRAWINGS.
4. THE DIVERSION BERM OUTLET SHALL BE LOCATED WHERE RUNOFF WILL BE RELEASED INTO THE SEDIMENT BASIN. IN THE ABSENCE OF A WELL-VEGETATED AREA, AN OUTLET STRUCTURE (OS) MUST BE INSTALLED AT THE DIVERSION BERM OUTLET.

MAINTENANCE NOTES:

1. INSPECT AT LEAST ONCE PER SEVEN (7) CALENDAR DAYS AND WITHIN 24 HOURS OF A RAIN EVENT GREATER THAN OR EQUAL TO 1.0-IN. IN 24 HOURS.
2. ACCUMULATED SEDIMENT SHOULD BE CONTINUALLY MONITORED AND REMOVED WHEN NECESSARY.
3. MAKE NECESSARY REPAIRS IMMEDIATELY.

5/7 DIVERSION BERM CHANNEL
SCALE: N.T.S.



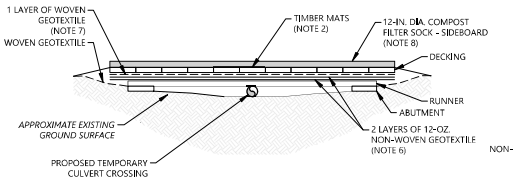
GENERAL NOTES:

1. SOIL STOCKPILE SHALL NOT EXCEED 15 FEET IN HEIGHT. SIDE SLOPES SHALL BE APPROXIMATELY 2H:1V AND SHALL NOT BE STEEPER.
2. IF THE STOCKPILE IS TO REMAIN FOR MORE THAN 14 DAYS, IT SHALL BE STABILIZED WITH PERMANENT SEEDING WITHIN 7 DAYS OF COMPLETION TO MINIMIZE EROSION.

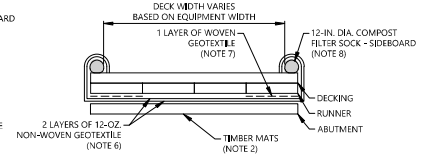
MAINTENANCE NOTES:

1. INSPECT AT LEAST ONCE PER SEVEN (7) CALENDAR DAYS AND WITHIN 24 HOURS OF A RAIN EVENT GREATER THAN OR EQUAL TO 1.0-IN. IN 24 HOURS.

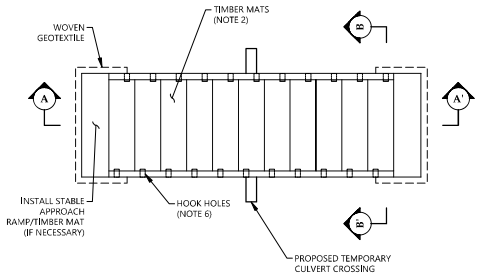
6/7 TOPSOIL STOCKPILE
SCALE: N.T.S.



CROSS-SECTION A-A'



CROSS-SECTION B-B'



PLAN VIEW

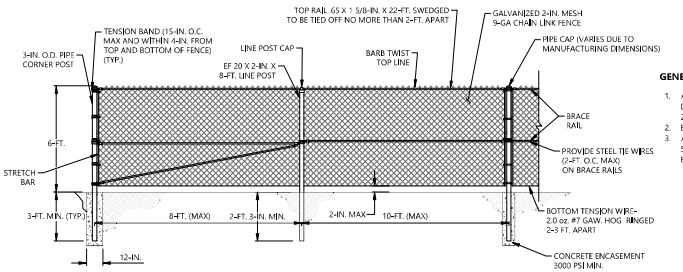
GENERAL NOTES

1. A PRE-FABRICATED BRIDGE OR FLATBED RAILCAR MAY BE SUBSTITUTED FOR THE TEMPORARY CONSTRUCTION BRIDGE.
2. BRIDGE MUST BE DESIGNED BY CONTRACTOR'S ENGINEER TO SUPPORT EXPECTED LOADS. RUNNERS ARE TO BE INSTALLED AT OUTER EDGE OF BRIDGE DECKING HOOK HOLES.
3. SECURELY ANCHOR BRIDGE AT ONE (1) END USING STEEL CABLE OR CHAIN.
4. ABUTMENTS SHOULD BE PLACED PARALLEL TO, AND ON, STABLE GROUND SUCH THAT THE STRUCTURE IS AT OR ABOVE TOP OF BANK.
5. CONTRACTOR TO COVER HOOK HOLES AS NECESSARY TO PREVENT ACCUMULATION OF SEDIMENT ON NON-WOVEN GEOTEXTILE. OWNER'S DESIGNATED ENVIRONMENTAL REPRESENTATIVE TO APPROVE OF METHOD AND MATERIALS USED TO COVER HOOK HOLES PRIOR TO INSTALLATION.
6. INSTALL TWO (2) LAYERS OF 12-OZ. NON-WOVEN GEOTEXTILE.
7. USE ONE (1) SACRIFICIAL LAYER OF WOVEN GEOTEXTILE ON THE BRIDGE "RUNNERS" TO PROTECT THE NON-WOVEN GEOTEXTILE DURING THE TEMPORARY BRIDGE INSTALLATION.
8. ALTERNATIVE MATERIALS MAY BE USED FOR SIDEBOARDS WITH APPROVAL PRIOR TO INSTALLATION. FROM OWNER'S DESIGNATED ENVIRONMENTAL REPRESENTATIVE.
9. THE CONTRACTOR SHALL REMOVE SEDIMENT DEPOSITED ON BRIDGES PRIOR TO REMOVING BRIDGE.
10. TEMPORARY EQUIPMENT BRIDGES SHALL BE REMOVED SLOWLY AND CAREFULLY TO MINIMIZE SEDIMENT FALLING FROM THE BRIDGE DURING REMOVAL OPERATIONS.

MAINTENANCE NOTES

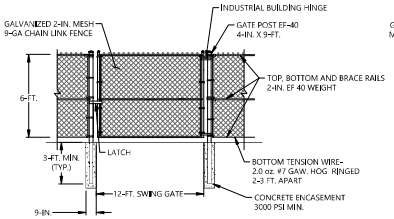
1. INSPECT AT LEAST ONCE PER SEVEN (7) CALENDAR DAYS AND WITHIN 24 HOURS OF A RAIN EVENT GREATER THAN OR EQUAL TO 1.0-IN. IN 24 HOURS.
2. TEMPORARY BRIDGE WILL BE MAINTAINED IN A CONDITION THAT WILL PREVENT SEDIMENT FROM EXITING THE LIMITS OF DISTURBANCE.
3. REMOVE SEDIMENT DEPOSITED ON BRIDGE AS NECESSARY.

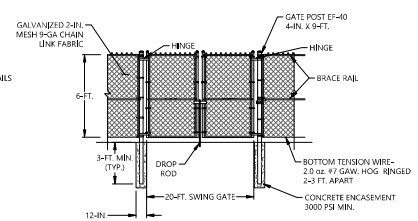
7/7 TEMPORARY BRIDGE
SCALE: N.T.S.



GENERAL NOTES:

1. ALL FENCE COMPONENT MATERIALS SHALL BE HOT DIPPED GALVANIZED STEEL FENCE MESH SHOULD BE 2.0 OZ. GAW.
2. BOTTOM SELVAGE SHALL BE KNUCKLED
3. ALL LINE POSTS TO BE DRIVEN. ALL TERMINAL POSTS SUCH AS END, CORNER, CURVE, AND GATE POSTS TO BE PLACED IN CONCRETE.





8/7 CHAIN LINK FENCE
SCALE: N.T.S.

2016 AYRSLEY TOWN BLVD.
SUITE 2-A
CHARLOTTE, NC 28273
(704) 523-4726
ENGINEERING FIRM LICENSE NUMBER: F-0176

Dominion Energy

NO.	DATE	DESCRIPTION	DWG	CHK	APV
1	12/04/2023	RESPONSE TO ROWAN COUNTY COMMENTS	EJH	EJH	CJS
0	11/09/2023	ISSUED FOR REVIEW	BFT	CJS	

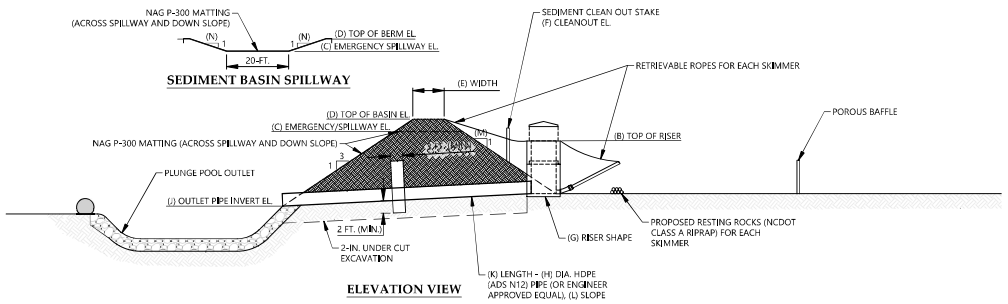
DETAILS (2 OF 3)

TEMPORARY USE PERMIT
M-071 KANNAPOLIS TO CONCORD SYSTEM EXPANSION LAYDOWN YARD
ROWAN COUNTY, NORTH CAROLINA

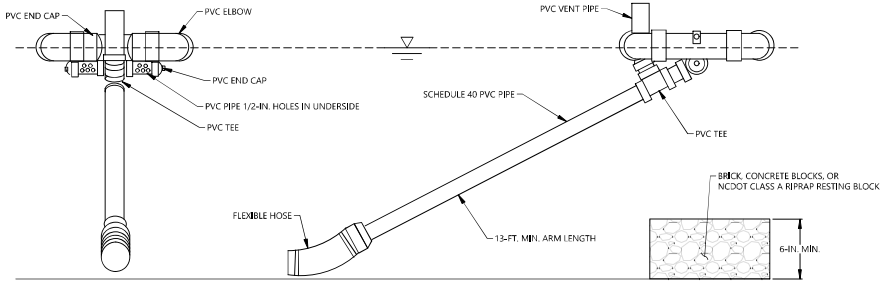
PROJECT NUMBER
21350021

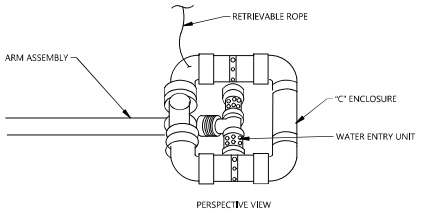
DRAWING NUMBER
7 | 8

DRAWING PATH: I:\Active Jobs\350\Projects\21350021\350021_dmsp_v071 high pressure expansion project\Current\4-5 Energy\CAD\PDW\Laydown yard\laydown yard - temporary use\350021_PTP4.5.dwg



9/8 SEDIMENT BASIN
SCALE: N.T.S.

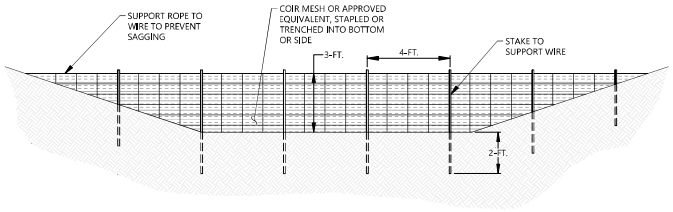




PERSPECTIVE VIEW

MAINTENANCE NOTES:
1. INSPECT SKIMMER AT LEAST ONCE PER SEVEN (7) CALENDAR DAYS AND WITHIN 24 HOURS OF A RAIN EVENT GREATER THAN OR EQUAL TO 1.0-IN. IN 24 HOURS.

10/8 SKIMMER
SCALE: N.T.S.



CONSTRUCTION SPECIFICATION
1. GRADE THE BASIN SO THAT THE BOTTOM IS LEVEL FRONT TO BACK AND SIDE TO SIDE.
2. INSTALL POSTS ACROSS THE WIDTH OF THE SEDIMENT BASIN (PRACTICE 6.62, SEDIMENT FENCE).
3. STEEL POSTS SHOULD BE DRIVEN TO A DEPTH OF 24 INCHES, SPACED A MAXIMUM OF 4 FEET APART, AND INSTALLED UP THE SIDES OF THE BASIN AS WELL. THE TOP OF THE FABRIC SHOULD BE 6 INCHES HIGHER THAN THE INVERT OF THE SPILLWAY. TOPS OF BAFFLES SHOULD BE 2 INCHES LOWER THAN THE TOP OF THE BERMS. THE BAFFLES SHOULD BE GROUNDED WITH 12-IN. STAPLES AT 12-IN. MAX SPACING.
4. INSTALL THREE ROWS OF BAFFLES BETWEEN THE INLET AND OUTLET DISCHARGE POINT AS SHOWN ON THE PLANS.
5. INSTALL A MIN. 9 GAUGE HIGH TENSION SUPPORT WIRE ACROSS THE TOP OF THE MEASURE TYING INTO BASIN SIDE TO PREVENT SAGGING.
6. WRAP POROUS MATERIAL, LIKE JUTE BACKED BY COIR MATERIAL, OVER THE TOP WIRE. THE FABRIC SHALL HAVE FIVE TO TEN PERCENT OPENINGS IN THE WEAVE. ATTACH FABRIC TO A ROPE AND A SUPPORT STRUCTURE WITH ZIP TIES, WIRE, OR STAPLES.
7. THE BOTTOM AND SIDES OF THE FABRIC SHALL BE ANCHORED IN A TRENCH OR PINNED WITH 8-INCH EROSION CONTROL MATTING STAPLES.
8. DO NOT SPLICE THE FABRIC, BUT USE A CONTINUOUS PIECE ACROSS THE BASIN.

MAINTENANCE NOTES
1. INSPECT BAFFLES AT LEAST ONCE PER SEVEN (7) CALENDAR DAYS AND WITHIN 24 HOURS OF A RAIN EVENT GREATER THAN OR EQUAL TO 1.0-INCH IN 24 HOURS.
2. MAINTAIN ACCESS TO THE BAFFLES. SHOULD THE FABRIC OF A BAFFLE COLLAPSE, TEAR, DECOMPOSE, OR BECOME INEFFECTIVE, REPLACE IT PROMPTLY.
3. REMOVE SEDIMENT DEPOSITS WHEN IT REACHES HALF FULL TO PROVIDE ADEQUATE STORAGE VOLUME FOR THE NEXT RAIN AND TO REDUCE PRESSURE ON THE BAFFLES. AVOID DAMAGING THE BAFFLES DURING CLEANOUT. SEDIMENT DEPTH SHOULD NEVER EXCEED HALF THE DESIGNED STORAGE DEPTH.
4. AFTER THE CONTRIBUTING DRAINAGE AREA HAS BEEN PROPERLY STABILIZED, REMOVE ALL BAFFLE MATERIALS AND UNSTABLE SEDIMENT DEPOSITS. BRING THE AREA TO GRADE, AND STABILIZE IT.

*REF: NCDEQ EROSION AND SEDIMENT CONTROL PLANNING AND DESIGN MANUAL, CHAPTERS 6 AND 8 REVISED, MAY 2013.

11/8 POROUS BAFFLES
SCALE: N.T.S.

2016 AYRSLEY TOWN BLVD.
SUITE 2-A
CHARLOTTE, NC 28273
(704) 523-4726
ENGINEERING FIRM
LICENSE NUMBER: F-0176

Dominion Energy

NO.	DATE	DESCRIPTION	DWG	CHK	APV
1	12/04/2023	RESPONSE TO ROWAN COUNTY COMMENTS	EJH	CJS	CJS
0	11/09/2023	ISSUED FOR REVIEW	BT		

DETAILS (3 OF 3)

TEMPORARY USE PERMIT
M-071 KANNAPOLIS TO CONCORD SYSTEM EXPANSION LAYDOWN YARD
ROWAN COUNTY, NORTH CAROLINA

PROJECT NUMBER
21350021

DRAWING NUMBER
8 | 8

DRAWING PATH: I:\Active Jobs\455\Projects\455V21\V21350021_dmsg\455V21350021_dmsg_455V1 high pressure expansion on Rte Concord to N of Finney\CAD\TEMP\Layouts\Layout and Temporary Use\455V21350021_SPP1A1.dwg

M-071 Kannapolis to Concord System Expansion – Laydown Yard
Public Service Company of North Carolina, Incorporated, a South Carolina corporation, d/b/a Dominion Energy North Carolina (DENC)
318 SR-1347 (Ketner Farm Road), China Grove, North Carolina
Temporary Use Narrative

This narrative is intended to supplement the Temporary Use Permit application and associated site plan being submitted on behalf of DENC for the proposed *laydown yard* associated with their *M-071 Kannapolis to Concord System Expansion* project in China Grove, North Carolina per Section 21-281, Subsection 2 of the Rowan County Zoning Ordinance. The items detailed below explain the proposed use and conditions of the property, ensuring that the proposed temporary use will not have a substantial negative impact on the adjoining properties, and will not endanger the public health, safety and welfare as noted in Ordinance.

The *M-071 Kannapolis to Concord System Expansion* project is the construction of approximately 24 miles of 12-inch and 8-inch diameter high-pressure steel natural gas distribution pipeline in Cabarrus and Rowan Counties, North Carolina. This expansion is to help support new growth in the area and to improve system reliability and pressure. In addition to the pipeline, 3 regulator stations will be installed along the route and 1 *laydown yard* are proposed within Rowan County. This Temporary Use Permit application is being sought after for the above referenced *laydown yard*.

This *laydown yard* portion of the project will be utilized to store materials required for construction, parking for construction equipment when not in use, employee vehicles, as well as temporary construction trailers. Utilizing a *laydown yard* is a standard protocol for projects of this nature.

The proposed pipeline and station construction schedule is from May 2024 until February 2026; with the *laydown yard* being constructed first (anticipated start of construction being February 2024). The hours of operation for the proposed *laydown yard* will be Monday through Saturday, from 6AM to 7PM.

The proposed *laydown yard* is located near the intersection of Ketner Farm Road & Old Beatty Ford Road, in China Grove, Rowan County, NC. The *laydown yard* consists of 3 individual parcels (Parcel Id Nos.: 137 012, 137 166, and 137 165 (also known as PINs: 5644-01-49-0465, 5644- 01-39-4568, and 5644-01-39-5219, respectfully). In reviewing the site plan for this project, you will notice that a portion of PIN 5644-01-49-0465 falls on the east side of SR-1347 and makes up what is known as the 'Temporary *Laydown Yard* – East Area' and PINs 5644-01-39-4568, 5644- 01-39-5219 and a portion of PIN 5644-01-49-0465 falls on the west side of SR-1347 and makes up what is known as the 'Temporary *Laydown Yard* – West Area'.

SR-1347 will provide access to both the East Area and West Area (of the temporary *laydown yard*). In order to ensure the integrity of the roadway pre-construction photos and videos will be taken along the roadway to capture the existing conditions before construction vehicles begin utilizing such for the installation of the proposed pipeline/stations. Once construction has been completed, post-construction photos and videos will be taken to view the roadway and should changes be noted between pre- and post-construction, the roadway will be restored.

Proper signs and flagmen will be utilized per the latest Manual on Uniform Traffic Control Devices (MUTCD) and NCDOT Maintenance / Utility Traffic Control Guidelines (MUTCG) to protect the general public, pedestrians, bicyclists, and road uses to prevent injury or damage. The proposed *laydown yard* is anticipated to receive roughly 20 semi-trailers/per day initially to stock the *laydown yard* with the proposed materials for this project. The initial construction and stocking of the laydown yard is proposed to last one month. As the *laydown yard* becomes stocked it is anticipated that there will be approximately 3 semi-trailers/per day. It is anticipated that there will be approximately 225 personal vehicles and 25 company

M-071 Kannapolis to Concord System Expansion – Laydown Yard
Public Service Company of North Carolina, Incorporated, a South Carolina corporation, d/b/a Dominion Energy North Carolina (DENC)
318 SR-1347 (Ketner Farm Road), China Grove, North Carolina
Temporary Use Narrative

vehicles per day. To manage the volume of traffic along the roadway, flagmen will be utilized to prevent as much disruption as possible to the landowners that live along this roadway. Flagmen will be present along Ketner Farm Road for traffic control during peak traffic coming to and leaving the laydown yard, as well as during high truck volume coming to and leaving from the site. Material delivery to the site (stockpile) is only anticipated once per day once the laydown yard is operational.

In regard to noise levels, DENC will abide by regulations as noted within Rowan County's Code of Ordinances. DENC does not anticipate loud noises to be heard by the local landowners due to the type of work being conducted onsite and proximity to the adjacent landowners. Should noise become an issue, then DENC will construct a solid fence as a barrier between the *laydown yard* and the adjacent landowners to help attenuate the noise. The primary noise to be anticipated within the laydown yard will involve the movement of equipment, primarily the equipment backing up. This will be mitigated by the contractor utilizing pull-forward navigation as much as feasibly possible throughout the site. A planned buffer has already been put in place to further separate the *laydown yard* from the residents.

Temporary Laydown Yard – East Area

The East Area of the *laydown yard* primarily includes the majority of the employee parking, as well as the main work area for the pipeline project. In addition to these items, the features below are to be utilized.

Stockpile: stockpiles of topsoil and subsurface soil displaced from pipe installation will be separately stored at the *laydown yard*. These materials are then either used for fill within the remainder of the project as needed, topsoil to be used for stabilization after construction is complete, and any remaining material is hauled of off-site after project completion. Material delivery to the site is anticipated to be once per day once the laydown yard is operational.

Construction Waste Area: This area is designated to contain wet soil from utilizing a hydrovac to cut and liquefy and extract the soil from excavation during the pipe installation. This wet soil is required to have a place to set out and dry before being hauled off to an approved disposal facility. This area will be utilized to isolate the overly saturated, slurry material from the normally dry soil placed in the stockpiles; this material will not have been in contact with any contaminants and will not be required to be hauled off to a special waste facility.

Timber Mat Road and Bridge: Timber matting will be installed and maintained during the duration of the Project to protect the existing ground, as well as all streams and ditches within the project area. Utilizing these Best Management Practices (BMPs) aid in minimizing temporary impacts to the water features identified within the laydown yard. Once construction has been completed, the timber matting will be removed, and streams and ditches will be re-stabilized and brought back to existing conditions. It is important to note that no streams or associated wetlands will be permanently impacted by this *laydown yard*.

Work Area: Within the work area materials will be prepped for installation in the field. Prepping may include welding pipe fittings, bending pipe, etc. for field assembly.

Construction Entrance: A construction entrance is a stabilized area underlain with a geotextile and is used to reduce the amount of mud track off-site with construction traffic at the site ingress/egress location.

M-071 Kannapolis to Concord System Expansion – Laydown Yard
Public Service Company of North Carolina, Incorporated, a South Carolina corporation, d/b/a Dominion Energy North Carolina (DENC)
318 SR-1347 (Ketner Farm Road), China Grove, North Carolina
Temporary Use Narrative

Construction entrances will provide buffer areas where construction vehicles can drop their mud to avoid transporting it onto public roads.

Sediment Basin: Sediment basins are an important part of erosion and sediment control in construction activities. These basins help mitigate impacts of soil erosion and protect water quality by capturing and removing sediment from stormwater runoff prior to leaving the property. Each sediment basin has been designed, at a minimum, per North Carolina Department of Environmental Quality (NCDEQ) design standards within a High-Quality Water (HQW) Zone. Increased design standards, such as designing to a minimum surface area of 425 square feet (rather than the required 325 square feet) per cubic feet per second (cfs) for the peak flow from the 25-year, 24-hour design storm event, has been implemented into this design. Other stormwater conveyance measures are designed to the 25-year, 24-hour design storm event for life of the *laydown yard*. An approved Erosion & Sediment Control (E&SC) Plan will be obtained from NCDEQ prior to commencement of construction activities.

Silt Fence: The purpose of the silt fence is to prevent sediment carried by sheet flow from leaving the site and entering natural drainage ways or storm drainage systems by slowing stormwater runoff and causing the deposition of sediment at the structure. Silt fencing encourages sheet flow and reduces the potential for development of rills and gullies. Silt fence will be installed where sheet flow runoff can be stored behind the barrier without damaging the barrier or the submerged area behind the barrier. All silt fences will be installed along the contour to the greatest extent practicable.

Lighting: The purpose of lighting within the *laydown yard* is for work and property safety. Before daylight and at dusk lighting may be cast within the laydown area in order to help see the overall surrounding land and to prevent any accidents/injuries. Note, that the lighting utilized will be moveable/downcast to prevent any nuisance to local landowners.

<u>Temporary Laydown Yard – West</u>

The West Area of the *laydown yard* primarily includes the temporary construction trailers, as well as material storage.

Temporary Construction Trailers: Construction trailers at a *laydown yard* serves several important purposes in the context of construction projects. Construction trailers provides office space, storage, security, shelter, and communication resources, all of which are essential for managing a construction site effectively and ensuring the project's success. Construction trailers to be utilized during the duration of the *laydown yard* usage will only be brought on-site after the proper building permits are obtained.

In addition to these items, the following features are to be utilized and are described in detail under '*Temporary Laydown Yard – East Area'*:

- Stockpile
- Timber Mat Road
- Construction Entrance
- Sediment Basin
- Silt Fence
- Lighting

It should be noted that within this 'West' *laydown yard*, a clean water diversion will also be installed.

M-071 Kannapolis to Concord System Expansion – Laydown Yard
Public Service Company of North Carolina, Incorporated, a South Carolina corporation, d/b/a Dominion Energy North Carolina (DENC)
318 SR-1347 (Ketner Farm Road), China Grove, North Carolina
Temporary Use Narrative

Clean Water Diversion: A clean water diversion ditch is a channel or watercourse designed to redirect clean or uncontaminated water away from an area where it might otherwise mix with polluted or contaminated water, preventing the contamination of the clean water source. During construction activities, clean water diversion ditches are used to separate clean stormwater runoff from areas with construction debris, sediment, or chemicals.

Post-Construction Restoration

After the permanent termination of construction activities, all areas will be restored utilizing permanent ground stabilization methods as soon as practicable. The purpose of the permanent ground stabilization is to controlling runoff and erosion on disturbed upland areas, accomplished by establishing perennial vegetative cover with seed. The *laydown yard* site will return to the pre- existing conditions; Sediment basins will be filled and stabilized to return to existing grade, construction trailers will be removed, truck road matting will be removed, and gravel utilized will be hauled off.

