

A G E N D A
Perquimans County Board of Commissioners
PUBLIC HEARING
Upstairs Courtroom - Courthouse Annex
August 24 & 25, 2016
5:30 p.m.

- I. **Call to Order**
- II. **Prayer / Pledge**
- III. **Public Hearing: Conditional Use Permit No. CUP-16-01 5:30 p.m.**
The purpose of this meeting is to consider Conditional Use Permit No. CUP-16-01, by Timbermill Wind, LLC, c/o Apex Clean Energy Holdings, LLC, for a Large Wind Energy Facility in the Bear Swamp and Centerhill Communities [to include Tax Parcel Nos. 3-003900011B; 3-0047-00001, -00002, -00014 and -00028; 3-0048-00001 and -00003; 3-0049-00009, -00024A, -00025, -00026, -00038 and -00039(part); 3-0058-00004(part), -00007 and -00013; and 3-0059-00012A(part)], and extending west into Chowan County.
- VI. **Adjournment**

ACTION
TAKEN
LATER

COUNTY MANAGER NOTES
Perquimans County Board of Commissioners
PUBLIC HEARING
Upstairs Courtroom - Courthouse Annex
August 24 & 25, 2016
5:30 p.m.

- III. **Enclosures.** The purpose of this Public Hearing is to consider Conditional Use Permit No. CUP-16-01, by Timbermill Wind, LLC, c/o Apex Clean Energy Holdings, LLC, for a Large Wind Energy Facility in the Bear Swamp and Centerhill Communities [to include Tax Parcel Nos. 3-003900011B; 3-0047-00001, -00002, -00014 and -00028; 3-0048-00001 and -00003; 3-0049-00009, -00024A, -00025, -00026, -00038 and -00039(part); 3-0058-00004(part), -00007 and -00013; and 3-0059-00012A(part)], and extending west into Chowan County.

PUBLIC NOTICE:

The Perquimans County Board of County Commissioners will hold a Public Hearing using quasi-judicial procedures on Wednesday, August 24, 2016, at 5:30 PM and on Thursday, August 25, 2016, at 5:30 p.m. in the Courtroom on the 2nd floor of the Perquimans County Courthouse Annex Building located at 110 North Church Street, Hertford, NC (next door to the Historic County Courthouse), to consider Conditional Use Permit No. CUP-16-01, by Timbermill Wind, LLC, c/o Apex Clean Energy Holdings, LLC, for a Large Wind Energy Facility in the Bear Swamp and Centerhill Communities [to include Tax Parcel Nos. 3-0039-00011B; 3-0047-00001, -00002, -00014 and -00028; 3-0048-00001 and -00003; 3-0049-00009, -00024A, -00025, -00026, -00038 and -00039(part); 3-0058-00004(part), -00007 and -00013; and 3-0059-00012A(part)], and extending west into Chowan County.

Property owners, residents and other interested parties may review this item during normal business hours before the quasi-judicial Public Hearing at the Perquimans County Planning & Zoning Office, 104 Dobbs Street, Hertford, NC, or call 252-426-2027 or email dgodfrey@perquimanscountync.gov for more information. Public comments at the hearing will be in the form of sworn testimony subject to cross examination.

Publish in Perquimans Weekly on August 10 & 17, 2016

**PERQUIMANS COUNTY BOARD OF COMMISSIONERS
PLANNING & ZONING STAFF REPORT**

August 24 & 25, 2016

BCC MEETING DATE SPECIAL PUBLIC HEARING DATES

TO: Frank Heath, MPA, County Manager **DATE:** August 22, 2016
FROM: Donna Godfrey, AICP, County Planner **PHONE:** 426-2027
SUBJECT OR TITLE: Consideration of Conditional Use Permit No. CUP-16-01, proposed by Timbermill Wind, LLC, c/o Apex Clean Energy Holdings, LLC, for a Large Wind Energy Facility in the Bear Swamp and Centerhill Communities [to include Tax Parcel Nos. 3-0039-00011B; 3-0047-00001, -00002, -00014 and -00028; 3-0048-00001 and -00003; 3-0049-00009, -00024A, -00025, -00026, -00038 and -00039(part); 3-0058-00004(part), -00007 and -00013; and 3-0059-00012A(part)], and extending west into Chowan County.

				Legal Review
<u> </u> ZONING MAP AMENDMENT	<u> X </u> CONDITIONAL USE PERMIT	<u> </u> ORDINANCE OR RESOLUTION	<u> </u> LEGISLATIVE PUBLIC HEARING	()
<u> </u> ZONING TEXT AMENDMENT	<u> </u> MAJOR SUBDIVISION	<u> </u> CONSISTENCY STMT & MOTION	<u> X </u> QUASI-JUDICIAL PUBLIC HEARING	()
<u> </u> OTHER TEXT AMENDMENT	<u> </u> PUD MAJOR MODIFICATION	<u> X </u> EX PARTE COMMUNICATIONS	<u> </u> OTHER PLANNING ITEM	()

BACKGROUND INFORMATION: (Attach additional pages if necessary)

Introduction/Purpose: This report is being provided to the Board of County Commissioners (BCC) for the purpose of reviewing potential Conditions as contained in the Draft Conditional Use Permit (CUP) document.

Application Materials: The initial CUP Application Form and related materials for the "Timbermill Wind" project was received by the Planning & Zoning Office on May 10th. The Applicant provided said materials in a 3-ring binder for each Planning Board and BCC Member, and submitted additional and revised information from May 24th through August 16th. The attached Tab 1 Legal Descriptions may be inserted as new information in your 3-ring binder; all other new or revised materials provided by the Applicant after the initial May 10th submittal were already forwarded to the BCC as follows:

-Continued on next page-

SUGGESTED MOTIONS/RECOMMENDATIONS/ACTIONS: See Table of Section 903 Findings (on next page):

Pursuant to Sections 903 (a) through (d) of the Zoning Ordinance: once the Board of County Commissioners has completed a separate review and action on each one of the four findings [Sections 903(a), (b), (c) and (d)], the following scripts may be used to form the desired motion for the fifth and final action, to either approve or deny the proposed wind energy facility, as follows:

SUGGESTED ACTION TO APPROVE: *Motion to approve Case No. CUP-16-01, requested by Timbermill Wind, LLC, c/o Apex Clean Energy Holdings, LLC, for a Large Wind Energy Facility in the Bear Swamp and Centerhill Communities [to include Tax Parcel Nos. 3-0039-00011B; 3-0047-00001, -00002, -00014 and -00028; 3-0048-00001 and -00003; 3-0049-00009, -00024A, -00025, -00026, -00038 and -00039(part); 3-0058-00004(part), -00007 and -00013; and 3-0059-00012A(part)], and extending west into Chowan County, conditioned upon (revise, add or delete from list of conditions contained in the attached DRAFT 2 Conditional Use Permit), adopting Section 903 Findings to support the motion (see Table of Findings on page 3).*

SUGGESTED ACTION TO DENY: *Motion to deny Case No CUP-16-01 would utilize the above-noted motion stated in the negative tense.*

Administration: _____ Initials

 X FORWARDED TO BCC X SUPPORTING MATERIAL ATTACHED

C:\Users\DonnaG\Documents\Work Documents\BCC Agenda Items\Agenda Cover Sheet 07-08\8-24 & 25-16\8-24 & 25-16 BCC Staff Report for CUP-16-01.doc
 REVISED 8-20-12

BACKGROUND INFORMATION (Application Materials) continued:

- Tab 1 "Application (Form)" to add Legal Description(s) of each participating property in Perquimans County (attached)
- Tab 3 "Project Narrative" Pages 7 and 8, to change description of O & M facility at top of page 8 (provided last week in separate mailing or pick-up as replacement page)
- Tab 5 "Decommissioning Report" (previously forwarded to the BCC to add to 3-ring binder)
- Tab 8 "Shadow Flicker Analysis" (previously forwarded to the BCC to add to 3-ring binder)
- Tab 9 "Sound Modeling" (previously forwarded to the BCC to add to 3-ring binder)
- Tab 10 "Blade Throw & Blade Drop Analysis" (previously forwarded to the BCC to add to 3-ring binder)
- Tab 11 "Ice Throw & Ice Drop Analysis" (previously forwarded to the BCC to add to 3-ring binder)
- Tab 12 "Parcels within 150'" added Chowan properties to list of Adjoining and Abutting Parcels (provided last week in separate mailing or pick-up as replacement pages)
- Tab 18 "Site Plan" updated Site Plan Mapbook cover page (provided last week in separate mailing or pick-up as replacement page)
- Tab 18 Pages 1 & 2 show minimum road setback revisions (provided last week in separate mailing or pick-up as replacement pages)
- Tab 18 Pages 7, 13, 17, 18 and 19 show revisions to Leased Non-Project areas (provided last week in separate mailing or pick-up as replacement pages)
- Tab 18 Table of Distances to add turbine locations (provided last week in separate mailing or pick-up as replacement page)

The Application Package is available for public viewing on the County's website, via the Planning & Zoning Webpage, at <https://app.box.com/v/TimbermillWindPerquimans>, courtesy of the Applicant.

PROCEDURAL ISSUES

Potential Schedule for Public Hearings: The Technical Review Committee met on May 23rd and June 21st and the Planning Board's public meetings were held on July 12th and August 2nd. Public Notices were posted as required for review and consideration of the case by the Planning Board and the BCC.

Consideration of CUP Criteria and Proposed Conditions: The County's Zoning Ordinance provides for the BCC to consider the proposed CUP at a Public Hearing and to use Sections 903(a) thru (d) as summarized in the Table as a guide (see next page), and to look for concurrence with Section 907.27, Wind Energy Facilities. If approved, the CUP document will run with the land and shall be binding on the original applicants for the Conditional Use Permit, their heirs, successors, and assigns.

Quasi-Judicial Procedures for Conditional Use Permit: The Quasi-Judicial procedures apply to the BCC's public hearings for the proposed Conditional Use Permit, for the purpose of receiving testimony from the Applicant and other interested individuals.

CONSIDERATION OF CUP CRITERIA and PROPOSED CONDITIONS: This request to develop a Wind Energy Facility requires consideration of Section 907.27 criteria. Reference is also made to the attached Draft No. 2 CUP, with suggested conditions for the proposed "Timbermill Wind" Energy Facility. The Applicants' Site Plans and Project Narrative are formal parts of the CUP. If approved, the Applicant will be expected to record the executed CUP in a timely fashion in the Register of Deeds Office. Later, a copy of the recorded CUP would be attached to the Applicants' Zoning Permit and then used by Planning & Zoning staff to help determine zoning compliance.

In the even the BCC approves the proposed Timbermill Wind project, the Planning staff recommends two additional revisions to the Draft Conditional Use Permit, as follows:

--Revise Condition No. (1)(A): "The County Zoning Permit Application(s) and Building Permit Application(s) will not be accepted for processing nor issued for construction to commence until after the Conditional Use Permit is approved by the Board of County Commissioners and recorded in the Register of Deeds Office with the Site Plan Line Drawings which are found suitable by County staff to represent the Site Plan Mapbook as approved by the Board of County Commissioners, and the applicable cash bond for Decommissioning activities has been posted with the County in accordance with this Conditional Use Permit and the Perquimans County Zoning Ordinance."

--Add Condition No. (34): "Prior to the issuance of any County Zoning Permit or Building Permit, the Applicant, heirs, successors or assigns shall provide to the Planning & Zoning Office an updated legal description for any legal description provided by the Applicant which is found insufficient and requires updating by a new boundary survey(s) or other means for updating the description deemed acceptable by the County Manager or the County Manager's designee."

BACKGROUND INFORMATION continued:

SUGGESTED MOTIONS and ACTIONS: As previously stated, Section 903 provides for the Board of County Commissioners to consider the proposed development at a Public Hearing and to use as a guide Sections 903(a) through (d) as summarized in the Table of Findings (see page 3). The BCC is requested to consider and act on each finding separately, prior to making a fifth motion for approval or denial. For the fifth action, scripted motions in the positive and negative tense are provided for the BCC's use on page 1, and would acknowledge the Draft No. 2 CUP and any changes required to it by the BCC, in the event the BCC approves the project.

When making a motion, BCC members are requested to reference the Draft Conditional Use Permit and the conditions proposed therein. As indicated in Section 903, the Draft CUP, if approved by the BCC, must contain conditions included by the BCC's motion, if so moved. A preliminary listing of potential conditions is contained in the Draft CUP.

The Planning Board, at its meeting on Tuesday, August 2nd, recommended by a 3 to 1 vote to approve the project, subject to proposed changes (see CUP Condition Nos. 11, 12, 30 and 31) to the Draft CUP. The dissenting vote found that the project was not in harmony with the area in which it is proposed.

**TABLE OF SECTION 903 FINDINGS for CUP-16-01: TIMBERMILL WIND
LARGE WIND ENERGY FACILITY**

Motion to approve finds:	Motion to deny finds:
1) That the CUP will not materially endanger the public health or safety, if located according to the plan submitted and approved.	1) That the CUP will materially endanger the public health or safety if located according to the plan submitted and approved.
2) That the use meets the required conditions and specifications.	2) That the use does not meet the required conditions and specifications.
3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity.	3) That the use will substantially injure the value of adjoining or abutting property, or that the use is a public necessity.
4) That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Perquimans County Land Use Plan.	4) That the location and character of the use, if developed according to the plan as submitted and approved, will not be in harmony with the area in which it is to be located and in general conformity with the Perquimans County Land Use Plan.

Attachments:

- (1) Draft No. 2 Conditional Use Permit No. CUP-16-01 (dated 8-2-16);
- (2) 8-2-16 Planning Board Draft Minutes;
- (3) 7-12-16 Planning Board approved Minutes;
- (4) Legal Descriptions of Participating Properties in Perquimans County (new by Applicant – add to 3-ring binder);
- (5) Excerpts of Zoning Ordinance, Article IX, Sections 901 through 907.27; and
- (6) Quasi-Judicial Procedures (adopted June 2016).

Draft No. 2 (8-2-16) Conditional Use Permit No. CUP-16-01

Do **NOT** record this page

-Beginning of proposed CUP-16-01 to be recorded-

Proposed Large Scale, Wind Energy Facility
in Perquimans County, Hertford Township
Hertford & Bethel Fire Districts

by Timbermill Wind, LLC
c/o Apex Clean Energy Holdings, LLC

NOTES:

- (1) Former Draft 1D2 CUP (dated 7-12-16 pre-Planning Board) was prepared in coordination with the Applicants and was reflective of the Applicants' Project Narrative, Section 907.27 of the Zoning Ordinance, recommendations made by the TRC on May 23 and June 21, 2016, additional review by the County Manager and County Planner, comments from Henry Campen on 7-8-16, and new or revised conditions proposed by Applicants and Roger Waldon, Clarion Associates, LLC, and County staff on 7-10-16 and 7-11-16.
- (2) This attached Draft 2 CUP changes the former Draft 1D2 CUP to include revised Condition Nos. 11 and 12 and new Condition Nos. 30 and 31, which were recommended by the Planning Board on August 2, 2016. In addition, newly scheduled dates for the BCC's extended review of the case were inserted by staff on page 2 and will be adjusted further for accuracy, if needed.

Do **NOT** record this page

Draft No. 2 (8-2-16) Conditional Use Permit No. CUP-16-01

CONDITIONAL USE PERMIT No. CUP-16-01

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On the date(s) listed below, the Board of Commissioners for Perquimans County met and held a public hearing to consider the following application:

Authorized Applicant: Timbermill Wind, LLC
 c/o Apex Clean Energy Holdings, LLC
 by Mark W. Goodwin, its President
 310 4th Street NE, Suite 200
 Charlottesville, VA 22902

Note: Timbermill Wind, LLC ("Timbermill Wind") is a Delaware limited liability company that is a wholly owned indirect subsidiary of Apex Clean Energy Holdings, LLC ("Apex"). Founded in 2009, Apex is an independent renewable energy company based in Charlottesville, Virginia.

Property Location/Address, as shown by the Site Plan Mapbook and index: Multiple properties in northern Perquimans County, in the Hertford and Bethel Townships, and including the Bear Swamp and Centerhill Communities, extending west into Chowan County, and bounded in general in Perquimans County on the west by the Perquimans and Chowan County Line; on the north by West Bear Swamp Road (State Road 1104) near its intersection with and on both sides of Center Hill Highway (State Road 1100); on the northeast by Cedar Stretch and Ballahack Roads (both known as State Road 1107); on the east by Edenton Road Street (State Road 1125); on the southeast side by Ocean Highway South (U.S Highway 17 South); then west along and on both sides of East Bear Swamp Road (State Road 1104) and southwest along the Chesapeake & Albemarle Railroad Track and then westward along the southern boundary of Tax Parcel 3-0058-00004 owned by Weyerhaeuser Company and to the point of beginning at the Perquimans and Chowan County Line. (Staff note to be removed: accuracy of description under review)

Tax Parcel Nos.: 3-0039-00011B; 3-0047-00001, -00002, -00014 and -00028; 3-0048-00001 and -00003; 3-0049-00009, -00024A, -00025, -00026, -00038 and -00039(part); 3-0058-00004(part), -00007 and -00013; and 3-0059-00012A(part).

