



**Staff Report 04/14/2016**

**Owner:** Edward Spain,  
Donna Spain,  
Alexander Lombard, III,  
Ronda Lombard Moore

**Applicant:** Spring Valley  
Farm 2, LLC

**Parcel ID:** 0201-02015,  
0201-02027, 0201-02016

**Location:** 3186 NC Hwy  
39 N

**Current Zoning:** (A-R)  
Agricultural Residential

**Quasi-Judicial Hearing:**  
04/14/16

**Prepared by:**  
Jordan McMillen &  
Amy Sandidge

**Description of Conditional Use Permit Request:**

The applicant is requesting a conditional use permit to allow construction of a 5 MW solar farm under the use category of "Solar Energy System, Large Scale".

**Exhibits as follows:**

- Exhibit 1.** Application & signature pages
- Exhibit 2.** Statement of justification
- Exhibit 3.** NCDOT driveway permit
- Exhibit 4.** NCDEQ Erosion/Sedimentation Control Plan approval Letter
- Exhibit 5.** Draft Interconnection Agreement
- Exhibit 6.** Decommissioning Plan
- Exhibit 7.** Letter from State Fire Marshall regarding fire access roads
- Exhibit 8.** Aerial photography/surrounding Zoning map/Topography map
- Exhibit 9.** Lot Recombination
- Exhibit 10.** Solar Farm regulations (as per zoning ordinance)
- Exhibit 11.** Conditional Use Permit Check List
- Exhibit 12.** Site Plans

**DRAFT Findings of Fact**

1. The request is for a conditional use permit to allow a 5 MW solar farm on 3 parcels zoned (A-R) Agricultural Residential.
2. The Board of Commissioners approved a rezoning on December 7, 2015 for all 3 parcels from low density residential (R-30) to agricultural residential (AR).
3. Two of the parcels (tax parcels 0201 02015 & 0201 02027) are owned by Edward and Donna Spain and the third parcel (0201 02016) is owned by Alexander Lombard, III and Ronda Lombard Moore.
4. The solar farm would have a main access point from NC 39 Hwy North into parcel 0201 02016 and has been assigned an address of 3186 NC Hwy 39 N, just north of Julia Street.
5. The 3 parcels consist of 109 acres with the solar farm area consisting of approximately 59 acres.
6. The applicants will be combining the two parcels owned by the Spain's; a copy of this plat is included and will be recorded if the CUP is approved.
7. The application requesting a conditional use permit was filed on February 12, 2016.
8. The adjoining property owners were notified on March 24, 2016.
9. The property was posted on March 30, 2016.

**Staff Comments**

The applicant is requesting a conditional use permit to construct a 5 MW solar farm. As proposed, the solar farm would be leased from two separate property owners and cover 3 separate parcels. Two of the parcels are owned by the same property owner (Ed & Donna Spain) and are proposed to be recombined. The solar farm would cover 59 acres and would be surrounded with an 8 ft. fence with 3 strands of barbed wire.

The frontage along Hwy 39 has existing trees and the applicant will be adding additional buffering that will meet the ordinance requirements and will be maintained over the life of the solar farm. The property boundary along Spring Valley Road has the least amount of existing natural buffer and the applicant will be adding additional buffer plantings in this area. The plantings will need to be sufficient to create an opaque evergreen screening with a minimum buffer width of 30 feet wide and will be inspected on an annual basis for 3 years following their planting.

The zoning ordinance calls for a 100 foot front setback (which would be on the Julia Street side and the southern portion of the NC 39 North side). The ordinance calls for a 50 foot on the sides and rear and between individual parcels. As this solar farm traverses across multiple parcels, the applicant is requesting the Board to reduce that setback to ten feet in a few locations. Specifically the northeast corner of parcel 0201 02016 (Lombard property) and the first half of the north boundary line of the same parcel. The ordinance does allow the Board of Adjustment to reduce setbacks for solar farms only but not eliminate them all together without going through a variance process. The recombination of the 2 Spain properties will eliminate the need for a setback reduction between those parcels although the 3<sup>rd</sup> parcel cannot be recombined as it has a different owner. The site layout calls for an interconnected gate between the two parcels that front Hwy 39 (0201 02015 and 0201 02016).

A temporary construction entrance and permanent site access will be located off Hwy. 39 and is identified on the site plan. The applicant's site plan shows the temporary laydown yard and construction staging area to be located outside of the Hwy 39 road right-of-way. Due to previous issues with construction vehicles being located within the ROW, it is recommended that a condition be placed on the permit excluding vehicles from the ROW area. The site plan also calls for a 20 foot wide soil access road. The zoning ordinance does not call for specifications regarding an access road, however this is something that will be reviewed and approved of during the commercial plan review to ensure it meets the fire code. Staff would not recommend making this a condition of the CUP, but would recommend making note in any motion that the road as shown on the plan will need to meet the fire code requirements prior to construction.

The applicant has submitted approved NCDOT driveway permit and NC DEQ Erosion and Sedimentation Control Plans. The applicant has applied for the interconnection agreement with Duke Energy Progress and the point of interconnection is shown on the site plan near the site entrance. No lighting is proposed for the site and the applicant states that noise levels will not exceed fifty (50) decibels as per the zoning ordinance. The solar panels will have no moving parts and will have a relatively low profile with a height of 9-10 feet (ordinance requires less than 25 feet). The applicant also states that solar components will have a UL listing and will be designed with anti-reflective coatings while being designed to prevent glare toward any inhabited buildings on adjacent properties and street right-of ways.

**Staff Review Items**

- The executed pages of the interconnection agreement with Duke Energy Progress need to be submitted prior to releasing conditional use permit – could be condition of approval.
- Staff would recommend adding a condition that the recombination plat for parcels 0201 02015 and 0201 02027 be recorded prior to releasing the CUP.
- A recommended condition would be that all construction vehicles and materials be located outside of the ROW.
- Not necessarily a condition of the CUP, but make note during motion that fire access road must meet fire code prior to construction.