Seeding will be completed immediately following site reclamation and prior to project completion. Prior to seeding, all surfaces shall be scarified to a depth of four to six inches to enhance seed germination and help impede stormwater runoff. General seeding guidelines are as follows:

Mid-February through mid-April:

- Tall fescue 80 to 100 lb/acre
- Bermuda grass 20 to 30 lb/acre
- Switchgrass 10 lb/acre

Mid-April through July:

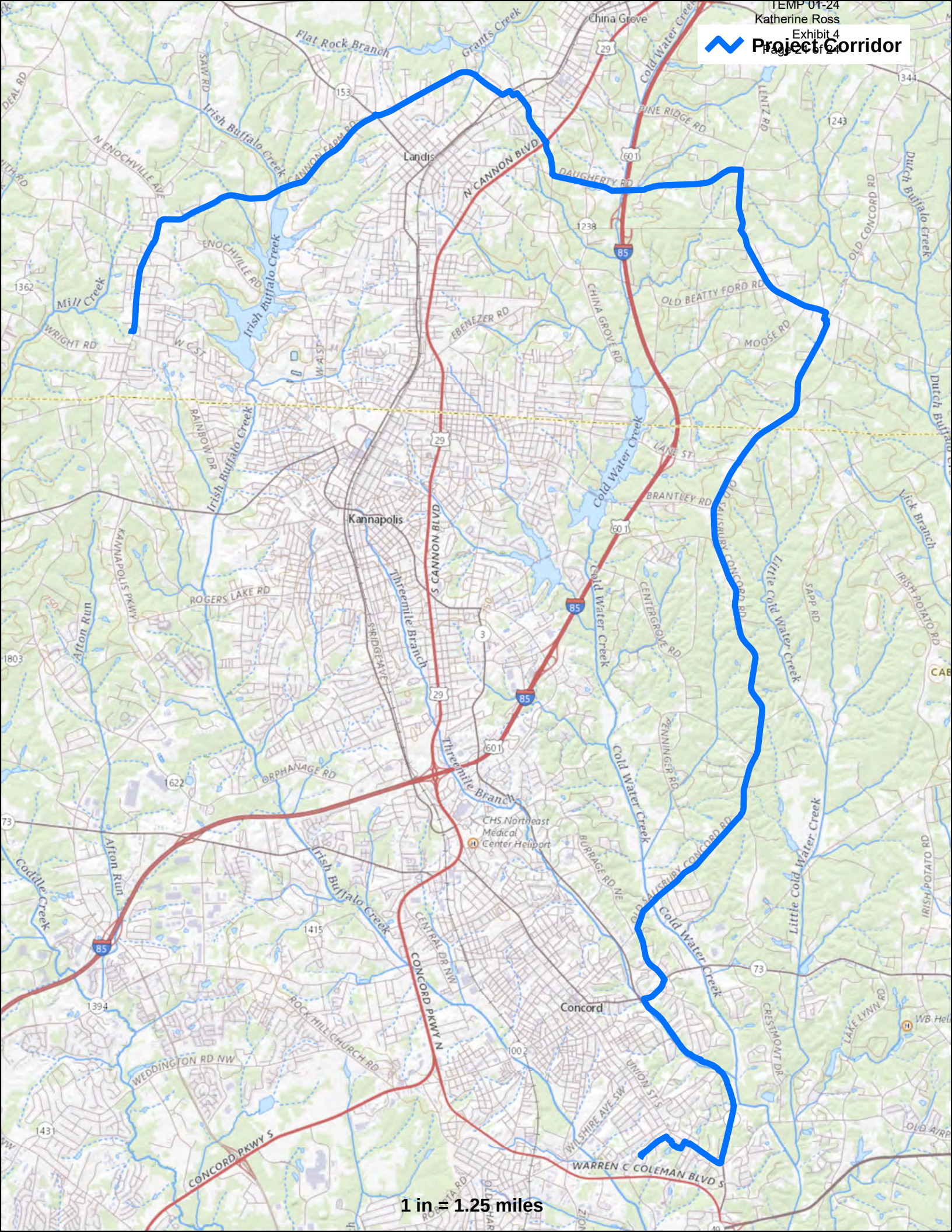
- Switchgrass 30 to 40 lb/acre
- Tall fescue 80 lb/acre
- August through mid-February:
- Tall fescue 80 to 100 lb/acre
- Bermuda grass 20 to 40 lb/acre
- Rye grain 40 lb/acre

The contractor will warrant vegetation growth for one year after establishment. Mulch or matting shall be applied to all seeded areas to aid in the establishment of vegetation and help impede erosion. Vegetative mulch, typically wheat or oat straw, shall be applied at the minimum rate of 4000 lbs/acre and anchored with 400 gallons per acre of asphalt tack or acceptable alternative. The Contractor will identify areas that show signs of surficial compaction and break up these areas with mechanical equipment prior to seeding to aid in proper seed germination and growth.

An NCDOT Driveway Permit for the four (4) proposed temporary driveways will be applied for in the next week (or so) and that application number can be forwarded to the County once available. Upon DENC/HDR is in receipt of the NCDOT Driveway Permit, HDR will forward to the County for their records.

Should you have any questions or need additional information, please feel free to reach out to Amber Liepse, at Amber.Liepse@hdrinc.com or by phone at (629) 228-7584 or Tara Bauer, at Tara.Bauer@hdrinc.com or by phone at (773) 380-7942.

M-071 Kannapolis to Concord System Expansion – Laydown Yard
Public Service Company of North Carolina, Incorporated, a South Carolina corporation, d/b/a Dominion Energy North Carolina (DENC)
318 SR-1347 (Ketner Farm Road), China Grove, North Carolina
Temporary Use Narrative


Project Corridor
China Grove
Landis
Kannapolis
Concord
Flat Rock Branch
Grants Creek
Irish Buffalo Creek
Mill Creek
Cold Water Creek
Threemile Branch
Afton Run
Coddle Creek
Little Cold Water Creek
Dutch Buffalo Creek
Lick Branch
N CANNON BLVD
S CANNON BLVD
CONCORD PKWY N
CONCORD PKWY S
WARREN C COLEMAN BLVD S
ROGERS LAKE RD
ORPHANAGE RD
EBENEZER RD
OLD BEATTY FORD RD
MOOSE RD
BRANTLEY RD
DAUGHERTY RD
PINE RIDGE RD
CHINA GROVE RD
ENOCHVILLE RD
WRIGHT RD
RAINBOW DR
KANNAPOLIS PKWY
SAW RD
LENTZ RD
OLD CONCORD RD
LANE ST
CENTERGROVE RD
SAPP RD
IRISH POTATO RD
ZENNINGER RD
BURRAGE RD NE
CENTRAL DR NW
ROCK HILL CHURCH RD
WEDDINGTON RD NW
WILSHIRE AVE SW
UNION ST S
CRESTMONT DR
LAKE LYNN CIR
CHS Northeast Medical Center Heliport
1 in = 1.25 miles

Rowan County Department of Planning & Development
402 N. Main Street Ste 204
Salisbury, NC 28144
Phone (704) 216-8588
Fax (704) 638-3130
www.rowancountync.gov

Case # **TEMP** 01-24
Date Filed 11/15/23
Received By SAS
Amount Paid $200 cc

Office Use Only

TEMPORARY USE PERMIT APPLICATION

OWNERSHIP INFORMATION:

Name: Dynamic Developers of the Carolinas, see attached 'DENC (M-071) - FULLY EXECUTED Temporary Use Consent Letter'.

Signature: _____

Phone: _____ Email: _____

Address: _____

_____

APPLICANT / AGENT INFORMATION:

Name: Public Service Company of North Carolina, Incorporated, a South Carolina corporation, d/b/a Dominion Energy North Carolina

Signature: _____

Phone: 704-718-4282 Email: brandon.aycock@dominionenergy.com

Address: 800 Gaston Road
Gastonia, NC 28056

PROPERTY DETAILS:

Tax Parcel: 137 012 ; 137 166 ; 137 165 Zoning District: RA

Date Acquired: 11/15/2022 Deed Reference: Book 1413 Page 799

Property Location: 318 Ketner Farm Road, China Grove, Rowan County, NC 28023

Size (sq. ft. or acres): 36.16 Acres Street Frontage: 652' West side and 945' East side of Ketner Farm Road

Current Land Use: land is a mixture of woodland and vacant land

Surrounding Land Use:
North Residential and woodland
South Residential and farmland
East Residential and woodland
West Residential

PURPOSE & SECTION:

State purpose of temporary use permit:

See narrative attached

Commence date: 02/2024 Ending date: 02/2026

Days / Hours of operation: 6 days week / 13 hour days

Cite section(s) of Zoning Ordinance which permit is being requested:

Section 21-281, Subsection (2)

ATTACHED DOCUMENTS:

Applicant must attach a site plan based on information required in Section 21-52 and address criteria found in Section 21-281.

Attached: Yes ☑ No ☐

OFFICIAL USE ONLY

1. Signature of Coordinator: _____ 2. Board of Commissioners Public Hearing: 1 / 16 / 24 3. Notifications Mailed: 1 /3&4/ 24 4. Property Posted: 1 / 4 / 24 5. BOC Action: Approved _____ Denied _____ 6. Date Applicant Notified: / /

October 30, 2023

Attention: Mr. Shane Stewart, Asst. Planning Director

Reference: Rowan County Temporary Use Permit

M-071 Kannapolis to Concord System Expansion – Laydown Yard
Public Service Company of North Carolina, Incorporated, a South Carolina corporation, d/b/a Dominion Energy North Carolina
Rowan County, North Carolina

Mr. Shane Stewart:

Please be advised that I, _____, manager
(Name) (Title)

for Dynamic Developers of the Carolinas, LLS, and owner of Parcels ID Nos: 137 012, 137 166, 137 165 and 137 164 (also known as PINs: 5644-01-49-0465, 5644-01-39-4568, 5644-01-39-5219, 5644-01-39-5048, respectfully) in Rowan County, North Carolina, authorizes Public Services Company of North Carolina, Incorporated, a South Carolina corporation, d/b/a Dominion Energy North Carolina to act as an agent on our behalf in all matters related to obtaining a Temporary Use permit for the proposed laydown yard on the above-mentioned parcels.

Chad Jacobs, PE

Oil and Gas Program Manager

With nearly 20 years of oil and gas industry experience, Chad is HDR's Oil and Gas Program Manager and an experienced project manager who has worked on many oil and gas pipeline projects across the country. He has been involved in Federal Energy Regulatory Commission (FERC) linear projects, permitting for oil and gas projects, trenchless pipeline installations, and served as technical lead and owner's engineer on civil, environmental, and construction projects from concept to closeout. In addition, he is skilled at identifying and delineating routing, design, and construction risk pertaining to oil and gas pipelines and their associated facilities. Chad is a professional engineer in six states, and he has earned his Institute for Sustainable Infrastructure (ISI) Envision Sustainability Professional designation.

EDUCATION
Bachelor of Science, Civil Engineering, Georgia Institute of Technology, 2001

REGISTRATIONS
Professional Engineer,
Florida #64786, Civil
Texas #111944
Ohio #76652, Civil
Pennsylvania #079782, Civil
Louisiana #36228, Civil
West Virginia #19718, Civil

ISI Envision Sustainability Professional, Pennsylvania

CERTIFICATION
Technical Toolboxes
Horizontal Directional Drill classroom certification, 2015

RELEVANT EXPERIENCE

Dominion Energy, M-121 Pipeline Replacement, Wake County, NC
Dominion Energy North Carolina, Inc. (DENC) is replacing its M-121 eight-inch-diameter pipeline with a new 12-inch-diameter steel distribution pipeline to provide additional capacity to meet growing demand in Wake County, North Carolina. The new natural gas distribution pipeline is approximately eight miles long and will stretch from the Town of Cary to the City of Raleigh. The large project is split into three phases so DENC can bring the new pipeline in service one phase at a time. HDR's services include refining the new pipeline route and leading environmental studies and permitting, survey, land acquisition, strategic communications and public outreach, and engineering and design of the pipeline, including trenchless crossings and tie-ins. HDR is also aiding in the abandonment of the old pipeline with construction estimated to be finished in 2023.
Role: Principal-in-Charge

Dominion Energy, Cardinal to NC State Pipeline Project, Wake County, NC
HDR is providing Dominion Energy professional services for its proposed 10 miles of 12-inch-diameter, steel high-pressure transmission gas main. This new pipeline will be installed in a combination of public and private easement, and HDR developed a detailed routing study, capital expenditure estimate, and project development schedule to assist Dominion with project planning and budgeting. The project includes tie-ins at the Cardinal Pipeline, NC State power generation facility, and a pressure regulating station. HDR is also providing trenchless design services for multiple conventional bore and horizontal directional drill (HDD) pipeline crossings on the project. Other HDR services include pipeline design engineering, geotechnical investigation, environmental permitting, design survey, and project management.
Role: Project Manager

DTE Energy, Fort Street Main Replacement, Detroit, MI
DTE Energy is conducting a multi-phased, large main replacement project to improve safety and reliability to the downtown area of Detroit. The project includes the installation of 24-, 20-,16-, and 12-inch-diameter high-pressure pipe, multiple regulator stations, and high-pressure commercial services. As the lead consultant on the project, HDR is providing detailed survey, utility and geotechnical investigations, route evaluation, engineering design, trenchless engineering, environmental, and permitting and coordination for each phase of the project.
Role: Phase Lead

Dominion Energy, Kennerly Gas Main Growth Feeder Project, Lexington County, SC
Dominion Energy planned the construction of this natural gas growth feeder main in Lexington County, South Carolina. The Kennerly Road Growth Feeder project consisted of approximately 4.4 miles of 8-inch diameter, high-pressure steel gas main, and included a regulating station near the intersection of Eleazer Road as well as at the tie-in point. Our team provided project management, permitting, and pipeline, facility, and trenchless engineering design services, and the surveying of approximately 50 property parcels.
Role: Principal-in-Charge

Dominion Energy, Crooked Creek Growth Feeder Project, Lexington County, SC
HDR provided surveying, pipeline, trenchless, and facility engineering, permitting, and as-built collection services to Dominion Energy for this natural gas growth feeder project. Located in Lexington County, the Crooked Creek Road Growth Feeder project consisted of approximately 3 miles of 6-inch diameter high pressure steel gas main. The project included a regulating station near US-76. Although the project proposal showed the route along Crooked Creek Road, easement/right-of-way (ROW) acquisitions were required outside of SCDOT ROW, and other routing options were included into the original scope.
Role: Principal-in-Charge

Dominion Energy, Clemson Road Growth Feeder Project, Richland County, SC
HDR was hired to provide surveying, engineering, permitting, and as-built collection services to Dominion Energy for this natural gas growth feeder project. The Clemson High Pressure Growth Feeder is located in Richland County and consisted of approximately 4.5 miles of 8-inch diameter Steel High Pressure pipeline. This project included the abandonment of an existing 4-inch diameter high-pressure line and replacing it with the proposed 8-inch diameter high-pressure steel main, and at least one (1) Regulating Station with a tie-in to an existing distribution main.
Role: Principal-in-Charge

Dominion Energy, Calks Ferry Growth Feeder Project, Lexington County, SC
Dominion Energy planned the construction of this natural gas growth feeder main in Lexington County, South Carolina. The Calks Ferry to Edmund Highway Growth Feeder project consisted of approximately 10 miles of 8-inch diameter, high-pressure steel gas main, and included a regulator station near Edmund Highway. Our team provided project management, permitting, and pipeline, facility, and trenchless engineering design services, and the surveying of approximately 150 property parcels.
Role: Principal-in-Charge

Black Hills Energy, Highway 20 Pipeline Relocation Project, Dubuque, IA
HDR was selected by Black Hills Energy to provide design services for the relocation of an existing gas pipeline near Hwy 20 and Swiss Valley Road near Dubuque, IA. The pipeline relocation will include about 2.5 miles of 16-inch diameter natural gas pipeline as well as 2 regulator stations. The pipeline project includes two horizontal directional drills (HDDs) of 825 and 1,450 feet and two jack and bores (J&Bs). HDR's role is the overall program manager as well as leading the engineering design and development of alignment sheets for the project.
Role: HDD Engineering Lead

UGI Utilities, Inc., Cleona Reinforcement Project, Lebanon County, PA
HDR completed planning, permitting and design of a 3-mile high/medium pressure pipeline system. In addition to the linear footage of pipe, the project included two tie-ins, three directional drills and one regulator station. We self-performed all

activities including field biological and geotechnical survey. The project remained on schedule and budget as it headed into construction. We also provided construction as-built survey services and utilized our web based asset management and data tracking tool, TecHub to view real time progress of the construction process.
Role: Engineering Design

Southern Company Gas, Wade Green Road Corridor Recommendation Study, Kennesaw, GA
Southern Company Gas (SCG) engaged HDR to identify a preferred pipeline corridor and provide a Corridor Recommendation Study (CRS) for the Wade Green Road Pressure Improvement Project, which will maintain natural gas distribution from the Marietta to Cherokee service areas in Georgia. The study evaluated the viability of multiple pipeline sections by identifying risks, challenges, and opportunities associated with each section. The CRS included extensive desktop analysis that was cross-checked and confirmed through a field verification. HDR then created a ranking matrix and risk registers to provide the quantitative justification for the final selection and/or elimination of pipeline corridors.
Role: Project Manager

Southern Company Gas, Murray County to Ellijay Corridor Recommendation Study, Murray, Pickens, Gilmer, and Cherokee Counties, GA
HDR supported the development of a Corridor Recommendation Study for the proposed Murray County to Ellijay Pressure Improvement Project located in north Georgia. HDR evaluated five potential pipeline routes and prepared a final Corridor Recommendation Study report for the two routes that HDR recommended. For each potential route, our team prepared an extensive Desktop Route Evaluation and Field Route Evaluation that included CRS Ranking Matrices, Data Gathering, Route Corridors, and a final Corridor Recommendation Study report.
Role: Project Manager

TC Energy, Pipe Exposure Assessments, LA to NY
TC Energy has identified exposures along its existing pipeline spanning from Louisiana to New York. HDR's geographic information systems (GIS) analysts have created a geospatial database to assess, track, and address these pipeline sites. HDR originally deployed field teams from eight HDR offices to work 12-hour days, six days a week to evaluate each site in only four months, but the COVID-19 Pandemic delayed this ambitious goal. The database of pipeline sites is accessed via a web-based application, also created by HDR, to streamline the data collection process and provide increased data security, quality control, and cost and time savings.
Role: Principal-in-Charge

UGI Utilities, Inc., Horizontal Directional Drill Projects, PA
HDR has permitted and designed over 20 horizontal direction drill (HDD) projects for UGI. The scope of work for these projects include alignment selection, geotechnical investigation, environmental field surveys, permitting, HDD design including bore hole stability calculations and preparation of construction bid documents. These projects cover both plastic and steel pipe design under waterways, wetlands or roads. Self-preforming the geotechnical investigation and reporting work has allowed HDR to streamline the design process and turn around a fully designed project within a week after the bore log is finalized.
Role: QC Lead

Black Hills Energy, Natural Bridge Gas Pipeline Project, WY
HDR provided gas planning services for this 35-mile, 12-inch diameter natural gas transmission project. In addition the pipeline project includes a new regulator station as well as 13 horizontal directional drills ranging from 950 to 4,500 feet in length and six 6 jack and bores. Scope of services includes engineering and design for Issue for Review, Issue for Bid and Issue for Construction phases including trenchless crossing designs; development of Bill of Materials and TIC estimate; geotechnical investigation for the various trenchless crossing designs; cost estimating for environmental permitting, land acquisition, survey, engineering, procurement of materials, construction, and restoration.
Role: Trenchless Crossing Engineering Lead

Duke Energy, ULO2 Pipeline Relocation, Pleasant Valley Road, Boone County, KY
HDR is providing engineering and design, survey, permitting, and environmental services to Duke Energy for the relocation of approximately 1,000 feet of a 12-inch-diameter, high pressure natural gas distribution pipeline. In addition, our team will provide procurement and construction consulting when the project goes to construction. The pipeline relocation is needed because the Kentucky Transportation Cabinet is widening Pleasant Valley Road from two to five lanes.
Role: Principal-in-Charge

Duke Energy, HAM-32 Eight-Inch Main Replacement Project, Anderson Township, Hamilton County, OH
HDR provided professional services for the Emergent HAM 32 – Eight-Inch Main Replacement that included design and as-built survey, environmental and permitting, engineering services, and MAOP verification for the project that included replacing approximately 900 feet of eight-inch SWPC high-pressure natural gas distribution main so it did not conflict with the Ohio Department of Transportation's (ODOT) road construction for the ODOT HAM-32-6.82 project. HDR worked quickly and efficiently to meet the quick schedule turnaround.
Role: Principal-in-Charge

Enbridge, NEXUS Gas Transmission Line Project, OH, MI
The project includes construction of approximately 250 miles of new 36-inch diameter natural gas transmission mainline pipeline as well as several smaller lateral pipelines and installation of four new gas turbine compressor stations. HDR provides Fluor with technical support throughout FERC Pre-Filing and Filing process relative to the 7(c) Application and Environmental Resource Report production and submittal. HDR personnel are embedded within Flour's engineering team. HDR is leading the environmental inspection services during construction and is responsible for assisting in the execution of the contractor's environmental training. HDR will perform post-construction and restoration monitoring.
Role: Project Manager

Williams TransContinental (Transo) Pipe Line Company, LLC, Atlantic Sunrise Expansion Project, PA
This project consisted of compression and looping of the Transco Leidy Line in Pennsylvania along with a greenfield pipeline segment, referred to as the Central Penn Line, connecting the Northeastern Marcellus producing region to the Transco mainline near Station 195 in Southeastern Pennsylvania. Additional existing Transco facilities were added or modified to allow natural gas to flow bi-directionally. The preliminary project design included a total of approximately 183 miles of new greenfield pipe, two pipeline loops totaling about 12 miles, 2.5 miles of existing pipeline replacement, two new compressor facilities (PA), and other facility additions or modifications in five states (PA, MD, VA, NC, SC).
Role: Project Engineer

NORTH CAROLINA
ROWAN COUNTY

ROWAN COUNTY BOARD OF COMMISSIONERS
(TEMP 01-24)

IN RE DOMINION ENERGY NORTH CAROLINA TEMPORARY USE PERMIT

AFFIDAVIT OF MATTHEW KUNKLE

I, MATTHEW KUNKLE, being duly sworn, hereby deposes and says:

1. I am over the age of eighteen years old, am under no disability, and have personal knowledge of all matters stated in this Affidavit.

2. I received a Bachelors degree in Civil Engineering from Clemson University. I am a licensed professional engineer in North Carolina, and have been licensed for four (4) years.

3. I have been employed as a project engineer with S&ME, Inc. for over four (4) years and in that role I routinely prepare erosion & sedimentation control plans for multiple uses, including for laydown yards in support of natural gas pipeline projects.

4. I have prepared the erosion & sedimentation control plans (the "E&SC Plans") for the laydown yard that is proposed to be constructed by Dominion Energy North Carolina ("DENC") and which is the subject of a temporary use permit application to Rowan County. The E&SC Plans are anticipated to be submitted to the North Carolina Department of Environmental Quality in February, 2024. The laydown yard will obtain a Certificate of Plan Approval from the North Carolina Department of Environmental Quality in accordance with North Carolina General Statute 113A – 57 (4) and 113A – 54 (d) (4) and North Carolina Administrative Code, Title 15A, Chapter 4B.0107 (c) and a Certificate of Coverage under the NCG010000 Construction Stormwater General Permit (the "E&SC Permits").

5. A regulated surface waters assessment was performed by S&ME on October 13, 2023 on the Project Area and no stream or wetlands were found in the Project Area.

6. The E&S Plans provide for three sediment basins to control sediment and erosion from the Project Area. Each sediment basin is designed to meet or exceed North Carolina Department of Environmental Quality design standards to prevent soil erosion and remove sediment from stormwater runoff.

7. Other erosion and sediment control measures may include, but are not limited to, use of silt fence, compost filter sock, gravel, truck matting, and establishment of construction entrances.

8. A stormwater diversion ditch is proposed to divert stormwater runoff from entering the Project Area and prevent it from mixing with stormwater runoff within the Project Area.

9. The E&SC Plans provide that, at the end of the temporary use as a laydown yard, existing conditions will be restored to the extent practical and pre-construction contours will be restored, leaving existing overland flow drainage patterns intact. The proposed sediment basins, construction entrances, gravel, truck matting and other erosion & sedimentation control measures will be removed. A representative of North Carolina Department of Environmental Quality will inspect the site for close-out. The Project Area will be stabilized by spreading a seed mix as a post-construction erosion control and stabilization measure. Following an approved close-out inspection by North Carolina Department of Environmental Quality, the E&SC Permits will be terminated under a Notice of Termination request.

10. Based on my professional training and my experience in the preparation of erosion & sedimentation control plans, it is my opinion that, if the erosion and sedimentation control measures are implemented and maintained per approved E&SC Plans, the laydown yard will function in accordance with the North Carolina Department of Environmental Quality's Erosion & Sediment Control Planning and Design Manual, including but not limited to that there will be

no net increase in stormwater discharge from the use of the Project Area as a temporary laydown yard.

FURTHER, AFFIANT SAYETH NOT.

This the 16 day of January 2024.

Matthew Kunkle

Signed and sworn to before me this day by Matthew Kunkle.

Date: 1/16/2024

Official Signature of Notary Public

Christine P. Smurr, Notary Public

(Official Seal)

CHRISTINE P. SMURR
NOTARY PUBLIC
MECKLENBURG CO.
MY COMM. EXP.
2/26/2024
NORTH CAROLINA

My commission expires: 2/26/2024

N
TOPSOIL STOCKPILE
TEMPORARY SEDIMENT BASIN (TSB-2)
AGGREGATE STOCKPILES
CONSTRUCTION WASTE AREA
EMPLOYEE PASSING
EMPLOYEE PARKING
TOPSOIL STOCKPILE
SR-1347 KEITHER FARM ROAD
DB 1019 PG 777
TEMPORARY SEDIMENT BASIN (TSB-3)
TOPSOIL STOCKPILE
EMPLOYEE PARKING
ARO PIPE & FITTING STORAGE
TEMPORARY SEDIMENT BASIN (TSB-1)
TOPSOIL STOCKPILE
MATERIAL STORAGE
TOOL ROOM & MATERIAL STORAGE AREAS
EMPLOYEE PARKING
TOPSOIL STOCKPILE
ENGINEERING BENDING AREA
FUEL STORAGE
MATERIAL STORAGE
TOPSOIL STOCKPILE
MATERIAL STORAGE
TOPSOIL STOCKPILE
8-IN. PIPE STORAGE
12-IN. PIPE STORAGE
OH E
SR-1221 (OLD BEATTY FORD ROAD)
PLAN
0
100
200
GRAPHIC SCALE (IN FEET)

Kirkland Appraisals, LLC

Richard C. Kirkland, Jr., MAI
9408 Northfield Court
Raleigh, North Carolina 27603
Mobile (919) 414-8142
rkirkland2@gmail.com
www.kirklandappraisals.com

Professional Experience

Kirkland Appraisals, LLC, Raleigh, N.C.	2003 – Present
Commercial appraiser	
Hester & Company, Raleigh, N.C.	
Commercial appraiser	1996 – 2003

Professional Affiliations

MAI (Member, Appraisal Institute) designation #11796	2001
NC State Certified General Appraiser # A4359	1999
VA State Certified General Appraiser # 4001017291	
SC State Certified General Appraiser # 6209	
KY State Certified General Appraiser # 5522	
TN State Certified General Appraiser # 6240	
FL State Certified General Appraiser # RZ3950	
GA State Certified General Appraiser # 321885	
MI State Certified General Appraiser # 1201076620	
PA State Certified General Appraiser # GA004598	
OH State Certified General Appraiser # 2021008689	
IN State Certified General Appraiser # CG42100052	
IL State Certified General Appraiser # 553.002633	
LA State Certified General Appraiser # APR.05049-CGA	

Education

Bachelor of Arts in English, University of North Carolina, Chapel Hill	1993

Continuing Education

Appraisal of Industrial and Flex Buildings	2023
Commercial Land Valuation	2023
Fair Housing, Bias and Discrimination	2023
Pennsylvania State Mandated Law for Appraisers	2023
What NOT to Do (NCDOT Course)	2023
The Income Approach – A Scope of Work Decision	2023
Valuation of Residential Solar	2022
Residential Property Measurement and ANSI	2022
Business Practices and Ethics	2022
Uniform Standards of Professional Appraisal Practice Update	2022
Sexual Harassment Prevention Training	2021
Appraisal of Land Subject to Ground Leases	2021
Michigan Appraisal Law	2020
Uniform Standards of Professional Appraisal Practice Update	2020
Uniform Appraisal Standards for Federal Land Acquisitions (Yellow Book)	2019

The Cost Approach	2019
Income Approach Case Studies for Commercial Appraisers	2018
Introduction to Expert Witness Testimony for Appraisers	2018
Appraising Small Apartment Properties	2018
Florida Appraisal Laws and Regulations	2018
Uniform Standards of Professional Appraisal Practice Update	2018
Appraisal of REO and Foreclosure Properties	2017
Appraisal of Self Storage Facilities	2017
Land and Site Valuation	2017
NCDOT Appraisal Principles and Procedures	2017
Uniform Standards of Professional Appraisal Practice Update	2016
Forecasting Revenue	2015
Wind Turbine Effect on Value	2015
Supervisor/Trainee Class	2015
Business Practices and Ethics	2014
Subdivision Valuation	2014
Uniform Standards of Professional Appraisal Practice Update	2014
Introduction to Vineyard and Winery Valuation	2013
Appraising Rural Residential Properties	2012
Uniform Standards of Professional Appraisal Practice Update	2012
Supervisors/Trainees	2011
Rates and Ratios: Making sense of GIMs, OARs, and DCFs	2011
Advanced Internet Search Strategies	2011
Analyzing Distressed Real Estate	2011
Uniform Standards of Professional Appraisal Practice Update	2011
Business Practices and Ethics	2011
Appraisal Curriculum Overview (2 Days – General)	2009
Appraisal Review - General	2009
Uniform Standards of Professional Appraisal Practice Update	2008
Subdivision Valuation: A Comprehensive Guide	2008
Office Building Valuation: A Contemporary Perspective	2008
Valuation of Detrimental Conditions in Real Estate	2007
The Appraisal of Small Subdivisions	2007
Uniform Standards of Professional Appraisal Practice Update	2006
Evaluating Commercial Construction	2005
Conservation Easements	2005
Uniform Standards of Professional Appraisal Practice Update	2004
Condemnation Appraising	2004
Land Valuation Adjustment Procedures	2004
Supporting Capitalization Rates	2004
Uniform Standards of Professional Appraisal Practice, C	2002
Wells and Septic Systems and Wastewater Irrigation Systems	2002
Appraisals 2002	2002
Analyzing Commercial Lease Clauses	2002
Conservation Easements	2000
Preparation for Litigation	2000
Appraisal of Nonconforming Uses	2000
Advanced Applications	2000
Highest and Best Use and Market Analysis	1999
Advanced Sales Comparison and Cost Approaches	1999
Advanced Income Capitalization	1998
Valuation of Detrimental Conditions in Real Estate	1999
Report Writing and Valuation Analysis	1999
Property Tax Values and Appeals	1997
Uniform Standards of Professional Appraisal Practice, A & B	1997
Basic Income Capitalization	1996