Zoning District: RA, Rural Agriculture

Draft No. 2 (8-2-16) Conditional Use Permit No. CUP-16-01

CONDITIONAL USE PERMIT No. CUP-16-01

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Proposed Use of Property: To construct and operate a Large Wind Energy Facility on properties located in Perquimans County (and extending into Chowan County), as described and depicted in the Applicant's Project Narrative and Site Plans, which indicates that the *Project will be situated on approximately 17,000 acres, spanning roughly _____ acres in Perquimans County and _____ acres in Chowan County, and will consist of 105 modern turbines. The total installed capacity of the facility will not exceed 300 MW, and the maximum nameplate capacity of each turbine will not exceed 3.6 MW. The portion of the Project situated in Perquimans County will consist of:*

- Up to 57 wind turbine generators each with a maximum capacity of 3.6 MW and a maximum tower (hub) height of 120 meters (394 feet);
- Access roads to each turbine;
- Underground 34.5 kilovolt ("kV") electrical collector lines connecting the turbines to the collector substation;
- A 34.5 to 230 kV collector substation owned by Timbermill Wind;
- A 230 kV interconnection switching station owned by Dominion North Carolina Power;
- An operations and maintenance ("O&M") facility.

For more information on proposed site improvements, see Condition Nos. 3 (a) through (k).

Meeting & Hearing Dates: Planning Board on July 12, 2016 (and if needed July 13, 2016 and/or if needed August 9, 2016) and Board of Commissioners proposed on August 24 and 25, 2016 (and if needed on August 25, September 20 and 21, 2016).

Having heard all the evidence and argument presented at the hearing(s), the Board finds that the application is complete, that the application complies with all of the applicable requirements of the Perquimans County Zoning Ordinance for the development proposed, and that therefore the application to make use of the above-described property for the purpose indicated is hereby approved, subject to all applicable provisions of the Zoning Ordinance pertaining to "*Large Wind Energy Facilities*" and other conditions as follows:

- (1) The Applicants, heirs and assigns shall conduct operations strictly in accordance with the plans and application materials submitted to and approved by the Board of Commissioners (BCC) (including conceptual line drawings of the approved Site Plans), all of which are contained in the County Planning and Zoning Office and recorded in the Register of Deeds Office as part of this Conditional Use Permit document. Any Major Modification proposed to the approved Site Plans or textual portions of the Conditional Use Permit shall require reapplication and approval by the BCC.

The approved Site Plan Mapbook includes 57 Turbines proposed in Perquimans County. Any Major Modification proposed to the Site Plan Mapbook and conceptual line drawings shall require reapplication and reapproval by the BCC. "Major Modification" is defined as "*Any significant change in land use, any change in Project Boundary, and/or any change that results in an increase in the density or intensity of the project, as shown and described in the approved Project Narrative and Site Plan Mapbook.*" However, it is understood that the proposed layout of the Wind Turbines will require minor adjustments in locations pending

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CONDITIONAL USE PERMIT No. CUP-16-01

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the outcome of geotechnical studies and other site considerations as needed or desired to maximize potential wind power. Therefore, changes to the final locations of the Wind Turbines in Perquimans County shall be considered as followed:

- (A) The County Zoning Permit Application(s) and Building Permit Application(s) will not be accepted for processing nor issued for construction to commence until after the Conditional Use Permit is approved by the Board of County Commissioners and recorded in the Register of Deeds Office with the Site Plan Line Drawings, and the applicable cash bond for Decommissioning activities has been posted with the County in accordance with this Conditional Use Permit and the Perquimans County Zoning Ordinance.
 - (B) Any proposed change to the setbacks contained in the Conditional Use Permit Application and which are summarized in the Applicant's spreadsheet of "Turbines Closest Occupied Buildings or Residence" at Tab 18, even if the proposed setback change still complies with the minimum setbacks required by the County in Table 907.27, may be referred back by the Planning & Zoning Administrator, to the Perquimans County Board of County Commissioners for approval. Updated studies, as described in Section 907.27B(8), will be required for any proposed change to turbine locations.
- (2) Construction activity associated with the Project, including operation of the concrete batch plant, shall not commence before 6 a.m. nor continue past 9 p.m. on any day of the week unless approved by the County Manager or their designee and shall not be unreasonably conditioned or denied. Furthermore, sound from any construction activity occurring at anytime on a Sunday shall not exceed 70dbA for more than 5 minutes when measured at any existing church located within one mile of the project boundary as identified on the County's GIS Map or any new church constructed since the approval of this CUP.
 - (3) A summary of the Applicant's proposed Site Improvements, revised during review of the Application and approved by the Board of County Commissioners, is as follows:
 - (A) Turbines (including five representative turbines currently being considered by the Applicant). In the expert analyses of sound, shadow flicker, blade drop/throw, and ice drop/throw, the maximum case scenario turbine has been considered. The Applicants, heirs and assigns shall select the model wind turbine which will minimize points of conflict with aerial fire suppression procedures, especially if one is available that will allow continued use of aerial fire suppression procedures.
 - (B) Access Roads: To include existing public roads, private roads and field paths to the extent possible; new and improved access roads will be all-weather, gravel surfaced, and a minimum width of 20 feet in width. During construction some of the access roads will be widened to accommodate movements of the turbine erection crane with temporary widths generally not exceeding 36 feet;
 - (C) Underground Electrical Collector Lines: The Applicant indicates that the electrical collector lines will consist of an underground cable system between the collector sub-station and the individual turbine locations. The cable system will be designed for operation at 34.5 kV. The cables will be installed in a trench at a depth sufficient to avoid potential impact from the existing land uses. In coordination with the North Carolina Forest Service, the cable will be installed at least 42 inches below ground as well as 42

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inches below the bottom elevation of existing ditches and canals in order to allow for the landowners' routine maintenance of the ditches and canals. To minimize interference with ground-fire suppression activities, cable depths shall be communicated to the NC Forest Service, North Carolina Department of Agriculture and Consumer Services, and will be clearly marked for all employees. The cable will be buried with a fiber-optic cable and an additional separate ground wire. The fiber-optic cable will be used for telemetry, control, and communication purposes. Above-ground junction boxes will be installed as required for connections or splices);

- (D) Collector substations, interconnecting switching stations, transmission voltage step-up stations and any other substations located within the project area shall be secured with fencing at least 7 feet in height and must be setback at least 1,320 feet from any existing Residence or Occupied Building. (FKA No. [9] – now see 3[E] and [F], below).
- (E) Collector Substation: The collector substation will be situated on the property of Weyerhaeuser, LLC and will consist of two substation transformers, circuit breakers, switching devices, auxiliary equipment, and a control enclosure containing equipment for proper control, protection, monitoring, and communications. The principal function of the substation is to increase the voltage from the collector circuits (34.5 kV) to that of the transmission line (230 kV), which will transport the generated electricity of the entire Facility to the interconnection switching station. The collector substation will be located within a fenced area which meets or exceeds Condition 3(D), above and which is designed in accordance with industry standards to provide safety and security;
- (F) Interconnection Switching Station: Associated with the Project, but owned and operated by Virginia Electric and Power Company (doing business as Dominion North Carolina Power and herein after referred to as "VEPCO"), will be an interconnection switching station ("switching station"). This switching station will occupy a fenced area and will be situated on the Weyerhaeuser property near the existing VEPCO 230 kV transmission line. The switching station will serve as the electrical interconnection between the Project and the regional transmission system. The switching station will consist of 230 kV circuit breakers; disconnect switches, bus conductors, auxiliary equipment, and a control enclosure containing equipment for proper control, protection, monitoring, and communications. The switching station will be located within a fenced area which meets or exceeds Condition 3(D), above and which is designed in accordance with industry standards to provide safety and security;
- (G) Meteorological Towers: Five "permanent" self-supporting MET Towers are proposed for clean and unobstructed wind data for performance management, with heights not to exceed the hub height of the wind turbines, marked and lighted as specified by the FAA, three of which will be located along the eastern edge of the project and two along the south-central edge of the project. The permanent meteorological towers shall not exceed 394 feet in height and must meet a minimum set back distance equal to one (1) linear foot for every one (1) foot of height as measured from the Project Boundary. The meteorological towers must be removed as part of any decommissioning process required by the Perquimans County Zoning Ordinance.

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- (H) O&M Facility: Timbermill Wind will be operated and maintained by a team of approximately 10 personnel, including facility managers, a site manager, and a certified crew of technicians. This team will be located at the Project site or O&M building during normal business hours and will perform routine checks, respond to issues, and optimize the performance of the wind farm. The team will also have specified personnel on call 24 hours per day, should an issue arise outside of normal business hours. The O&M facility is proposed central to the Project on the property of Weyerhaeuser, LLC, for access to the turbines as well as the substations. The facility proposes a 4,000-to-6,000 square-foot building to house operating personnel, offices, operations and communication equipment, parts storage and maintenance activities, and a vehicle parking area. An area for permanent outdoor storage of larger equipment and materials will also be included within a fenced area for safety and security. During operations, the O&M staff will perform scheduled, preventive maintenance on the turbines. This is typically done in conjunction with representatives from the turbine manufacturer for the first one to three years to ensure that maintenance protocol for the specific turbine installed is completely understood by the O&M staff. (see Project Narrative for more details on the proposed O&M facility.
- (I) Batch Plant: The Batch plant will be considered a temporary use and cannot be sited within 2,640 feet (1/2 mile) of a Residence, as defined by the Perquimans County Zoning Ordinance. The batch plant must be decommissioned and completely removed within 180 days after completion of the Project or within 3 years after the start date of the Project, whichever occurs sooner. For purposes of determining this condition, the Project start date will be the date the first building permit is issued by Perquimans County.
- (J) Construction: Once the Conditional Use Permit is approved and other related state and federal approvals are obtained, Apex will complete engineering scale design of the access roads, construction areas, turbine foundations, and the electrical components in order to obtain final zoning and building permit approvals. Construction of the on-site roads, tower foundations, and substation may take approximately 8 to 10 months. The actual installation of the turbines will take approximately 2 to 3 months. Subject to receipt of the necessary permits and any weather delays, the Project is slated to be operational during the fourth quarter of 2018. For collection system trenching during construction, the Timbermill Wind personnel (heirs and assigns) and its contractors will remove topsoil prior to trenching and restore topsoil after trenching is completed. The contractor will typically decompact up to 10 inches below grade for crane crawls post construction;
- (K) Timbermill Wind personnel and its contractors will confer closely with the North Carolina Department of Transportation ("NCDOT") and Perquimans County to manage construction traffic and safely deliver the various turbine components. Driveway Permits will be obtained from the NCDOT prior to construction;
- (L) Necessary Future Permits: The Applicant must apply for and obtain other permits and approvals in order for the Project to be fully approved for construction, including those listed in the Project Narrative (NCDEQ Wind Permit; FAA's Determination of No Hazard; USACE's Clean Water Act Section 404; any wildlife permit that might be required from the USFWS and/or NCWRC; EPA's National Pollutant Discharge Elimination System's Stormwater General Permit NCG1000; and NCDOT Driveway

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Permits:

- (M) In coordination with the Perquimans County Emergency Services Department and the Planning & Zoning Office, the Timbermill Wind, LLC, its heirs and assigns, will also design the Project road network and turbine access to accommodate emergency vehicles and will develop an emergency response plan along with the final site plan for the zoning and building permits after all other permits have been acquired. This shall include an Emergency Action Plan to address natural disasters at a minimum and a Fire Prevention Plan. Measures in these plans should include: providing detailed maps to the Emergency Services Departments to review emergency response to the facility. These plans shall be submitted to the County prior to issuance of any staff-issued Zoning or Building Permit.
- (4) Applicant, heirs and assigns shall submit for each component of the project, Applications for Zoning and Building Permits which comply with the local, state and federal standards in effect at the time of submittal, except, however, where the State Building or Fire Code have included recommendations which shall be applicable to Timbermill Wind at the discretion of the County Manager or the County Manager's designee.
 - (5) The Applicant shall prepare a Site Access Plan that designates the names and locations of Project access roads, directions for construction and maintenance workers, main points of ingress and egress, and demonstrates how Project access roads will link to public roads. This plan shall be submitted to the County as soon as practicable in coordination with County GIS and prior to issuance of any staff-issued Zoning or Building Permit.
 - (6) The access roads within the Project area will be constructed of an all-weather, gravel surface to a minimum width of 20 feet. The roads must be maintained to allow access for emergency vehicles.
 - (7) Temporary signage will be established during construction for existing and newly created access roads, to be followed by permanent road signage upon completion of the project. Separate Sign Permits must be obtained from the Planning & Zoning Office and the Building Inspections Department for any sign not exempted by the Perquimans County Zoning Ordinance, Article XX.
 - (8) The Perquimans County Emergency Services Department shall initiate annual joint meeting(s) with the Chowan County Emergency Services Departments as soon as practicable after CUP approval for development and implementation of emergency response plans and fire safety plans to achieve a coordinated approach wherever possible.
 - (9) The project shall utilize minimal lighting at substations and O&M facility. No lighting other than normal security lighting and that required by the government agencies shall be permitted.

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- (10) The County, at the expense of the Applicant, heirs or assigns, through the establishment of an Escrow Account in accordance with the Perquimans County Planning & Zoning Fee Schedule, may employ assistance of outside consultants to determine compliance with Sections 903 through 907.27 of the Perquimans County Zoning Ordinance any part of the proposed Application as well as the "as built drawings." If Escrow Account drops below \$10,000, Applicant shall replenish to the original amount before any further action or consideration is taken on any County Permit. Remaining balance will be refunded after issuance of the Certificate of Zoning Compliance for the last remaining development component and upon approval of As-Built Drawings or if Applicant fails to complete project.
- (11) Pursuant to Section 907.27B(1)(g) of the Zoning Ordinance, Decommissioning plans and five-year updates shall be provided to the County that describe the anticipated life of the Wind Energy Facility, the estimated decommissioning costs in current dollars, the salvage value of the equipment, and the anticipated manner in which the Wind Energy Facility will be decommissioned and the site restored. The Decommissioning Report by DNV-GL (Garrad Hassan America, Inc.) submitted by the Applicant and dated May 20, 2016, is hereby accepted as fulfilling this requirement for the initial decommissioning plan. The Applicant, heirs and assigns shall provide to the County an updated decommissioning plan every five years to account for changing market conditions and to identify an up-to-date cost for all associated activities as outlined in said Report, for as long as the Project is in production. *(revised 8-2-16 by Planning Board -staff note to be removed before execution)*
- (12) Prior to the issuance of a building permit, the owner, Applicant, heirs or assigns shall provide a cash bond in favor of the County in an amount equal to the estimated removal and decommissioning cost of the Wind Energy Facility. The bond shall remain in full force and effect until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the Conditional Use Permit. In the event the estimated costs of removal and decommissioning are found to be higher in the five-year update(s) required by Condition No. 11, above, the Applicant, heirs or assigns shall be required to post a new bond. *(revised 8-2-16 by Planning Board-staff note to be removed before execution)*
- (13) Prior to construction of any single component of the project, the Applicant, heirs or assigns shall submit a full set of the final engineered construction drawings so as to provide the Planning & Zoning Office with a detailed record of the proposed placement and location of all Site Improvements as well as elevation drawings of turbines and cross sections of access roads and other specifications.
- (14) Prior to construction of any single component of the project), the Applicant, heirs or assigns must file a Zoning Permit Application and provide detailed Site Plans pursuant to Section 509 of the Perquimans County Zoning Ordinance for each component permit. Included in the Site Plans, the Applicant must comply with Article XIX Parking and Loading of the Perquimans County Zoning Ordinance. Where applicable, all handicapped parking spaces shall be marked in accordance with State law. This will include any temporary or long-term

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facility, such as concrete batch plants, mobile office complex with storage containers, parking, laydown yards, substations, interconnections, wind turbines, MET towers, etc.