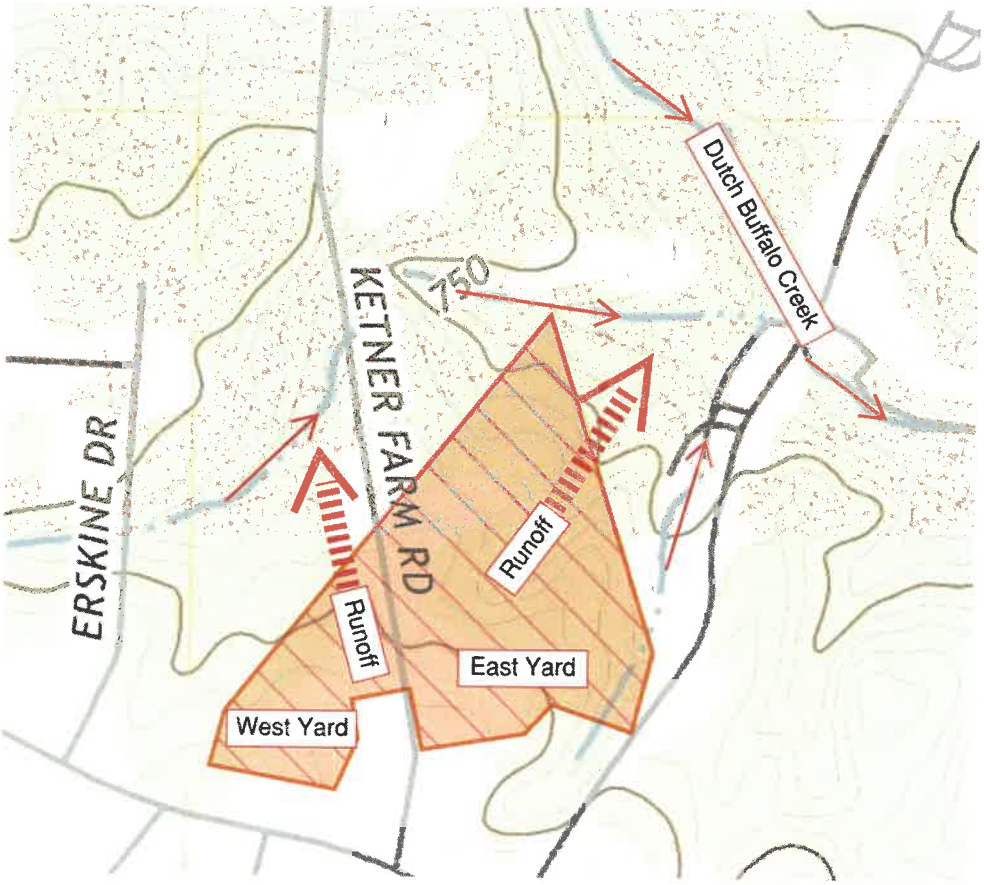
EXHIBIT A

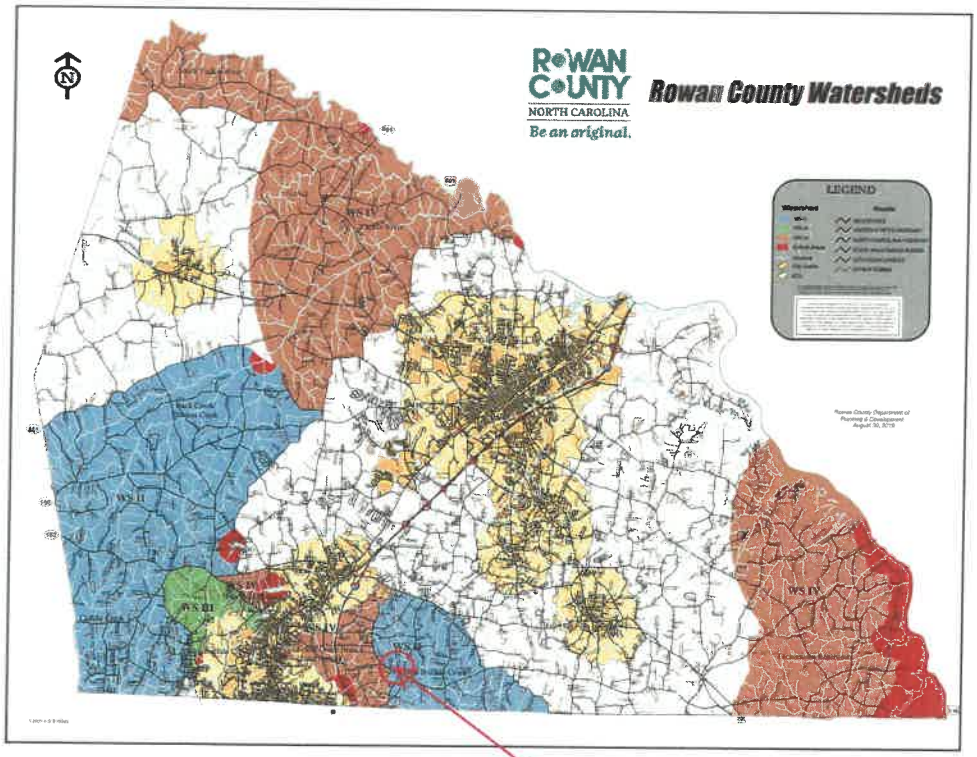
Vehicle Traffic Volume

*Estimates made by assuming 15' average car length, plus 5' space between each car, 20' total per vehicle

EXHIBIT B

Topographic Map
(Source: USGS Quad Sheet, China Grove)





Project Location
(WS II, Dutch Buffalo Creek)

EXHIBIT C

Note: Only the title page and table of contents is provided.

ROWAN COUNTY
A COUNTY COMMITTED TO EXCELLENCE

130 West Innes Street - Salisbury, NC 28144
TELEPHONE: 704-216-8180 * FAX: 704-216-8195

MEMO TO COMMISSIONERS:

FROM: Shane Stewart
DATE: December 22, 2021
SUBJECT: Quasi-Judicial Hearing for SUP 01-18 Amendment: Cellco Partnership

On behalf of Cellco Partnership d/b/a Verizon Wireless, Baker, Donelson, etal. PC is requesting a special use permit to accommodate a 165 foot wireless support structure (a.k.a cell tower) on a 24 acre tract identified as Rowan County Tax Parcel 422-179 located at 280 Rimer Road Salisbury. Verizon Wireless has an identified need to improve coverage and capacity within the Mt. Hope Church Road area southwest of the Town of Faith they determined could be accomplished by the construction of a new tower at the requested location. An identical request was approved by the Board of Commissioners on March 19, 2018 but expired due to the lack of a zoning permit being issued within two (2) years of approval (see enclosed certificate of approval).

1. After chairman statement, sworn oath to those testifying
2. Receive staff report
3. Petitioner statements, if any
4. Statements by others sworn in
5. Close hearing
6. Consider 3 findings of fact with separate motions on each
7. Motion to approve or deny SUP 01-18 Amendment.

ATTACHMENTS:

Description	Upload Date	Type
BOC Chairman's Speech	12/22/2021	Exhibit
Staff Report	12/22/2021	Exhibit
Applicant Information Binder	12/22/2021	Exhibit
Consultant Review	12/22/2021	Exhibit
GIS Map	12/22/2021	Exhibit
CUP 01-18 Certificate of Approval	12/22/2021	Exhibit

Greg Edds, Chairman

SUP 01-18 Amendment CHAIRMAN'S SPEECH

The hearing for consideration of amending SUP 01-18 is now in session and will focus on an application submitted on behalf of Cellco Partnership to construct a 165 foot wireless support structure on Tax Parcel 422-179 located at 280 Rimer Road.

If you feel that any member of the Board may have a conflict of interest in hearing the case, please address the Board now prior to any testimony or information being presented.

When the Board enters into deliberations to decide the case, no further testimony may be presented. The Board will render one of the following three decisions:

1. Approve the permit as requested or with additional conditions;
2. Continue the request; or
3. Deny the request.

All parties who plan to testify in this case may come forward and be sworn in. Those who testify must state their name and address at the podium for the benefit of the Board's Clerk. All material presented must be given to the Clerk and will become part of the record. This Board can only accept **sworn** testimony. **No** hearsay evidence is admissible.

Shane Stewart will present the case for the County.

Rowan County Planning and Development Department
402 North Main Street, Suite 204 • Salisbury, NC 28144-4341
Office: 704-216-8588 Fax: 704-216-7986

MEMORANDUM

TO: Rowan County Board of Commissioners
FROM: Shane Stewart
DATE: December 21, 2021
RE: **SUP 01-18 Amendment**

SUGGESTED BOARD OF COMMISSIONERS ACTION

❒ Sworn oath for those testifying ❒ Receive staff report ❒ Petitioner comments ❒ Testimony from others ❒ Close hearing and discuss ❒ Three separate motions to adopt findings of fact ❒ Motion to Approve / Deny / Table **SUP 01-18 Amendment**

REQUEST

On behalf of Cellco Partnership d/b/a Verizon Wireless, Baker, Donelson, etal. PC is requesting a special use permit to accommodate a 165 foot wireless support structure (a.k.a cell tower) on a 24 acre tract identified as Rowan County Tax Parcel 422-179 located at 280 Rimer Road Salisbury. Verizon Wireless has an identified need to improve coverage and capacity within the Mt. Hope Church Road area southwest of the Town of Faith they determined could be accomplished by the construction of a new tower at the requested location. An identical request was approved by the Board of Commissioners on March 19, 2018 but expired due to the lack of a zoning permit being issued within two (2) years of approval (see enclosed certificate of approval).

TELECOMMUNICATION REGULATIONS

Federal and state laws recognize the development of wireless service infrastructure as necessary in maintaining the public health and safety through communication services for the general public, government agencies, and first responders. As a result, clear regulatory boundaries are established for local governments to regulate wireless service providers, which ensure a better understanding of expectations and timeline for obtaining approvals for the wireless service industry. North Carolina General Statute (NCGS) sections 160D-930 through 938

indicates local regulations may consider public safety, land use, aesthetics, land use based location priorities, design, dimensional standards, and consideration of existing facilities within the applicant's search ring. Alternately, local governments are prohibited from requiring information concerning the applicant's service area, customer demand, quality of service, or other information deemed proprietary.

SPECIAL USE REQUIREMENTS

Section 21-60 (4) of the Zoning Ordinance indicates new wireless support structures are subject to the below standards identified in **bold text** followed by staff comments with references to the applicant's information binder. Note, most of the binder information remains unchanged from the 2018 application.

1. **New Wireless Support Structures. Applicants are encouraged to first investigate co-location opportunities on existing wireless support structures followed by consideration of preferred sites that minimize the impact on the North Carolina Scenic Byway corridor within the search ring.** Site acquisition consultant John Yeagley with Chase Real Estate Services certified that no towers or alternative buildings / structures were identified within the search area [see PDF pages 70 & 71 of the attached binder]. Using GIS, staff, to the best of their ability, likewise did not identify any "preferred sites" within the search ring.

2. **Completed Application to Include the Following:**

    a. **Site plan containing information from section 21-52 and 21-60 (4) A 3 i – v.** All required information from these sections is noted on the site plan [see PDF pages 25-61 in binder].

    b. **Photo simulations of tower.** Michael Gould, owner of Gould Digital Imaging, performed a "balloon test" in 2017 to simulate the limits of the proposed 165 foot tower and captured photographs from six (6) locations in the vicinity. Verizon Wireless mirrored the balloon test images with photo simulations from the same locations to also project the appearance of the proposed tower. Based on current tree coverage within the general vicinity, the tower would be well visible along portions of Rimer / Parks Rd. and, to a lesser degree, Mt. Hope Church Rd. south of the intersection of Pop Stirewalt Rd. and south of the intersection of Parks Rd. [see PDF pages 121-132 in binder].

    c. **Tower capable of accommodating five (5) users and co-location policy.** The applicant acknowledges the proposed monopole tower must be designed to accommodate a total of five (5) potential carriers referenced on PDF page 72 in binder].

3. **Tower heights and types.** The proposed 165 foot monopole tower with a four (4) foot lightning rod is well under the Rural Agricultural (**RA**) district allowable height limit of 199 feet [see PDF page 49 in binder].

4. **Provisions for tower safety.** David Hill, Professional Engineer with Saber

Industries, indicates his office is prepared to certify a specific tower design that, if failure occurred, the tower would fall within fifty (50) feet of the tower base (also within the lease area) [see PDF pages 142 and 33].

5. **Retention of consultant.** Through an applicant reimbursement process, Rowan County utilizes the services of City Scape Consultants to review telecommunication tower requests. City Space indicated neither of the two (2) nearest towers located outside the applicant's search would, in their opinion, meet Verizon's needs. Their findings concur with the applicant's justification for the tower location and height [see attachment "Consultant Review"].

6. **Obstruction lighting and marking.** The proposed monopole design will contain a galvanized finish as required by the Zoning Ordinance and will not require lighting or special marking by the Federal Aviation Administration (FAA). The proposed tower is not located within the Airport Zone Overlay (AZO) for the Mid Carolina Regional Airport.

7. **FCC license.** Verizon Wireless is licensed by the Federal Communications Commission (FCC) to provide wireless communication services.

EVALUATION CRITERIA

As provided in Section 21-59, the applicant provided their responses to the evaluation criteria with staff comments indicated below [see PDF pages 15-18 of the attached binder].

1. **Adequate transportation access to the site exists.** This parcel has 30 feet of frontage on Rimer / Parks Road (SR#s 2600 and 2558 respectively) and an existing driveway that serves a storage building. After construction, the facility would only receive routine maintenance trips, which would add a nominal number of trips to Rimer Road.

2. **The use will not significantly detract from the character of the surrounding area.** According to GIS data, 66 towers are located within Rowan County many of which blend reasonably well within their surroundings. Much like electrical transmission lines and water towers, these towers play an important role in maintaining public health and safety but contain visual impacts that are difficult if not impossible to address but nonetheless have become fixtures in the built environment. Monopole towers less than 199 feet in height are permitted in 98% of the county's zoning jurisdiction subject to a special use permit, a process that assumes the use is generally compatible with surrounding properties.

3. **Hazardous safety conditions will not result.** In the unlikely event of tower failure, the structure would be certified by a North Carolina Professional Engineer to fall within the lease area. This would be a condition of approval.

4. **The use will not generate significant noise, odor, glare, or dust.** Wireless towers do not create significant levels of noise, odor, glare (non-lighted tower), or dust (gravel driveway).

5. **Excessive traffic or parking problems will not result**. Telecommunication towers are unmanned land uses that do not generate much traffic outside of periodic maintenance estimated at one (1) trip per month according to the applicant.

6. **The use will not create significant visual impacts for adjoining properties or passersby.** Wireless support structures are similar to solar energy systems in that visibility is the primary impact associated with the use. This monopole tower will not have lighting or special markings, be located approximately 1,450 feet off Rimer Rd., 760 feet from the nearest residence, and surrounded by a large wooded (at present time) area on all sides. As evidenced from the balloon test and photo simulations, the proposed tower would be visible along portions of Rimer / Parks Roads and two (2) small sections of Mt. Hope Church Rd. Since trees may be timbered at any point, caution should be used in any reference to findings regarding current vs. future site condition.

PROCEDURES

The BoC must adopt facts supporting the below findings of fact based on the above six (6) criteria:

1. The development of the property in accordance with the proposed conditions will not materially endanger the public health or safety;

2. That the development of the property in accordance with the proposed conditions will not substantially injure the value of adjoining or abutting property, or that the development is a public necessity; and

3. That the location and character of the development in accordance with the proposed conditions will be in general harmony with the area in which it is located and in general conformity with any adopted county plans.

See enclosed Certificate of Approval from the previous request, which contains findings of fact that may be used.

STAFF COMMENTS

Based on the information received and consultant review, this request, subject to the below conditions of approval, meets the standards for approval. If approved, staff offers the following conditions for consideration:

1. Subject to compliance with all plans and supporting document packages received from Baker, Donelson etal. PC updated on December 15, 2021;

2. Subject to compliance with applicable FAA, FCC, State Historic Preservation Office (SHPO), and NCDOT standards;
3. Prior to permitting, applicant shall provide certification by a North Carolina Professional Engineer the proposed tower would fall within the lease area, comply with ANSI / TIA-222G, and be designed to accommodate a total of five (5) carriers;
4. All current and future feed cables lines shall be installed within the support structure all access ports sealed to prevent wildlife intrusion; and
5. If an emergency power backup generator is to be used, the noise level shall not exceed 65 decibels at the nearest property edge. Testing shall be limited to the hours between 9:00 AM and 4:00 PM (Monday through Friday).

CELLCO BINDER DETAILS

Topic	Pages
• Statement of Compliance with Ordinance Details	4-18
• Evaluation Criteria	15-18
• Network Objective	22 & 23
• Search Area	24
• Site Plan	25-16
• Statement Regarding Search Area	70-71
• Compliance with Future Co-locations	72
• Aerospace Study	73-75
• Real Estate Impact Study	81-119
• Balloon Test / Photo Simulations	121-132
• NEPA Review	133-141

APPLICATION FOR ZONING APPROVAL BY CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS FOR THE CONSTRUCTION OF A WIRELESS COMMUNICATIONS TOWER AND RELATED APPURTENANCES

(MOUNT HOPE SITE)

(SITE ADDRESS: 280 RIMER ROAD, SALISBURY, NORTH CAROLINA 28146)

Submitted by:
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
W. Lee Taylor, III, Esquire
Attorney to Verizon Wireless
1600 West End Avenue, Suite 2000
Nashville, Tennessee 37203
615.726.5757
ltaylor@bakerdonelson.com

BAKER DONELSON
BEARMAN, CALDWELL & BERKOWITZ, PC

1501 MAIN STREET
SUITE 310
COLUMBIA, SC 29201
PHONE: 803.251.8800
FAX: 803.753.0011
www.bakerdonelson.com

December 15, 2021

VIA FEDERAL EXPRESS AND EMAIL

Rowan County Planning & Development
ATTN: Ed Muire, Planning & Development Director
402 N. Main Street, Room 204
Salisbury, NC 28144

Re: APPLICATION FOR ZONING APPROVAL BY CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS FOR THE CONSTRUCTION OF A WIRELESS COMMUNICATIONS TOWER AND RELATED APPURTENANCES

(MOUNT HOPE SITE / 3000001. 103001)
(SITE ADDRESS: 280 RIMER ROAD, SALISBURY, NORTH CAROLINA 28146)

Dear Mr. Muire:

I hope this letter finds you well. Please find enclosed Verizon Wireless' Conditional Use Permit application (the "Application") for the proposed wireless communications facility in Rowan County, North Carolina at the above-referenced location. Also enclosed are an additional copy of the zoning application and two additional copies of the site plans. An electronic version of the Application, site plan, and supporting documents will be sent to you as well. Please advise at your first convenience whether any additional information is needed for the Application to be deemed complete. We will assume it is sufficiently complete unless we hear from you otherwise.

Please also find enclosed a check for $5,000.00 representing the New Telecommunications Tower application fee and a check for $200.00 representing the Conditional Use Permit application fee made payable to Rowan County.

Thank you for your time and attention to this matter. If you have any questions or comments, or need any additional information, please do not hesitate to contact me. I look forward to hearing from you soon.

Best regards,

W. Tyler Wiethorn III

APPLICATION FOR ZONING APPROVAL BY CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS FOR THE CONSTRUCTION OF A WIRELESS COMMUNICATIONS TOWER AND RELATED APPURTENANCES

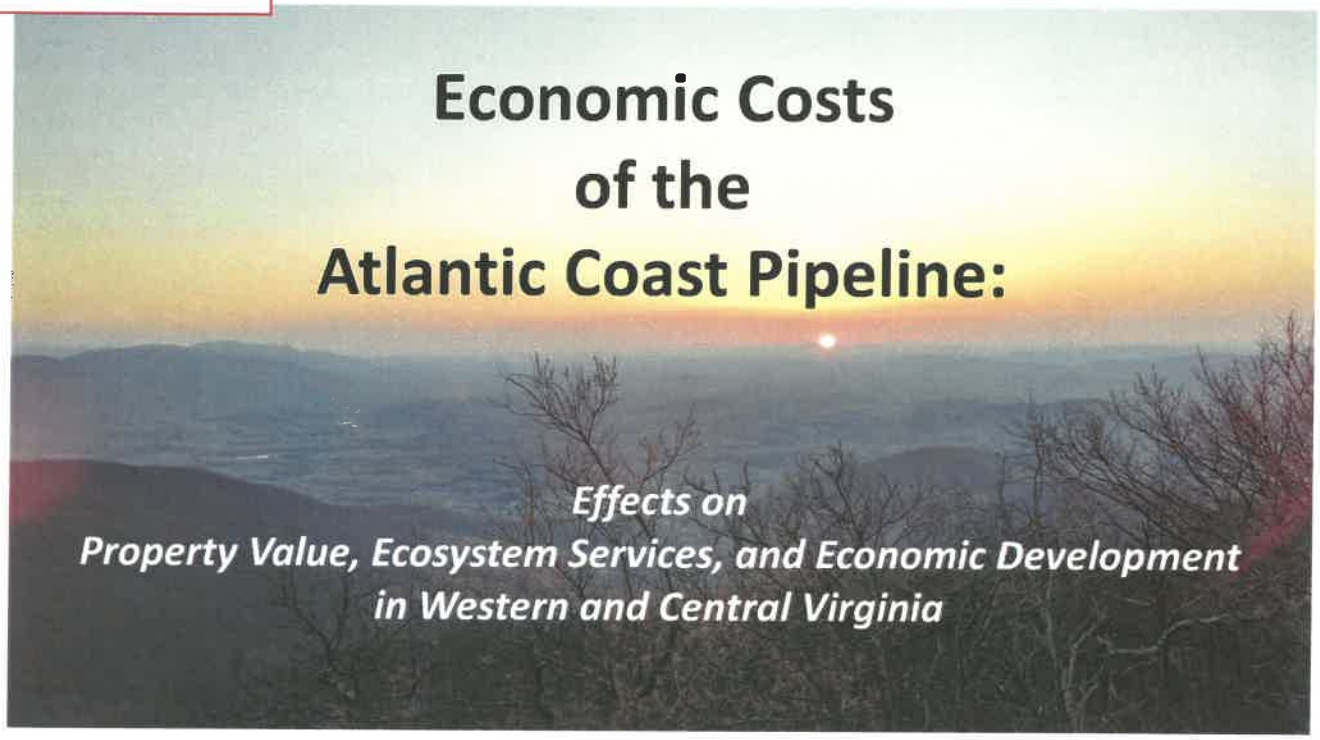
MOUNT HOPE SITE

TABLE OF CONTENTS

1. CERTIFICATE OF COMPLIANCE PREPARED BY BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ, PC
2. ROWAN COUNTY DEPARTMENT OF PLANNING & DEVELOPMENT CONDITIONAL USE PERMIT APPLICATION SIGNED BY DEBBIE L. CRADDOCK AND PATRICIA L. MOORE
3. AUTHORIZATION TO ACT AS AGENT SIGNED BY DEBBIE L. CRADDOCK AND PATRICIA L. MOORE
4. NETWORK OBJECTIVE STATEMENT SIGNED BY ASHUTOSH PANDEY, RADIO FREQUENCY ENGINEER FOR VERIZON WIRELESS
5. SEARCH AREA MAP
6. SITE SURVEY AND ZONING DRAWINGS PREPARED BY KIMLEY-HORN & ASSOCIATES, INC.
7. SITE IMAGES
8. INABILITY TO COLLOCATE STATEMENT AND FACILITY SITING CERTIFICATION SIGNED BY JOHN YEAGLEY, SITE ACQUISITIONS MANAGER FOR CHASE REAL ESTATE SERVICES
9. FUTURE COLLOCATION CERTIFICATION SIGNED BY MICHAEL HAVEN, REAL ESTATE MANAGER FOR VERIZON WIRELESS
10. AIRSPACE STUDY PREPARED BY FEDERAL AIRWAYS & AIRSPACE
11. FCC LICENSES FOR ROWAN COUNTY, NORTH CAROLINA
12. NIER STATEMENT SIGNED BY ASHUTOSH PANDEY, RADIO FREQUENCY ENGINEER FOR VERIZON WIRELESS
13. REAL ESTATE IMPACT STUDY PREPARED BY MICHAEL BERKOWITZ
14. BALLOON TEST REPORT PREPARED BY MICHAEL GOULD, OWNER AND OPERATOR OF GOULD DIGITAL IMAGING
15. PHOTO SIMULATIONS PREPARED BY MICHAEL GOULD, OWNER AND OPERATOR OF GOULD DIGITAL IMAGING
16. NEPA CHECKLIST PREPARED BY S&ME, INC.
17. ENGINEERING FALL ZONE CERTIFICATION BY DAVID HILL, P.E.

EXHIBIT D

Note: Only the title page and table of contents is provided.



Economic Costs of the Atlantic Coast Pipeline:

Effects on Property Value, Ecosystem Services, and Economic Development in Western and Central Virginia

FEBRUARY 2016

Highlanders for Responsible Development

Augusta County Alliance

Friends of Nelson County

Friends of Buckingham, Virginia

Yogaville Environmental Solutions

Prepared by:
Spencer Phillips, PhD
Cara Bottorff
Sonia Wang

Research and strategy for the land community.

keylogeconomics.com

EXECUTIVE SUMMARY

The Atlantic Coast Pipeline (ACP) is proposed to carry natural gas from the Marcellus Shale through a 564-mile-long swath of West Virginia, Virginia, and North Carolina to markets in Virginia and North Carolina and, potentially, overseas. It has been represented as both environmentally safe and economically beneficial, providing economic opportunity for local communities along the proposed route.

Promised economic benefits, however, are only part of the impact the Federal Energy Regulatory Commission (FERC) must review before deciding whether to approve the construction and operation of the pipeline. Under the National Environmental Policy Act, FERC's review must consider the full range of environmental effects of the proposed pipeline. These include the various ways in which environmental effects would result in changes in human well-being—that is, in economic benefits and costs. While estimates of positive economic effects including construction jobs and local tax payments have been developed and promoted as reasons to move forward with the pipeline, no systematic consideration of the potential negative economic effects—economic costs—of the ACP has been completed.

To help fill the gap in current information, five community groups from a four-county region in central and western Virginia commissioned this independent research into key economic costs of the ACP. This region, comprised of Highland, Augusta, Nelson, and Buckingham Counties, would experience three types of economic costs due to the construction, operation, and presence of the ACP. First, the pipeline would impact property values along the 126 miles of pipeline proposed for the region. Affected properties are those touched by the 75-foot-wide right-of-way, within the 1.4-mile-wide evacuation zone, in proximity to the compressor station proposed for Buckingham County, and throughout the viewshed of the proposed pipeline. Second, construction and the ongoing operation of the pipeline would alter land use/land cover in ways that diminish ecosystem service values, such as aesthetics, water supply, and timber and food production. Third, and in part due to a loss of scenic and quality-of-life amenities, there would be decreases in visitation, in-migration, and small business development and a loss of jobs and personal income those activities would otherwise support.

Considering this four-county region alone, estimated one-time costs range from $72.7 to $141.2 million. These one-time costs comprise lost property value and the value of ecosystem services lost during construction. Annual costs following the construction period include lower ecosystem service productivity in the ACP's right-of-way, lower property tax revenue due to the initial losses in property value, and dampened economic development. These total between $96.0 and $109.1 million per year, and would persist forever. (See "At a Glance," below for details.) Putting the stream of costs into present value terms[1] and adding the one-time costs, the total estimated cost of the ACP in Highland, Augusta, Nelson, and Buckingham Counties is between $6.9 to $7.9 billion. For reasons explained in the body of this report, these are conservative estimates.