- (15) The Applicant, heirs or assigns must obtain necessary permits or approvals from the Albemarle Regional Health Services (ARHS) for the sewage disposal system that will serve the O & M (Operations and Maintenance) Facility and other occupied facilities.
- (16) An engineer registered in the State of North Carolina shall certify that the turbine and foundation designs are sufficient to meet all applicable building code regulations.
- (17) The Applicant shall obtain all required permits from other governmental agencies (local, state, and federal) prior to commencing construction or as otherwise required by the applicable laws and regulations. Building permits shall be obtained from Perquimans County for all components of the project which are required by the North Carolina Building Code.
- (18) During construction of the project, the Applicant, heirs and assigns shall provide the County with annual reports outlining progress to date along with circumstances that may result in delays. If the Conditional Use Permit is not recorded within 90 days from the date of BCC approval, the BCC may revoke the Conditional Use Permit.
- (19) The Applicant, heirs and assigns shall establish a method to receive and address complaints and concerns from area residents and the general public throughout the construction process and throughout the operating life of the Project.
- (20) Cultural Resources: The Applicant, heirs and assigns shall submit to the Planning & Zoning Office a copy of any inventory, study, plan, etc., required or prepared by State or Federal regulations or agencies which documents historical or archaeological resources found within the project boundaries.
- (21) Prior to the issuance of a Certificate of Zoning Compliance for one or all components of the project, the Applicant, heirs or assigns shall provide certified "as built drawings" to the County showing the locations of the wind turbines, roads, transmission lines, and all related site improvements. Operation of the entire facility or any individual component of the facility (for example Access Roads, Substation, Interconnection, Temporary Concrete Batch Plant, Temporary Laydown Yard, O&M Building, and Turbines) may be delayed at the discretion of the Planning & Zoning Administrator to allow for the review and issuance of said certificates which are based upon determination by County staff or its outside consultants, of compliance with the CUP and other applicable zoning standards.
- (22) Pursuant to Section 509 of the Perquimans County Zoning Ordinance, no Certificate of Zoning Compliance will be issued until all required site improvements have been completed and an appropriately licensed person submits an "as built" plan, where deemed necessary. No

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Final Building Inspection will be conducted and no Certificate of Occupancy will be issued until a Certificate of Zoning Compliance has been issued.

- (23) The Applicant, heirs and assigns shall take every precaution to ensure there is no increased stormwater directed onto adjacent properties resulting from new construction and development on the subject property. Should unforeseen stormwater problems occur, the Applicant, heirs and assigns shall take immediate action to rectify the situation in coordination with the owner of any adjacent property adversely impacted by stormwater runoff.
- (24) The Wind Energy Facility shall be marked on County maps that shall be displayed for public view in county offices including, but not limited to, the Planning & Zoning Office, the Building Inspections Department, the Register of Deeds Office, and the Tax Department. In these county offices, notices shall be posted for Real Estate Purchasers with maps and information on the location and pending construction and operation of the facility. Persons applying for a building permit shall be required to sign the following statement that shall be maintained at the Tax Office: "I have reviewed the current Timbermill Wind Energy Facility map in the Building Inspector's office. I understand that commencement of construction of the facility may be extended by the Board of County Commissioners at the request of the Applicant.
- (25) The maximum length of time the Applicants, heirs and assigns may wait to apply for and receive their zoning and building permits before they must take a new inventory of non-participating properties and possibly conduct new studies shall be twenty-four months, or twelve months if an adjacent non-participating property owner constructs or locates a home or business in the area. For example, if Building Permits have not been issued for the project within 18 months, or if properly permitted construction hasn't commenced within 24 months, any newly constructed residence, occupied building or road on adjacent property may affect the placement of the site improvements previously approved for the wind energy facilities.
- (26) Specifically excluded from the CUP are those portions of properties that are not currently zoned RA, Rural Agriculture, and those properties that are not within the zoning jurisdiction of Perquimans County. [Clarion].
- (27) Applicants, heirs and assigns shall provide documentation of requisite State and Federal approvals prior to the County's issuance of a Zoning Permit authorizing the beginning of construction. [Clarion].
- (28) Require County staff approval of detailed site plans and construction plans prior to issuance of a Zoning Permit. [Clarion].

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- (29) Prior to issuance of a Zoning Permit authorizing the beginning of construction, the Applicant, heirs or assigns shall provide a Traffic Management Plan found acceptable by the County Manager or the County Manager's designee for the construction phase of development. Said Traffic Management Plan shall include but not be limited to:
- (A) A description of the external and internal road network that will be used for the transport of materials and equipment to the site;
 - (B) A description of the types of materials and equipment that will need to be brought to the site, with dimensions of large component parts;
 - (C) Verification that the external and internal roads can accommodate the large component parts;
 - (D) A description of the extent of County services and personnel that will be required for assistance in transport of large component parts; and
 - (E) A description of access and parking arrangements for vehicles and personnel during the construction phase. [Added 7-11-16 by Clarion/P&Z].
- (30) The Applicant, heirs and assigns shall provide a cash bond in favor of Perquimans County to cover the costs incurred by the North Carolina Department of Transportation (NCDOT) for the repair of all existing public roads within the Bear Swamp and Centerhill Communities all of which are subject to use by any and all vehicles traveling to and from the project for the purpose of construction activities and later decommissioning activities. The intent is to ensure the repair of all existing roads, especially those which are not covered by the Applicant's bond written in favor of NCDOT to cover repair costs of those roads which are identified and agreed upon for use by heavy trucks and equipment during the construction phase, out of concern that use of all public roads does and will occur. (added by Planning Board on 8-2-16 -staff note to be removed before execution)
- (31) A potential access point from Ocean Highway South (US Hwy 17 South), via the CH-and RA-zoned portions of Chicken Road (private road) for construction and operation activities shall be subject to the approved CUP and Traffic Management Plan. Other RA-zoned parcels with street access are also eligible for access points subject to the approved CUP and Traffic Management Plan. Access points may be proposed by the Applicant, heirs or assigns with submittal of detailed Site Plans at the Zoning Permit stage. (added by Planning Board on 8-2-16 -staff note to be removed before execution)
- (32) Prior to issuance of a Zoning Permit authorizing the beginning of construction, the Applicant, heirs and assigns shall provide a plan for limiting public access to the wind turbine facilities, along with provisions for how those access limitations will be implemented and managed. Said plan and provisions shall be found acceptable by the County Manager or the County Manager's designee(s) for both the construction and operational phases of the project. [Clarion]. (formerly Condition No. 30 - staff note to be removed before execution)
- (33) Applicant, heirs and assigns shall implement mitigations strategies for blade throw and ice throw hazards, as recommended in the application's support studies (formerly Condition No. 31 - staff note to be removed before execution)

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- (A) Inclusion of a feature on all turbines to automatically shut down the turbine under cut-out wind speed conditions.
- (B) Inclusion of hydraulic pitch control mechanisms on all turbines to minimize throw in all wind environments.
- (C) Posting of warning signs when icing events are possible to alert anyone in the potential risk area. [Clarion].

If any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect.

IN WITNESS WHEREOF, Perquimans County has caused this permit to be issued in its name, and the undersigned, being all the authorized applicants, agents, representatives, or property owners of the property above described, do hereby accept this Conditional Use Permit, together with all its conditions, as binding on them and their successors in interest.

Janice McKenzie Cole, Chair, Board of Commissioners Date

Attest: _____ (Seal)
Mary P. Hunnicutt, Clerk to the Board Date

I, _____, authorized Applicant, of the above identified property, do/does hereby acknowledge receipt of this Conditional Use Permit. The undersigned does further acknowledge that no work may be done pursuant to this permit except in accordance with all of its conditions and requirements and that this restriction shall be binding on them and their successors in interest.

Authorized Applicant

The State of _____
_____ County

I, _____, a Notary Public in and for the said State and County, do hereby certify that _____ personally appeared before me this day and acknowledged the due execution of the forgoing instrument.

WITNESS my hand and notarial seal, this the _____ day of _____, 20_____.

Notary Public

My Commission expires: _____
(Not valid until fully executed and recorded)

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Do **NOT** record this page

Insert Site Plan Line Drawing(s) here
(include disclaimer required by NCGS 47-30
and enforced by Register of Deeds' Office)

Do **NOT** record this page

Draft No. 2 (8-2-16) Conditional Use Permit No. CUP-16-01

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-End of proposed CUP-16-01 to be recorded-

Proposed Large Scale, Wind Energy Facility
in Perquimans County, Hertford Township
Hertford & Bethel Fire Districts

by Timbermill Wind, LLC
c/o Apex Clean Energy Holdings, LLC

Do **NOT** record this page

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Perquimans County Planning Board

MINUTES

Tuesday, Aug 2, 2016

The Perquimans County Planning Board held a Special Called Meeting on Tuesday, Aug 2, 2016 at 6:00 PM on the second floor of the Courthouse Annex Building.

MEMBERS PRESENT: Paul Kahl, Chair
Brenda Lassiter
Donald Manley
Lewis Smith

MEMBERS ABSENT: A.O. Roberts, Vice Chair

OTHERS PRESENT: Frank Heath, County Manager
Donna Godfrey, County Planner
Rhonda Money, GIS/Planning Assistant
Hackney High, County Attorney
Don Giecek, Representing the Applicant, Apex Clean Energy
Many Interested Citizens

Chair Paul Kahl called the meeting to order at 6:02 pm and opened with prayer.

Agenda Item I, Approval of Agenda: Mr. Smith made a motion, seconded by Ms. Lassiter, to approve the agenda as presented. The motion passed unanimously.

* * * *

Agenda Item II, Consent Agenda/Approval of Draft Minutes of Previous Planning Board Meetings: Regular meeting of November 12, 2013; Rescheduled meeting of December 19, 2013; Regular Meetings of February 11, April 8, and September 9, 2014 and June 14 and July 12, 2016.

Ms. Lassiter made a motion, seconded by Mr. Manley, to approve previous minutes of Regular Meetings June 14 and July 12, 2016. The motion passed unanimously.

* * * *

Agenda Item III, Business Item: Continued Review of Conditional Use Permit No. CUP-16-01, requested by Timbermill Wind, LLC, c/o Apex Clean Energy Holdings, LLC, for a Large Wind Energy Facility in the Bear Swamp and Centerhill Communities [to include Tax Parcel Nos. 3-0039-00011B; 3-0047-00001, -00002, -00014 and -00028; 3-0048-00001 and -00003; 3-0049-00009, -

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00024A, -00025, -00026, -00038 and -00039 (part); 3-0058-00004 (part), -00007 and -00013; and 3-0059-00012A(part)], and extending west into Chowan County.

Ms. Lassiter opened the discussion by expressing her concern for road bonding. She has been observing the current wind farm project under construction (Iberdrola's Desert Wind) to research good and bad qualities of large scale wind farms in general. One of the big issues is that roads are being torn up by heavy truck traffic. She feels the burden of fixing the roads should be on the project developer; not the truck driver, not the taxpayers. She wants a contingency that all roads be bonded in regards to ingress and egress to the project.

Mr. Smith discussed the water quality report from Dwane Hinson. He asked if water quality, watershed and water movement are going to be addressed by Timbermill Wind. Don Giecek, representing Apex Wind Energy, responded that his company received that letter late last week and Apex's engineers have looked at it. Mr. Giecek offered to discuss the engineer reports but warned it would take a long time. He noted that a National Pollutant Discharge Elimination System (NPDES) permit is still needed as well as an Army Corps of Engineer permit and those should address stormwater concerns.

Ms. Lassiter said she worked for a legal firm ten years prior to working with public schools for twenty and she was concerned about 'materialism/materialman/mechanic liens' on property that was abandoned by Apex. She read a newspaper article about a project in Illinois that claimed Apex sold a project to Ikea and when Apex and Ikea failed to pay some of the contractors on that project, the contractors filed liens against the landowners. Ms. Lassiter asked Mr. Giecek if he was aware of that case and did those landowners have to pay those liens. He said he did not know the specifics but thought it dealt more with the subcontractors and that the issues were already resolved. He said there were a variety of different clauses in different leases that protected the landowner, so he read a clause directly from a lease that was written to prevent mechanic liens and protect landowners here. After reading that section, Ms. Lassiter asked County Attorney, Hackney High, if that language protects our landowners. Mr. High asked for a few minutes to look over the clause before responding.

Mr. Manley asked Mr. Heath if this application was complete enough to make a recommendation. Mr. Heath said yes.

Ms. Lassiter asked if we are putting a contingency on noise in the CUP. What do we do if Iberdrola is too loud after operations start? Ms. Godfrey said the company will have to take steps to remedy the situation if there is a problem. Mr. Smith said our wind ordinance requires the project applicant to provide the sound level of each piece of equipment, but the developer has to sign a non-disclosure agreement with the manufacturer to keep that same information private. That puts our wind ordinance at odds with what the company is able to do. Mr. Heath reminded the Board that the current Zoning Ordinance requires noise reports *before* construction. Whether the sound reports are good enough will be determined at the quasi-judicial hearing.

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Ms. Lassiter has been to Perquimans County Register of Deeds (ROD) to look up Apex leases and only the acknowledgements of signing a lease are currently recorded; not the actual leases. She asked about a waiver of nuisance clause that was in one of Iberdrola's agreements; then asked who is responsible for measuring the sound levels after operations begin. Mr. Heath said it would be up to the County to scientifically measure sound levels using our own expert to verify data that developers report to us.

Ms. Lassiter asked Mr. Heath if he was comfortable with the decommissioning bond amount. Mr. Heath said he recommended that the maximum amount the company had published be submitted to the County in the form of a cash bond. He also recommends a condition be added to the CUP stating that the Decommissioning Study be updated every 5 years to account for inflation.

Planner Godfrey discussed adding a condition to the CUP acknowledging a potential access point from Ocean Highway via a CH-Zoned portion of Chicken Road. She also noted that Emergency Services staff met with Don Giecek at the EMS building this afternoon.

At this point County Attorney, Hackney High had reviewed several provisions of the lease where Apex is the tenant and property owners are the landlords. He stated that two particular provisions provide some protection; however the extent of the protection that would be provided can only be decided on a case-by-case basis. One provision states that Apex shall not permit any lien to be enforced against the property. Another provision states that Apex shall keep premises free and clear of any liens. There are also other provisions where Apex may, in good faith, withhold payment and contest a lien. In that case, Apex would need to put up a bond in a sufficient amount to protect the landowner. If Apex were successful in contesting that lien then there would not be a lien against the landowner. If Apex were not successful in contesting that lien then the bond would take care of the landowner. Are there situations where landowners could get in a bad situation? Mr. High said sure there are, but those are the two protective features that he found in those clauses. He also said landowners should be made aware that a line in one of the provisions states property owners can post notices of non-responsibility on the property. This puts contractors on notice that landowners are not responsible for payment of anything and they are not allowing their property to have a lien placed on it. Then it would be up to the contractor to decide if it wants to take the risk of working on property that does not allow liens.

Ms. Lassiter spoke with a local aerial applicator regarding comments made by a citizen at a previous Planning Board meeting. In the discussion, she discovered that the farmers near turbines in the 'Desert Wind' area will be able to get aerial applicator services, however the cost will increase from what they may be used to paying. Prior to turbines, the farmers received a discounted price because there were few trees, power lines, etc., which made it easy to spray by air. The service will still be available but the farmer will have to pay what others pay with smaller fields surrounded by lines, trees, etc. She also discussed property values. It is her opinion that either side can make

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numbers work for their own benefit. The Board of County Commissioners (BCC) should decide that issue, not the Planning Board.

Mr. Smith agreed that the Planning Board is advisory and the quasi-judicial hearing is a better place for experts under oath to address the property value issue.

Chair Kahl summarized by saying we are going to add Chicken Road CH/RA zoning language, road bonding and 5-year updates on decommissioning as extra conditions in the CUP.

Much discussion ensued among all Board members about the geographic area encompassed by the road bonding condition. On a previous day Ms. Lassiter spoke with Jim Hoadley, the local Assistant District Engineer at NCDOT, and he told her that DOT drives and videotapes the roads. Mr. Heath suggested wording such as "bond any road utilized by the applicant for the project". Mr. Manley commented that trucks are everywhere; are you going to bond every road? Mr. Manley also made it clear that truckers already pay a heavy-use fee. Ms. Lassiter clarified she is saying bonding should not fall on the pockets of the truckers; it should be on the project developer. County Manager Heath stated we need a mechanism to compare the road lists. For example, DOT does a ride with the applicant and they determine which roads will be used; then we need to require the applicant to agree to further bonding after construction if it's determined by DOT that *additional* roads were used.

Motions --- Table of Findings

- 1) Motion was made by Mr. Manley, seconded by Mr. Smith, to recommend approval finding that the CUP will not materially endanger the public health or safety if located according to the plan submitted and approved. Motion passed unanimously.
- 2) Motion was made by Mr. Manley, seconded by Mr. Smith, to recommend approval finding that the use meets the required conditions and specifications. Motion passed unanimously.
- 3) After much discussion, motion was made by Ms. Lassiter, seconded by Mr. Manley, to recommend approval finding that the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity. Motion passed unanimously.
- 4) Motion was made by Mr. Manley, seconded by Mr. Smith, to recommend approval finding that the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Perquimans County Land Use Plan. Motion passed 3 to 1, with Ms. Lassiter voting against.

Mr. Manley made a motion, seconded by Chair Kahl, to recommend approval to the BCC of CUP-16-01 with an added clause to recommend the BCC address property value issues above and beyond the quasi-judicial setting. Also:

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1. Add condition or statement in the CUP to acknowledge potential access point from Ocean Highway via CH- and RA-zoned portions of Chicken Road for construction and operation activities, subject to approved CUP and Traffic Management Plan. Other access points to be proposed by Applicant with submittal of detailed Site Plans at the Zoning Permit stage.
2. Add condition to require 5-year updates to the Decommissioning Study pursuant to Sections 907.27B(1)(e), (g) and (7)(a) through (d), and adjusted bond amount, if applicable.
3. Add condition to ensure that all roads within the community be bonded by NCDOT or that we have a mechanism put in place to ensure they are paid for.

Motion passed 3 to 1 with Ms. Lassiter voting against.

Minute Taker, Ms. Money asked to clarify Ms. Lassiter's votes due to the wording being somewhat confusing. County Manager Heath verified Ms. Lassiter's intentions for the record. They were corrected to read as stated above.

Perquimans County Board of County Commissioners will hear this case as a quasi-judicial proceeding on August 24, 2016 at 5:30pm with the option to continue it on August 25th if necessary.

* * * *

Agenda Item IV, Other Items: A. Status Report on Previous Board Recommendations: Planner Godfrey reported that there was nothing to report.

Agenda Item IV, Other Items: B. Chair's signature on approved minutes, subdivisions, etc., and special Courthouse Notice for new meeting time.

* * * *

Meeting adjourned at 7:16 p.m.

Minutes approved this _____ day of _____, 2016.

Chairperson
Attachments: A (Sign In Sheet)

Recorder

Perquimans County Planning Board

MINUTES

Tuesday, July 12, 2016

The Perquimans County Planning Board held its regular monthly meeting on Tuesday, July 12, 2016 rescheduled to 6:00 PM in the Court Room located on the 1st floor of the Perquimans County Courthouse.

MEMBERS PRESENT: Paul Kahl, Chair
Brenda Lassiter
Donald Manley
Lewis Smith

MEMBERS ABSENT: A.O. Roberts, Vice Chair

OTHERS PRESENT: Frank Heath, County Manager
Donna Godfrey, County Planner
Rhonda Money, GIS/Planning Assistant
William Crowe, County Attorney
Douglas Hanna, Legal Counsel for Perquimans County
Don Giecek, Representing the Applicant, Apex Clean Energy
Nate Pedder, Apex Clean Energy
Many interested Citizens

Chair Paul Kahl called the meeting to order at 6:00 pm and opened with prayer by Mr. Smith. Chair Kahl read an email dated Tuesday, July 12, 2016, 7:59 am [see attached Exhibit K] sent to Planning Board members from Vice Chair, Mr. A.O. Roberts, explaining why he is recusing himself from the Timbermill Wind, LLC Conditional Use Permit Application No. CUP-16-01, as follows:

"I, A.O. Roberts, do recuse myself from the Timbermill Wind, LLC Conditional Use Permit application No. CUP-16-01. My wife will possibly be a partial heir, at some point and time of the property in Chowan that is also part of this Timbermill Wind Project. Some feel that I might be bias in my decision-making process because of this. I can honestly say that has not been the case. I do not want to cause the Planning Board or Perquimans County any liability on this issue. I have faith in the Planning Board's decision that they will look out for Perquimans County and "all" of the Citizens and taxpayers of Perquimans County. Thanking you in advance on this consideration, A.O. Roberts"

* * * *

Agenda Item I, Approval of Agenda: Mr. Smith made a motion, seconded by Mr. Manley, to approve the agenda as presented. The motion passed unanimously.

* * * *

Agenda Item II, Consent Agenda/Approval of Draft Minutes of Previous Meetings: Ms. Lassiter made a motion, seconded by Mr. Manley, to approve previous minutes of the Regular Meetings of March 11 and May 13, 2014; the Rescheduled Meeting of November 18, 2014; and the Special Called Wind Energy Subcommittee Work Sessions of September 29, October 13, October 27 and November 12, 2015. The motion passed unanimously.

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Agenda Item III, Business Item: Conditional Use Permit No. CUP-16-01, requested by Timbermill Wind, LLC, c/o Apex Clean Energy Holdings, LLC, for a Large Wind Energy Facility in the Bear Swamp and Centerhill Communities [to include Tax Parcel Nos. 3-0039-00011B; 3-0047-00001, -00002, -00014 and -00028; 3-0048-00001 and -00003; 3-0049-00009, -00024A, -00025, -00026, -00038 and -00039 (part); 3-0058-00004 (part), -00007 and -00013; and 3-0059-00012A(part)], and extending west into Chowan County. Planner Godfrey went

over her staff report and verified that the newspaper and adjacent landowners had been notified of the meeting tonight. In considering the request, the Planning Board and Board of County Commissioners (BCC) shall use as a guide County Zoning Ordinance Section 903 (a) through (d). The staff report asks that the Planning Board consider and act on each finding separately, prior to making a fifth motion with a recommendation for approval or denial of the application. Ms. Godfrey then went over the high points of the proposed Conditional Use Permit (CUP). Project acreage in Perquimans County is still not calculated due to many factors, but it will be determined before Board of County Commissioners takes action on CUP-16-01. Out of 105 proposed turbines in the entire project, 57 of those turbines are planned to be in Perquimans County. The proposed CUP discusses what a Major Modification is and states that re-application and re-approval by the BCC is required if a Major Modification is proposed. Noise amounts and times of day when construction activity can take place are discussed in the current draft. Technical Review Committee (TRC) has requested 20 foot wide access roads. Underground electrical lines have been discussed minimally. State Building Code and North Carolina Utilities Commission handle the underground collector lines. Secure fencing is discussed around collector substations because they are above ground. Five permanent meteorological towers that shall not exceed 394 feet in height are proposed for clean and unobstructed wind data. The Operations and Maintenance Facility (O&M) is discussed along with the applicant's inclination to have approximately 10 permanent full-time employees working at the facility after completion of the construction. Necessary State and Federal Government Permits (i.e. NCDEQ Wind Permit; FAA's Determination of No Hazard, etc.) will be in Planning & Zoning office files before any zoning or building permits are issued. An Emergency Action Plan and a Site Access Plan are required by the proposed CUP. One of Clarion's recommendations is for a Traffic Management Plan. Decommissioning Plans are referenced in the CUP and they will be in place for the life of the project. An engineer registered in the State of North Carolina shall certify that the turbines and foundation designs meet building codes. Unforeseen stormwater problems are addressed as well as notification to potential new landowners and builders who may not be aware of impending Large Wind Farm construction nearby. Planner Godfrey stated that the County has hired Clarion, a consulting firm based in Raleigh, to help staff review the project. Page 8 of the Clarion report lists Clarion Associates' observations and suggestions about Required Findings. Ms. Godfrey outlined the parts of a Traffic Management Plan that Clarion recommended for the construction phase of the project. She then read three safety features regarding blade throw and ice hazards.

Chair Kahl invited Mr. Don Giecek to speak on behalf of Apex Clean Energy based in Charlottesville, VA. Mr. Giecek handed the Planning Board members printed copies of a slide show he read from. [See Exhibit B attached.] A substation will be owned by Timbermill Wind and the switching station will be owned by Dominion North Carolina Power. Underground electrical collector lines will be at least 42 inches below ground and below bottom elevation of existing ditches. A key point Mr. Giecek noted was that the on-site Operation & Maintenance team and the Remote Operations team in Charlottesville together have a very similar suite of management tools, so this is a repetitive safety function. Cut-in speed is when the wind is strong enough to tell the turbine to start turning the generator. Cut-out speed is the wind speed where the turbine ceases to turn. Cut-out can occur in the 55-60 mph range depending on the model of turbine. The project is slated to be operational during the fourth quarter of 2018.

Ms. Lassiter asked, "Why have you not chosen the wind turbine at this point and what's going to be the driving factor of your choice?" Mr. Giecek replied that it is a little early in the process to determine the best turbine because they need to gather additional wind data and market data.

Ms. Lassiter asked, "Will the height of the turbine in any way regulate the number of turbines you would have in the project on the Perquimans side?" Mr. Giecek replied that the 57 positions Apex

has chosen can accommodate 57 of the tallest turbines or alternatively accommodate 57 of the lowest turbines.

When decommissioning was described Ms. Lassiter asked, "Is that going to be a cash bond or a letter of credit?" County Manager, Frank Heath, answered that it has to be a cash bond. It does not count salvage value, per the revisions made to the Wind Energy text amendments in February 2016. Apex has listed the potential costs at \$10,985,000.00 which means the applicant will have to submit that cash amount to the County to hold. Any turbine not operational for 12 months, is a possible decommissioning event. Ms. Lassiter asked who will enforce that; the company or the County? Mr. Heath responded that it is in the County ordinance so the County will have to enforce it and use that money to get it decommissioned. Ms. Lassiter was concerned about the County not being able to enforce an issue, but Mr. Heath assured her that a big part of slack enforcement is lack of funding which should not be a problem with almost eleven million dollars available. Ms. Lassiter asked if the company just quits in the middle of the project is the cash money ours to decommission what is already there or take down what has begun. Mr. Heath said they give us that money at the building permit stage so we get it before construction.

Mr. Smith asked, "Is twenty years going to be the life of the project or will these be refurbished and continued on in use?" Mr. Giecek answered that it is possible in around 20-25 years they will seek a little newer technology in terms of the generator and nacelle and various other components. Apex's intention is to operate the facility longer, but somewhere in that span of time we will probably need to retrofit parts of the facility.

Mr. Smith asked if the collector substation and the Dominion substation will be visible from Bear Swamp Road. Mr. Giecek did not know the answer. Chair Kahl asked where the O&M building and substations are going to be on the map in front of him. Mr. Giecek pointed the locations out.

Ms. Lassiter asked, "If Apex were to sell this project to another company, what happens to the cash bond that the County is holding?" Mr. Giecek responded that a subsequent owner of the project will not change the ability of the County to call in the cash bond. Planner Godfrey and County Manager Heath clarified that the County would give it back if the project was abandoned and did not exist or if operations ceased and the project were decommissioned properly.

Ms. Lassiter was also concerned about holes in the public roads that construction vehicles cause. She has researched the issue with NC Department of Transportation (NCDOT). Certain roads are bonded but local drivers know the back roads and use those instead, so she wants the road bonding issue to be addressed. She has also seen an issue with what appeared to be a driveway too narrow and trucks getting stuck or overturning. Mr. Heath said the Traffic Management plan is requiring information that will address that and we can share such information with NCDOT. The State is in charge of roads, not the County.

Mr. Smith — "When in the process are you going to have a purchaser for the power? How can you go out on a limb for this type of investment when you don't know where it is going?"

Mr. Giecek — It is a high risk venture. You have to put some capital investment into a project before you know you have a buyer. We would like to have a buyer as soon as possible, but there are a few more things a buyer would look for; for instance we would probably need to get through the permitting process and there are a few other permits a buyer would be interested in.

Ms. Lassiter— Do you need a purchaser before you begin construction?

Mr. Giecek — I'm not aware of any requirement, but in practical terms it would be desirable.

Ms. Lassiter — Would Apex?

Mr. Giecek --- That would require speculating a little above my pay grade.

Mr. Smith --- You had said on slide 10 that the contractor will de-compact up to 10 feet below grade for crane crawls post-construction, but the slide says 10 inches. So which is it?

Mr. Giecek --- I stand corrected. It is 10 inches.

Mr. Smith --- We are in a hurricane prone area at times. What is the wind tolerance on just the tower itself?

Mr. Giecek -- This is what the insurers are interested in. This generation of wind turbine models is designed to withstand Class 4 hurricane winds.

Ms. Lassiter -- When do you think you will identify the height of the towers?

Mr. Giecek -- That will be determined when we choose the type of turbine. We need to gather a little more information. They will be somewhere in the range of what we stated in the application.

Chair Kahl asked the audience speakers to start their comments at this time.

Alan Lennon -- [See Exhibit C attached.] 2349 Center Hill Hwy, Hertford; He is concerned about Necessary Future Permits such as NC Department of Environmental Quality Wind Permit, FAA's Determination of No Hazard, and others. Not requiring the completion and approval of these permits prior to recommendation and approval is in direct conflict of the Perquimans County Zoning requirement 907.27 B.(1)(f) A Permit Application for a Wind Energy Facility shall contain the following: Any Environmental Assessment required by state or Federal law. FAA approval should be the first step in this entire process. Also, how can you prove the project will be in harmony with the area when there is nothing else in the county of this size and scope?

Leary Winslow -- [See Exhibits D-1, D-2, D-3, D-4, and D-5 attached.] 337 Cedar Stretch Rd., Hertford; He feels that the applicant has failed to provide adequate information on the impact of property values. Mr. Winslow provided supplemental materials discussing why the applicant's reports are unreliable for these purposes. He urges the Board to add property value guarantees to the CUP.

Tommy Harrell -- [See Exhibit E attached.] 279 W. Bear Swamp Rd., Hertford; He points out several different health effect issues and setback issues. He also suggests the Planning Board asks Apex to disclose how many of their projects resulted in lawsuits in one form or another. The amounts of the settlements may be confidential, but the fact of the lawsuits being filed would not be. This could be relevant where turbines of similar height and similar setbacks were to be built.

Rob Woodard -- [See Exhibit F attached.] 244 Cedar Stretch Rd., Hertford; The County has not retained an expert to evaluate the technical substance of the "experts" reports. Clarion's report does not provide any detailed analysis of the reports prepared and submitted by Apex. It regurgitates what the applicant says, but no one has done an independent analysis of whether the data or information in the reports is accurate.

Tommy Stokely -- 1781 E. Bear Swamp Rd, Hertford; What sets the precedence for a turbine being operational when the County needs to enforce decommissioning? Who makes the decision? What starts the clock? Bear Swamp Road is already in poor condition and he is concerned about it getting worse. This application does not look complete. He brought up the questionable position of the county line and the fact that 4 turbines are going to be along that line. Mr. Stokely wants the County to require better surveying information. Albemarle Regional Health reports should be in hand for anything requiring a wastewater system.

Melvin Atkins, Jr. -- 285 Riverfront Dr., Hertford; He is concerned that no one has mentioned House Bill 763. Has the Planning Board talked to any military bases close by or sought information about the bill? (Ms. Lassiter said she has through the editor at the Perquimans Weekly.) As an American citizen Mr. Atkins feels our military's training options are more important than a wind farm.

Rita Saunders -- 716 Poplar Neck Rd.; Ms. Saunders request that the Planning Board recommend approval of the Timbermill CUP. She's been researching different facts and feels it is a good project for the county.

Alissa Cale -- Weyerhaeuser representative [See Exhibit G attached.] 537 Summerby Rd. Roper; Ms. Cale spoke in regards to Mr. Atkins comment saying Weyerhaeuser has followed House Bill 763. Weyerhaeuser has grown timber and operated mills in eastern NC for more than 60 years. We have been working with Apex a long time. This project meets or exceeds the Perquimans County Zoning Ordinance. Weyerhaeuser respectfully requests the Planning Board recommend to the County Commissioners the approval of the Conditional Use Permit for the Timbermill Project.

Kristi Copeland -- 1189 Bear Swamp Rd., Hertford; Ms. Copeland has lived here her whole life and is concerned about the research she and her husband have done that reveals negative health effects of residents that live near wind turbines. She would like to see 1 mile setbacks from occupied homes. Are they agreeable to turn off turbines at night to assist with any sleep issues? Is Apex aware of any blade throw incidents that exceed setbacks proposed for our community specifically?