The costs represented by the estimates presented here are what economists call "externalities," or "external costs," because they would be imposed on parties other than (external to) the company proposing to build the pipeline. Unlike the private (or internal) costs of the pipeline, external costs borne by the public do not affect the company's bottom-line. From an economic perspective, the presence of externalities is what demands public involvement in decsions about the ACP. Without consideration of all of the costs of the project, too much pipeline (which may mean any pipeline at all) is the inevitable result. FERC must therefore consider the true bottom line and ensure that the full costs of the pipeline, especially those external costs imposed on the public, are rigorously examined and brought to bear on its decision about whether or not to permit the ACP project to proceed.

[1] The present value of a perpetual stream cost is the one-year cost divided by the 1.4% real discount rate recommended by the Office of Management and Budget for cost-benefit and cost-effectiveness analysis of public projects and decisions (http://federalaccounting.org/2015/01/omb-updates-cost-benefit-analysis-discount-rates/).

At a Glance:
The Atlantic Coast Pipeline in Western and Central Virginia
~ Highland, Augusta, Nelson, & Buckingham Counties ~

- Miles of Pipeline: 125.5
- Acres in the construction corridor and permanent right-of-way (ROW): 1,901 and 1,140
- Most impacted land cover types (ROW only): forest (795 acres) and pasture (247 acres)
- Parcels touched by ROW: 521
- Parcels in the 1.4-mile-wide evacuation zone: 6,148
- Parcels within one half mile of the compressor station: 87
- Residents and housing units in the evacuation zone: 15,128 people and 8,762 homes
- Parcels from which the pipeline would be visible: 31,117, or 29% of all parcels in the four-county study region
- Baseline property value at risk (and expected one-time cost due to the ACP):
  - In the ROW: $277.1 million ($11.6 to $36.0 million)
  - In the evacuation zone: $1.13 billion ($43.0 million)
  - Near the compressor station: $4.9 million ($1.2 million)
  - In the viewshed: $7.44 billion (to avoid double counting with lost aesthetic value under ecosystem services, this impact is not separately estimated)
- Total property value lost: $55.8 to $80.2 million
- Resulting loss in property tax revenue (annual): $281,300 to $408,400
- Lost ecosystem service value, such as for water and air purification, recreational benefits, and others:
  - Over the two-year construction period: between $16.9 and $61.0 million (a one-time cost)
  - Annually for the life of the ACP: between $4.9 and $17.8 million
- Lost economic development opportunities due to the erosion of these Counties' comparative advantages as attractive places to visit, reside, and do business. Under the scenarios described below, these could include:
  - Annual loss of recreation tourism expenditures of $41.3 million that supports 387 jobs and $7.4 million in payroll and generates $1.8 million in state and $1.3 million in local taxes
  - Annual loss of personal income of $6.6 million due to slower growth in the number of retirees
  - Annual loss of personal income of $1.6 million due to slower growth in sole proprietorships
- One-time costs (property value and ecosystem services during construction) would total between $72.7 and $141.2 million
- Annual costs (all other costs above) would range from $96.1 to $109.1 million

CONTENTS

EXECUTIVE SUMMARY I

CONTENTS III

ABBREVIATIONS AND TERMS IV

AUTHORS' NOTE: IV

BACKGROUND 1
Policy Context 2
Study Objectives 6
Current Economic Conditions in the Study Region 6

ENVIRONMENTAL-ECONOMIC EFFECTS AND WHERE THEY WOULD OCCUR 9
Impact Zones within the Study Region 10

EFFECTS ON ECOSYSTEM SERVICE VALUE 14
Ecosystem Service Estimation Methods 16
Step 1: Assign Land to Ecosystem Types or Land Uses 18
Step 2: Re-assign Acreage to New Land Cover Types for the Construction and Operation Periods 19
Step 3: Multiply Acreage by Per-Acre Value to Obtain ESV 22
Step 4: Subtract Baseline ESV from ESV in "with ACP" Scenario 24
Ecosystem Service Value Estimates 25

EFFECTS ON PROPERTY VALUE 30
Land Price Effects 30
Claims that Pipelines have no effect on property value may be invalid. 32
Visual Effects and Viewshed Analysis 35
Parcel Values 37
Estimated Land Value Effects 39

EFFECTS ON ECONOMIC DEVELOPMENT 41

CONCLUSIONS 44

WORKS CITED 45

APPENDIX A: CANDIDATE PER-ACRE VALUES FOR LAND-USE AND ECOSYSTEM SERVICE COMBINATIONS 54

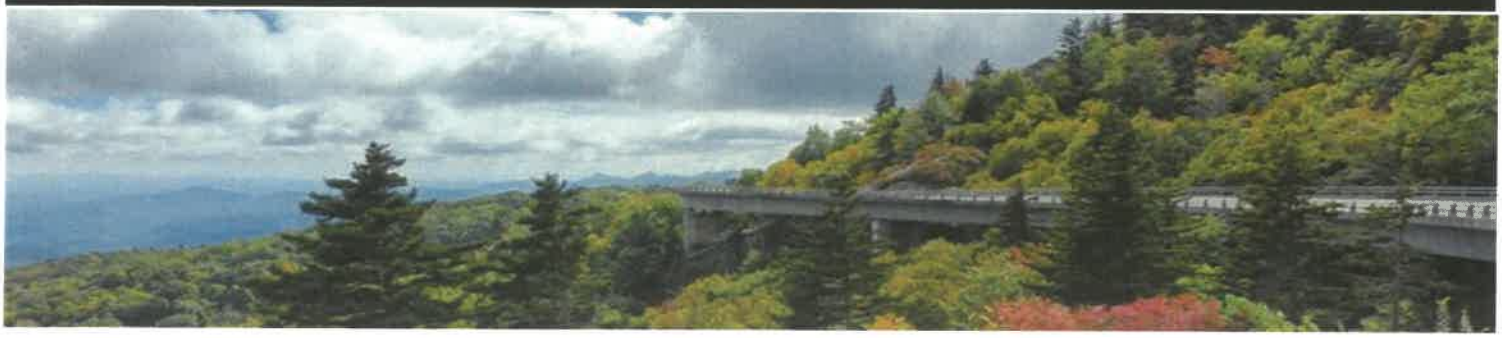
EXHIBIT E

Note: Only the title page and table of contents is provided.

Blue Ridge Parkway

National Park Service
U.S. Department of the Interior

Blue Ridge Parkway
North Carolina, Virginia



Blue Ridge Parkway
Proposed Right-of-Way (ROW) Permit
for
Dominion T2 Natural Gas Pipeline Crossing
Buncombe County, North Carolina

Draft Environmental Assessment (EA)
January 2022

Executive Summary

The applicant, Dominion Energy North Carolina, has constructed approximately 11 miles of 12-inch diameter steel natural gas pipeline beginning at Duke Energy's Asheville Energy Plant located in Arden, North Carolina, ending near the intersection of US Highway 23 and NC Highway 112 in Enka Village, North Carolina. Based on the alignment, the applicant has submitted an application for a right-of-way (ROW) permit for construction, operation, and maintenance of the last unconstructed segment of pipeline that would cross entirely beneath the Blue Ridge Parkway (Parkway), a unit of the National Park System. This crossing would be the last of seven horizontal directional drills (HDDs) for the project including three crossings of the French Broad River and one crossing of Interstate 26.

The segment is part of a new natural gas pipeline that would enable DENC to derate (reduce pressure) on an aging segment of its existing pipeline network so that it can be repurposed from transmission service to lower pressure distribution service and would increase the reliability of natural gas service to DENC's area customer base. The older segment of pipeline to be derated is currently located within the shoulder of heavily-trafficked, geologically/topographically challenged and otherwise developed portions of the North Carolina Department of Transportation (NCDOT) ROW adjacent to Brevard Road.

To the extent practicable, the new pipeline was routed through areas that are less proximate to concentrated development. The pipeline was constructed within a new 50-foot-wide ROW. Additional temporary workspace (TWS), typically 25 feet wide, was required adjacent to above-ground portions of the ROW. A majority of the new pipe was installed by conventional trench excavation and buried with a minimum depth of four feet of cover. The pipe was installed beneath the French Broad River and numerous other waterbodies by HDD. Temporary impacts to other aquatic resources along the route have been similarly avoided or otherwise minimized.

During internal scoping and applicant research, there were five alternatives for the proposed project, including a "No Action" alternative and four crossings of the Parkway discussed; four alternatives were considered but dismissed after internal scoping and these are described in Section 4.2. The No Action alternative was determined to be not practical, because it could result in a loss of natural gas service to existing customers, which would impact the adjacent community. One of the crossing alternatives would not be allowed within a NCDOT Interstate ROW by NCDOT. due to public safety concerns. Two of the crossing alternatives created more potential impacts to the Parkway than the proposed action. Based on the analysis documented in this Environmental Assessment (EA), the preferred alternative for the proposed pipeline includes the National Park Service (NPS) issuing a ROW permit for construction, operation, and maintenance of approximately 760 feet of the new pipeline to be installed beneath NPS property by HDD with entry and exit points on private lands adjacent to the NPS property.

The remaining HDD crossing of NPS land would be conducted perpendicular to the Parkway, adjacent to an existing 143-foot-wide Duke Energy Electric transmission line cleared ROW that

crosses NPS land. For the purpose of this document, Parkway refers to the motor road, Mountains to Sea Trail, and the associated land owned by NPS in the vicinity of the proposed pipeline ROW. The pipe would be located no less than 50 feet below the ground surface of the Parkway property, and at the location of the Parkway motor road surface itself, the pipe would be located approximately 115 feet below the surface. The HDD entry and exit points would be located more than 800 feet from the Parkway travel lane and 380 feet from the NPS property boundary, and no additional appurtenances or facilities are proposed for construction on NPS property. No grading, land clearing, tree removal or other land disturbances within the proposed ROW on the Parkway property are proposed.

Equipment access to private property on the north side of the Parkway would be provided by an existing deeded private access road that passes beneath the French Broad River Bridge on NPS property. The access road at this location is situated in high ground and is well-maintained. The road is used regularly by the deed reserved owners of the private property for access to their property, and by Duke Energy for maintenance activities associated with the portion of their utility ROW north of the Parkway adjacent to the proposed Dominion ROW.

EXECUTIVE SUMMARY I

List of Figures vi

List of Appendices vi

Acronyms vi

1.0 PURPOSE OF AND NEED FOR ACTION 1

2.0 PURPOSE AND SIGNIFICANCE OF THE BLUE RIDGE PARKWAY 1

2.1 Blue Ridge Parkway - Authority to issue ROW permits 2

2.2 Scoping History 2

3.0 ISSUES AND IMPACTS 4

3.1.0 Remaining Impact Topics Addressed with Detailed Analysis 5

3.1.1 Visual Resources – Viewshed 5

3.1.2 Socioeconomic Environment – Noise 5

3.2 Impact Topics Previously Addressed or Dismissed from Further Analysis 5

3.2.1 Natural Resources 6

3.2.2 Cultural Resources 10

3.2.3 Visitor Use and Experience 12

3.2.4 Socioeconomic Environment 12

3.2.5 Greenhouse Gases and Climate Change 13

3.2.6 Energy Resources 14

3.2.7 Park Operations 14

4.0 ALTERNATIVES 14

4.1 Alternatives Considered 14

A. Alternative A – No Action 14

B. Alternative B – Issue ROW Permit 14

4.2 Alternatives Considered but Eliminated from Detailed Study 15

Alternative D – Construction of a New 12-inch Diameter Gas Line Along Interstate 26 16

Alternative E - Replace Existing Pipeline with Proposed Line, in the Same General Location 16

5.0 AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES 16

5.1 Introduction and Methodology 16

5.2 Visual Resources – Viewshed 17

5.2.1 Effects on Viewshed of Alternative A – No Action 18

5.2.2 Effects on Viewshed of Alternative B – HDD Under Parkway 18

5.3 Soundscapes 19

5.3.1 Effects on Soundscapes of Alternative A – No Action 19
5.3.2 Effects on Noise of Alternative B – HDD Under Parkway 20
6.0 CONSULTATION AND COORDINATION 21
7.0 LIST OF PREPARERS 21
8.0 COMPLIANCE WITH FEDERAL AND STATE REGULATIONS 22
9.0 CITATIONS 23

EXHIBIT G

news leader.

NEWS

County board of zoning appeals denies Atlantic Coast Pipeline storage yard request

Julia Fair
The News Leader

Published 3:15 p.m. ET Nov. 1, 2018

The pipeline storage yard will not be built in Augusta County.

The Augusta County Board of Zoning Appeals voted Thursday to deny Dominion Energy's second request this year to build a pipeline storage yard in the county. The storage yard would have aided the energy company construct the Atlantic Coast Pipeline.

The board voted 4-1 to deny the special-use permit, following three months of deliberation over request. The permit vote was tabled twice after a heated public hearing and additional questions came up about the project.

Dominion's special-use permit proposed to use just over 58 acres to have a laydown storage yard. Equipment, pipe, office trailers and material that would be used in constructing the pipeline would have been stored in the yard with two food trucks for workers.

The Atlantic Coast Pipeline is set to cross 57 miles of land in Augusta County.

The company wanted to build the storage yard on land owned by Scottland Land Company, LLC, on the north side of West Augusta Road, east of the intersection of West Augusta Road and Deerfield Valley Road. That property is in West Augusta in the Pastures District, according to the public hearing notice.

In September, the board first heard Dominion's request for a special-use permit to construct a temporary pipeline staging yard. Many board members at that meeting expressed concern about Dominion's ability to restore the property to agricultural use at the end of the two-year project.

Dominion project manager Ron Baker pointed out that the yard has been used twice by the Virginia Department of Transportation for construction-related projects. Once for excess waste and production material and another time for construction setup.

Those projects didn't hinder the yard from agricultural use, "I'm not sure how ours would," Baker said.

A woman in salmon button down shirt paired with an anti pipeline sticker walked in halfway through Baker's presentation. She found a seat in the front in the already packed public meeting room.

Baker addressed multiple questions the board had after the previous two meetings.

He offered many explanations, including how a conceptual site plan would alleviate pollution and runoff. He also said road erosion from construction trucks would be monitored with video tapes.

The discussion was stalled at one point as board members grappled with Baker about how long it would take for construction crews to drive from the storage yard to construction sites.

Board members discussed the information and eventually made their way back to their original concern; returning the property to agricultural use.

"We cannot be released from our permits until we return it to its original condition," said Brittany Moody, another Dominion representative.

Moody recalled a prior project she worked on, where construction ran through a cornfield. It took two years for the cornfield to return to its original growth, she said.

A slight but brief phone rang as the board decided it was time to discuss the information they digested.

"There's a lot of reasons not to have it here," said board chairman Steven Shreckhise. He questioned if the storage yard "inconvenience" was worth alleviating traffic flow of construction crew making its way to pipeline construction areas.

"It is not compatible in this very small West Augusta community," said board member Daisy Brown, pointing out numerous environmental and community concerns.

Brown made a motion to deny the permit, leading to the vote.

The community stood, cheered and the board moved on to its next agenda item.

Past storage yard construction attempts

The permit denied on Thursday was Dominion's second special-use permit application that the board considered this year. In March, the board denied a request from Dominion for a pipeline storage yard after three months of discussion.

That request sought to use more than 30 acres of land in Churchville along Va. 42.

More: Augusta County zoning board tables Dominion Pipeline storage yard, yet again

More: Atlantic Coast Pipeline staging yard public hearing leads to 30 day delay on permit vote

EXHIBIT H

news leader.

LOCAL

Zoning board nixes permit request for Dominion storage yard

Laura Peters
The News Leader

Published 5:24 p.m. ET March 1, 2018

VERONA - After three months of discussion, the Augusta County Board of Zoning voted down a special permit request from Dominion for its pipeline storage yard.

Thursday afternoon marked the third meeting brought before the Augusta County Board of Zoning regarding a potential Dominion storage yard. The board voted 4-1 to deny the request on the basis that it is incompatible with the neighborhood and there is a potential for traffic hazard and damage to water quality.

The room was packed Thursday and extra law enforcement was brought in from the Augusta County Sheriff's Office.

Officials and residents met for hours in a public hearing. The hearing came after the board shot down a potential wedding venue on Hermitage Road in the county in a matter of minutes.

"We're not getting the answers we like before we make this decision," said Justine Tilghman, a zoning board member. "This is very, very intensive, compared to that wedding venue, but it will disappear."

Her concern was traffic and the unknown effects.

"People aren't used to it, they aren't use to traffic ... they are used to a road that has a very limited amount of traffic that suddenly becomes very intense," she said.

The request

The item was continued from a February meeting, where the zoning board decided to reopen the public comment section of the request.

Dominion is seeking a special use permit, which would allow for more than 30 acres of land in Churchville along Va. 42 to be used as a storage yard for pipeline construction materials, equipment, fuel and worker trailers.

The site would act as a storage facility for nearly 29 miles of pipeline construction about one linear mile from the yard, according to Ron Baker, a spokesperson for the pipeline handling construction for the project.

Approximately 400 pipeline workers would be going to and from the site with activity at least six days per week and that activity could go on for almost two years. The yard is estimated to have nearly 400 vehicles parked there during working hours.

Originally, the permit discussion started back in January.

The hearing

During the meeting Thursday, Emmett Toms, agent for the Atlantic Coast Pipeline LLC, said they spoke to the Virginia Department of Transportation to clarify parts of the plan based on the board's requests.

David Atwood of VDOT said with the information present to them by Dominion a left or right turn lane would not be needed. All that would be considered would be temporary traffic control.

Va. 42 is a primary roadway that sees 1,800 vehicles per day, he said. Atwood said he didn't expect "extreme back-ups" due to storage yard traffic, but the site didn't warrant a turn lane.

According to the Atlantic Coast Pipeline LLC, most of those people arriving to the work site will be staggered — so there won't be a massive influx of workers arriving at the same time.

Three people spoke in support of the storage yard.

"We all want to have a livelihood here, we want to welcome business," Anne Seaton said.

Seaton said she supported the pipeline and said ACP has done "due diligence" in going through the proper channels in making sure the land will be restored and proper environmental efforts will be made.

"The applicant has put in significant time to address concerns," Clyde Hinkle said. "Agreements have been made between adjoining neighbors."

Nancy Sorrells stood before the board and spoke on behalf of the majority of the audience in attendance. Sorrells used a powerpoint presentation.

Sorrells felt the special use permit request is the wrong way to go about it. The request is for zoned agricultural land. Dominion should be searching out industrial zoned land, because that's what the site would be used for, she said. In that case, the property would need to be rezone in order for Dominion to move forward.

With a special use permit, the structures put in place would need to be substantial benefit to neighbors and the property would need to have limited industrial use.

"This should not be a special use permit request," Sorrells said. "This is a temporary change and not a permanent one, but it will have a lot of effect on the community. This is a massive construction site placed in a farming community."

Sorrells said if Dominion were to ask the property to be rezoned, there would be more studies and more process involved in getting the yard approved.

Dominion said they would only work Monday through Saturday during daylight hours. But according to Sorrells, Highland County was told Dominion may have to work on Sundays and 24 hours a day. The application is for two years, but the agreement says it can be up to three years, Sorrells said.

"Placing a massive industrial complex in the middle of farmland, endangering our children is just wrong," she said.

Tracy Pyles, former supervisor, also spoke before the board. He lives close to the site in question. He said the zoning board may feel they need to help Dominion find an alternate location.

"It is not up to the zoning board to designate a place for a construction yard," he said. "We want to protect our people and we want to protect our resources."

It's Dominion's responsibility to find a proper site, both Sorrells and Pyles said, and that's not in the middle of scenic farm land. Pyles suggested using a location in Green Hill Industrial Park, where other industry is located.

"This is a big deal. You need to hear it," Pyles added. "You need to take the time to hear what people have to say."

Pyles brought up the point that if the storage yard was to be located closer to Interstate 81 and workers could be bused to the work area — it would not only allow for farmland to be preserved, but it would cut down on traffic and allow workers a shorter commute. The board echoed this thought to Dominion, who said they are continuing to look at other sites.

Robert "Bobby" Whitescarver, area conservationist, a certified nutrient management planner in Virginia and a retired district conservationist for the U.S. Department of Agriculture, said the area farmers and tax payers have been spending time and money to fix stream and water quality in the area. All the efforts put forth by them would be destroyed if the storage yard were approved.

"We do not need additional sediment and all the additional pollutant associated with that yard," he said. "The storage yard will erase decades of conservation efforts in this area."

More: Pipeline group to set up 'citizen air force'

More: Augusta Health/Anthem — What are your concerns?

Follow Laura Peters @peterslaura and @peterpants. You can reach her at lpeters@newsleader.com or 213-9125.

Declaration of Opposition

January 16th, 2024

My name is Scarlett Fleming. I address you today as Council President of the Congregation of Ebenezer Lutheran Church located at the corner of Old Concord and Old Beatty Ford Roads, 4914 Old Beatty Ford Road, Rockwell, NC. Our Congregational Council has reviewed the plans for a lay yard that lies directly adjacent, across the road, from our House of Worship. The only separation is Old Concord Road.

We pride ourselves on being in tune with our community and supportive of it's members. And, our congregation is growing. Any potential industrial or commercial use of the property would be counter to our mission as a sanctuary of peace and tranquility. In addition to our status as a place of worship, we are also an outreach ministry to our community. Increased traffic and noise will negatively impact our ability to provide outreach to our neighbors, not to mention the detriments to facilities and church activities.

Our number one concern is noise. Specifically, the backing, parking, and dumping of material and construction equipment and machinery, as well as noise from the proposed pipe welding and bending that would occur at the site closest to the church property. Our cemetery, is directly adjacent, with graves mere feet from the proposed site. Our graveyard, by nature, is designed specifically as a place of serenity at all times, especially during funerals, and ongoing for grieving families. The back up beeping of 25 semi-trucks per day, dumping of soil, clanging pipes, buzzing of welding, as well as acceleration, engine braking and air brakes popping from these heavy trucks moving downhill in both directions away from the site would prove distracting at a minimum and distressing for those seeking solitude and comfort.

Due to the sacred nature of our place of worship, we require a peaceful environment, for worship, especially, but also for devotional time and bible study. Noise endangers our opportunity to maintain a sacred space for our community. While the proposal maps show buffer wooded areas between the properties, please note the photos presented show that those buffer areas no longer exist due to clear cutting that extends to the proposed site boundaries. There is no viable buffer vegetation standing on the proposed site.

Our second major concern is traffic. The reported 250 cars and 20 trucks arriving and departing during the proposed hours of 6am-7pm Monday- Saturday, will create a large traffic load at prime times of church activities. This is in direct conflict with 6:30pm Scout

meetings, 6pm committee meetings, 7pm council meetings, and Bible Studies at various times in the evening. All of these activities are year round.

Various religious seasons throughout the year increase evening activities at Ebenezer, as well, including Lent, beginning with Shrove Tuesday, and weekly Wednesday night services, Holy Week services including Maundy Thursday, Good Friday, and our annual evening Easter Pageant, and also, our Live Nativity, to name a few. All of these activities begin and/or end between 5pm-8pm. In addition, we host many Saturday events, including a Fall Festival, Family nights, Weddings, Mens groups, youth and scout events throughout the year.

This intersection is already notoriously dangerous. Pedestrian traffic crosses the road at this location.
Walkers use our property and all of the roads radiating out from the area. The proposed volume of traffic would increase the risk to pedestrians and those driving to and from our church.

Please also take into consideration that Bostian Elementary School, located at 4245 Old Beatty Ford Road, less than 1/2 mile up Old Beatty Ford from the proposed site, convenes at 7:30 am each morning, which causes traffic to back up between 7:00 am and 7:30 am.

And lastly, our concern with the impact of vibrations from heavy truck and construction machinery movement and dumping of materials. Our church has near century old irreplaceable stained glass windows that would suffer from increased vibrations.

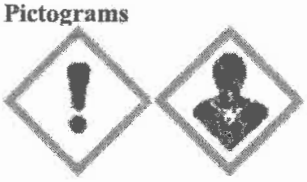
Therefore, Ebenezer Lutheran Church, as an established Place of Worship in this community, with a 157 year history, including the church council and congregation, hereby submits an official declaration of opposition to the proposed construction projects and any changes that threaten our ability to serve our community.

The church greatly appreciates your time and consideration of our interests regarding this matter. Thank you!

~Signed and endorsed unanimously by Minister Lucas Safrit and the entire Ebenezer Lutheran Church Council

Respectfully,
Scarlett S. Fleming
Congregational Council President of Ebenezer Lutheran Church

Pictograms



Hazard Statements
May form combustible dust concentrations in air.

May cause an allergic skin reaction.
Suspected of damaging fertility or the unborn child.
May cause cancer.

Precautionary Statements

Prevention:
Obtain special instructions before use.
Do not handle until all safety precautions have been read and understood.
Avoid breathing dust/fume/gas/mist/vapors/spray.
Wear protective gloves.
Contaminated work clothing must not be allowed out of the workplace.

Response:
IF ON SKIN: Wash with plenty of soap and water.
If skin irritation or rash occurs: Get medical advice/attention.
Wash contaminated clothing before reuse.
IF exposed or concerned: Get medical advice/attention.

Storage:
Store locked up.

Disposal:
Dispose of contents/container in accordance with applicable local/regional/national/international regulations.

Figure:
Data Sheet of Epoxy Coating:

specialized contractor

Industrial

Industrial development has the potential to create stable jobs for County residents. Through careful consideration of how industrial development fits within the study area, both aesthetic and design guidelines and potential environmental aspects can be controlled.

The County should ensure that industrial developments have clearly visible entrances with controlled site access. Landscaped and screened parking, with rear loading and service areas will help soften the typically harsh look of industrial facilities. The placement of structures that create opportunities for plazas, courtyards, or gardens/patio areas which can be utilized as pedestrian gathering places and common employee gathering areas should be encouraged.

A variety of architectural design treatments, including articulated building footprints to reduce massing and to promote architectural interest is also recommended.

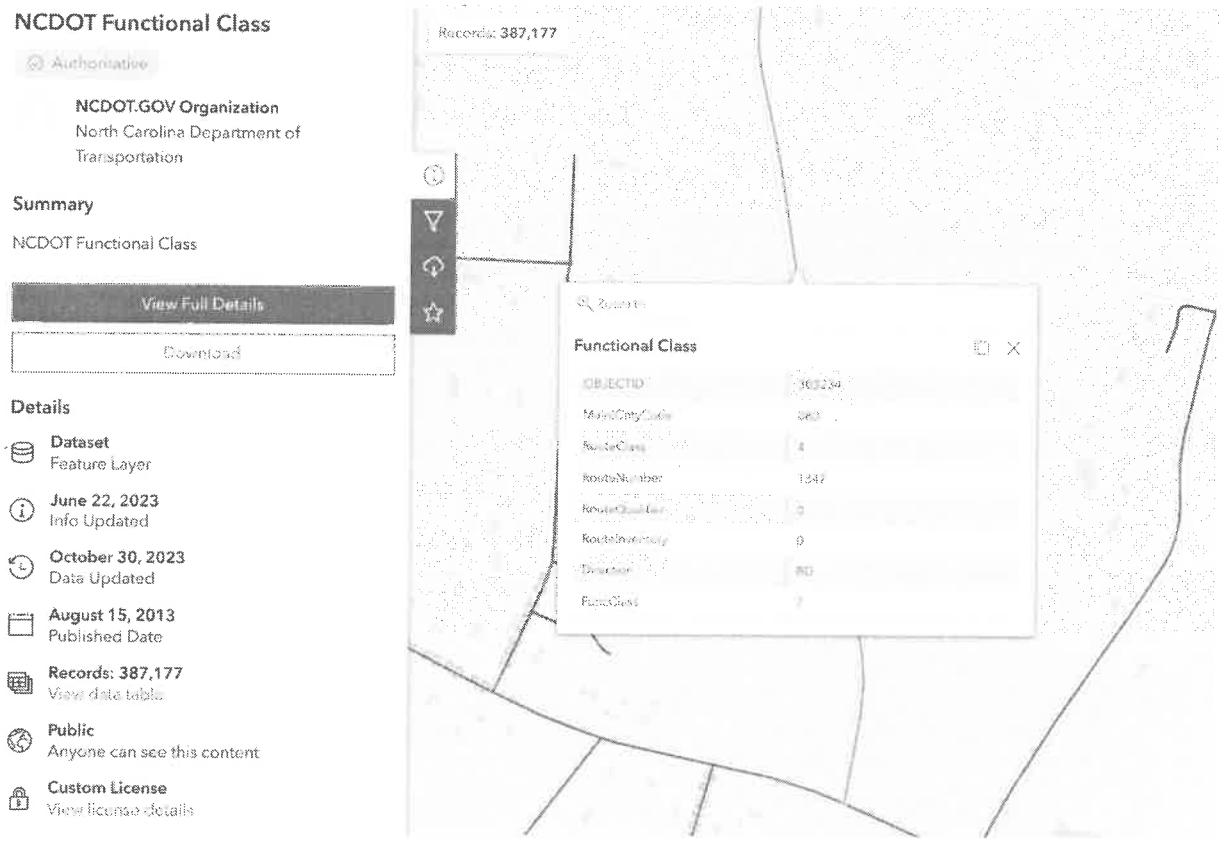
Site design and improvements should anticipate the potential re-use of the building for other purposes. The preservation of distinct natural site features should be mandatory.