Chad Essick -- [See Exhibits H-1 & H-2 attached.] I am a Land Use & Zoning attorney with the firm Poyner & Spruill in Raleigh, NC representing 20-35 residents, citizens and tax payers here in the county who own approximately 4,000 acres around the proposed facility. These are the folks that will be the most directly impacted by this proposed facility from the public health stand point as well as impacts on what many people consider to be their most valuable asset; that is their property and the value that it has or does not have. No one stands to lose more than these folks stand to lose with this project. The issues before you are complex and technical. The applicant needs to be held to the highest standard of producing materials and meeting all the requirements in the ordinance. The applicant has provided four academic reports, none of which were prepared by a licensed appraiser nor were they on the property surrounding this specific project area. The 2009 and 2013 reports utilize a regression analysis which, according to appraisers, is the least reliable method to determine impacts on property values. Technique used in the Hoen reports effectively diluted the reported impact. The Albert Wilson report Leary Winslow presented to the Planning Board states that local markets are critical; meaning the costs of homes varies depending on where you live. This should be factored into research studies. Less than ten percent of the property used even had a view of wind turbines and property three to ten miles away is irrelevant. How can the Planning Board make a recommendation without relevant data in front of them? Mr. Essick said he has seen reports showing up to a 40% decrease in property value. Apex is asking the County to approve this CUP, but if the FAA moves turbines around, the applicant will have to come before the Board again. Why not require the reports now? In regards to decommissioning amounts, what is ten million dollars of today's money going to be worth 40 years from now?

Burt Eure -- 118 Whitehat Rd., Hertford; Mr. Eure farms in New Hope and has family that the Apex wind farm will affect. He owns farm land in the Desert but is not a participating member of the wind farm project there. He is bordered on two sides of his property by twelve turbines. His aerial applicator told him turbines will affect how his crops are sprayed. Farmers have tight spray windows when a crop is being destroyed. Driving over crops will do more damage than letting the insect get it sometimes; other times it's just too wet to get in there, so aerial applicators are crucial to the

business. If spraying does not take place in a certain time frame the farmer can lose thousands of dollars. Mr. Eure does not see how the applicant can say it does not affect property values when it affects his production economics directly. We are an agricultural county so this needs to be considered carefully.

Wayne Gardner --- 104 Legend Ferry Ct., Hertford; Mr. Gardner has seen turbines in Wyoming and Texas but they are miles off the main road. His wife works for a local real estate sales office and she had a customer from out of state to say, "Take me off the list, I don't want to live near windmills."

Kelly Hoeltzel – 212 S. Church St., Hertford; Ms. Hoeltzel is a graduate from Perquimans County High School. After college she hopes to be a landowner in this county. Ms. Hoeltzel feels the bottom-line is that the Timbermill project is good economically for Perquimans County; an area which is economically depressed. She stated, "Apex has seen your concerns; they have taken their worst-case scenarios and exceeded your standards to get this permit."

Exhibits 'I and J', attached, are emailed letters from Marjorie and Walker Rayburn, Jr. in favor of the wind farm.

After some discussion amongst Planning Board members, Ms. Lassiter made a motion, seconded by Mr. Smith, to continue this meeting to August 2, 2016 at 6pm. Motion passed unanimously.

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Agenda Item IV, Other Items: A. Status Report on Previous Recommendations: Continued

Agenda Item IV, Other Items: B. Chair's signature approved minutes, subdivisions, etc., and special Courthouse Notice for new meeting time. Next meeting will be August 2, 2016 at 6pm.

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Meeting adjourned at 8:20 p.m. Minutes approved this _____ day of _____, 2016.

Chairperson

Recorder

Exhibits:

- A: Sign-In Sheet
- B: Don Giezek's presentation notes
- C: Alan Lennon's presentation notes
- D-1: Leary Winslow's presentation notes and other submitted materials:
- D-2: Wind Farms, Residential Property Values, and Rubber Rulers (paper)
- D-3: Property value impacts: a rebuttal (article)
- D-4: The Impact of Wind Power Projects on Residential Property Values in the United States: A Multi-Site Hedonic Analysis (review)
- D-5: Ben Hoen on need for Property Value Guarantee (article regarding D-4)
- E: Tommy Harrell's presentation notes
- F: Rob Woodard's presentation notes
- G: Alissa Cale's presentation notes
- H-1 & 2: Chad Essick's submitted articles or papers regarding property values (The Impact of Wind Farms on Property Values: A Geographically Weighted Hedonic Pricing Model and Values in the Wind: A Hedonic Analysis of Wind Power Facilities)
- I-1 & 2: Emailed letters from Marjorie Rayburn and Walker Rayburn, Jr.
- J: A.O. Roberts' emailed letter

EXHIBIT A
Legal Description

BEING all of these parcels or tracts of land located in Perquimans County, North Carolina, and more particularly described as follows:

PARCEL ID 3-0058-00004:

Deed Book 35, Page 145:

BEING a portion of the following tract or parcel of land lying and being in Perquimans County, North Carolina:

Beginning in the center of a ditch at an iron marker, said marker being approximately 15.00 chains westwardly along the Bear Swamp Road from Yeopim Railroad Crossing, said point of beginning being identified on the map hereto attached by the Figure "1", running thence south 29 degrees west 31.50 chains to an iron marker, thence south 68 degrees east 6.00 chains to an iron marker on the western right-of-way of Norfolk Southern Railroad, thence along said right-of-way south 48 degrees west 155.14 chains to an iron marker, thence north 79 degrees west 11.38 chains to a lightwood stake, J. Wesley Foreman's corner, thence along the Foreman line as follows: north 11 degrees 45' west 84.00 chains to an iron marker; thence north 6 degrees 15' east 52.42 chains to an iron marker, thence north 83 degrees 45' west 82.92 chains to an iron marker, thence north 78 degrees 30' west 39.58 chains to an iron marker, thence along the line of Foreman and Newby and White north 13 degrees 45' west 131.18 chains to an iron marker, the Ben Small corner, thence south 5 degrees west 3.18 chains to a large GUM, thence south 62 degrees west 0.31 chains to J. Wesley Foreman's line, thence along the Foreman lines as follows: north 1 degree east 8.00 chains, north 17 degrees east 35.00 chains, thence south 20 degrees east 19.50 chains, thence south 63 degrees east 36.50 chains, thence north 4 degrees east 8.00 chains to the corner of an agreed line between Kramer Brothers Company and Nixon Hollowell and others, thence along said lines as follows: south 63 degrees east 27.20 chains, south 25 degrees west 10.90 chains, thence south 66 degrees 30' east 39.50 chains to a gum, thence south 55 degrees east 19.60 chains to a gum, thence north 75 degrees east 17.00 chains to a gum by a fence, thence north 84 degrees 30' east 31.18 chains to a point 0.66 chains from the center of the intersection of the Center Hill-Bear Swamp Road, which point is the end of an agreed line, thence south 31 degrees west 12.28 chains to an iron marker, thence south 51 degrees east 4.50 chains to an iron marker, thence north 34 degrees east 3.24 chains to an iron marker, Everett's corner, thence south 67 degrees east 26.27 chains to an iron marker, thence south 66 degrees 30' east 19.80 chains to an iron marker, thence south 76 degrees east 16.24 chains to Dale's corner on the Bear Swamp Road, thence along said road as follows; south 40 degrees 50' east 48.00 chains, south 14 degrees east 1.58 chains, south 7 degrees 45' west 4.36 chains, south 17 degrees 15' east 19.70 chains, south 7 degrees 30' east 13.31 chains, south 12 degrees east 1.45 chains, south 73 degrees east 1.33 chains, south 82 degrees east 12.48 chains and south 69 degrees 45' east 17.00 chains to the beginning, containing 3970 acres, more or less.

The foregoing tract of land was conveyed to Kramer Brothers Company by Durant Land Company, Inc., by deed dated the 15th day of May, 1950, and recorded in the Public Records of Perquimans County, North Carolina in Book 34, Page 165, and in the Public Records of Chowan County, North Carolina in Book 8, Page 410.

The foregoing land was surveyed by Blake C. Lewis, Registered Surveyor, May, 1953, map of which is hereto attached, is made a part of this deed, and is identified by the following legend: "Map of The North Carolina Pulp Company Kramer Bros. Lbr. Co. Tract Chowan And Perquimans Co. N. C. Area: 3970 Acres".

All as described in that Deed from Kramer Brothers Company to North Carolina Pulp Company dated June 27, 1953, and recorded in Book 35, Page 145, Perquimans County Registry.

Deed Book 35, Page 416:

BEING all of that certain tract or parcel of land lying and being in Hertford Township, Perquimans County, North Carolina, and more particularly described as follows:

Beginning at a concrete marker on the south side of the Ballahack Road at the northeast corner of the Perry land, said beginning point being identified on the map hereto attached by the Figure "1"; thence running with the Perry land south 12 degrees 45' east 38.78 chains to an iron marker, thence south 45 degrees 15' east 31.00 chains to an iron marker, thence south 41 degrees 15' east 4.67 chains to an iron marker, thence south 33 degrees 45' west 1.68 chains to an iron marker in Ballahack Swamp; thence south 15 degrees 15' east 1.76 chains; thence south 28 degrees 30' east 3.30 chains; thence south 47 degrees east 4.33 chains; thence along and with a ditch north 71 degrees east 34.85 chains; thence continuing along said ditch north 71 degrees 45' east 20.44 chains to a gum; thence north 13 degrees 15' west 16.56 chains to three gums; thence north 71 degrees 15' west 12.12 chains along a marked line to an iron marker; thence north 75 degrees west 7.70 chains along a marked line to an iron marker; thence north 41 degrees 45' west 30.70 chains to an iron marker; thence south 54 degrees west 20.18 chains along a marked line to an iron marker; thence north 64 degrees 45' west 28.88 chains along a marked line to an iron marker; thence north 16 degrees 15' west 10.42 chains to the Ballahack Road; thence south 70 degrees west 2.58 chains along the Ballahack Road to the point of beginning, containing 300 acres, more or less.

The foregoing land was conveyed to Major & Loomis by the following two deeds of record in the Public Registry of Perquimans County, North Carolina, and to said deeds reference is hereby made:

(1) Deed from J. T. Brinn and wife to Major & Loomis Company, dated October 17, 1921, and recorded in Book 14, Page 248.

(2) Deed from R. B. Thach: and others to Major & Loomis Company, dated March 25, 1921, and recorded in Book 14, Page 128.

The foregoing lands were surveyed by S. Elmo Williams, January, 1954, map of which is hereto attached, is made a part of this deed, and is identified by the following legend: "North Carolina Pulp Company Perquimans County, N. C. Located approx. 5 miles West of Hertford Known as R. B. Thatch and J. H. Felton Tracts".

The party of the first part also conveys hereby such rights-of-way and easements as were conveyed to it in the deed from R. B. Thach et al, dated March 25, 1921, and recorded in Book 14, Page 128.

All as described in that Deed from Major & Loomis Company to North Carolina Pulp Company dated February 11, 1954, and recorded in Book 35, Page 416, Perquimans County Registry.

Deed Book 35, Page 447:

BEING a portion of the following tract or parcel of land lying and being in Perquimans County, North Carolina:

Begin in the southern edge of the Bear Swamp Road where it intersects the western edge of the right-of-way of the Norfolk Southern Railway Company, and running thence south 48 degrees west 190.20 chains, thence north 79 degrees west 11.38 chains to a lightwood stake, which is the beginning corner of the land herein conveyed, which beginning corner is identified on the Map hereto attached by the Figure "1", and running thence north 79 degrees west along the line of Kramer Bros. Company 79.92 chains; thence south 51 degrees west 32.86 chains, thence north 84 degrees west 16.91 chains, thence north 6 degrees east 14.11 chains; thence north 22 degrees west 12.58 chains to a pine; thence north 39 degrees 30' east 28.83 chains; thence north 47 degrees 15' east 14.73 chains to an oak; thence south 87 degrees east 25.08 chains; thence north 38 degrees 30' east 8.48 chains to a pine; thence north 36 degrees 45' east 4.98 chains to a pine; thence south 75 degrees 15' west 14.18 chains; thence north 5 degrees east 35.26 chains; thence north 12 degrees 30' west 21.11 chains; thence north 84 degrees west 20.62 chains; thence north 6 degrees 15' east along the line of the Foreman property 24.91 chains; thence south 83 degrees 45' east 82.92 chains; thence south 6 degrees 15' west 52.42 chains; thence south 11 degrees 45' east 84.00 chains to the beginning corner of the land herein conveyed, the last two courses and distances along an agreed line as described in an agreement dated the 19th day of June, 1953 entered into by J. Wesley Foreman and his wife and Kramer Brothers Company, of record in the office of the Register of Deeds in Chowan County and in Perquimans County, North Carolina. The foregoing tract of land as described contains 1068 acres.

The said tract of land was surveyed by S. Elmo Williams, Registered Surveyor, July 1953 map of which is made a part of this deed, and is identified by the following legend: "North Carolina Pulp Company Chowan County, North Carolina Foreman Tract Known as the John Norcum Pat. Located Approx. 5 miles north of Edenton."

The foregoing tract of land is described as the "Norcum Patent" in the third tract contained in a deed executed by C. F. Blades and Others to J. W. Foreman, dated January 8, 1944, and recorded in the office of Register of Deeds of Chowan County in Book 4, at Page 523, and to be recorded in the office of the Register of Deeds of Perquimans County, North Carolina.

All as described in that Deed from J. W. Foreman and wife, Annie W. Foreman, to North Carolina Pulp Company, dated January 19, 1954, and recorded in Book 35, Page 447, Perquimans County Registry.

Deed Book 35, Page 490:

That certain tract or parcel of land lying and being in Hertford Township, Perquimans County, North Carolina, and more particularly described as follows:

Beginning at a concrete monument on the west side of U. S. Highway No. 17 at the northeast corner of the Knowles property, said beginning point being identified on the map hereto attached by the figure "1"; running thence from said beginning point north 67 degrees 30' west 17.67 chains; thence north 20 degrees 30' east 11.23 chains to an iron marker; thence north 53 west 16.3 chains to an iron marker; thence north 77 degrees 45' west 32.38 chains to an iron marker; thence north 60 degrees 31' west 5.35 chains; thence north 34 degrees 15' east 63.42 chains; thence south 66 degrees 45' east 20.61 chains; thence south 41 west 7.58 chains; thence south 44 degrees 45' west 17.08 chains; thence south 65 degrees 40' east 15.41 chains; thence south 17 degrees 50' west 14.4 chains; thence south 69 degrees 10' east 20.92 chains; thence south 20 degrees 30' west 8.29 chains; thence north 67 degrees west 5.0 chains; thence south 22 degrees

30' west 6.0 chains; thence south 67 degrees 15' east 13.33 chains, to U. S. Highway No. 17; thence running with said highway south 21 degrees 20' west 20.7 chains to the point of beginning, containing 249.5 acres, more or less.

The foregoing tract of land was conveyed by E. C. White and wife to Major and Loomis Company, by deed dated November 30, 1925, and recorded in Deed Book 16, Page 385, Public Registry of Perquimans County, North Carolina.

The foregoing lands were surveyed by S. Elmo Williams, February, 1954, map of which is made a part of this deed, and is identified by the following legend: "North Carolina Pulp Company Perquimans County, North Carolina known as the E. C. White Tract."

All as described in that Deed from Major & Loomis Company to North Carolina Pulp Company dated April 5, 1954 and recorded in Book 35, Page 490, Perquimans County Registry.

Deed Book 69, Page 322:

The following described lot or parcel of land situated in Hertford Township, Perquimans County, North Carolina:

That certain tract of woodland known as the Josiah Elliott Woodland, comprised of six parcels described in that certain deed dated November 18, 1958 from Josiah Elliott, et al to T. P. Brinn, of record in Deed Book 41 at page 347 of the Perquimans Registry, being more specifically described according to survey of S. Elmo Williams, Registered Surveyor, dated August 6, 1970, entitled "Dr. T. P. Brinn Property," as follows: Beginning at a railroad iron situated on the northeasterly boundary of Bear Swamp Road at the common dividing line between the property herein conveyed and the Copland Property, the same being the southeastern corner of said Copland Property and the southwestern corner of the property herein conveyed, and running thence along the northeasterly side of Bear Swamp Road South 40° 47' East 1,342.85 feet to a corner of the Elliott lot; thence binding said Elliott lot as follows: North 18° 43' East, 150 feet; South 68° 17' East 245.15 feet; and South 18° 43' West 281.2 feet to the northeasterly side of Bear Swamp Road; thence continuing along the northeasterly side of Bear Swamp Road South 40° 47' East 1,178.40 feet to a bend in said road; thence along said bend South 29° 49' East 93.61 feet and South 1° 04' East 100.88 feet to a point; thence leaving said Bear Swamp Road and running the following courses and distances: South 62° 58' East 47.85 feet; North 84° 55' East 44 feet; South 52° 25' East 106.5 feet; South 63° 55' East 49 feet; North 45° 58' East 309.8 feet; North 48° 06' East 689.3 feet; North 46° 24' West 555 feet; North 14° 36' East 2,092.2 feet; North 5° 24' West 1,353 feet; and South 82° 36' West 127.9 feet to a corner of the Elliott Property; thence binding said Elliott Property as follows: South 11° 12' West 1,123.5 feet; South 16° 12' West 1,880 feet; North 46° 24' West 470 feet; North 16° 12' East 1,686.5 feet along a ditch; and North 12° 39' East 934.5 feet to a corner of the Fockler Tract; thence binding said Fockler Tract South 82° 36' West 781.6 feet; North 56° 54' West 300 feet; and North 4° 16' East 2,963.8 feet to a corner; thence along the boundary line of property now owned or formerly owned by Ray White South 41° 34' West 2,103 feet to a point; thence South 9° 34' West 990 feet to a point; thence along a Glazed Line binding the Copland property South 2° 13' West 255 feet, and South 0° 34' East 291.4 feet to a railroad iron; thence South 10° 01' West 305.25 feet to another railroad iron; thence South 13° 42' East 319.2 feet to another railroad iron; thence along the center of a ditch South 26° 17' East 641.4 feet to an axle; thence South 17° 46' West 313.75 feet to a railroad iron; thence South 19° 21' West 409.38 feet to the railroad iron at the northeasterly side of Bear Swamp Road, the point of beginning, and containing 251.53 acres by said survey.

This is the same property conveyed to Grantor herein by deed dated April 27, 1972 from Wachovia Bank & Trust Company, N.A., and Mary Glasson Brinn, as Executors of the Estate of Thomas Preston Brinn, deceased, which deed was duly filed for record in the office of the Register of Deeds of Perquimans County, N.C.

All as described in that Deed from Wachovia Bank & Trust Company, N.A., to Weyerhaeuser Company dated September 14, 1973, and recorded in Book 69, Page 322, Perquimans County Registry.

Deed Book 69, Page 429:

BEING that certain tract or parcel of land and right of way lying and being in Hertford Township, Perquimans County, North Carolina, and more particularly described as follows:

Beginning at the Southeast corner of Weyerhaeuser Company's T. E. Mansfield Tract No. 1 and the Southwest corner of the Perry tract; running thence from said beginning along the Perry's line South 42 degrees 58 minutes East 189.04 feet; thence along T. E. Mansfield South 67 degrees 12 minutes West 276.85 feet; thence South 60 degrees 58 minutes West 293.90 feet; thence South 69 degrees 21 minutes West 295.09 feet to the East side of old road; thence along the East side of said road the following: North 4 degrees 50 minutes West 284.00 feet; thence North 5 degrees 03 minutes West 135.90 feet; thence North 2 degrees 34 minutes West 164.75 feet to the Southeast right of way of Norfolk & Southern Railroad; thence along said railroad right of way North 47 degrees 32 minutes East 425.56 feet to the Southwest corner of Weyerhaeuser Company's T. E. Mansfield tract No. 1; thence along Company's line South 45 degrees 50 minutes East 542.25 feet to the beginning, containing 9.19 acres.

There is also conveyed hereby a right of way 50 feet in width more particularly described as follows:

Beginning at a point "A" on the attached map and running along the Southeast side of 50-foot right of way South 39 degrees 23 minutes West 51.50 feet; thence South 51 degrees 10 minutes West 231.10 feet; thence South 18 degrees 18 minutes West 65.40 feet to the center of State Road No. 1101.

Map of the foregoing tract or parcel of land and right of way is attached hereto, made and part hereof, to be recorded concurrent herewith and identified by the legend: "Map Of Weyerhaeuser Company's T. E. Mansfield Tract 2 Hertford Tws.--Perquimans Co., N.C. Area: 9.19 Acres Scale 1"=300', Surveyed Sept. 1973 By Greg Smith, John Rea, Reg. Surv. L-1237."

All as described in that Deed from Thomas E. Mansfield and wife, Laura G. Mansfield, to Weyerhaeuser Company, dated September 24, 1973, and recorded in Book 69, Page 429, Perquimans County Registry.

Deed Book 71, Page 164:

BEING those certain tracts or parcels of land lying and being in Hertford Township, Perquimans County, North Carolina, and more particularly described as follows:

TRACT ONE: Beginning at a corner located South 82 degrees 36 minutes West 127.9 feet from the Northeast corner of the Thomas P. Brinn tract; running thence from said beginning South 11 degrees 12 minutes West 1123.5 feet to a corner; thence South 16 degrees 12 minutes West 1880.0 feet to a corner; thence North 46 degrees 24 minutes West 470.0 feet to a corner; thence North 16 degrees 12 minutes East 1686.5 feet to a corner; thence North 12 degrees 39 minutes

East 934.5 feet to a corner; thence North 82 degrees 36 minutes East 410.5 feet to the beginning, containing 27.14 acres.

TRACT TWO: Beginning at a corner on the North right of way of State Road No. 1101, located from a railroad iron South 40 degrees 47 minutes East 1342.85 feet, being the Southwest corner of the Thomas Brinn tract; running thence from said beginning North 18 degrees 43 minutes East 150.0 feet; thence South 68 degrees 17 minutes East 245.15 feet; thence South 18 degrees 43 minutes West 281.2 feet to the right of way of State Road No. 1101; thence with said right of way North 40 degrees 47 minutes West 284.04 feet to the beginning, containing 1.23 acres.

Map of the foregoing described tracts or parcels of land is attached hereto, made a part hereof, recorded concurrent herewith and identified by the legend: "Map Of Weyerhaeuser Company's Elliott Tract Hertford Twsp.--Perquimans Co., N. C. Scale: 1"=300'--Area: 28.37 Ac. Surveyed By: S. Elmo Williams R.L.S. This Map Traced From Map By Elmo Williams."

All as described in that Deed from Josiah Elliott and wife, Minnie Lee Sawyer Elliott, dated May 31, 1974, and recorded in Book 71, Page 164, Perquimans County Registry.

Deed Book 72, Page 428:

"TRACT ONE: All that certain tract of land containing 2,126 acres, more or less, as delineated on plat entitled 'Perry and Blades (Charolais Farms),' which plat was prepared by Carlyle C. Webb, Registered Surveyor, under date of December 18, 1972 and which plat is recorded in the office of the Register of Deeds of Perquimans County, North Carolina in Plat Book 4, at page 293. But there is excepted from said tract that certain parcel containing 169.91 acres by actual survey, as delineated on plat entitled 'Land of Ralph Blades, Hertford T. S. Perquimans Co., N.C.,' drawn from an actual survey made by Carlyle C. Webb, under date of August 12, 1972, which plat is recorded simultaneously with this deed, reference to which is hereby made. For source of title and chain to the aforesaid property described within said Tract One, reference is hereby made to that certain tract of land conveyed to Ralph W. Blades and Elwood Perry by United Virginia Bank/Seaboard National, Trustee, dated February 16, 1973 and recorded in Deed Book 67, at page 392 of the Perquimans Registry.

TRACT TWO: All that certain 198.40 acre tract now owned by Elwood Perry as delineated on plat entitled 'Land of Elwood H. Perry, Hertford T. S., Perquimans Co., N.C.,' prepared by Carlyle C. Webb, Registered Surveyor, under date of March 12, 1970, which plat is recorded in Plat Book 4, at page 183 of the Perquimans Registry. For source of title and chain to the property described within said Tract Two, reference is made to the following deeds: Deed dated February 17, 1964 from Emmett B. Long and wife, Madelyn P. Long, to Elwood H. Perry, which deed is recorded in Deed Book 49, at page 407; deed from Marie S. Elliott, et al, dated September 5, 1961 to Elwood H. Perry, which deed is recorded in Deed Book 45, at page 520 of said registry; and quitclaim deed dated June 4, 1973 from Evelyn Ann Elliott Young and husband, Dilbon Young to Elwood H. Perry recorded in Deed Book 68, at page 344 of said registry."

All as described in that Deed from S.V. Camp, III, et al., to Weyerhaeuser Company, dated December 4, 1974, and recorded in Book 72, Page 428, Perquimans County Registry.

Deed Book 96, Page 786:

BEING that certain tract or parcel of land lying and being in Hertford Township, Perquimans County, State of North Carolina, and more particular described as follows:

Begin at the intersection of North Carolina State Road 1108 and North Carolina State Road 1107 and run thence South 14 degrees 44 minutes 30 seconds East 637.15 feet to the U.S.G.S.B.M. No 3 1931 Hertford; thence turning and running south 69 degrees 04 minutes West 1,239.06 feet; thence South 64 degrees 55 minutes 30 seconds West 1,046.62 feet; thence South 55 degrees 31 minutes 40 seconds West 347.42 feet; thence South 47 degrees 49 minutes 20 seconds West 355.32 feet; thence South 22 degrees 52 minutes 40 seconds West 339.28 feet to the point of beginning, an iron pipe; thence from said point of beginning running along an old ditch South 38 degrees 53 minutes 20 seconds west 797.31 feet to an iron pipe; thence turning and running South 2 degrees 58 minutes 20 seconds West 1,506.11 feet to an iron pipe; thence turning and running South 89 degrees 30 minutes 40 seconds West 653.11 feet to an iron pipe; thence turning and running North 10 degrees 13 minutes 30 seconds West 978.96 feet to an iron pipe; thence turning and running North 3 degrees 22 minutes East 1,306.88 feet to an iron pipe; thence turning and running North 8 degrees 06 minutes 20 seconds East 511.17 feet to an iron pipe; thence turning and running South 62 degrees 45 minutes 30 seconds East 1,406.90 feet to an iron pipe, the point of beginning, containing approximately 53.57 acres, more or less.

Map of the foregoing described lot or parcel of land is attached hereto, made a part hereof, to be recorded concurrent herewith and is identified by the legend: "PROPERTY OF WEYERHAEUSER CO. FORMERLY P. B. THACH HERTFORD TOWNSHIP PERQUIMANS CO., N.C." ***For Plat see Plat Cabinet I Slide 50***

All as described in that Deed from Mary B. Thach to Weyerhaeuser Company dated July 27, 1981, and recorded in Book 96, Page 786, Perquimans County Registry.

Deed Book 108, Page 818:

BEING all of that certain tract or parcel of land lying and being in Hertford Township, Perquimans County, State of North Carolina, and more particularly described as follows:

This tract of land in Hertford Township, Perquimans County. Beginning at a point on the northwestern edge of the right of way of the Southern Railroad Company the same being located 1957.6 feet northeastwardly from the centerline of N.C. Secondary Road 1101, same also being evidenced by an iron pipe and the same being the point of beginning of the tract of land herein conveyed; and thence running from said beginning point north 31 degrees 20 minutes west 1224.7 feet more or less to an iron pipe in the line of Weyerhaeuser Company; thence along and with Weyerhaeuser Company's lines north 51 degrees 03 minutes east 1429.6 feet and south 44 degrees 00 minutes east 1187.7 feet more or less to the northwestern edge of the right of way of the Southern Railroad Company; thence south 50 degrees 00 minutes along the edge of said right of way 1695.8 feet more or less to the iron pipe, point of beginning and containing 43.0 acres more or less.

The foregoing tract of land being shown on that certain survey which is recorded in the public registry of Perquimans County in Book 105, Page 537.

All as described in that Deed from Michael David Nixon to Weyerhaeuser Company dated September 18, 1984, and recorded in Book 108, Page 818, Perquimans County Registry.

Deed Book 243, Page 109:

BEING those certain tracts or parcels of land lying and being in Bethel, Hertford and New Hope Townships, Perquimans County, State of North Carolina, and being more particularly described as follows:

THATCH TRACT:

THOSE certain tracts or parcels of land lying and being in Hertford and New Hope Townships, Perquimans County, State of North Carolina, and being more particularly described as follows:

Deed from Edwards Land & Timber, LLC, to S & M Farms, dated the 1st day of October, 2002, duly of record in Book 240, Page 260, Perquimans County Registry:

FIRST TRACT:

Being that certain 40.90 acre tract and bounded on the North by the Thatch Heirs property, on the East by Chappell property, on the South by the Fockler Tract and on the West by the Thatch Heirs property and beginning on the south side of a lane at a point in the line of the Chappell property, which point is 40.95 chains from the center of the road leading from Hertford Fork to Anderson Church; thence along said south side of said lane, South 35-35 West 1384.0 feet to a point; thence South 194.0 feet to a point; thence South 83-45 West 19.8 feet to the center of a ditch; thence along the center of said ditch and the Thatch Heirs line South 1335.8 feet to the center of a ditch on the Fockler line; thence along the center of said ditch on the Fockler line, North 86-30 East 873.8 feet to the center of a ditch in the Chappell line; thence along the center of said ditch in the Chappell line, North 0-30 West 924.0 feet; North 01-10 West 1680.4 feet to the point and place of beginning, and being more particularly shown on that certain plat entitled, "Hofler - Thatch Tract" redrawn by M. J. Whitehurst on February 7, 1977, recorded in Book 240, Page 262, Perquimans County Registry and made a part hereof for a more complete description and being that certain tract contained in deed dated August 21, 1965, and recorded in Book 52, Page 473, of the Perquimans County Public Registry.

SECOND TRACT:

Containing 19.92 acres situate in Hertford Township, as shown on plat entitled: "Map Showing Boundary Line Agreement between Union Camp Corp. And Williams H. Felton" dated April 27, 1989, prepared by J. C. Davis, RLS, and recorded in Plat Cabinet 2, Slide 18, Map #1, Perquimans Public Registry, and being part of the identical property conveyed to Union Camp Corporation by deed of J. Clifton Barnes and wife, Willis H. Barnes, and John C. Schafer, Jr. and wife, Rita W. Schafer, dated August 1, 1978, recorded in Book 83, Page 604, Perquimans Public Registry and also being the identical property described in Deed to Union Camp Corporation from Lathan K. Felton, et ux, et al, dated August 15, 1989, recorded in Book 134, Page 283, Perquimans County Registry.

THIRD TRACT:

Containing 31.08 acres, situate in Hertford Township, as shown on plat entitled, "Edgar Lane (G.W. Chappell Tract)" dated April 12 & 13, 1989, and prepared by Charles E. Brown, III, recorded in Plat Cabinet 2, Slide 17, Map #3, Perquimans Public Registry, and being the identical property conveyed to Union Camp Corporation by deed of Bishop Brothers, a Virginia General Partnership, dated October 3, 1989, recorded in Book 132, page 242, Perquimans Public Registry.

McNIDER TRACT:

Deed from Edwards Land & Timber, LLC, to S & M Farms, dated the 12th day of June, 2002, duly of record in Book 232, Page 264, Perquimans County Registry:

THAT certain tract or parcel of land lying and being in Bethel Township, Perquimans County, State of North Carolina, and being more particularly described as follows:

FIRST Property:

Containing 94.72 acres, situate in Bethel Township as shown by plat entitled, "Map Showing Union Camp Corp. Hofler-McNider, et ux, Tract", dated August 31, 1967 recorded in Map Book 6, Page 33, Perquimans Public Registry, and being the identical property designated as Tract

Seven in deed from H. S. Hofler & Sons Lumber Co., to Union Camp Corporation, dated September 15, 1977, recorded in Book 79, Page 448, Perquimans Public Registry; save and except therefrom 2.75 acres conveyed to Trustees of Bethlehem Church, by deed of International Paper Company, dated November 20, 2000, recorded in Book 211, Page 344, Perquimans Public Registry.

REED TRACT:

Deed from Edwards Land & Timber, LLC, to S & M Farms, dated the 12th day of June, 2002, duly of record in Book 232, Page 533, Perquimans County Registry:

THAT certain tract or parcel of land lying and being in Hertford Township, Perquimans County, State of North Carolina, and being more particularly described as follows:

SECOND PROPERTY:

Containing 120.50 acres (consisting of contiguous tracts of 84.50 acres and 36.00 respectively) situated in Hertford Township as shown by plat entitled: "Map Showing Union Camp Corp. Hofler-Reed Heirs", dated May 12, 1974, recorded in Map Book 6, Page 41, Perquimans Public Registry, and being the identical property designated as Tract Eleven in Deed from H. S. Hofler & Sons Lumber Co., to Union Camp Corporation, dated September 15, 1977, recorded in Book 79, Page 448, Perquimans Public Registry.

Together with right of ingress and egress to said tract from NC State Road No. 1110 as shown on the above referenced map, which easement was conveyed to Union Camp Corporation by instrument of Elizabeth Lane Rogerson, widow, et al, dated November 20, 1984, recorded in Book 110, Page 787, Perquimans Registry.