The County should consider the following additional design guidelines for both light and heavy industrial development:

- Storage Areas
- Loading Areas
- Building Placement Design
- Building Design
- Building Elements
- Discouraged Building Elements
- Landscaping
- Buffers/Screening/Walls/Fencing
- Parking Lot Landscaping
- Walls and Fences
- Lighting
- Sign Design Guidelines

Figure 30: Typical industrial type of development

Figure: Guidelines for Industrial Development
Collected from: South Corridor Land Use,
https://www.rowancountync.gov/DocumentCenter/View/10620/I-85-South-Corridor-Land-Use-Plan-PDF?bidId=



Domain:

Value	Description	Notes
1	Interstate (I)	State-maintained
2	US Route (US)	State-maintained
3	NC Route (NC)	State-maintained
4	Secondary Route (SR)	State-maintained

Domain:

Value	Description	Notes
1	Interstate	
2	PA-FrwyExp OC/OB	Principal Arterial – Other Freeways and Expressways
3	PA-Other	Principal Arterial - Other
4	Minor Arterial	
5	Major Collector	
6	Minor Collector	
7	Local	

Designated in 1969
Figure:
Collected from NCDOT Road Classification

Finding 7. ***The pavement cost per mile traveled by a heavy vehicle varies greatly between pavements, being greater on pavements designed for light duty than on sturdier pavements.***

A 5-axle tractor semitrailer that weighs 80,000 lb can serve as an example. According to estimates in the Comprehensive Truck Size and Weight study, such a vehicle typically causes about 9 cents in pavement damage per mile of travel on rural Interstate Highways, compared with $5.90 per mile of travel on rural local roads. In part, such a variation simply reflects that light-duty roads are more vulnerable to heavy vehicles than are sturdier roads. But it also reflects the major scale economies that exist in designing pavements for greater traffic loadings. TRB (1990) illustrated these scale economies with the AASHTO design manual: as the traffic loading for which a road is designed (as measured by the number of ESALs) increases, the required pavement thickness also increases but in much smaller proportion. "For example, a 10 percent increase in ESALs can be accommodated by 1.5 percent increase in pavement thickness." (TRB 1990, p. 72).

Collected from EFFECTS OF TRUCK SIZE AND WEIGHTS ON HIGHWAY INFRASTRUCTURE AND OPERATIONS: A SYNTHESIS REPORT https://ctr.utexas.edu/wp-content/uploads/pubs/2122_1.pdf

Table 1. Rio Blanco Road Impact Fee Schedule.

Development Type	**Road Impact Fee**
Residential (per housing unit)	
Single Family	$600
Multi-family	$400
Non-Residential (per 1000 sf of floor area)	
Shopping Center	$6,500
Office/Institutional	$1,700
General Commercial	$1,900
Mixed Industrial	$1,000
Warehousing	$800
Manufacturing	$600
Gas or Oil Well	$17,700 (per well)

- While roads will deteriorate if simply left unused, most deterioration is associated with use; and the damage caused by vehicles goes up much more than proportionately with size and weight. Hence, costs associated with maintenance are greater for trips made by heavy vehicles. A single large truck can cause as much damage as thousands of automobiles, and the configuration of the truck can affect the amount of damage as well. If the load is spread over more axles, so there is less weight on each wheel, then the damage is reduced.

Table 2. Comparison of Trash and Other Vehicle Impacts.

COMPARISON OF TRASH AND OTHER VEHICLE IMPACTS				
Vehicle Type		Number of Axles	ESAL Factor	Passenger Car Equivalents
General Classification	AASHTO Classification			
Cars	Passenger Cars	2	0.0008	1
Vans/Pickups	Other 2-Axle/4-Tire Trucks	2	0.0052	7
Large Pickups/Delivery Vans	Panel and Pickup Trucks	3	0.0122	15
Large Delivery Trucks	3 or More Axle Trucks	3	0.1303	163
Local Delivery Trucks	2-Axle/6-Tire Trucks	2	0.1890	236
Residential Recycling Trucks		**2**	**0.2190**	**274**
Buses	Buses	2 or 3	0.6806	851
Residential Trash Trucks		**3**	**1.0230**	**1,279**
Long Haul Semi-Trailers	Various Classifications	3-5+	1.1264	1,408

Figure:
Collected from Assessing the Effects of Heavy Vehicles on Local Roadways
https://www.lrrb.org/pdf/201432.pdf

2019 Dog $1.65 in overcharge penalties in vermont

27,000 gallons / inch rainfall flooding

Dog restrictive covenants

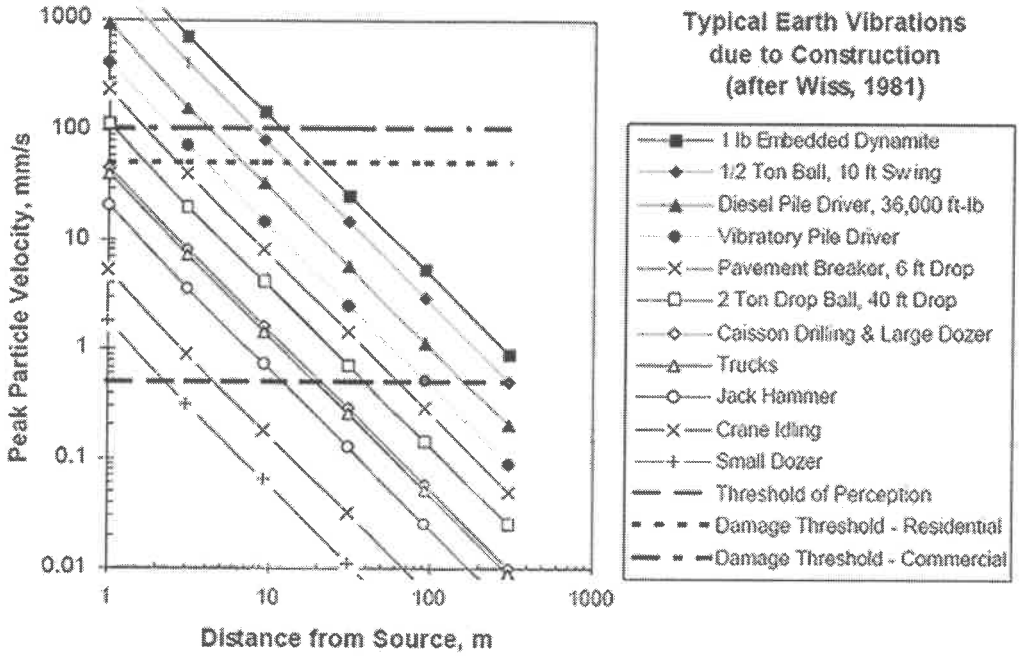


Figure: Vibrations
Collected from The Impact of Construction Vibration on Adjacent Structures
https://www.jsheld.com/insights/articles/the-impact-of-construction-vibration-on-adjacent-structures

Table 11: Vibration Source Levels for Construction Equipment

Equipment (projected use)	PPV[1] at 25 feet (in/sec)	Approximate Velocity Level[2] at 25 ft (VdB)
Large bulldozer	0.089	87
Loaded trucks	0.076	86
Vibratory compactor/roller	0.210	94

Source: USDOT, 2006.

Notes:
1. Peak particle ground velocity measured at 25 feet unless noted otherwise.
2. RMS ground velocity in decibels (VdB) referenced to 1 micro-inch/second.

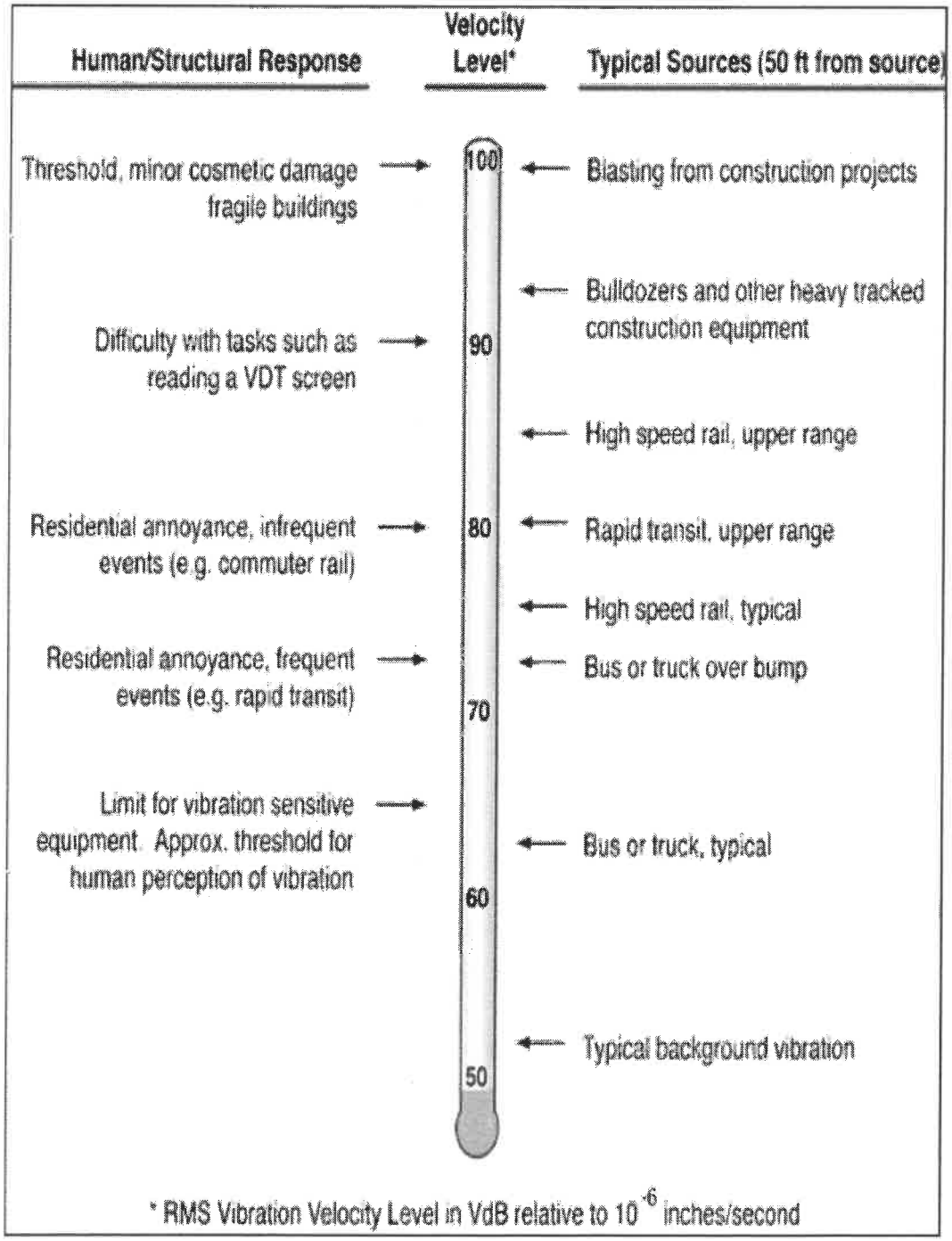
Table 12: Construction Equipment Vibration Impact Distances

Equipment	Distance to Vibration Annoyance Impact[1] feet	Distance to Vibration Building Damage[2] feet
Large bulldozer	43	15
Loaded trucks	40	13
Vibratory compactor/roller	73	26

Source: Study Team, 2016

Notes:
1. This is the distance at which the RMS velocity level is 80 VdB or less at the inside of the building structure. When propagating from the ground surface to the building structure foundation, there is a vibratory coupling loss of approximately 5 dB; however, this loss is offset by the building amplification in light-frame construction. Thus, no additional adjustments are applied.
2. This is the distance at which the peak particle velocity is 0.20 inch/sec or less.

Figure 3: Typical Vibration Levels



Source: USDOT, 2006

HERBACEOUS PLANTS-Seeding recommendations for immediate stabilization/nurse crops

(2 to 5 weeks for development; effectiveness goal: 6 months to 1 year stabilization)

NURSE CROP SPECIES

					Optimal Planting Dates							
Common Name	Botanical Name	Native / Introduced	Seeding Rates lbs/acre	Fertilization/ limestone lbs/acre	Mountains	Piedmont	Coastal Plains	Sun/Shade tolerant	Wetlands	Riparian Buffers	Invasive Yes or No	Installation / Maintenance Considerations
Rye Grain	*Secale cereale*	I	40 lbs	By soil test	11/1 - 4/30	8/15 - 4/15	8/15 - 4/15	Sun	Yes	Yes	No	Must be mown to reduce competitiveness with permanent or long term vegetation
Wheat	*Triticum aestivum*	I	30 lbs	By soil test	11/1 - 4/30	8/15 - 5/15	8/15 - 4/15	Sun	Yes	Yes	No	Must be mown to reduce competitiveness with permanent or long term vegetation
German Millet	*Setaria italica*	I	10 lbs	By soil test	5/11 - 9/30	5/15 - 8/15	4/15 - 8/15	Sun	Yes	Yes	No	Crop should be cut / disc prior to planting primary or long term vegetation
Browntop Millet	*Urochloa ramosa*	I	10 lbs	By soil test	5/11 - 9/30	5/15 - 8/15	4/15 - 8/15	Sun	Yes	Yes	No	Crop should be cut / disc prior to planting primary or long term vegetation
Sudangrass (hybrids)	*Sorghum saccharatum S. bicolor ssp.Drummondi*	I	15 lbs	By soil test	NR	NR	4/15 - 8/15	Sun	No	No	Yes	Crop should be cut / disc prior to planting primary or long term vegetation
Kobe Lespedeza	*Kummerowia striata v. kobe*	I	10 lbs	By soil test	5/1 - 9/1	5/1 - 9/1	5/1 - 9/1	Sun	No	No	No	Consult qualified horticulturalist or extension agent for over-seeding with primary cover
Korean Lespedeza	*Kummerowia stipulacea*	I	10 lbs	By soil test	5/1 - 9/1	5/1 - 9/1	5/1 - 9/1	Sun	No	No	No	Consult qualified horticulturalist or extension agent for over-seeding with primary cover

NOTES:

1. Seeding rates are for hulled seed unless otherwise noted.
2. Fertilizer & Limestone - rates to be applied in absense of soils tests. Recommended application rate assumes significantly disturbed site soils with little or no residual value.
3. NR means Species not recommended for this region or application area.
4. Invasive designation as determined by the N.C. Exotic Pest Pant Council and N.C. Native Plant Society .
5. Sprigging is not recommended for immediate stabilization unless terrain is flat heavy mulch is applied and no other immediate stabilization method is practical.

https://www.deq.nc.gov/energy-mineral-and-land-resources/erosion-and-sediment-control/esc-education/seeding-sp

TEMP 01-23
Hannah Wiethorn
Exhibit 12
Page 10 of 14

ecs/download

HERBACEOUS PLANTS-Seeding recommendations for primary stabilization

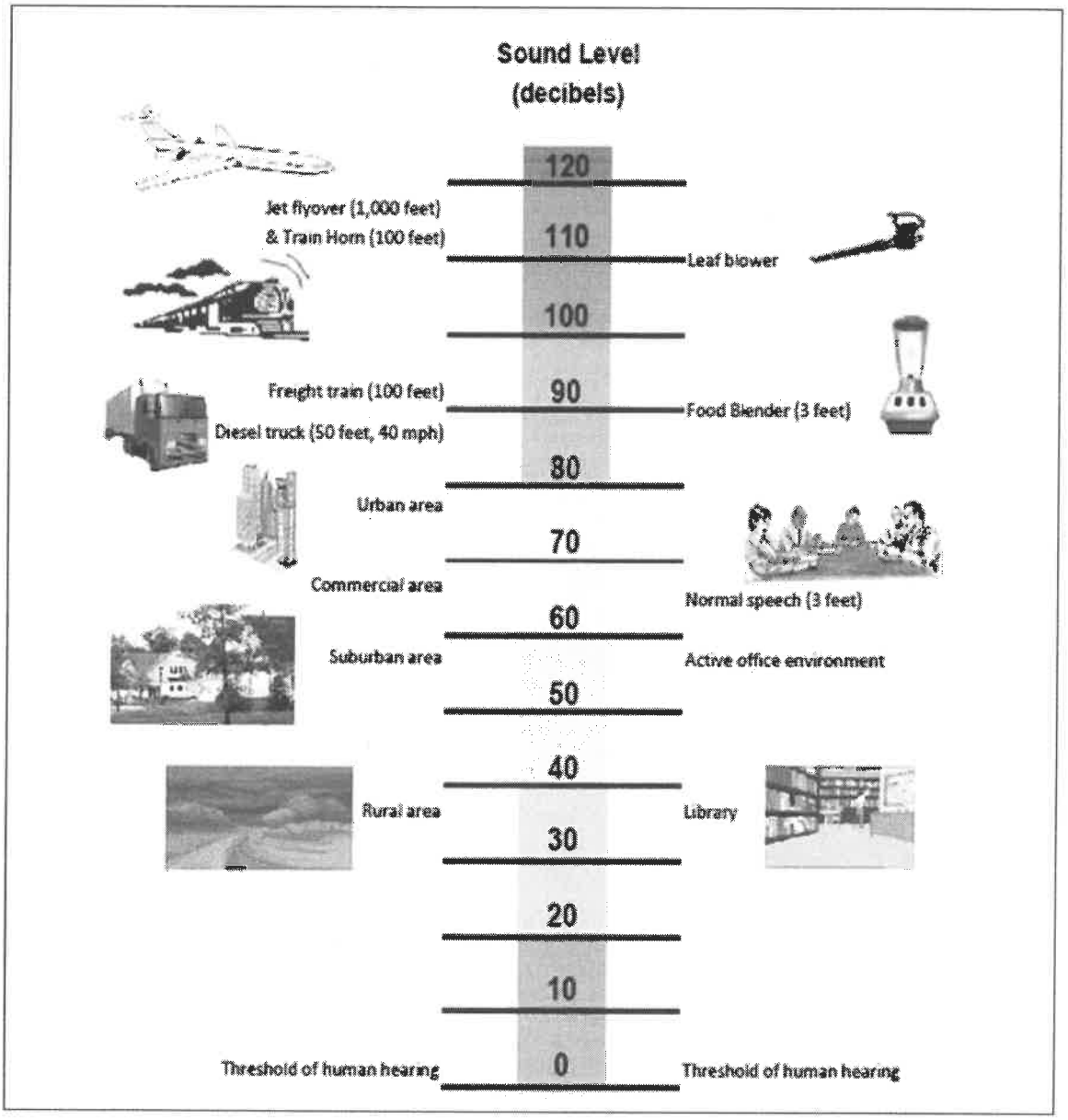
Successful development depends on planting date (effectiveness goal: 6 mo. - 3 yrs. without an ongoing maintenance program)

NON-NATIVE SPECIES

					Optimal Planting Dates								
Common Name	Botanical Name / Cultivar	Native / Introduced	Broadcast Seeding Rates lbs/acre	Fertilization/ limestone lbs/acre	Mountains	Piedmont	Coastal Plains	Sun/Shade tolerant	Wetlands	Riparian Buffers	Invasive Yes or No	Installation / Maintenance Considerations	Other info
Sericea Lespedeza	*Lespedeza cuneata Dumont'*	I	15 lbs	By soil test	9/1 - 6/1	9/1 - 5/1	10/1 - 4/1	Sun	NR	NR	Yes	Responds well to controlled burns	Severe Thre Invasive spe
Crown Vetch	*Securigera varia (Coronilla varia)*	I	15 lbs	By soil test	3/15-4/30	NR	NR	Sun	NR	NR	Yes	Highly competitive, not recommended unless an acceptable alternative is not available.	Prefers neut
Centipede Grass	*Eremochloa ophiuroi*	I	5 lbs 10 lbs. for road shoulders	By soil test	NR	Eastern only	9/1 - 5/1	Sun	NR	NR	No	Significant maintenance may be required to obtain desired cover	Does not tol Acceptable f
KY 31 Tall Fescue	*Schedonorus phoeni (Festuca arundinacea)*	I	100 lbs	By soil test	8/15-5/1	9/1-4/15	9/30 - 3/15	Sun / mod. Shade	NR	NR	Yes	If utilized, it is imperative that maintenance includes a containment plan	Acceptable f
KY Blue Grass	*Poa pratensis*	I	15 lbs	By soil test	8/15-5/1	NR	NR	Sun	NR	NR	Yes	If utilized, it is imperative that maintenance includes a containment plan	Prefers neut competitive unless an ac is not availat Acceptable f
Hard Fescue	*Festuca brevipila (Festuca longifolia)*	I	15 lbs	By soil test	8/1 - 6/1	NR	NR	Shade	NR	NR	No	Not recommended for slopes greater than 5%.	Low growing
Bermuda Grass	*Cynodon dactylon*	I	25 lbs	By soil test	NR	4/15-6/30	4/15-6/30	Sun	NR	NR	Yes	If utilized, it is imperative that maintenance includes a containment plan	Extremely ag recommend avoided unle alternative is May be sodc

Noise:

Figure 2: Typical A-Weighted Sound Levels



Source: Study Team 2016

Table 9: Construction Equipment Typical Noise Level Emissions

Equipment	Typical Noise Level (dBA) 50 ft from Source
Air Compressor	81
Backhoe	80
Ballast Equalizer	82
Ballast Tamper	83
Compactor	82
Concrete Mixer	85
Concrete Pump	82
Concrete Vibrator	76
Crane, Derrick	88
Crane, Mobile	83
Dozer	85
Generator	81
Grader	85
Impact Wrench	85
Jack Hammer	88
Loader	85
Paver	89
Pile-driver (Impact)	101
Pile-driver (Sonic)	96
Pneumatic Tool	85
Pump	76
Rail Saw	90
Rock Drill	98
Roller	74

Source: USDOT, 2006

- Construction lay-down or staging areas should be selected in industrially zoned districts. If industrially zoned areas are not available, commercially zoned areas may be used, or locations that are at least 100 feet from any noise sensitive land use such as residences, hotels and motels. Ingress and egress to and from the staging areas should be on collector streets or greater (higher street designations are preferred).

Table 1: Land Use Categories and Metrics for Transit Noise Impact Criteria

Land Use Category	Noise Metric (dBA)	Description of Land Use Category
1	Outdoor $L_{eq(h)}$*	Tracts of land where quiet is an essential element in their intended purpose. This category includes lands set aside for serenity and quiet, and such land uses as outdoor amphitheaters and concert pavilions, as well as National Historic Landmarks with significant outdoor use. Also included are recording studios and concert halls.
2	Outdoor L_{dn} (DNL)	Residences and buildings where people normally sleep. This category includes homes, hospitals, and hotels where a nighttime sensitivity to noise is assumed to be of utmost importance.
3	Outdoor $L_{eq(h)}$*	Institutional land uses with primarily daytime and evening use. This category includes schools, libraries, and churches where it is important to avoid interference with such activities as speech, meditation, and concentration on reading material. Places for meditation or study associated with cemeteries, monuments and museums can also be considered to be in this category. Certain historical sites, parks, campgrounds and recreational facilities are also included.

Source: USDOT 2006

* L_{eq} for the noisiest hour of rail-related activity during hours of noise sensitivity.

https://ftp.dot.state.tx.us/pub/txdot-info/bmt/projects/neches-bridge/noise-vibration.pdf

Grasses

From:
Robert Wayne Query
340 Ketner Farm Rd.
China Grove N.C. 28023
704-857-1034 or 704-562-1991

To Rowan Co. Commissioners
Subject 01-24 Dominion Energy

Commissioners,

I am writing in regard to the request from Dominion Energy for a temporary use permit for an operations yard on ketner Farm Rd.

I am the owner of the parcel of land that joins the proposed site on the north side. (parcel 137-010) I am strongly opposed to this operations yard and have many concerns

The first is the safety of my grandsons. I have 2 grandsons ages 6 and 8. The 8 year old lives with me full time and the 6 year old is here 3 or 4 days a week. The 8 year old attends Bostian Elementary school and gets on the school bus at the end of Ketner Farm Rd. My wife or myself take him to the bus stop each morning, but he has to walk home in the afternoon (about 1\4 mile) With all the dump trucks and heavy equipment coming and going all day long, this would clearly create a hazzard.

Both grandsons sometimes play in the road riding bicycles,skate boards ect.

My second concern is the "catch basins" and containment pond for muddy and contaminated water that is sure to stagnate and cause a mosquito problem. Mosquitoes in our part of North Carolina are known to carry west Nile virus, la cross encephalitis,and eastern equine encephalitis (usually not harmful to humans, but deadly to horses) I have 3 horses on my property, and the fenced in pasture is very very close to the proposed site of the pond.

Another concern is the dust problem. I already have much more dust than I want, partly because my home is in a low lying area. It is down hill all the way to my home from the beginning of our road. The air pressure is naturally higher on higher ground than it is on lower ground, usually causing blow down hill. Even if the wind is 100% calm, air will still move toward the area of lower pressure bringing a lot of dust and odor with it.

These are some of my concerns, but I have more. I have first hand knowledge about the kinds of mess that these sites can cause. In my younger days, I worked for Duke Energy and I have helped construct some of these containment ponds. I have been in construction all my life. I realize that progress must go on, but I fell that Dominion Energy should consider another site. I'm sure Ketner Farm Rd. is not the only site they have looked at. Our road is a narrow dead-end and peaceful road, and we would like to keep it that way. I strongly urge you to deny this permit

Sincerely Robert Wayne Query

Robert Wayne Query

88888888888888888888888888888888888888888888888888888888888888888888888888888888888888888888

In the state of North Carolina and the county of Rowan I Corey Jimenez
Notary Public do hereby certify that Robert Wayne Query whose acknowledgment and sworn statement is being taken personally appeared before me this day and acknowledged the due execution of the forgoing instrument.
Witness my hand and official seal this 16th day of January in the year of our Lord 2024
Notary signature and seal _____ my commission expires 02/28/2026

COREY JIMENEZ
Notary Public
Rowan
County
My Comm. Exp.
02-28-2026
NORTH CAROLINA

Jan 9,2024

Jan 9, 2024

Jan 9, 2024

Jan 9, 2024

China Grove

November 12, 2020 07:39

Edit

Home
November 12, 2020 07:42

Edit

3

November 12, 2020
07:51

Edit

November 12, 2020
07:51

Edit

2

My Back L side of property when it rains

PROJECT ROLE
Senior Project Manager

LOCATION
Charlotte, NC

EDUCATION
- BS, Engineering Technology (Major in Civil Engineering), 2009, The University of North Carolina at Charlotte

YEARS OF EXPERIENCE
13 years of experience with S&ME and total of 16 years related experience

REGISTRATIONS
- EIT, VA, 2009 #0420059242

Erik L. Hartwick

Senior Project Manager

Mr. Hartwick is a senior project manager with S&ME's civil engineering department who has 16+ years of experience. Specializing in environmental permitting and design for natural gas infrastructure. Implementation, and management of large and small-scale projects for natural gas transmission pipeline, local distribution systems, and associated facilities.

Key Projects and Assignments

Dominion Energy (Formerly SCANA) – E&SC Design and Permitting, Section 404/401 Permitting, DOT Encroachment Permits, Floodplain Encroachment Permitting, Post-Construction Stormwater Management Plans, Geotechnical Exploration
Approximately 200+ Locations, North Carolina | 2011 - present
Senior Project Manager for the design of E&SC Plans and associated NPDES permitting, coordinating other services provided including Section 404/401 permitting, DOT encroachment permits, floodplain encroachment permitting, post-construction stormwater management plans, and geotechnical exploration. Projects range in size from 1 mile to 28 miles in length and include both roadside and cross-country pipeline sections as well as natural gas facilities. Activities included developing drawings, determination of erosion control measures, report writing, associated calculations, and receipt of regulatory agency approval. NPDES permit and post-construction stormwater management plans.