All as described in that Deed from S & M Farms to Weyerhaeuser Company dated March 27, 2003, and recorded in Book 243, Page 109, Perquimans County Registry.

LESS AND EXCEPT the portion of Parcel 3-0058-00004 in the area zoned Highway Commercial 500 feet off of US-17.

PARCEL ID 3-0049-00024A:

THIRD TRACT: Containing 31.08 acres, situate in Hertford Township, as shown on plat entitled, "Edgar Lane (G.W. Chappell Tract)" dated April 12 & 13, 1989, and prepared by Charles E. Brown, III, recorded in Plat Cabinet 2, Slide 17, Map #3, Perquimans Public Registry, and being the identical property conveyed to Union Camp Corporation by deed of Bishop Brothers, a Virginia General Partnership, dated October 3, 1989, recorded in Book 132, page 242, Perquimans Public Registry.

All as described in that Deed from S & M Farms to Weyerhaeuser Company dated March 27, 2003, and recorded in Book 243, Page 109, Perquimans County Registry.

PARCEL ID 3-0049-00025:

Being that certain 40.90 acre tract and bounded on the North by the Thatch Heirs property, on the East by Chappell property, on the South by the Fockler Tract and on the West by the Thatch Heirs property and beginning on the south side of a lane at a point in the line of the Chappell property, which point is 40.95 chains from the center of the road leading from Hertford Fork to Anderson Church; thence along said south side of said lane, South 35-35 West 1384.0 feet to a point; thence South 194.0 feet to a point; thence South 83-45 West 19.8 feet to the center of a ditch; thence along the center of said ditch and the Thatch Heirs line South 1335.8 feet to the

center of a ditch on the Fockler line; thence along the center of said ditch on the Fockler line, North 86-30 East 873.8 feet to the center of a ditch in the Chappell line; thence along the center of said ditch in the Chappell line, North 0-30 West 924.0 feet; North 01-10 West 1680.4 feet to the point and place of beginning, and being more particularly shown on that certain plat entitled, "Hofler - Thatch Tract" redrawn by M. J. Whitehurst on February 7, 1977, recorded in Book 240, page 262, Perquimans County Registry and made a part hereof for a more complete description and being that certain tract contained in deed dated August 21, 1965, and recorded in Book 52, Page 473, of the Perquimans County Public Registry.

All as described in that Deed from S & M Farms to Weyerhaeuser Company dated March 27, 2003, and recorded in Book 243, Page 109, Perquimans County Registry.

PARCEL ID 3-0049-00026:

Second Tract:

Containing 19.92 acres situate in Herford Township, as shown on plat entitled, "Map Showing Boundary Line Agreement between Union Camp Corp. And Williams H. Felton" dated April 27, 1989, prepared by J. C. Davis, RLS, and recorded in Plat Cabinet 2, Slide 18, Map #1, Perquimans Public Registry, and being part of the identical property conveyed to Union Camp Corporation by deed of J. Clifton Barnes and wife, Willis H. Barnes, and John C. Schafer, Jr. and wife, Rita W. Schafer, dated August 1, 1978, recorded in Book 83, Page 604, Perquimans Public Registry and also being the identical property described in Deed to Union Camp Corporation from Lathan K. Felton, et ux, et al, dated August 15, 1989, recorded in Book 134, Page 283 Perquimans County Registry.

All as described in that Deed from Edwards Land & Timber, LLC, to S & M Farms, dated October 1, 2002, and recorded in Book 240, Page 260, Perquimans County Registry.

PARCEL ID 3-0049-00039:

That certain tract of land located in Hertford Township, Perquimans County, North Carolina, containing 149.29 acres, more or less, known as the Hofler-Wood Tract, being Tract #1787-56 designated on the internal list of Union Camp Corporation, conveyed to Union Camp Corporation, by deed of H. S. Hofler & Sons Lumber Company, Inc., dated September 15, 1977, recorded in Book 79, page 448 and being Tract Ten described in the aforesaid deed referred to and more particularly shown on that plat entitled "Hofler - C. W. Wood Tract" prepared by J. C. Davis, dated February 8, 1977, recorded in Map Book 6, Page 39, being a portion of the property conveyed to Blue Sky Timber Properties LLC in that certain deed dated March 21, 2003 and recorded in Book 245, page 660 of the Perquimans County Public Registry, more particularly described as follows:

Being that certain 149.29 acres of land lying to the southeast of the Norfolk-Southern Railway, Mile Post 64, and bounded on the North by the H. C. Stokes Estate, on the East by the J. O. White Estate and Milton Dail, and on the South by the H. C. Stokes Estate and the W. F. C. Edwards Estate and on the West by Weyerhaeuser Company and beginning at an iron pin marking the southeast corner of the Weyerhaeuser line in the W. F. C. Edwards Estate, said iron pin being the common corner of the within described property, Weyerhaeuser land and the W. F. C. Edwards Estate land; and from said point of beginning along and with the H. C. Stokes land North 62 27' East 1095.4 feet to a point, South 56 22' East 1436.7 feet to a point; thence along and with the J. O. White line North 46 62' East 2519.0 feet along the White and Dail land to an

iron pin; thence North 46 30' East 270.6 feet to an iron pin in the 3.0 White line; thence along and with the H. C. Stokes Estate line South 85 46 West 1975.2 feet to a point, cornering; thence North 00 58' East 983.0 feet to a point, cornering; thence North 89' 32' West 1091.7 feet to the eastern right-of-way line of the Norfolk-Southern Railway (present right of way with 100 feet); thence along and with said right-of-way line South 48 54' West 2397.6 feet to a point on said right of way, marking the northeast corner of the Weyerhaeuser property; thence along and with the Weyerhaeuser line South 08 24' West 123.1 feet to an iron pin, cornering; thence North 76 29' East 503.0 feet to an iron pin, cornering; thence South 13 08' East 881.7 feet to the point and place of beginning and being more particularly shown on that plat entitled "Hofler-C.W. Wood Tract" surveyed by J. C. Davis, Registered Land Surveyor, February 8, 1977, to which map reference is hereby made for a more complete description.

All as described in that Deed from International Paper Company and Sustainable Forests, L.L.C., to Southern Pine Plantations of Georgia, Inc., dated November 3, 2006, and recorded in Book 322, Page 729, Perquimans County Registry.

LESS AND EXCEPT the portion of Parcel 3-0049-00039 zoned as Town of Hertford Extraterritorial Zoning Jurisdiction one mile south of Ballahack Road east of the Chesapeake and Albemarle railroad.

PARCEL ID 3-0049-00009:

That certain tract of land located in Hertford Township, Perquimans County, North Carolina, Containing 20.40 acres, more or less, known as the T. N. Proctor Tract, being Tract #1849 designated on the internal list of Union Camp Corporation, conveyed to Union Camp Corporation by deed of Thomas A. Proctor, et ux, recorded in Book 88, Page 677, being more particularly described on plat entitled "Map Showing Union Camp Corp. Thomas Proctor, prepared by J. C. Davis Dated July 6, 1979, a copy of which is attached to the aforesaid deed, being a portion of the property conveyed to Blue Sky Timber Properties LLC in that certain deed dated March 21, 2003 and recorded in Book 245, page 660 of the Perquimans County Public Registry.

Together with rights which were reserved in conveyance to Thomas Proctor recorded in Deed Book 88, Page 673, and as shown in Plat Book 6, Page 45, Perquimans County, North Carolina.

All as described in that Deed from International Paper Company and Sustainable Forests, L.L.C., to Southern Pine Plantations of Georgia, Inc., dated November 3, 2006, and recorded in Book 322, Page 729, Perquimans County Registry.

PARCEL ID 3-0049-00038:

That certain tract of land located in Hertford Township, Perquimans County, North Carolina containing 134 acres, more or less, known as the Hofler-Wood Heirs Tract, being Tract #1787-54 designated on the internal list of Union Camp Corporation, conveyed to Union Camp Corporation, by deed of H.S. Hofler & Sons Lumber Company, Inc., dated September 15, 1977, recorded in Book 79, page 448 and being Tract Thirteen (Parcel 2) described in the aforesaid deed referred to and more particularly shown on that plat entitled "Hofler - C.W. Wood Heirs" redrawn by M.C. Whitehurst on February 5, 1977, recorded in Map Book 6, Page 45, Together with ingress and egress thereto set out in said deed, being a portion of the property conveyed to Blue Sky Timber Properties LLC in that certain deed dated March 21, 2003 and recorded in

Book 245, page 660 of the Perquimans County Public Registry, more particularly described as follows:

Being that certain 134.00 acre tract bounded on the north by the White and C. W. Wood lands, on the east by L. Proctor and Major-Loomis, on the south by Lipscombe Et Al, and on the west by Newby and White.

All as described in that Deed from International Paper Company and Sustainable Forests, L.L.C., to Southern Pine Plantations of Georgia, Inc., dated November 3, 2006, and recorded in Book 322, Page 729, Perquimans County Registry.

PARCEL ID 3-058-00013:

This tract of land in Hertford Township, Perquimans County, Beginning at a point on the northwestern edge of the right of way of the Southern Railroad Company the same being located 1957.6 feet northeastwardly from the centerline of N.C. Secondary Road 1101, same also being evidenced by an iron pipe and the same being the point of beginning of the tract of land herein conveyed; and thence running from said beginning point north 31 degrees 20 minutes west 1224.7 feet more or less to an iron pipe in the line of Weyerhaeuser Company; thence along and with Weyerhaeuser Company's lines north 51 degrees 03 minutes east 1429.6 feet and south 44 degrees 00 minutes east 1187.7 feet more or less to the northwestern edge of the right of way of the Southern Railroad Company; thence south 50 degrees 00 minutes along the edge of said right of way 1695.8 feet more or less to the iron pipe, point of beginning and containing 43.0 acres more or less.

The foregoing tract of land being shown on that certain survey which is recorded in the public registry of Perquimans County in Book 105, Page 537.

All as described in that Deed from Michael David Nixon to Weyerhaeuser Company dated September 18, 1984, and recorded in Book 108, Page 818, Perquimans County Registry.

PARCEL ID 3-0047-00002:

PARCEL THREE: All of that land as described in Item 1 page 468 and 469. Will Book "H" in the will of Palin Lane, as recorded in the Clerk Superior Court's Office of Perquimans County, North Carolina, the same being known as the H. P. Lane Home Place, and is now the home place of the said H. S. Lane. It being the same tract of land conveyed to Johnnie D. Hollowell and Annie Dail Hollowell by deed of Maude R. Lane, Peggy Lane Baker, and Paul Harrison Baker, dated October 23, 1970, and recorded in the Register of Deeds Office of Perquimans County, in Deed Book 61 at page 505. For further description and chain of title see deed book 37, page 155, Public Registry of Perquimans County, North Carolina.

All as described in that Deed from Johnnie D. Hollowell, Jr. et al., to Louis Ray Hollowell and Jean R. Hollowell, dated January 13, 2012, and recorded in Book 395, Page 583, Perquimans County Registry.

PARCEL ID 3-0048-00003:

PARCEL TWO: Bounded by the lands of the heirs of Pailen Lane, J. E. Hensley and others, containing 28 acres more or less and being the same tract of land conveyed to Johnnie D. Hollowell and Annie D. Hollowell by deed of Lilly L. Davis, dated April 3, 1973, and recorded in the Register of Deeds Office of Perquimans County in Deed Book 68, page 65; and previously

bought of T. E. Langston and wife, Louvinia T. Langston, by deed dated January 1st, 1917 and recorded in the aforesaid Register of Deeds Office in Deed Book No. 11, page 367, No. 427, which deed see for further description. For chain of title see deed book 12, page 554, Public Registry of Perquimans County, North Carolina.

All as described in that Deed from Johnnie D. Hollowell, Jr. et al., to Louis Ray Hollowell and Jean R. Hollowell, dated January 13, 2012, and recorded in Book 395, Page 583, Perquimans County Registry.

PARCEL ID 3-0058-0007:

PARCEL ONE: All of the First Tract of land described in the deed recorded in Deed Book 78, page 57 of the Perquimans County Registry, dated March 10, 1977, being more particular described therein as:

That tract of land situated on the north side of N. C. Road No. 1101 and known as the Alphonso D. Thatch place and farm consisting of 35 acres more or less and bounded on the east by the Harry and Jamie Thatch property, on the north by the Wyhouser property, on the west by the Clinton Copland and Moore property, the same being property heired by the said Alphonso D. Thatch from his mother and father, and the land divided between him and B. J. Thatch and bounded on the south by N. C. Road No. 1101. Said land being a portion of the land conveyed to Johnnie D. Hollowell and wife, Annie D. Hollowell, by deed of Alphonso D. Thatch, dated March 10, 1977, and recorded in Deed Book 78, page 57 of the Deeds Office, Perquimans County, North Carolina.

All as described in that Deed from Johnnie D. Hollowell, Jr. et al., to Louis Ray Hollowell and Jean R. Hollowell, dated January 13, 2012, and recorded in Book 395, Page 583, Perquimans County Registry.

PARCEL ID 3-0048-00001

Lot No. 1, containing 44 acres on the Plat recorded in Plat Book 1, Page 255 in Perquimans County Registry.

All as described in that Deed from W. Ray White to W. Ray White and Hazel M. White, dated October 12, 2004, and recorded in Book 273, Page 365, Perquimans County Registry.

PARCEL ID 3-0047-00028:

All of Lot No. 2 containing 43 acres devised to Jonathan White, Lot No. 3 containing 40 acres devised to Jonathan White, Lot No. 4 containing 39 acres devised to Caleb White, Lot No. 5 containing 35 acres devised to Caleb White, Lot No. 2 containing 16 acres devised to Caleb White, Lot No. 2 South Place containing 50 acres devised to Caleb White, Lot No. 3 portion of Home Place containing 153 acres devised to Jonathan White, and Lot No. 2 Home Place containing 78 acres devised to Caleb White, as shown on that plat recorded in Plat Book 1, Page 255, Perquimans County Registry.

All as described in that Deed from W. Ray White to W. Ray White and Hazel M. White, dated October 12, 2004, and recorded in Book 273, Page 365, Perquimans County Registry.

PARCEL ID 3-0039-00011B:

Being Tract Three as shown on plat of Josiah A. Webb, III Registered Surveyor, entitled in part "William Preston Nixon, Hertford Township Perquimans County, North Carolina," dated March 8, 2001, which plat is recorded in Plat Cabinet 2, Slide 90, Map No. 4, Perquimans County Public Registry.

There is also conveyed with this property a 45-foot wide right-of-way for ingress, egress and regress over Tract One from Tract Two to Tract Three, as is now located and indicated on the aforementioned plat. This right-of-way shall be in perpetuity to provide access to Tract Three from Tract Two.

All as described in that Deed from William Preston Nixon et al., to Amy Nixon Cullipher, dated April 4, 2001, and recorded in Book 214, Page 725, Perquimans County Registry.

PARCEL ID 3-0059-00012A

SECOND TRACT: containing 28 acres, lying on the North side of the Bear Swamp Road, bounded as follows: beginning at a bridge on the road, Henry Lane's line, and running said Lane's line North 22° West 7-3/4 chains to a sweet gum; thence North 29° East 35 chains to the back line; thence along the back line South 67° East 6 chains; thence South 23° West 42 chains to the road; thence along the road 6 chains to the place of beginning.

All as described in that Deed from Vivian W. Evans et al., to Joseph Lloyd Evans, dated February 8, 1971, and recorded in Book 62, Page 347, Perquimans County Registry.

LESS AND EXCEPT the portion of Parcel 3-0059-00012A south of E Bear Swamp Road.

PARCEL ID 3-0059-00009

BEGINNING at iron stake the Southwest corner of the lot or parcel conveyed to Joseph Lloyd Evans by deed from Winbourne S. and Mary L. Evans, August 31, 1956, of record in Deed Book 39, page 294, and running a Northerly direction a straight line 70 yards, more or less, to another iron stake in the line of Shelton M. Long, then, with the line of Shelton M. Long, an Easterly direction 35 yards to another iron stake, then a Southerly direction a straight line 70 yards more or less, along the boundary of Shelton M. Long, to a stake on the Bear Swamp Road, the public road that runs from Delight Nixon Fork to Yeopim, then with the said Bear Swamp Road a Westerly direction on 35 yards to an iron stake the first station, the place of BEGINNING, containing about ½ acre, more or less, and being the Eastern portion of the Oak Grove School House lot conveyed to Winbourne Evans by deed from Nixon Howell, Executor of the estate of the late Lena E. Flanagan, recorded in Deed Book 37, page 327, in the Office of Register of Deeds of Perquimans County.