Dominion Energy (Formerly SCANA) – E&SC Plan Design and Permitting, Floodplain Encroachment Permitting
T-072 Extension (12 Miles)
Buncombe County, North Carolina | 2018 - Present
Project Professional responsible for the design of E&SC Plans, floodplain encroachment permitting, and the development of the associated drawings, calculations and report for the acquisition of the corresponding permits related to this 12-inch diameter cross-country pipeline and associated laydown yards.

Dominion Energy (Formerly SCANA) – E&SC Plan Design and Permitting, Floodplain Encroachment Permitting, Post-Construction Stormwater Management Plans
T-030 Extension (38 Miles)
Franklin & Wake Counties, North Carolina | 2019 - 2021
Project Professional responsible for the design of E&SC Plans, floodplain encroachment permitting, post-construction stormwater management plans, and the development of the associated drawings, calculations and report for the acquisition of the corresponding permits related to this 20-inch diameter cross-country pipeline and associated laydown yard.

Duke Energy (Formerly Piedmont Natural Gas) - DOT Encroachment Permits

Approximately 200+ Locations, North Carolina | 2014 – 2022

As a Program Manager, Mr. Hartwick has developed standards, created procedures, and trained staff, for performing this work. As a Project Manager on a majority of these projects, Mr. Hartwick is responsible for the proposals, communication with the client, directing S&ME staff in drawing and document preparation, internal review, and communication with the regulatory reviewer to acquire appropriate DOT encroachment permits. These projects range in size from 10 feet to several miles in length within DOT-owned right-of-way.

Patriots Energy Group – Project Management, SWPPP Design and Permitting, Section 404/401 Permitting, DOT Encroachment Permits, Geotechnical Exploration

Van Wyck Road Pipeline Project (4.2 Miles)

Lancaster County, North Carolina | 2019 - 2020

Project Manager responsible for the SWPPP Design and Permitting, Section 404/401 Permitting, DOT Encroachment Permits, Geotechnical Exploration, and the development of the associated drawings, calculations and report for the acquisition of the corresponding permits related to this 12-inch diameter cross-country pipeline.

Duke Energy (Formerly Piedmont Natural Gas) - Erosion & Sedimentation Control Plan Design and Environmental Permitting

A total of 100+ Locations, North Carolina | 2012-2018

Project Professional responsible for the designs erosion and sedimentation control plans including drawings, determination of erosion control measures, report writing, and receipt of regulatory agency approval. Mr. Hartwick prepared post-construction stormwater management plans packages associated with some of these projects. Mr. Hartwick utilized GPS to inventory ditches, culverts, drop inlets, streams, and wetlands proposed to be impacted by pipeline installation. Mr. Hartwick utilized the GPS data, and field notes to generate drawings using AutoCAD and GIS. As the Project Manager on several of these projects, Mr. Hartwick coordinated with the client and multiple S&ME offices to provide these services. These projects range in size from 1 mile to 15 miles in length and included both roadside and cross-country pipeline sections.

Dominion Energy (Formerly SCANA) – E&SC Plan Design and Permitting

T-001A Pipeline Replacement – Phase I (25.3 Miles) & Phase 2 (48.6 Miles)

Multiple Counties, North Carolina | 2015 - 2017

Project Professional responsible for the design of E&SC Plans and the development of the associated drawings, calculations and report for the acquisition of the corresponding NPDES permit related to this 20-inch and 24-inch diameter cross-country pipeline and associated laydown yards.

§ 160D-1402. Appeals in the nature of certiorari.

(a) Applicability. – This section applies to appeals of quasi-judicial decisions of decision-making boards when that appeal is in the nature of certiorari as required by this Chapter.

(b) Filing the Petition. – An appeal in the nature of certiorari shall be initiated by filing a petition for writ of certiorari with the superior court. The petition shall do all of the following:

(1) State the facts that demonstrate that the petitioner has standing to seek review.

(2) Set forth allegations sufficient to give the court and parties notice of the grounds upon which the petitioner contends that an error was made.

(3) Set forth with particularity the allegations and facts, if any, in support of allegations that, as the result of an impermissible conflict as described in G.S. 160D-109, or locally adopted conflict rules, the decision-making body was not sufficiently impartial to comply with due process principles.

(4) Set forth the relief the petitioner seeks.

(c) Standing. – A petition may be filed under this section only by a petitioner who has standing to challenge the decision being appealed. The following persons have standing to file a petition under this section:

(1) Any person possessing any of the following criteria:

a. An ownership interest in the property that is the subject of the decision being appealed, a leasehold interest in the property that is the subject of the decision being appealed, or an interest created by easement, restriction, or covenant in the property that is the subject of the decision being appealed.

b. An option or contract to purchase the property that is the subject of the decision being appealed.

c. An applicant before the decision-making board whose decision is being appealed.

(2) Any other person who will suffer special damages as the result of the decision being appealed.

(3) An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.

(4) A local government whose decision-making board has made a decision that the governing board believes improperly grants a variance from or is otherwise inconsistent with the proper interpretation of a development regulation adopted by the governing board.

(d) Respondent. – The respondent named in the petition shall be the local government whose decision-making board made the decision that is being appealed, except that if the petitioner is a local government that has filed a petition pursuant to subdivision (4) of subsection (c) of this section, then the respondent shall be the decision-making board. If the petitioner is not the applicant before the decision-making board whose decision is being appealed, the petitioner shall also name that applicant as a respondent. Any petitioner may name as a respondent any person with an ownership or leasehold interest in the property that is the subject of the decision being appealed who participated in the hearing, or was an applicant, before the decision-making board.

(e) Writ of Certiorari. – Upon filing the petition, the petitioner shall present the petition and a proposed writ of certiorari to the clerk of superior court of the county in which the matter arose. The writ shall direct the respondent local government or the respondent decision-making board, if the petitioner is a local government that has filed a petition pursuant to subdivision (4) of subsection (c) of this section, to prepare and certify to the court the record of proceedings below within a specified date. The writ shall also direct the petitioner to serve the petition and the writ upon each respondent named therein in the manner provided for service of a complaint under Rule 4(j) of the Rules of Civil Procedure, except that, if the respondent is a decision-making board, the petition and the writ shall be served upon the chair of that decision-making board. Rule 4(j)(5)d. of the Rules of Civil Procedure applies in the event the chair of a decision-making board cannot be found. No summons shall be issued. The clerk shall issue the writ without notice to the respondent or respondents if the petition has been properly filed and the writ is in proper form. A copy of the executed writ shall be filed with the court.

Upon the filing of a petition for writ of certiorari, a party may request a stay of the execution or enforcement of the decision of the quasi-judicial board pending superior court review. The court may grant a stay in its discretion and on conditions that properly provide for the security of the adverse party. A stay granted in favor of a city or county shall not require a bond or other security.

(f) Response to the Petition. – The respondent may, but need not, file a response to the petition, except that, if the respondent contends for the first time that any petitioner lacks standing to bring the appeal, that contention must be set forth in a response served on all petitioners at least 30 days prior to the hearing on the petition. If it is not served within that time period, the matter may be continued to allow the petitioners time to respond.

(g) Intervention. – Rule 24 of the Rules of Civil Procedure governs motions to intervene as a petitioner or respondent in an action initiated under this section with the following exceptions:

(1) Any person described in subdivision (1) of subsection (c) of this section has standing to intervene and shall be allowed to intervene as a matter of right.

(2) Any person, other than one described in subdivision (1) of subsection (c) of this section, who seeks to intervene as a petitioner must demonstrate that the person would have had standing to challenge the decision being appealed in accordance with subdivisions (2) through (4) of subsection (c) of this section.

(3) Any person, other than one described in subdivision (1) of subsection (c) of this section, who seeks to intervene as a respondent must demonstrate that the person would have had standing to file a petition in accordance with subdivisions (2) through (4) of subsection (c) of this section if the decision-making board had made a decision that is consistent with the relief sought by the petitioner.

(h) The Record. – The record shall consist of the decision and all documents and exhibits submitted to the decision-making board whose decision is being appealed, together with the minutes of the meeting or meetings at which the decision being appealed was considered. Upon request of any party, the record shall also contain an audio or videotape of the meeting or meetings at which the decision being appealed was considered if such a recording was made. Any party may also include in the record a transcript of the proceedings, which shall be prepared at the cost of the party choosing to include it. The parties may agree that matters unnecessary to the court's decision be deleted from the record or that matters other than those specified herein be included. The record shall be bound and paginated or otherwise organized for the convenience of the parties and the court. A copy of the record shall be served by the local government respondent, or the respondent decision-making board, upon all petitioners within three days after it is filed with the court.

(i) Hearing on the Record. – The court shall hear and decide all issues raised by the petition by reviewing the record submitted in accordance with subsection (h) of this section. The court shall allow the record to be supplemented with affidavits, testimony of witnesses, or documentary or other evidence if, and to the extent that, the petition raises any of the following issues, in which case the rules of discovery set forth in the North Carolina Rules of Civil Procedure apply to the supplementation of the record of these issues:

(1) Whether a petitioner or intervenor has standing.

(2) Whether, as a result of impermissible conflict as described in G.S. 160D-109 or locally adopted conflict rules, the decision-making board was not sufficiently impartial to comply with due process principles. A failure to object at a hearing by a person with standing under subsection (c) of this section shall not constitute a waiver of a right to assert impermissible conflict involving a member of the decision-making board.

(3) Whether the decision-making body erred for the reasons set forth in sub-subdivisions a. and b. of subdivision (1) of subsection (j) of this section.

(j) Scope of Review. –

(1) When reviewing the decision under the provisions of this section, the court shall ensure that the rights of petitioners have not been prejudiced because the decision-making body's findings, inferences, conclusions, or decisions were:

a. In violation of constitutional provisions, including those protecting procedural due process rights.

b. In excess of the statutory authority conferred upon the local government, including preemption, or the authority conferred upon the decision-making board by ordinance.

c. Inconsistent with applicable procedures specified by statute or ordinance.

d. Affected by other error of law.

e. Unsupported by competent, material, and substantial evidence in view of the entire record.

f. Arbitrary or capricious.

(2) When the issue before the court is one set forth in sub-subdivisions a. through d. of subdivision (1) of this subsection, including whether the decision-making board erred in interpreting an ordinance, the court shall review that issue de novo. The court shall consider the interpretation of the decision-making board, but is not bound by that interpretation, and may freely substitute its judgment as appropriate. Whether the record contains competent, material, and substantial evidence is a conclusion of law, reviewable de novo.

(3) The term "competent evidence," as used in this subsection, does not preclude reliance by the decision-making board on evidence that would not be admissible under the rules of evidence as applied in the trial division of the General Court of Justice if (i) except for the items noted in sub-subdivisions a., b., and c. of this subdivision that are conclusively incompetent, the evidence was admitted without objection or (ii) the evidence appears to be sufficiently trustworthy and was admitted under such circumstances that it was reasonable for the decision-making board to rely upon it. The term "competent evidence," as used in this subsection, shall, regardless of the lack of a timely objection, not be deemed to include the opinion testimony of lay witnesses as to any of the following:

a. The use of property in a particular way affects the value of other property.

b. The increase in vehicular traffic resulting from a proposed development poses a danger to the public safety.

c. Matters about which only expert testimony would generally be admissible under the rules of evidence.

(j1) Action Not Rendered Moot by Loss of Property. – Subject to the limitations in the State and federal constitutions and State and federal case law, an action filed under this section is not rendered moot, if during the pendency of the action, the aggrieved person loses the applicable property interest as a result of the local government action being challenged and exhaustion of an appeal described herein is required for purposes of preserving a claim for damages under G.S. 160D-1403.1.

(k) Decision of the Court. – Following its review of the decision-making board in accordance with subsection (j) of this section, the court may affirm the decision, reverse the decision and remand the case with appropriate instructions, or remand the case for further proceedings. If the court does not affirm the decision below in its entirety, then the court shall determine what relief should be granted to the petitioners:

(1) If the court concludes that the error committed by the decision-making board is procedural only, the court may remand the case for further proceedings to correct the procedural error.

(2) If the court concludes that the decision-making board has erred by failing to make findings of fact such that the court cannot properly perform its function, then the court may remand the case with appropriate instructions so long as the record contains substantial competent evidence that could support the decision below with appropriate findings of fact. However, findings of fact are not necessary when the record sufficiently reveals the basis for the decision below or when the material facts are undisputed and the case presents only an issue of law.

(3) If the court concludes that the decision by the decision-making board is not supported by competent, material, and substantial evidence in the record or is based upon an error of law, then the court may remand the case with an order that directs the decision-making board to take whatever action should have been taken had the error not been committed or to take such other action as is necessary to correct the error. Specifically:

a. If the court concludes that a permit was wrongfully denied because the denial was not based on competent, material, and substantial evidence or was otherwise based on an error of law, the court shall remand with instructions that the permit be issued, subject to any conditions expressly consented to by the permit applicant as part of the application or during the board of adjustment appeal or writ of certiorari appeal.

b. If the court concludes that a permit was wrongfully issued because the issuance was not based on competent, material, and substantial evidence or was otherwise based on an error of law, the court may remand with instructions that the permit be revoked.

c. If the court concludes that a zoning board decision upholding a zoning enforcement action was not supported by substantial competent evidence or was otherwise based on an error of law, the court shall reverse the decision.

(*l*) Effect of Appeal and Ancillary Injunctive Relief. –

(1) If a development approval is appealed, the applicant shall have the right to commence work while the appeal is pending. However, if the development

approval is reversed by a final decision of any court of competent jurisdiction, the applicant shall not be deemed to have gained any vested rights on the basis of actions taken prior to or during the pendency of the appeal and must proceed as if no development approval had been granted.

(2) Upon motion of a party to a proceeding under this section, and under appropriate circumstances, the court may issue an injunctive order requiring any other party to that proceeding to take certain action or refrain from taking action that is consistent with the court's decision on the merits of the appeal.

(*l*1) Effect of Appeal of Quasi-Judicial Relief. – If a special use permit is issued by the applicable decision-making board after remand from an order of the court of competent jurisdiction and no injunction prevents the issuance of a special use permit, any appeal of the court's remand order or the subsequently issued special use permit is rendered moot.

(m) Joinder. – A declaratory judgment brought under G.S. 160D-1401 or other civil action relating to the decision at issue may be joined with the petition for writ of certiorari and decided in the same proceeding.

(n) Stays. – An appeal under this section is stayed as provided in G.S. 160D-405. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 45, 50(b), 51(a), (b), (d); 2021-168, s. 4.)

TEMP 01-24
Katherine Ross
Exhibit 18
Page 1 of 10

Even if the trial court was correct in its Feb. 2016 Order to set aside the June 2015 Order (based on its failure to consider evidence), custody should revert back to the arrangement in the Jan. 2015 Order, not to the eleven-year-old Initial Order.

In any event, I do not think the trial court was required to consider new evidence when it changed custody based on a mistake in a prior order. *See* N.C. Gen. Stat. § 1A-1, Rule 60(b). Therefore, my vote is to vacate the Feb. 2016 Order *in its entirety*, as requested by Mother, thereby reverting to the June 2015 Order, without prejudice to either party's right to seek modification of custody in the future.

INNOVATIVE 55, LLC and FLS Energy, Inc., Petitioners,

v.

ROBESON COUNTY and the Robeson County Board of Commissioners, Respondents.

No. COA16-1101

Court of Appeals of North Carolina.

Filed: June 6, 2017

Background: Solar farm operators brought action to contest decision of the County Board of Commissioners to deny their application for a conditional use permit to construct solar farm. The Superior Court, Robeson County, James Gregory Bell, J., affirmed, and operators appealed.

Holding: The Court of Appeals, Tyson, J., held that generalized objections and concerns of neighboring community members was insufficient to support denial of conditional use permit.

Reversed and remanded.

1. Zoning and Planning ⇐1411

A legislative body such as the County Board of Commissioners, when granting or denying a conditional use permit, sits as a quasi-judicial body.

2. Zoning and Planning ⇐1570, 1703

In reviewing the decision of the Board of Commissioners to grant or deny a conditional use permit, the superior court sits as an appellate court, and not as a trier of facts. N.C. Gen. Stat. Ann. § 160A-381(c).

3. Constitutional Law ⇐4096
Zoning and Planning ⇐1625

The role of the superior court in reviewing the decision of a Board of Commissioners, sitting as a quasi-judicial body, is as follows: (1) reviewing the record for errors in law, (2) ensuring that procedures specified by law in both statute and ordinance are followed, (3) ensuring that appropriate due process rights of a petitioner are protected including the right to offer evidence, cross-examine witnesses, and inspect documents, (4) ensuring that decisions of town boards are supported by competent, material and substantial evidence in the whole record, and (5) ensuring that decisions are not arbitrary and capricious. U.S. Const. Amend. 14; N.C. Gen. Stat. Ann. § 160A-381(c).

4. Zoning and Planning ⇐1745

Task of Court of Appeals on review of the superior court's order affirming or denying Board of Commissioners decision on conditional use permit is twofold: (1) determining whether the superior court exercised the appropriate scope of review and, if appropriate, (2) deciding whether the court did so properly.

5. Zoning and Planning ⇐1656

Whether competent, material and substantial evidence is present in the record is a conclusion of law which is reviewed de novo on appeal from a decision by the Board of Commissioners on a conditional use permit application.

6. Zoning and Planning ⇐1656

Whether the Board of Commissioners' decision on a conditional use permit application was based upon procedures and stan-

TEMP 01-24
Katherine Ross
Exhibit 18
Page 2 of 10

dards set out in the county ordinance is a question of law reviewed de novo.

7. Zoning and Planning ⇐1703

When a party challenges the sufficiency of the evidence supporting Board of Commissioners decision on a conditional use permit application, or when the Commissioners' decision is alleged to have been arbitrary and capricious, Court of Appeals employs the whole record test, which requires the reviewing court to examine all competent evidence (the whole record) in order to determine whether the agency decision is supported by substantial evidence.

8. Zoning and Planning ⇐1204

The general rule is that a zoning ordinance, being in derogation of common law property rights, should be construed in favor of the free use of property.

9. Zoning and Planning ⇐1214

Zoning regulations are not a substitute for private restrictive covenants.

10. Zoning and Planning ⇐1422

When an applicant for a conditional use permit produces competent, material, and substantial evidence of compliance with all ordinance requirements, the applicant has made a prima facie showing of entitlement to a permit.

11. Evidence ⇐597

"Substantial evidence" is evidence a reasonable mind might accept as adequate to support a conclusion; it must do more than create the suspicion of the existence of the fact to be established, as it must be enough to justify, if the trial were to a jury, a refusal to direct a verdict when the conclusion sought to be drawn from it is one of fact for the jury.

See publication Words and Phrases for other judicial constructions and definitions.

12. Zoning and Planning ⇐1422

To hold that a conditional use permit applicant must first anticipate and then prove or disprove each and every general consideration would impose an intolerable, if not impossible, burden on an applicant; an applicant need not negate every possible objection to the proposed use.

13. Zoning and Planning ⇐1422

Once an applicant has produced competent, material, and substantial evidence tending to establish compliance with all applicable ordinance requirements for the issuance of a conditional use permit, the burden of establishing that the approval of the permit would endanger the public health, safety, and welfare falls upon those who oppose the issuance of the permit.

14. Zoning and Planning ⇐1422

After a prima facie showing by the applicant, denial of a conditional use permit must be based upon findings which are supported by competent, material, and substantial evidence appearing in the record.

15. Zoning and Planning ⇐1403

Generalized objections and concerns of neighboring community members was insufficient to support denial of conditional use permit for solar farm to operators who had presented prima facie showing of compliance with applicable ordinance requirements; opposition, which included claims about traffic impacts, property value impairment, possible danger of solar farms, and aesthetics, was based on generalized and speculative fears, and community petition opposing the permit was non-specific and merely showed opposition.

16. Zoning and Planning ⇐1354

The denial of a conditional use permit based solely upon the generalized objections and concerns of neighboring community members is impermissible.

17. Zoning and Planning ⇐1354

Speculative assertions, mere expression of opinion, and generalized fears about the possible effects of granting a conditional use permit are insufficient to support the findings of a quasi-judicial body.

18. Zoning and Planning ⇐1429

The denial of a conditional use permit may not be based on conclusions which are speculative, sentimental, personal, vague, or

merely an excuse to prohibit the requested use.

19. Zoning and Planning ⇐1235

The inclusion of a particular use in an ordinance as one which is permitted under certain conditions is equivalent to a legislative finding that the prescribed use is one which is in harmony with the other uses permitted in the district.

20. Zoning and Planning ⇐1354

Whether a proposed use can be seen from a particular location is simply irrelevant to whether it is compatible with the neighborhood, for conditional use permit purposes.

21. Zoning and Planning ⇐1703

When a Board of Commissioners' action on a conditional use permit application is unsupported by competent substantial evidence, such action must be set aside for it is arbitrary.

Appeal by petitioners from order entered 11 March 2016 by Judge James Gregory Bell in Robeson County Superior Court. Heard in the Court of Appeals 26 April 2017. Robeson County, No. 15 CVS 3299

Smith Moore Leatherwood LLP, by Colin J. Tarrant, Wilmington and Elizabeth Brooks Scherer, Raleigh, for petitioner-appellants.

Manning Fulton & Skinner, P.A., Raleigh, by J. Whitfield Gibson and Robeson County Attorney Patrick A. Pait, for respondent-appellees.

TYSON, Judge.

FLS Energy, Inc. and its subsidiary, Innovative 55, LLC (collectively, "FLS Energy") appeal from the superior court's order affirming the decision of the Robeson County Board of Commissioners ("the Commissioners") to deny their application for a conditional use permit ("CUP") to construct a solar farm. We reverse and remand.

I. Background

A. Proposed Solar Farm in Robeson County

In July 2015, FLS Energy submitted an application to the Robeson County Planning and Zoning Board ("the Planning Board") and sought a CUP to construct and operate a solar panel facility on farmland situated in Robeson County. In 2015, Charles and Randall Andrews entered into a lease with FLS Energy to permit FLS Energy to build and operate a solar panel facility on forty acres of their 54.37-acre parcel.

The proposed site is zoned Residential Agricultural ("RA") under the Robeson County Zoning Ordinance ("the Ordinance"). Uses permitted by right in an RA zoned district include: (1) low-density, single-family and mobile home residences, and (2) all agricultural and horticultural uses. Additional specific uses are permitted on RA zoned property, if the permit applicant complies with certain additional conditions imposed by the Ordinance. "Public works and public utility facilities" are two approved conditional uses for properties zoned RA.

The site plan submitted with FLS Energy's CUP application contained the setback and landscaping buffers required by the Ordinance. The Planning Board heard the CUP application and determined that FLS Energy had met the criteria for a CUP and that the project "would be in the best interests of the citizens of [Robeson] [C]ounty." Subject to stated conditions, not relevant to this appeal, the Planning Board unanimously recommended to the Commissioners that FLS Energy's CUP application be approved.

In October and November 2015, the Commissioners held two quasi-judicial hearings to determine whether to grant FLS Energy's CUP application.

B. Testimony Presented to the Commissioners by FLS Energy

Tommy Cleveland, an expert in solar farms at North Carolina State University's Clean Energy Technology Center, testified regarding the design and operation of solar energy systems. Mr. Cleveland asserted evidence shows solar farms are safe for both the

short and long-term. Solar panels are constructed with glass and aluminum components, and do not contain any toxic components. Solar panels have operated in close proximity to population areas for fifty years without reported negative consequences. Mr. Cleveland opined the project would pose no danger to the surrounding community's health, safety, or general welfare.

Gregory Hoffman, a licensed professional engineer who is certified in erosion and sediment control, testified by affidavit regarding the project's design and operation. He explained solar farms generally only require weekly maintenance visits, and the project would generate "virtually no traffic." The solar panels are less than ten feet tall at their highest points, and other proposed structures on the site would not exceed twenty-five feet. A six-foot high security fence was proposed to enclose and secure the solar farm. Mr. Hoffman opined that the project would not negatively impact the character of the surrounding area, public health, safety, or traffic, and the use of the property as a solar farm would be in harmony with the surrounding area.

Landscape architect Stephen Johnson, who is certified by the American Society of Landscape Architects, testified regarding FLS Energy's extensive landscaping plans for the project. During meetings with nearby owners and community members and after receiving their comments, FLS Energy had revised its original site plan to increase landscape buffering by thirty percent. FLS Energy had committed to spend over $65,000.00 to landscape the buffer, which included professional maintenance of the landscaping. Mr. Johnson explained how trees and vegetation would be planted to conceal the solar farm from view of adjoining properties.

Rich Kirkland, a licensed and certified appraiser, testified by affidavit regarding the project's financial impact on the surrounding neighborhood. Mr. Kirkland prepared a property impact analysis, which was based upon a comparative study of the property impacts of over twenty other existing solar farms.

He opined solar farms do not negatively impact the value of adjacent and nearby properties. He testified that some people in RA zoned properties regard having a solar farm on adjacent property as a positive. He noted that Realtors® and developers had stated, "A solar farm is better than a turkey farm," because a solar farm produces no noise, odors, or traffic. Mr. Kirkland opined that the solar farm would not decrease neighborhood property values, and would not be injurious to the use and enjoyment of other neighboring properties.

Finally, Charles Andrews, one of the property owners, testified the project would cause their property taxes to increase from $2,500 to approximately $100,000.00 per year, if the solar farm was approved, and would benefit the surrounding community.

C. Testimony Presented by Solar Farm Opponents

Three individuals testified in opposition of the issuance of the CUP for the solar farm. Ray Oxendine lives in Maxton, North Carolina and testified that members of his extended family live adjacent to the site of the proposed project. Mr. Oxendine had seen other solar farms and considered them to be unattractive. He questioned whether solar farms would be safe to live near fifty years from now and asked the Commissioners to deny the CUP because some people in the community opposed it.

Louis Oxendine, a member of the community who owns nearby property, was concerned that the solar farm would be located across the street from an older church and the site where the Croatan Indian School, established in 1887, had once stood. He felt the property across the street was a "historical spot." Mr. Oxendine was concerned about the CUP because other solar farms he had seen had only small bushes for landscaping and "were not beautiful at all."

Dr. Jo Ann Lowery, a Robeson County school board member and an adjacent property owner, also appeared and testified in opposition to issuance of the CUP for the solar farm. She produced a petition, purportedly in opposition to the construction of the solar farm, signed by 116 community members. Dr. Lowery was not convinced, based upon her own research, that solar farms were safe. She recognized and admitted she

was not an expert in the safety of solar farms.

On 2 November 2015, the Commissioners voted to deny FLS Energy's CUP request. The Commissioners specifically found the solar farm: (1) would be injurious to the use and enjoyment of other property in the immediate vicinity; (2) would impede the normal and orderly development and improvement of the surrounding property for uses permitted; (3) would affect property values within the immediate neighborhood; and, (4) would not be "in harmony" with the surrounding neighborhood.

FLS petitioned the Robeson County Superior Court for review of the Commissioner's decision by writ of certiorari pursuant to the provisions of N.C. Gen. Stat. § 160A-393. On 11 March 2016, the superior court entered an order, which upheld the Commissioners' decision. FLS Energy appeals.

II. Jurisdiction

Jurisdiction lies in this Court from final order of the superior court pursuant to N.C. Gen. Stat. § 7A-27(b) (2015).

III. Issues

FLS Energy argues the superior court erred by affirming the Commissioners' decision because: (1) competent, material, and substantial evidence does not support the Commissioners' denial of the CUP, after FLS Energy established a *prima facie* case that the permit should have been granted; (2) the opponents of the solar farm presented only speculative, generalized, non-expert testimony in opposition to the project; and, (3) the Commissioners improperly denied FLS Energy's permit request based upon grounds not expressly stated in or allowed by the Ordinance.

IV. Standard of Review

[1] "'A legislative body such as the Board [of Commissioners], when granting or denying a conditional use permit, sits as a quasi-judicial body.'" *Sun Suites Holdings, LLC v. Bd. of Aldermen of Town of Garner*, 139 N.C.App. 269, 271, 533 S.E.2d 525, 527, *disc. review denied*, 353 N.C. 280, 546 S.E.2d 397 (2000); *see also Dellinger v. Lincoln Cty.*, —— N.C. App. ——, ——, 789 S.E.2d 21, 26, *disc. review denied*, 369 N.C. 190, 794 S.E.2d 324 (2016).

[2] The Commissioners' decision on the issuance of the CUP "shall be subject to review of the superior court in the nature of certiorari." N.C. Gen. Stat. § 160A-381(c) (2015). In reviewing the Commissioners' decision, "the superior court sits as an appellate court, and not as a trier of facts." *Tate Terrace Realty Inv'rs, Inc. v. Currituck Cty.*, 127 N.C.App. 212, 217, 488 S.E.2d 845, 848 (citation omitted), *disc. review denied*, 347 N.C. 409, 496 S.E.2d 394 (1997).

[3] The role of the superior court in reviewing the decision of a Board of Commissioners, sitting as a quasi-judicial body, is as follows:

> (1) Reviewing the record for errors in law,
>
> (2) Insuring that procedures specified by law in both statute and ordinance are followed,
>
> (3) Insuring that appropriate due process rights of a petitioner are protected including the right to offer evidence, cross-examine witnesses, and inspect documents,
>
> (4) Insuring that decisions of town boards are supported by competent, material and substantial evidence in the whole record, and
>
> (5) Insuring that decisions are not arbitrary and capricious.

Coastal Ready-Mix Concrete Co., Inc. v. Bd. of Comm'rs of Town of Nags Head, 299 N.C. 620, 626, 265 S.E.2d 379, 383, *reh'g denied*, 300 N.C. 562, 270 S.E.2d 106 (1980).

[4] "This Court's task on review of the superior court's order is twofold: (1) determining whether the trial court exercised the appropriate scope of review and, if appropriate, (2) deciding whether the court did so properly." *SBA, Inc. v. City of Asheville City Council*, 141 N.C.App. 19, 23, 539 S.E.2d 18, 20 (2000) (citations and internal quotation marks omitted).

[5, 6] Here, FLS Energy raises issues which require concurrent application of both the *de novo* and "whole record" review. "Whether competent, material and substantial evidence is present in the record is a conclusion of law," which is reviewed *de novo*.

Am. Towers, Inc. v. Town of Morrisville, 222 N.C.App. 638, 641, 731 S.E.2d 698, 701 (2012), *disc. review denied*, 366 N.C. 603, 743 S.E.2d 189 (2013) (citation omitted). Whether the Commissioners' decision was based upon procedures and standards set out in the Ordinance is a question of law, which is also reviewed *de novo*. *Ayers v. Bd. of Adjustment*, 113 N.C.App. 528, 531, 439 S.E.2d 199, 201, *disc. review denied*, 336 N.C. 71, 445 S.E.2d 28 (1994).

[7] "When a party challenges the sufficiency of the evidence or when the [Commssioners'] decision is alleged to have been arbitrary and capricious, this Court employs the whole record test." *Dellinger*, —— N.C.App. at ——, 789 S.E.2d at 26. "The whole record test requires the reviewing court to examine all competent evidence (the whole record) in order to determine whether the agency decision is supported by substantial evidence." *Id.* at ——, 789 S.E.2d at 26 (quoting *SBA, Inc.*, 141 N.C.App. at 26, 539 S.E.2d at 22).

V. Commissioners' Denial of CUP

FLS Energy argues the Commissioners improperly denied its CUP to construct the solar farm. FLS Energy asserts it presented a *prima facie* showing it was entitled to issuance of a CUP under the standards and conditions of the Ordinance, and the opponents of the solar farm failed to present competent and material evidence to overcome FLS Energy's *prima facie* showing to allow the denial of its application. We agree.

[8, 9] "The general rule is that a zoning ordinance, being in derogation of common law property rights, should be construed in favor of the free use of property." *Dobo v. Zoning Bd. of Adjustment of Wilmington*, 149 N.C.App. 701, 712, 562 S.E.2d 108, 115 (2002) (Tyson, J., dissenting), *rev'd per curiam*, 356 N.C. 656, 576 S.E.2d 324 (2003); *see also City of Sanford v. Dandy Signs, Inc.*, 62 N.C.App. 568, 569, 303 S.E.2d 228, 230 (1983). "Zoning regulations are not a substitute for private restrictive covenants." *Dobo*, 149 N.C.App. at 712, 562 S.E.2d at 115.

A. FLS Energy's *Prima Facie* Showing of Entitlement to Permit

[10] A solar farm is a conditional use expressly contemplated and listed for property zoned RA under the Ordinance as a "public utility facility." "When an applicant for a conditional use permit 'produces competent, material, and substantial evidence of compliance with all ordinance requirements, the applicant has made a *prima facie* showing of entitlement to a permit.' " *Howard v. City of Kinston*, 148 N.C.App. 238, 246, 558 S.E.2d 221, 227 (2002) (quoting *SBA, Inc.*, 141 N.C.App. at 27, 539 S.E.2d at 22 (2000)).

[11] "Material evidence is "[e]vidence having some logical connection with the facts of consequence or the issues." Black's Law Dictionary 638 (9th ed. 2009). "Substantial evidence is evidence a reasonable mind might accept as adequate to support a conclusion." *Humane Soc'y of Moore Cty. v. Town of Southern Pines*, 161 N.C.App. 625, 629, 589 S.E.2d 162, 165 (citation and quotation marks omitted). "[The evidence] 'must do more than create the suspicion of the existence of the fact to be established. It must be enough to justify, if the trial were to a jury, a refusal to direct a verdict when the conclusion sought to be drawn from it is one of fact for the jury.' " *Humble Oil & Ref. Co. v. Bd. of Aldermen*, 284 N.C. 458, 471, 202 S.E.2d 129, 137 (1974) (citation, internal quotation marks, and alterations omitted).

[12] FLS Energy's burden to show its *prima facie* compliance with all requirements and conditions of the Ordinance is a burden of *production*, and not a burden of proof. *Dellinger*, —— N.C. App. at ——, 789 S.E.2d at 30. "To hold that an applicant must first anticipate and then prove or disprove each and every general consideration would impose an intolerable, if not impossible, burden on an applicant for a conditional use permit. An applicant need not negate every possible objection to the proposed use." *Woodhouse v. Bd. of Comm'rs of Nags Head*, 299 N.C. 211, 219, 261 S.E.2d 882, 887-88 (1980).

Section 17.3 of the Ordinance at issue is titled, CONDITIONAL USES, and states:

> The following *uses are permitted* subject to any additional conditions imposed:

(C) *Public works and public utility facilities*, such as transformer stations, water towers, and telephone exchanges, provided: 1) such *facilities are essential* to the severs [sic] of the community and no vehicles or materials shall be stored on the premises; 2) all buildings and apparatus shall be set back at least twenty (20) feet from all property lines and shall be designated and landscaped in such a way as to blend with the surrounding area. (emphasis supplied).

Section 30 of the Ordinance provides:

No conditional use permit shall be recommended by the Planning and Zoning Board unless such Board shall find:

A. That ... the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;

B. That the conditional use will no[t] be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor substantially diminish and impair property values within the neighborhood;

C. That ... the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;

D. That the exterior architectural appeal and functional plan of any proposed structure will not be so at variance with the exterior architectural appeal and functional plan of the structures ... in the immediate neighborhood or with the character of the application district as to cause a substantial depreciation in the property values with[in] the neighborhood;

E. That adequate utilities, access roads, drainage and/or other necessary facilities have been or are being provided;

F. That adequate measures have been or will be taken to provide ingress and egress to minimize traffic in the public streets;

G. That the conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located....

The Planning Board unanimously found that FLS Energy had clearly met its burden of production under Section 17.3 of the Ordinance. It produced a site plan and competent testimony which complied with all of the specific CUP requirements set forth in that section. FLS Energy presented a *prima facie* entitlement to issue the CUP before the Commissioners.

FLS Energy also met its burden of production by presenting competent, material, and substantial evidence before the Commissioners to show compliance with the more general requirements set forth in Section 30 of the Ordinance. *See Howard*, 148 N.C.App. at 246, 558 S.E.2d at 227.

FLS Energy presented material and substantial expert testimony from three witnesses to show: (1) solar farms are safe in both the short and long-term for the environment and surrounding community; (2) the project would generate "virtually no traffic;" (3) due to the proposed set-backs and landscaping, the project would not impact the character of the surrounding area; and, (4) the project would not negatively affect the value of adjacent and nearby properties or be injurious to the use and enjoyment of other neighboring properties.

B. Burden Shifts to Opponents to Rebut FLS Energy's *Prima Facie* Showing

[13, 14] Once an applicant has produced competent, material, and substantial evidence tending to establish compliance with all applicable ordinance requirements for the issuance of a CUP, "[t]he burden of establishing that the approval of a [CUP] would endanger the public health, safety, and welfare falls upon those who oppose the issuance of the permit." *Id.* After a prima facie showing, "[d]enial of a [CUP] must [also] be based upon findings which are supported *by competent, material, and substantial evidence* appearing in the record." *Id.* (emphasis supplied).

[15] The Commissioners' denial of the CUP appears to have been wholly based upon the three witnesses' testimonies and a signed petition in opposition to the CUP. Based upon their testimonies, the Commissioners concluded:

1. That the conditional use permit request would be injurious to the use and

enjoyment of other property in the immediate vicinity for the purpose already permitted.

2. That the conditional use permit would impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
3. The Board was concerned that the conditional use permit would affect property values within the immediate neighborhood.
4. That the conditional use permit would not be in harmony with the area in which it is to be located.

[16–18] Speculative and general lay opinions and bare or vague assertions do not constitute competent evidence before the Commissioners to overcome the applicant's *prima facie* entitlement to the CUP. *MCC Outdoor, LLC v. Town of Franklinton Bd. of Comm'rs*, 169 N.C.App. 809, 815, 610 S.E.2d 794, 798, *disc. review denied*, 359 N.C. 634, 616 S.E.2d 540 (2005).

> [The] denial of a conditional use permit based solely upon the generalized objections and concerns of neighboring community members is impermissible. Speculative assertions, mere expression of opinion, and generalized fears about the possible effects of granting a permit are insufficient to support the findings of a quasi-judicial body. In other words, the denial of a conditional use permit may not be based on conclusions which are speculative, sentimental, personal, vague, or merely an excuse to prohibit the requested use.

Howard, 148 N.C.App. at 246, 558 S.E.2d at 227 (citation and internal quotation marks omitted).

The Board found that it "heard testimony from several neighbors who argued that the requested use would substantially diminish or impair property values within the neighborhood" and "would increase traffic congestion in the public streets." The record does not show any of the three witnesses in opposition to the CUP presented any competent evidence pertaining to these two issues.

Substantial and material evidence in the record pertaining to these issues was presented by FLS Energy's experts and lay witnesses, who testified the solar farm would not negatively impact property values of other properties within the neighborhood, and would produce "virtually no traffic." Furthermore, our statutes specifically provide that lay witness testimony is not considered "competent evidence" to show either "the use of property in a particular way would affect the value of other property," or "the increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety." N.C. Gen. Stat § 160A-393(k)(3)(a)-(b) (2015); N.C. Gen. Stat. § 153A-349(a) (2015).

Opponents to the solar farm testified to unsupported and highly speculative claims about their unsubstantiated fears of solar farms and their possible dangers. Opposing contentions included assertions that the solar panels contain "poison," might be connected to "dead birds in California," might produce harmful radiation, and might be hit by hurricanes or tornadoes. The opponents produced no expert testimony or other material and substantial evidence in support of their claims.

A lay witness's testimony regarding "[m]atters about which only expert testimony would generally be admissible under the rules of evidence" is not competent evidence. N.C. Gen. Stat. § 160A-393(k)(3)(c) (2015); N.C. Gen. Stat. § 153A-349(a). The lay testimony regarding the purported safety of solar farms is a matter requiring scientific, technical or other specialized or personal knowledge, normally outside the experience of an ordinary person. The opponents' testimonies on this topic did not constitute "competent evidence" to rebut FLS Energy's *prima facie* showing to deny the CUP.

FLS Energy presented testimony from multiple expert witnesses tending to show solar farms do not materially endanger the environment or the public's health or safety. The opponents' testimony about health and safety concerns of solar farms is an example of the "generalized and speculative fears," which cannot rebut a *prima facie* showing to support denial of a CUP. *Howard*, 148 N.C.App. at 246, 558 S.E.2d at 227.

TEMP 01-24
Katherine Ross
Exhibit 18
Page 9 of 10

The testimony of solar farm opponents that the final project as constructed would be an "eyesore," based upon other solar farms they have seen, is also not competent evidence to support the denial of the solar farm. *See Blair Invs., LLC v. Roanoke Rapids City Council*, 231 N.C.App. 318, 324-25, 752 S.E.2d 524, 529-30 (2013) (statements that a cellphone tower was an "eyesore" and general opposition to the project were rejected as incompetent opinion testimony and did not support denial of the CUP).

[19] Furthermore, "[t]he inclusion of the particular use in the ordinance as one which is permitted under certain conditions, is equivalent to a legislative finding that the prescribed use is *one which is in harmony with the other uses permitted in the district.*" *Woodhouse*, 299 N.C. at 216, 261 S.E.2d at 886 (citation omitted) (emphasis supplied). The Ordinance specifically permits "public works and public utility facilities" as conditional uses in the RA zoning district.

[20] Mr. Oxendine's concern that the proposed solar farm is near a "historical spot" also does not support denial of the CUP. Mr. Oxendine was primarily concerned that children visiting these historical church and former school sites would see the solar farm. Whether a proposed use can "be seen from a particular location is simply irrelevant" to whether it is compatible with the neighborhood. *MCC Outdoor*, 169 N.C.App. at 814, 610 S.E.2d at 798.

Our Legislature has determined the public policy of our State encourages solar equipment and facilities and the use of solar energy. *See, e.g.*, N.C. Gen. Stat. § 105-277(g) (2015) (providing reduced tax rates for buildings equipped with solar energy heating and/or cooling systems). The public policy of our State supports children learning about clean, renewable energy, which is beneficial to all North Carolina citizens.

Finally, the petition that was presented to the Board, purportedly signed by citizens of the surrounding community is not competent evidence to overcome FLS Energy's *prima facie* showing to entitlement to the CUP. *See Humane Soc'y of Moore Cty., Inc.*, 161 N.C.App. at 631-32, 589 S.E.2d at 167 (recognizing a public poll or "survey cannot be used as competent, material evidence as the answers are simply speculative comments from neighborhood residents"). The preamble to the petition merely states, "We, the undersigned, petition Commissioners to deny the request for a Conditional Use Permit to allow for the establishment of a Solar Farm in a Residential Agricultural District owned by Randal [sic] and Charles D. Andrews...."

The record before us demonstrates FLS Energy's CUP was impermissibly denied "based solely upon the generalized objections and concerns of neighboring community members." *Blair Investments*, 231 N.C.App. at 324, 752 S.E.2d at 529. The opposition was not based upon any specific or supported testimony, or substantial and material evidence, facts, or data. The Board's denial of FLS Energy's *prima facie* entitlement to the CUP was clearly based upon testimonies and a non-specific signed petition "which are speculative, sentimental, personal, vague, or merely an excuse to prohibit the requested use." *Howard*, 148 N.C.App. at 246, 558 S.E.2d at 227.

VI. Conclusion

Based upon all the evidence and testimony presented, FLS Energy produced a *prima facie* showing of entitlement to support issuing the CUP the Planning Board had unanimously recommended for approval.

[21] After the quasi-judicial hearing, the Commissioners' denial of FLS Energy's application for a CUP is not supported by substantial, competent, and material evidence. "When a Board [of Commissioners'] action is unsupported by competent substantial evidence, such action must be set aside for it is arbitrary." *MCC Outdoor*, 169 N.C.App. at 811, 610 S.E.2d at 796 (citation omitted). The trial court's order affirming the denial of FLS Energy's CUP application, when the Board's denial was not based on sufficient evidence, is reversed. *See id.* at 815, 610 S.E.2d at 798.

This matter is remanded to the superior court for further remand to the Commissioners with instructions to grant FLS Energy's application and issue a CUP to construct and

operate a solar farm on their proposed site. *It is so ordered.*

REVERSED AND REMANDED.

Chief Judge MCGEE and Judge CALABRIA concur.

In the MATTER OF HUGHES, BY AND THROUGH V.H. INGRAM, Administratrix of the Estate of Hughes, Claim for Compensation Under the North Carolina Eugenics Asexualization and Sterilization Compensation Program, Claimant-Appellant.

In the Matter of Redmond, by and through L. Nichols, Administratrix of the Estate of Redmond, Claim for Compensation Under the North Carolina Eugenics Asexualization and Sterilization Compensation Program, Claimant-Appellant.

In the Matter of Smith, Claim for Compensation Under the North Carolina Eugenics Asexualization and Sterilization Compensation Program, Claimant-Appellant.

No. COA15-699-2
No. COA15-763-2
No. COA15-829-2

Court of Appeals of North Carolina.

Filed: June 6, 2017

Background: Estates of individuals who were sterilized involuntarily under authority of Eugenics Board appealed Industrial Commission's denial of claims for compensation under Eugenics Asexualization and Sterilization Compensation Program. The Court of Appeals, 785 S.E.2d 111, dismissed for lack of jurisdiction. Upon review, the Supreme Court, 796 S.E.2d 784, 797 S.E.2d 264, and 797 S.E.2d 275, reversed and remanded.

Holding: The Court of Appeals, McGee, C.J., held that Equal Protection Clause was not violated by provisions of Program providing compensation only to victims who were alive on certain date.

Decided and remanded.

1. Constitutional Law ⇐3041

To establish an equal protection violation, petitioner must identify a class of similarly situated persons who are treated dissimilarly. U.S. Const. Amend. 14; N.C. Const. art. 1, § 19.

2. Constitutional Law ⇐3041

In addressing an equal protection challenge, a court first identifies the classes involved and determines whether they are similarly situated. U.S. Const. Amend. 14; N.C. Const. art. 1, § 19.

3. Constitutional Law ⇐3057

The Equal Protection Clause is not violated merely because a statute classifies similarly situated persons differently, so long as there is a reasonable basis for the distinction. U.S. Const. Amend. 14; N.C. Const. art. 1, § 19.

4. Constitutional Law ⇐3057

When a statute is challenged on equal protection grounds, it is subjected to a two-tiered analysis; if a statute does not burden the exercise of a fundamental right or operate to the peculiar disadvantage of a suspect class, the statute is analyzed under the second tier and the government need only show that the classification in the challenged statute has some rational basis. U.S. Const. Amend. 14; N.C. Const. art. 1, § 19.

5. Constitutional Law ⇐3057

A statute survives an equal protection analysis under a rational basis standard of review if it bears some rational relationship to a conceivable, legitimate interest of government. U.S. Const. Amend. 14; N.C. Const. art. 1, § 19.

6. Constitutional Law ⇐1021

Statutes subject to rational basis review under the Equal Protection Clause come be-

and are "expos[ed] to [a] wide variety of Market America distributors...." For these reasons, the complaint asserts, the restrictions contained in the Certified Trainer Agreement are necessary to protect Market America's confidentiality concerns.

The provisions at issue in the Certified Trainer Agreement contain a time restriction of one year. As an initial matter, we recognize that this Court has previously held that a "one year time restriction is well within the established parameters for covenants not to compete." *Precision Walls v. Servie*, 152 N.C. App. 630, 638, 568 S.E.2d 267, 273 (2002). Nevertheless, as noted above, the duration of the time restriction in a covenant not to compete cannot be evaluated in a vacuum. Rather, the time restriction must be analyzed in conjunction with the geographic restrictions imposed on Lee.

In this case, it is impossible to determine based solely on the four corners of the complaint whether the territorial restrictions in the Certified Trainer Agreement are appropriately tailored to protect Market America's legitimate business interests. Indeed, because of the way the provisions are worded, we presently have no way of knowing the actual effect of the geographic restrictions on Lee. The complaint does not specify the number of independent distributors Lee personally sponsored or the locations of the residences of the independent distributors in Lee's "downline" who achieved the level of executive coordinator or above during the time period specified in the agreement. Without this and other additional relevant information, the potential overbreadth of the Certified Trainer Agreement's restrictions on Lee cannot be meaningfully assessed.

Taking Market America's allegations in the complaint as true, as we must, we hold that the trial court lacked a sufficient basis to rule as a matter of law that the provisions of paragraphs 18(b) and (c) and 19(b) and (c) of the Certified Trainer Agreement are overbroad and unreasonable. Accordingly, we reverse the portion of the trial court's 17 August 2016 order granting Lee's Rule 12 motions.

Conclusion

For the reasons stated above, we (1) affirm the portion of the trial court's 17 August 2016 order vacating Market America's notice of voluntary dismissal; and (2) reverse the portion of the court's order granting Lee's Rule 12 motions.

AFFIRMED IN PART; REVERSED IN PART.

Judges BRYANT and INMAN concur.

LITTLE RIVER, LLC, Petitioner,

v.

LEE COUNTY, North Carolina, Respondent,

and

Carolina Trace Association, Inc.; South Landing Property Owners Association, Inc.; Village At the Trace Property Owners Association; Sedgemoor Property Owners Association; Escalante Carolina Trace, LLC; Sandra Ward; Terry Ward; Laura Riddle; Bobby Riddle, Jr.; Daniel Stanley; Kay Coles; Fred Berman; C. David Turner; John Beck; Lyona Beck; Gerald Merritt; Cheryl Merritt; Kermit Keeter; Louane Keeter; Alfred Rushatz; Sharwynne Blatterman; Barry Markowitz; Miriam Markowitz; Terri Dussault; and Homer Todd Spofford, Neighbor-Respondents.

No. COA17-461

Court of Appeals of North Carolina.

Filed: December 19, 2017

Background: Applicant for special use permit for aggregate rock quarry on property predominantly zoned residential agricultural sought review of decision by county board of adjustment to deny application. The Superior Court, Lee County, No. 16

TEMP 01-24
Katherine Ross
Exhibit 19
Page 2 of 12

Cvs 329, 2016 WL 9226230, affirmed. Applicant appealed.

Holdings: The Court of Appeals, Tyson, J., held that:

(1) neighbor had standing to participate in quasi-judicial hearing before board;

(2) applicant made prima facie showing of entitlement to permit under county ordinance;

(3) decision by board to deny permit was not supported by competent, material, and substantial evidence; but

(4) applicant was not denied due process at board hearings.

Affirmed in part, reversed in part, and remanded.

1. Zoning and Planning ⇐1411

A legislative body such as the county board of adjustment, when granting or denying a special use permit, sits as a quasi-judicial body.

2. Zoning and Planning ⇐1625

In reviewing the county board of adjustment's decision on an application for a special use permit, the superior court sits as an appellate court, and not as a trier of facts.

3. Zoning and Planning ⇐1625, 1632, 1697

Under the scope of its review, a superior court reviewing a county board of adjustment's decision on an application for a special use permit must only determine whether (1) the board committed any errors in law, (2) the board followed lawful procedure, (3) the petitioner was afforded appropriate due process, (4) the board's decision was supported by competent evidence in the whole record, and (5) whether the board's decision was arbitrary and capricious. U.S. Const. Amend. 14.

4. Zoning and Planning ⇐1656, 1752

When a party alleges the county board of adjustment's decision on an application for a special use permit was based upon an error of law, both the superior court, sitting as an appellate court, and the Court of Appeals reviews the matter de novo, considering the matter anew.

5. Zoning and Planning ⇐1631, 1697

When the petitioner questions (1) whether the decision by the county board of adjustment on an application for a special use permit was supported by the evidence or (2) whether the decision was arbitrary or capricious, then the reviewing court must apply the whole record test, which requires that the superior court examine all competent evidence to determine whether the decision was supported by substantial evidence.

6. Zoning and Planning ⇐1745

Where a party appeals the superior court's order after review of the county board of adjustment's decision on an application for a special use permit to the Court of Appeals, the Court of Appeals reviews the order to (1) determine whether the superior court exercised the appropriate scope of review and, if appropriate, (2) decide whether the court did so properly.

7. Zoning and Planning ⇐1423

Neighbor had standing to participate in quasi-judicial county board of adjustment meeting regarding application for special use permit for aggregate rock quarry on property predominantly zoned residential agricultural; county ordinance stated that any person could appear at public hearing and submit evidence, board meeting was quasi-judicial public hearing, and applicant cooperatively worked to allow neighbor's counsel to help determine procedures before board and expressly consented to neighbor's motion to intervene before superior court. N.C. Gen. Stat. Ann. § 160A-388(e).

8. Action ⇐13
Appeal and Error ⇐3226

Standing is a necessary prerequisite to a court's proper exercise of subject matter jurisdiction and is a question of law which the Court of Appeals reviews de novo.

9. Zoning and Planning ⇐1422

Applicant for special use permit for aggregate rock quarry on property predominantly zoned residential agricultural met burden of producing prima facie showing of

entitlement to permit under county ordinance; applicant presented evidence to show quarry was located in zoning district where it was permitted and would not endanger public health or safety, including that quarry would be subject to extensive regulation from state and federal agencies, applicant presented evidence of all required specifications and conditions to establish prima facie case for issuance of permit, applicant presented expert testimony by certified real estate appraiser tending to show no impact on adjoining or abutting property values, and quarry was in harmony with surrounding uses and zoning districts.

10. Zoning and Planning ⇐1345

A "conditional use permit" is one issued for a use which the ordinance expressly permits in a designated zone upon proof that certain facts and conditions detailed in the ordinance exist.

See publication Words and Phrases for other judicial constructions and definitions.

11. Zoning and Planning ⇐1422

When an applicant for a conditional use permit produces competent, material, and substantial evidence of compliance with all ordinance requirements, the applicant has made a prima facie showing of entitlement to a permit.

12. Zoning and Planning ⇐1422

A petitioner's burden to establish a prima facie showing of entitlement to a conditional use permit is one of production, and not a burden of proof.

13. Zoning and Planning ⇐1422

An applicant for a conditional use permit need not negate every possible objection to the proposed use.

14. Zoning and Planning ⇐1422

Decision by county board of adjustment to deny special use permit for aggregate rock quarry on property predominantly zoned residential agricultural was not supported by competent, material, and substantial evidence; while neighbors presented expert and lay testimony concerning proposed quarry, none of those neighbors adjoined or abutted property, county ordinance did not mandate all required approvals to be granted and permits to be issued prior to approval of permit application, and, while opponents to quarry opined it would cause harm to public health due to blasting and dust, to environment, to property values, and to public safety due to traffic, they did not provide evidence to support generalized fears.

15. Zoning and Planning ⇐1422

Once an applicant for a conditional use permit makes a prima facie showing, the burden of establishing that the approval of a permit would endanger the public health, safety, and welfare falls upon those who oppose the issuance of the permit.

16. Zoning and Planning ⇐1422, 1429

If, after presentation of rebuttal evidence to a prima facie showing of entitlement to a special use permit, the county board of adjustment denies and application for the permit, the denial must be based upon findings which are supported by competent, material, and substantial evidence appearing in the record.

17. Zoning and Planning ⇐1748, 1754

When a party alleges that a decision of the superior court after reviewing the county board of adjustment's decision on an application for a special use permit is arbitrary and capricious or unsupported by substantial evidence, the Court of Appeals reviews the whole record.

18. Zoning and Planning ⇐1699

As a reviewing court applying the whole record test when reviewing the decision of the county board of adjustment on an application for a special use permit, the superior court may not consider the evidence which in and of itself justifies the board's result, without taking into account contradictory evidence or evidence from which conflicting inferences could be drawn.

19. Zoning and Planning ⇐1422

Speculative opinions that merely assert generalized fears about the effects of granting a conditional use permit for development are not considered substantial evidence to support the findings to deny the permit.

TEMP 01-24
Katherine Ross
Exhibit 19
Page 4 of 12

20. Constitutional Law ⚿4096

Zoning and Planning ⚿1421

Applicant for special use permit for aggregate rock quarry on property predominantly zoned residential agricultural was not denied due process in quasi-judicial hearings before county board of adjustment; every party was represented by counsel who all mutually agreed upon procedures to be followed at each of five hearings. U.S. Const. Amend. 14.

21. Zoning and Planning ⚿1421

A county board of adjustment conducting a quasi-judicial hearing on an application for a special use permit can dispense with no essential element of a fair trial; the board must insure that an applicant is afforded a right to cross-examine witnesses, is given a right to present evidence, is provided a right to inspect documentary evidence presented against him and is afforded all the procedural steps set out in the pertinent ordinance or statute. U.S. Const. Amend. 6.

Appeal by petitioner from order entered 12 December 2016 by Judge John W. Smith in Lee County Superior Court. Heard in the Court of Appeals 1 November 2017. Lee County, No. 16 CVS 329

Smith Moore Leatherwood LLP, Raleigh, by Karen M. Kemerait and M. Gray Styers, Jr., for petitioner-appellant.

Yarborough, Winters & Neville, P.A., by Garris Neil Yarborough, Fayetteville, and Lee County Attorney Whitney Parrish, for respondent-appellee.

Womble Carlyle Sandridge & Rice, LLP, Raleigh, by Michael C. Thelen, for intervenor-respondent-appellees.

TYSON, Judge.

Little River, LLC ("Petitioner") appeals from an order affirming the decision of the Lee County Board of Adjustment (the "Board") to deny Petitioner's application for a special use permit. We affirm in part, reverse in part, and remand.

I. Background

On 9 September 2015, Petitioner submitted its second application to the Lee County Planning and Community Development Department (the "Department") for a Special Use Permit ("SUP") to establish an aggregate rock quarry to be located at 5500 NC Highway 87, Sanford, North Carolina, on a proposed 48 acre portion of a 377 acre parcel. The property is predominately zoned Residential Agricultural ("RA"), with two Rural Residential ("RR") zoned parcels adjoining NC Highway 87. Quarries are a permitted use of right in the zoning districts under Article 4 of the Sanford-Broadway-Lee County Unified Development Ordinance ("UDO"), subject to a SUP.

The Department forwarded the application to the Board, which held public, quasi-judicial hearings during five nights over the course of a six-month period. All participants, including the Board, were represented by counsel. Special counsel for the Board, attorneys for Petitioner, and the attorney for Intervenor-Respondent Carolina Trace Association, Inc. ("CTA") all agreed upon procedures to ensure both fairness and expediency throughout the hearing. Petitioner and CTA presented evidence at the hearing.

At the close of all evidence, the Board denied Petitioner's application based upon fifteen findings of fact, leading to the following four conclusions of law:

1. The applicant failed to demonstrate 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. The applicant failed to demonstrate that the use met all required conditions and specifications.

3. The applicant failed to demonstrate that the use would not substantially injure the value of adjoining or abutting property or that the use is a public necessity.

4. The applicant failed to demonstrate that the location and character of the use, if developed according to the plan submitted and approved, would be in harmony with the area which it is located and in general conformity with all adopted land use plans.

Petitioner sought certiorari review of the Board's decision in the superior court. CTA and other interested parties (collectively "Respondent-Intervenors") moved to intervene. Petitioner consented to their intervention. After the hearing, in an order dated 12 December 2016, the superior court affirmed the Board's denial of the SUP, and concluded that for the Petitioner's purported errors of law:

> 10. Applying *de novo* review, the Court finds and concludes that the Lee County Board of Adjustments did not commit legal error, in that:
>
> a. It is not necessary that Neighbor-Respondent Carolina Trace Association, Inc. demonstrates legal standing to participate in the quasi-judicial proceedings to appear before the Lee County Board of Adjustments .....
>
> g. The Lee County Board of Adjustments has the discretion to determine Petitioner did not establish a *prima facie* case .... and ... has the discretion to require assurances regarding health, safety, and environmental risks ....

The superior court then applied a "whole record review," and found and concluded: (1) there was "competent, material, and substantial evidence" to support all the findings by the Board; (2) "each and every finding of fact ... support the Board's conclusions of law; "[n]one of the findings of fact ... is either arbitrary or capricious"; and, (3) "[a]ll of the Board's conclusions of law support the Board's decision to deny Petitioner Little River, LLC's application for a special use permit[.]" Petitioner appeals.

II. Jurisdiction

Jurisdiction lies in this Court from an appeal of right from a final judgment of the superior court. N.C. Gen. Stat. § 7A-27(b) (2015).

III. Issues

Petitioner argues: (1) the opponents of the quarry did not have standing in the quasi-judicial proceeding; (2) no competent, substantial, and material evidence supports the Board's denial of its SUP, presuming Petitioner established a *prima facie* case; (3) the Board's denial of the SUP was arbitrary and capricious; and, (4) its due process rights were violated. Respondent objects to Petitioner's issues on appeal, and asserts the only issue before this Court is whether the superior court properly exercised its scope of review of the Board's decision.

IV. Standard of Review

[1] "A legislative body such as the Board, when granting or denying a [special] use permit, sits as a quasi-judicial body." *Sun Suites Holdings, LLC v. Bd. of Aldermen of Town of Garner*, 139 N.C. App. 269, 271, 533 S.E.2d 525, 527, *disc. review denied*, 353 N.C. 280, 546 S.E.2d 397 (2000).

[2, 3] "The Board's decisions 'shall be subject to review of the superior court in the nature of certiorari.' " *Dellinger v. Lincoln Cty.*, — N.C. App. ——, ——, 789 S.E.2d 21, 26, *disc. review denied*, 369 N.C. 190, 794 S.E.2d 324 (2016) (quoting N.C. Gen. Stat. § 160A-381(c) (2015)). "In reviewing the Commissioners' decision, the superior court sits as an appellate court, and not as a trier of facts." *Innovative 55, LLC v. Robeson Cty.*, — N.C. App. ——, ——, 801 S.E.2d 671, 675 (2017) (citation and quotation marks omitted). Under the scope of its review, a superior court must only determine whether:

> 1) the [b]oard committed any errors in law; 2) the [b]oard followed lawful procedure; 3) the petitioner was afforded appropriate due process; 4) the [b]oard's decision was supported by competent evidence in the whole record; and 5) [whether] the [b]oard's decision was arbitrary and capricious.

Overton v. Camden Cty., 155 N.C. App. 391, 393, 574 S.E.2d 157, 159 (2002) (alterations in original) (quoting *Capital Outdoor, Inc. v. Guilford Cty. Bd. of Adjustment*, 152 N.C. App. 474, 475, 567 S.E.2d 440, 441 (2002) (citation omitted)).

[4, 5] The standard of review of the superior court depends upon the purported error. *Morris Commc'ns Corp. v. Bd. of Adjustment of Gastonia*, 159 N.C. App. 598, 600, 583 S.E.2d 419, 421 (2003). Petitioner raises several issues, which require both *de novo* and whole record review. "When a party alleges the Board of Commissioners' decision

TEMP 01-24
Katherine Ross
Exhibit 19
Page 6 of 12

was based upon an error of law, both the superior court, sitting as an appellate court, and this Court reviews the matter *de novo*, considering the matter anew." *Dellinger*, —— N.C. App. at ——, 789 S.E.2d at 26 (citation omitted). "When the petitioner questions (1) whether the agency's decision was supported by the evidence or (2) whether the decision was arbitrary or capricious, then the reviewing court must apply the whole record test." *ACT-UP Triangle v. Comm'n for Health Servs. of the State of N.C.*, 345 N.C. 699, 706, 483 S.E.2d 388, 392 (1997) (citation and quotation marks omitted). "The whole record test requires that the [superior] court examine all competent evidence to determine whether the decision was supported by substantial evidence." *Morris Commc'ns*, 159 N.C. App. at 600, 583 S.E.2d at 421.

[6] "Where a party appeals the superior court's order to this Court, we review the order to (1) determine whether the superior court exercised the appropriate scope of review and, if appropriate, (2) decide whether the court did so properly." *Davidson Cty. Broad. Co. v. Iredell Cty.*, —— N.C. App. ——, ——, 790 S.E.2d 663, 666 (2016) (citations and quotation marks omitted), *disc. review denied*, 369 N.C. 530, 797 S.E.2d 13 (2017).

V. Analysis

A. Standing

[7] Petitioner argues Respondent-Intervenors did not have standing to participate in the quasi-judicial Board of Adjustment meeting. Petitioner asserts our decision in *Cherry v. Wiesner*, —— N.C. App. ——, 781 S.E.2d 871 (2016), controls this issue in its favor. We disagree.

[8] "Standing is a necessary prerequisite to a court's proper exercise of subject matter jurisdiction, and is a question of law which this Court reviews de novo." *Smith v. Forsyth Cty. Bd. of Adjustment*, 186 N.C. App. 651, 653, 652 S.E.2d 355, 357 (2007) (citations, quotation marks, and brackets omitted). For zoning and land use decisions being made before a Board of Adjustment, "[t]he ordinance may provide that the board of adjustment may hear and decide special and conditional use permits in accordance with standards and procedures specified in the ordinance." N.C. Gen. Stat. § 160A-388(c) (2015).

In this case, section 3.1.5.3.3 of the UDO provides: "[a]ny person or persons may appear at a public hearing and submit evidence, either individually or as a representative." Petitioner applied for and appeared before the Board seeking a SUP to open and operate a quarry. As a quasi-judicial public hearing under the UDO, any member of the public was able to appear and present evidence, as Respondent-Intervenors did.

Unlike in *Cherry*, where the neighbor appealed the Board's decision allowing the applicants' design plans, Petitioner appealed the Board's decision denying its SUP. *See Cherry*, —— N.C. App. at ——, 781 S.E.2d at 874. Only petitioners with standing may appeal a quasi-judicial decision to the superior court in the nature of certiorari. N.C. Gen. Stat. § 160A-393(d). Any person with "an ownership interest in the property that is the subject of the decision being appealed" has such standing. *Id.*

Petitioner co-operatively worked to allow Respondent's counsel to help determine the procedures before the Board and expressly consented to Respondent-Intervenors' motion to intervene before the superior court. Any purported challenge to the standing of Respondent-Intervenors is without merit. That portion of the superior court's order is affirmed.

B. Little River's *Prima Facie* Showing

[9] Petitioner argues the Board failed to follow the appropriate procedure and did not first determine whether or not the Petitioner's evidence and testimony had made a *prima facie* showing of entitlement to a SUP. This threshold determination should be based upon the Petitioner's competent, material, and substantial evidence, or lack thereof. We hold Petitioner met its burden of producing a *prima facie* showing.

[10–13] Petitioner is not seeking a rezoning, only a SUP to conduct a use expressly permitted in these zoning districts. "A conditional use permit is one issued for a use

which the ordinance expressly permits in a designated zone upon proof that certain facts and conditions detailed in the ordinance exist." *Woodhouse v. Bd. of Comm'rs of the Town of Nags Head*, 299 N.C. 211, 215, 261 S.E.2d 882, 886 (1980) (citation and quotation marks omitted). "When an applicant for a conditional use permit produces competent, material, and substantial evidence of compliance with all ordinance requirements, the applicant has made a *prima facie* showing of entitlement to a permit." *Howard v. City of Kinston*, 148 N.C. App. 238, 246, 558 S.E.2d 221, 227 (2002) (citation and quotation marks omitted). A petitioner's burden to establish a *prima facie* showing is one "of *production*, and not a burden of proof." *Innovative 55*, —— N.C. App. at ——, 801 S.E.2d at 676. Otherwise, "[t]o hold that an applicant must first anticipate and then prove or disprove each and every general consideration would impose an intolerable, if not impossible, burden on an applicant for a conditional use permit. An applicant need not negate every possible objection to the proposed use." *Woodhouse*, 299 N.C. at 219, 261 S.E.2d at 887-88 (citation and quotation marks omitted).

The property in question is zoned RR and RA. Article 4 of the UDO specifically allows quarries on property zoned RR and RA as a permitted use, subject to a special use permit and additional development regulations.

According to section 3.5.3 of the UDO, a SUP shall be granted if the applicant proves:

> [1] 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] The use meets all required conditions and specifications,
>
> [3] The use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity, and
>
> [4] The location and character of the use, if developed according to the plan submitted and approved, will be in harmony with the area in which it is located and in general conformity with all adopted land use plans.

1. Public Health and Safety

Petitioner presented competent, substantial, and material evidence to show the proposed quarry is located in a zoning district where it is permitted and will not "materially endanger the public health or safety." Petitioner's evidence tends to show the proposed quarry will be subject to extensive regulation from state and federal agencies, including several subsets of the North Carolina Department of Environmental Quality ("NC DEQ"), the United States Mine Safety Health Administration, and the Bureau of Alcohol, Tobacco, Firearms and Explosives. Any blasting that occurs is strictly regulated and will be closely monitored and regulated to ensure no adverse effects due to ground vibrations will occur. Further, Petitioner's application included conditions restricting the peak particle velocity to below regulatory standards and restricting blasting to between 9:00 a.m. and 5:00 p.m. In North Carolina, blasting is an ultra-hazardous activity and Petitioner will be held strictly liable for any adverse consequences. *Kinsey v. Spann*, 139 N.C. App. 370, 374, 533 S.E.2d 487, 491 (2000).

Petitioner presented competent evidence of minimal off-site noise, producing no impact on public health and safety due to sound. The proposed quarry will be subject to stricter air quality standards than other existing quarries in the county, due to the applicability of the Clean Air Act. Further, Petitioner presented competent evidence of dust suppression at the stages of processing, storing, and loading the aggregate.

Petitioner's evidence also tends to show the quarry's use of water will be heavily regulated by state agencies, ensuring no adverse impact to health or safety regarding ground or surface water. Petitioner's evidence also tends to show the majority of water usage will be maintained through rainwater, with some withdrawal of ground water. Water used in the quarry process will not contain any chemicals and will be recycled and stored on site. Any withdrawal from or discharge to surface water creeks or rivers will be subject to a National Pollutant Discharge Elimination System permit through NC DEQ.

Regarding increased traffic, Petitioner presented evidence of a 0.1 second delay due to truck ingress and egress from the proposed quarry. The additional trucks on the road would not materially impact any of the surrounding intersections. The North Carolina Department of Transportation did not express any concerns regarding the sightline from the proposed entrance of the quarry site, and did not require a signal light to be installed at the proposed entrance. Petitioner agreed to restripe the road and create a dedicated left turn lane into the quarry.

The Board incorrectly found Petitioner had "failed to prove that the proposed use would not create significant, negative" impacts to air quality and surface and ground water, language the superior court erroneously used in its findings of fact. Petitioner's burden is a burden of production, not proof. *See Innovative 55,* —— N.C. App. at ——, 801 S.E.2d at 676. Petitioner presented competent, material, and substantial evidence the proposed quarry will be established on a parcel already zoned and permitted for this use and would not have a material, adverse impact on public health or safety.

2. Required Conditions and Specifications of Permitted Use

Lee County's Development Regulations for quarries are found in Article 5 of the UDO. Quarries are a permitted use and are subject to Development Regulations laid out in section 5.23.2, entitled "Standards."

5.23.2.1 Minimum lot area is five (5) acres.

5.23.2.2 Such uses shall have direct access to a paved Public Street with an all-weather surface.

5.23.2.3 Minimum front, side and rear yards shall be fifty (50) feet, which shall be used for landscaping and screening.

5.23.2.4 The excavated area shall be surrounded with a six (6) foot high security fence.

5.23.2.5 Only one (1) ground sign per entrance to the storage yard is permitted. Such sign shall not exceed fifty (50) square feet in area. If lighted, such sign may include indirect lighting or non-flashing illumination. Such sign shall be located on the same lot or parcel as the mining or quarrying operation.

The property where the proposed quarry is located contains 377 acres, with 48 acres of the property being proposed for mining, and 90 acres being disturbed. Petitioner's evidence tends to show that 75% of the property will be undisturbed vegetative buffer for screening from the adjoining properties. Petitioner presented competent evidence of a paved driveway to access the quarry from NC Highway 87 and leading to a parking lot near the sales center. Petitioner also presented evidence asserting a proposed fifty-foot vegetative barrier bordering the driveway, the narrowest point of vegetative barrier to be established and maintained between the quarry and surrounding areas. Petitioner presented a preliminary site plan and other evidence indicating the installation of a six-foot high security fence around the mining area and only one sign located at the entrance, all of which would conform to the standards set forth in the UDO.

The findings of the Board show no adjudication of and ignores this evidence presented by Petitioner. The requirements the Board alleges Petitioner failed to include in its application, including detail on lighting and grading, are not stated as requirements for a SUP application, but are requirements for issuance of a building permit, an entirely separate process. Petitioner presented substantial, material, and competent evidence of all required specifications and conditions to establish a *prima facie* case for the issuance of the SUP. The Board erroneously conflagrated the burden of producing a *prima facie* showing to support the SUP application with required development and building standards and conditions.

3. Value of Adjoining and Abutting Property

Petitioner presented expert testimony by a certified real estate appraiser tending to show no impact on the adjoining or abutting property values. The expert ran a paired sales analysis for 319 homes near surrounding quarries, including properties not immediately adjoining or abutting those other quarries. Based upon this analysis, the ex-

pert appraiser opined there would be no negative impact on property values.

4. Harmony of Quarry with Surrounding Area

"The inclusion of the particular use in the ordinance as one which is permitted under certain conditions, is equivalent to a legislative finding that the prescribed use is one which is in harmony with the other uses permitted in the district." *Woodhouse*, 299 N.C. at 216, 261 S.E.2d at 886 (citation omitted). As quarries are a permitted use in this zoning district under the UDO, the proposed quarry has previously been legislatively determined to be in harmony with the surrounding uses and zoning districts.

Petitioner also presented expert testimony tending to show the use will be in harmony with the surrounding area. The majority of the acreage in the property, over 75%, will remain undisturbed and used as a buffer to protect surrounding properties from any view of the quarry. The one-mile radius around the proposed location is thinly populated. The only two adjoining or abutting property owners to speak at the hearing both were in favor of issuing the SUP for the quarry, and testified to it being in harmony with their adjoining properties and surrounding areas.

Petitioners provided substantial, material, and competent evidence of all four requirements listed in section 3.5.3 of the UDO. Petitioner met its *prima facie* showing of entitlement to its SUP for the proposed quarry operations. *See Howard*, 148 N.C. App. at 246, 558 S.E.2d at 227. Respondent's arguments to the contrary are overruled.

C. Board's Denial of Little River's SUP

[14] Petitioner asserts there is no competent, material, and substantial evidence to counter or rebut their *prima facie* case, or to support the Board's denial of their SUP application, and the Board's decision was arbitrary and capricious. We agree.

[15] "Once an applicant makes [a *prima facie*] showing, the burden of establishing that the approval of a conditional use permit would endanger the public health, safety, and welfare falls upon those who oppose the issuance of the permit." *Howard*, 148 N.C. App. at 246, 558 S.E.2d at 227.

[16, 17] If after presentation of rebuttal evidence a Board denies a SUP application, the denial must be "based upon findings which are supported by competent, material, and substantial evidence appearing in the record." *Id.* "When a party alleges that a decision of the superior court is arbitrary and capricious or unsupported by substantial evidence, this Court reviews the whole record." *Cumulus Broad., LLC v. Hoke County Bd. of Comm'rs*, 180 N.C. App. 424, 428, 638 S.E.2d 12, 16 (2006) (citation omitted). Here, we examine the whole record to determine the sufficiency of the evidence to support the Board's denial of Petitioner's SUP.

[18] Many of the Board's findings of fact to support its conclusions are based solely upon opponents' evidence and wholly ignore the evidence presented to make a *prima facie* showing by Petitioner. As a reviewing court applying the whole record test, the superior court "may not consider the evidence which in and of itself justifies the Board's result, without taking into account contradictory evidence or evidence from which conflicting inferences could be drawn." *Thompson v. Wake Cty. Bd. of Educ.*, 292 N.C. 406, 410, 233 S.E.2d 538, 541 (1977).

[19] At the quasi-judicial hearing, CTA presented both expert and lay testimony concerning the proposed quarry. None of the CTA residents adjoin or abut Petitioner's property. All of the opponents to the quarry opined it would cause harm to public health due to blasting and dust, to the environment, to property values, and to public safety due to traffic. "Speculative opinions that merely assert generalized fears about the effects of granting a conditional use permit for development are not considered substantial evidence to support the findings [to deny the permit]." *Humane Society of Moore Cty. v. Town of S. Pines*, 161 N.C. App. 625, 631, 589 S.E.2d 162, 167 (2003). Without specific, competent evidence to support these "generalized fears," this evidence does not rebut Petitioner's *prima facie* showing. *See id.*

Respondent-Intervenors' experts agreed that the proposed quarry use would be

heavily regulated, and, as such, would not endanger the public health and safety due to blasting, sound, air quality, water quality, or traffic. The only rebuttal evidence Respondent-Intervenors produced, beyond "generalized fears" and speculation, was that Petitioner had not yet received the required approvals and permits from other regulatory agencies.

The UDO does not mandate all required approvals to be granted and permits issued prior to the approval of the SUP application. If needed, the Board can condition issuance of the SUP upon Petitioner securing these approvals and permits. The lack of all required approvals and permits at the time of the hearings does not rebut Petitioner's *prima facie* showing for the SUP.

The expert witness evidence to rebut Petitioner's showing of compliance with the UDO's condition 2 mistakes the process for site approval in Lee County. Petitioner presented evidence of compliance with all requirements for a SUP, and any information the Board contends was missing was not required at this application for approval. These missing elements may affect the site plan and building approvals, and conditions imposed, but are insufficient to rebut the substantial, material evidence and to overcome Petitioner's *prima facie* showing or to support the Board's denial of the SUP.

The UDO clearly states the impact on property values only applies to "adjoining or abutting property." No residents of CTA or other Respondent-Intervenors who testified or intervened own property that adjoins or abuts the Petitioner's property. Their expert's assertion that several properties located in CTA may be negatively impacted by the quarry does not, *ipso facto*, overcome Petitioner's showing in the consideration of conclusion 3. Additionally, it was improper for the superior court to weigh the evidence and to assert Respondent-Intervenors' expert was "substantially more compelling." The superior court erred by re-weighing the evidence, as compared to reviewing the whole record as an appellate court. The superior court's review is limited to competent evidence in the whole record. *See Thompson*, 292 N.C. at 410, 233 S.E.2d at 541.

As noted, the County has already made a legislative decision to permit the operation of quarries in RA and RR zoned districts with approval of a special use permit. Respondent-Intervenors' rebuttal evidence regarding the lack of harmony with the surrounding uses consisted of "generalized fears" and speculation of lay witnesses. This testimony is insufficient to rebut Petitioner's *prima facie* showing and the prior legislatively determined harmony of this use within these zoning districts and with the surrounding area. *See Woodhouse*, 299 N.C. at 216, 261 S.E.2d at 886; *see also Am. Towers, Inc. v. Town of Morrisville*, 222 N.C. App. 638, 643, 731 S.E.2d 698, 702-03 (2012), *disc. review denied*, 366 N.C. 603, 743 S.E.2d 189 (2013).

The Board's findings are unsupported by competent, material, and substantial evidence, and its conclusions thereon are, as a matter of law, erroneous. Respondent-Intervenors did not present substantial, material, and competent evidence to rebut Petitioner's *prima facie* showing of entitlement to a SUP. The superior court erred by not properly reviewing the evidence of the whole record, and the conclusions thereon *de novo*, and by affirming the Board's decision.

D. Little River's Due Process Rights

[20] Petitioner argues it was denied due process in the quasi-judicial hearing before the Board of Adjustment. We disagree.

[21] A Board "conducting a quasi-judicial hearing, can dispense with no essential element of a fair trial[.]" *Humble Oil & Refining Co. v. Bd. of Aldermen of the Town of Chapel Hill*, 284 N.C. 458, 470, 202 S.E.2d 129, 137 (1974). The Board "must insure that an applicant is afforded a right to cross-examine witnesses, is given a right to present evidence, is provided a right to inspect documentary evidence presented against him and is afforded all the procedural steps set out in the pertinent ordinance or statute." *Coastal Ready-Mix Concrete Co. v. Bd. of Comm'rs of the Town of Nags Head*, 299 N.C. 620, 626, 265 S.E.2d 379, 383 (1980).

Here, every party was represented by counsel who all mutually agreed upon the procedures to be followed at each of the five quasi-judicial hearings. Having already ad-

dressed Petitioner's argument concerning Respondent-Intervenors' standing, we find no violation of Petitioner's due process rights. Petitioner's arguments are overruled.

VI. Conclusion

Petitioner has failed to show any error in the superior court's ruling on Respondent-Intervenors' standing before the Board or by allowing intervention before the superior court, or with the due process afforded to Petitioner. We affirm the superior court's ruling on those issues.

Petitioner presented a *prima facie* showing of entitlement to a SUP. Respondent-Intervenors failed to offer substantial, material, and competent evidence to rebut or overcome this showing. We reverse the superior court's affirmation of the Board's denial of Petitioner's SUP.

This case is remanded to the superior court for further remand to the Lee County Board of Adjustment to acknowledge Petitioner's application and *prima facie* showing for a SUP for the construction and operation of a quarry on the site, and to consider and detail any conditions, approvals, or permits from state or federal regulatory agencies required of Petitioner to comply with the Developmental Regulations in the UDO in order to issue the SUP. *It is so ordered.*

AFFIRMED IN PART; REVERSED IN PART, AND REMANDED.

Judges STROUD and HUNTER concur.

Dominion Energy North Carolina
Temporary Use Permit - Laydown Yard
January 16, 2024

Proposed Findings of Fact

1. The temporary laydown yard is proposed to be constructed on land that is zoned RA and is currently vacant.
2. The temporary laydown yard will have operating hours of 6am to 7pm, Monday to Saturday.
3. The temporary laydown yard will support the Kannapolis to Concord System Expansion project, which is the construction of approximately 24 miles of natural gas distribution pipeline in Cabarrus and Rowan Counties, North Carolina.
4. Nearly 60% of the proposed pipeline project will be located within Rowan County. The pipeline expansion will provide natural gas service to unserved areas of Rowan County and reinforce the existing system. Dominion Energy currently serves over 650,000 customers throughout North Carolina, including over 4,000 customers in southern Rowan County.
5. The temporary laydown yard will be used for employee parking, material storage, pipe bending (welding), fueling, and temporary storage of topsoil and soil displaced from pipe installation. Three construction trailers will be on the site.
6. The east and west portions of the temporary laydown yard will be enclosed with a six-foot chain link fence with gates, which will be locked outside of operating hours.
7. The activity proposed at the temporary laydown yard will not generate significant noise that will migrate off site. Topsoil and pipe storage will occur on the perimeter of the site, which provides a visual and noise barrier.
8. The activity proposed at the temporary laydown yard will not generate significant odor or fumes.
9. The proposed temporary use will generate approximately 20 semi-trailer trips a day, delivering materials to stock the temporary laydown yard, for a 1-2 month period. A majority of deliveries will be scheduled. After the initial stocking of the temporary laydown yard, material delivery traffic is anticipated to average less than 3 semi-trucks per day.
10. Approximately 225-250 employees working on the Kannapolis to Concord pipeline will park at the temporary laydown yard.
11. The temporary laydown yard is designed with four temporary driveways and two loop roads to minimize traffic queueing and congestion on Ketner Farm Road.
12. Traffic controls, including on site traffic control personnel that will monitor and direct traffic entering and exiting the site, are required. Dominion Energy, or its contractor, will post signage on Ketner Farm Road to direct and manage traffic.
13. The North Carolina Department of Transportation has approved a permit for four temporary driveways on Ketner Farm Road for the temporary laydown yard.
14. Dominion Energy North Carolina is required to restore Ketner Farm Road to conditions equal to or better than currently exist. A bond posted by Dominion Energy North Carolina secures the restoration obligation.

15. Roadway pre-construction photos and videos will be taken along Ketner Farm Roads to capture the existing conditions before operations at the temporary laydown yard begin.

16. A regulated surface waters assessment was performed by S&ME on October 13, 2023 on the site proposed to be used for the temporary laydown yard and no stream or wetlands were found in the Project Area.

17. The laydown yard does not impact floodplains, wetlands, water bodies or other environmentally sensitive areas and is proposed on vacant land.

18. The laydown yard is designed and will be constructed to minimize impacts to the land, including the use of truck matting, geotextiles, and plastic sheeting.

19. Three sediment basins will be constructed to control sediment and erosion from the site. Each sediment basin is designed to meet or exceed North Carolina Department of Environmental Quality design standards to prevent soil erosion and remove sediment from stormwater runoff.

20. The temporary laydown yard is designed to comply with requirements of the North Carolina Department of Environmental Quality, including but not limited to that there will be no net increase in stormwater runoff.

21. Dominion Energy will obtain a Certificate of Plan Approval from the North Carolina Department of Environmental Quality in accordance with North Carolina General Statute 113A – 57 (4) and 113A – 54 (d) (4) and North Carolina Administrative Code, Title 15A, Chapter 4B.0107 (c) and a Certificate of Coverage under the NCG010000 Construction Stormwater General Permit prior to starting construction on the temporary laydown yard.

22. At the end of the temporary use as a laydown yard, existing conditions will be restored to the extent practical. The proposed sediment basins, construction entrances, gravel, truck matting and other erosion & sedimentation control measures will be removed. A representative of North Carolina Department of Environmental Quality will inspect the site for close-out. The Project Area will be stabilized by spreading a seed mix as a post-construction erosion control and stabilization measure.