All as described in that Deed from Mary L. Evans et al., to Joseph Lloyd Evans, dated February 4, 1970, and recorded in Book 62, Page 343, Perquimans County Registry.

PARCEL ID 3-0059-00008

FIRST TRACT: BEGINNING at an iron stake the Southwest corner of the Oak Grove School House lot formerly owned by Lena E. Flanagan late of said county and state, and now owned by Winbourn S. Evans and running a Northerly direction of straight line 70 yards more or less to

another iron stake in the line of Shelton M. Long, then with the line of Shelton M. Long an Easterly direction 35 yards to another iron stake, then in a Southerly direction a straight line 70 yards more or less to a stake on the Bear Swamp Road the public road that runs from Delight Nixon Fork to Yeopim, then with the said Bear Swamp Road a Westerly direction 35 yards to a iron stake the first station the place of BEGINNING, containing about ½ acre more or less and being Western portion of the Oak Grove School House lot conveyed to Winbourn Evans by deed from Nixon Hollowell, Executor of the estate of the late Lena E. Flanagan in Deed Book 37, page 327 in the Office of the Register of Deeds of Perquimans County, North Carolina.

All as described in that Deed from Winbourn S. Evans and his wife, Mary L. Evans, to Joseph Lloyd Evans, dated August 31, 1956, and recorded in Book 39, Page 294, Perquimans County Registry.

PARCEL ID 3-0047-00001:

SECOND TRACT, known as the Mrs. Penina Dale Tract, which is the same as that shown upon the survey platted and registered April 3, 1924 in the Plat Book of Perquimans County, a copy of which is attached to the aforesaid deed recorded in Deed Book 87, page 190, of Perquimans County, North Carolina.

All as described in that Deed from Joseph Lloyd Evans and wife, Selma B. Evans, to Joseph Lloyd Evans, dated January 28, 1985, and recorded in Book 110, Page 405, Perquimans County Registry.

PARCEL ID 3-0047-00014:

LOCATED IN CHOWAN AND PERQUIMANS COUNTIES

TRACT SEVEN: A one-half (1/2) undivided interest in the following tract: And being generally bounded by Wilbur and Daisy Jordan, the G. W. Smith Estate, Weyerhauser Pulp Company, and the Al Asbell Estate located south of the road leading through Bear Swamp, and more particularly described as follows: Beginning at a point marking the east point of the within described tract and the common corner of Wilbur Jordan and the G. W. Smith Estate, thence from the point of beginning and along the cleared land of Wilbur Jordan, North 72 deg. 05 min. West 186.8 feet to a point; thence North 66 deg. 30 min. West 186.7 feet to a point; thence North 54 deg. West 45.5 feet; thence North 57 deg. 15 min. West 140.6 feet; thence North 67 deg. 35 min. West 483.1 feet to a corner; thence North 14 deg. East 69.4 feet to a corner in the cleared land of Wilbur Jordan; continuing with the cleared land of Wilbur Jordan, North 67 deg. 35 min. West 802.0 feet to a point; thence North 45 deg. 10 min. West 460.7 feet to the North corner of the property in the Al Asbell estate line; thence South 26 deg. West 1, 085.6 feet to an iron stob; thence South 26 deg. West along and with the Weyerhauser Pulp Company line 723.8 feet to an iron stob marking the West corner of the property; thence along and with the Weyerhauser Pulp Company line, South 65 deg. 45 min. East 2,818.9 feet to an iron stob, marking a corner of the Weyerhauser Pulp company and that of the G. W. Smith Estate; thence along the G. W. Smith Estate line North 7 deg. 50 min. East 451.7; North 7 deg. 50 min. East 451.7 feet, North 8 deg. 30 min. East 389.1 feet; North 8 deg. 10 min. East 819.6 feet to the point and place of beginning and being more particularly shown on that map entitled Louis and Preston Monds Woodland containing 95.9 acres more or less. Also conveyed a 20 foot right of way from the N. corner over Jordan to road. See also Book 119, page 360.

All as described in that Deed from Ruth Peele Monds to W. B. Monds Farm Partnership dated December 30, 1994, and recorded in Book 161, Page 805, Perquimans County Registry.

BEING all Tax Parcels, Pin Nos., and/or Deeds referenced in the Lease Option Agreements as shown in the Site Plan Mapbook excluding Parcel 3-0059-00002 (owned by John Evans Jr), PIN 7819-0041-5140 (owned by CT Mansfield), the portion of Parcel 3-0058-00004 in the area zoned Highway Commercial 500 feet off of US-17, the portion of Parcel 3-0049-00039 zoned as Town of Hertford Extraterritorial Zoning Jurisdiction one mile south of Ballahack Road east of the Chesapeake and Albemarle railroad, and the portion of Parcel 3-0059-00012A south of E Bear Swamp Road, with these excluded zones shown on the Mapbook as Leased Non-Project Areas.

ARTICLE IX. CONDITIONAL USES

Section 901. Objectives and Purposes

It is recognized that there are some land uses that are basically in keeping with the intent and purpose of the various districts created by this Ordinance, yet these uses may have a significant impact on those districts. These impacts are best determined following careful review of the specific proposal. In order to add flexibility to this Ordinance, certain uses are allowed by means of controls exercised through the Conditional Use Permit process.

Section 902. Procedures

Conditional Use Permits shall be reviewed by the Perquimans County Planning Board for recommendation to the Perquimans County Board of County Commissioners according to the regulations stipulated in Article XXIII "Hearing Procedures for Appeals and Applications." Conditional Use Permits shall be granted by the Perquimans County Board of County Commissioners as permitted by N.C.G.S. 153A-340 and 160A-388 for all conditional uses enumerated in the Table of Uses. These uses may be established only after approval by the Board of County Commissioners.

The owner or owners of all the property included in the petition for a Conditional Use Permit shall submit required application information to the County Planning and Zoning Office at least three weeks prior to the Planning Board meeting at which it is to be heard. Such application shall include all of the requirements pertaining to it in this Ordinance.

Applications shall include a Site Plan and the Application fee as set by the Board of County Commissioners and posted in the Planning and Zoning Office Fee Schedule.

All requests for Conditional Use Permits shall be considered by Planning Board and the Board of County Commissioners within ninety (90) days from submission of a completed Application to the Planning and Zoning Office. However, this requirement is not intended to prevent the Board of County Commissioners from delaying action after review.

Section 903. Planning Board Review and Board of County Commissioners Action

The Planning Board shall consider the application at a public meeting and make a recommendation to the Board of County Commissioners. The Board of County Commissioners shall consider the application, the Planning Board recommendation, and comments at a public hearing and may grant or deny the Conditional Use Permit. In application consideration, the Planning Board and Board of County Commissioners shall use as a guide the specific conditions outlined in this Article for each use proposed. In addition, the Boards shall find:

- (a) That the use will not materially endanger the public health or safety, if located according to the plan submitted and approved;
- (b) That the use meets all required conditions and specifications;
- (c) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and

- (d) That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Perquimans County Land Use Plan.

In granting the Conditional Use Permit the Board of County Commissioners may designate only those conditions, in addition to those stated herein, which, in its opinion, assure that the use in its proposed location will be harmonious with the area and with the spirit of this Ordinance and clearly in keeping with the public welfare. All such additional conditions shall be entered in the minutes of the meeting at which the Conditional Use Permit is granted and on the Conditional Use Permit granted. *In order to validate the Conditional Use Permit, the owner(s) or authorized applicant(s) shall sign the document and register it with the Perquimans County Register of Deeds, at which point it remains valid for one year from the date granted by the Perquimans County Board of County Commissioners.*

(This includes Conditional Use Permits granted in the conditional use district rezoning process). All specific conditions shall run with the land and shall be binding on the original applicants for the Conditional Use Permit, their heirs, successors, and assigns.

Section 904. Denial and Appeal

If the Board of County Commissioners denies the Conditional Use Permit, it shall enter the reason for its action in the minutes of the meeting at which the action is taken. Reasons for denial shall be provided in writing. No appeal may be taken from the action of the Board of County Commissioners in granting or denying a Conditional Use Permit except through the Perquimans County Superior Court within thirty (30) days or forever be barred.

Section 905. Compliance with District Regulations

In addition to the conditions specifically imposed in this paragraph and such further conditions, as the Board of County Commissioners may deem reasonable and appropriate, Conditional Uses shall comply with all other regulations for the zoning district in which they are located unless the provisions for the Conditional Use provide to the contrary.

Section 906. Failure to Comply with Plans

In the event of failure to comply with the plans approved by the Board of County Commissioners, or with any other condition imposed upon the Conditional Use Permit, the permit shall thereupon immediately become void and of no effect. No building permits for further construction or certificates of occupancy under this Conditional Use Permit shall be issued, and all completed structures shall be regarded as nonconforming uses subject to the provisions of this Ordinance. In such cases, owners of adjoining property shall be notified that the Conditional Use Permit is no longer in effect.

Section 907. Supplemental Regulations for Conditional Uses

Specific Requirements by Use: A site plan for a conditional use must always be submitted with the application based upon the checklist contained in the Zoning Ordinance at Article V,

Section 509, Site Plan Requirements. Multiple copies of the plan are required as needed for the Planning staff's distribution to members of the Technical Review Committee, Planning Board and Board of County Commissioners. In addition, an electronic file may be submitted.

Individual Conditional Uses may require more information, as given in this Section or elsewhere in this Ordinance. In addition, the Planning Board or Board of County Commissioners may require other information as it deems necessary in order to determine if the proposal meets all requirements and will not endanger persons or property.

The Board of Commissioners may impose reasonable conditions in addition to those given in this Section and elsewhere in this Ordinance. In order to do this, the Board must determine that additional conditions are necessary to protect the welfare and safety of the public and of property, or to meet the tests given elsewhere in this Article.

Insert Section 907.27 here (see next page):

ORDINANCE NO. 93

AN ORDINANCE OF PERQUIMANS COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF NORTH CAROLINA, AMENDING, ADDING AND REPEALING SECTIONS OF THE PERQUIMANS COUNTY ZONING ORDINANCE AS ADOPTED BY ORDINANCE NO. 35, AS PREVIOUSLY AMENDED; THIS ORDINANCE AMENDS ARTICLE IX OF SAID ZONING ORDINANCE TO REVISE STANDARDS, CONDITIONS AND PROCEDURES FOR WIND ENERGY FACILITIES IN THE UNINCORPORATED COUNTY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PERQUIMANS COUNTY, NORTH CAROLINA THAT:

Section 1. Perquimans County Ordinance No. 35 (Zoning Ordinance), as previously amended, is hereby amended by revising Article IX of said Zoning Ordinance to revise standards, conditions and procedures for Wind Energy Facilities in the unincorporated County; and by adding and/or substitution the following excerpts of Article IX attached hereto as Exhibit A respectively, and incorporated herein by reference, in its stead;

Section 2. Severance Clause. It is the intent of the Board of County Commissioners of Perquimans County, North Carolina, and it is hereby provided, that if any section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance; and

Section 3. Effective Date. This Ordinance shall take effect upon its passage and enactment. This Ordinance shall be recorded in a book kept and maintained by the Clerk of the Board of County Commissioners of Perquimans County, North Carolina.

PASSED AND ENACTED by the Board of County Commissioners of Perquimans County, North Carolina, this 1st day of February, 2016.

BOARD OF COUNTY COMMISSIONERS OF PERQUIMANS COUNTY, NORTH CAROLINA

By: Jarige McKenzie Cole
Jarige McKenzie Cole, Chair

ATTEST:
Mary F. Hunnicutt
Mary F. Hunnicutt, Clerk to the Board

Effective Date: 2/1/16

Exhibit "A"

987.27 Wind Energy Facilities

- A. Zoning Districts: Small: RA-43, RA-25, RA-15, CR, CN, CH, IL and IH;
 Medium: RA, CR, CN, CH, IL and IH; and
 Large: RA

B. Preamble: Wind Energy Facilities may be permitted in districts as designated in the Table of Permitted and Conditional Uses, subject to the following requirements:

- (1) A Permit Application for a Wind Energy Facility shall contain the following:
 - (a) A narrative describing the proposed Wind Energy Facility, including an overview of the project;
 - (b) The proposed total rated capacity of the Wind Energy Facility;
 - (c) The proposed number, representative types and height or range of heights of Wind Turbines to be constructed, including their rated capacity, dimensions and respective manufacturers, and a description of ancillary facilities;
 - (d) Identification and location of the property or properties on which the proposed Wind Energy Facility will be located;
 - (e) A site plan showing the planned location of all Wind Turbines, property lines, setback lines, access roads, substation(s), electrical cabling from the Wind Energy Facility to the substation(s), ancillary equipment, building(s), transmission and distribution lines. The site plan must also include the location of all Occupied Buildings, Residences, and other features sufficient to demonstrate compliance with the setbacks required by this Article;
 - (f) Any Environmental Assessment required by state or Federal law;
 - (g) Decommissioning plans that describe the anticipated life of the Wind Energy Facility, the estimated decommissioning costs in current dollars, the salvage value of the equipment, and the anticipated manner in which the Wind Energy Facility will be decommissioned and the site restored;
 - (h) Documentation of agreement between Participating Landowner(s) and the Applicant, Facility Owner, or Operator; and
 - (i) ~~(4) Signature of the Applicant; and~~
 - (j) The applicant shall establish an escrow account in the name of Perquimans County in the amount set forth by the Board of County Commissioners in separate Fee Schedules. Said Escrow Account shall be established at the time the Zoning Permit Application and detailed Site Plan(s) are submitted and shall be used by the County for all County expenses related to the project.
- (2) Throughout the permit process, the Applicant shall promptly notify Perquimans County of any proposed changes to the information contained in the permit application that would materially alter the impact of the project.
- (3) Changes to the approved application that do not materially alter the initial site plan may be administratively approved by the Zoning Administrator. Major modifications to the approved Conditional Use Permit will require a new Application and approval by the Planning Board and Board of County Commissioners in the same manner as the original Conditional Use Permit.
- (4) Wind Turbine Height and Setback Multipliers and Minimum Lot Sizes: The Setbacks shall be calculated by multiplying the required setback number by the Wind Turbine

Height and measured from the center of the Wind Turbine base to the property line or the nearest point on a public road right-of-way or the nearest point on the foundation of a Residence or an Occupied Building.

Table 907.27: Lot Size, Setback and Height Requirements

Facility Type	Minimum Lot Size	Minimum Setback Requirements				Maximum Height
		Occupied Buildings	Residences	Property Line (Non-Participating Property)	Public Roads	
Small Facility	43,000 Sq. Ft.	1.5	1.5	1.1	1.5	120 feet
Medium Facility	5 Acres	2.0	2.0	1.5	1.5	250 feet
Large Facility	25 Acres	2.5	2.5	1.5	1.5	600 feet

Setback requirements may be waived by a property owner so long as such waiver is in writing and signed by the property owner and recorded in the Perquimans County Register of Deeds Office.

(5) Sound and Shadow Flicker: This Section shall only apply to Large Wind Energy Facilities. Sound and Shadow Flicker issues for Small and Medium Wind Energy Facilities are addressed by setbacks.

- (a) Audible sound from a Large Wind Energy Facility shall not exceed fifty-five (55) dBA, as measured at any Occupied Building or Residence on the property of a Non-Participating Landowner.
- (b) Shadow Flicker on any Occupied Building or Residence on a non-participating landowner's property caused by a Large Wind Energy Facility must not exceed thirty (30) hours per year.
- (c) Sound and/or Shadow Flicker provisions may be waived by a property owner so long as such waiver is in writing, signed by the property owner and recorded in the Perquimans County Register of Deeds Office.

(6) Installation and Design:

- (a) The installation and design of the Wind Energy Facility shall conform to applicable industry standards, including those of the American National Standards Institute, and take into consideration local conditions.
- (b) All structural, electrical and mechanical components of the Wind Energy Facility shall conform to relevant and applicable local, state and national codes.
- (c) The visual appearance of a Wind Turbine shall at a minimum:
 - (1) Be a non-obtrusive color such as white, off-white or gray;
 - (2) Not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety; and
 - (3) Not display advertising (including flags, streamers or decorative items), except for identification of the Wind Turbine manufacturer, Facility Owner and Operator.

(7) Decommissioning:

- (a) The Wind Energy Facility Owner shall have twelve (12) months to complete decommissioning of the Wind Energy Facility if no electricity is generated for a continuous period of twelve (12) months. The Wind Energy Facility Owner shall have twelve (12) months to complete decommissioning of any individual turbine if no electricity is generated for a continuous period of twelve months from any individual turbine. For purposes of this Section, ~~this~~ the twelve (12) month periods referenced herein shall not include delay resulting from Force Majeure.

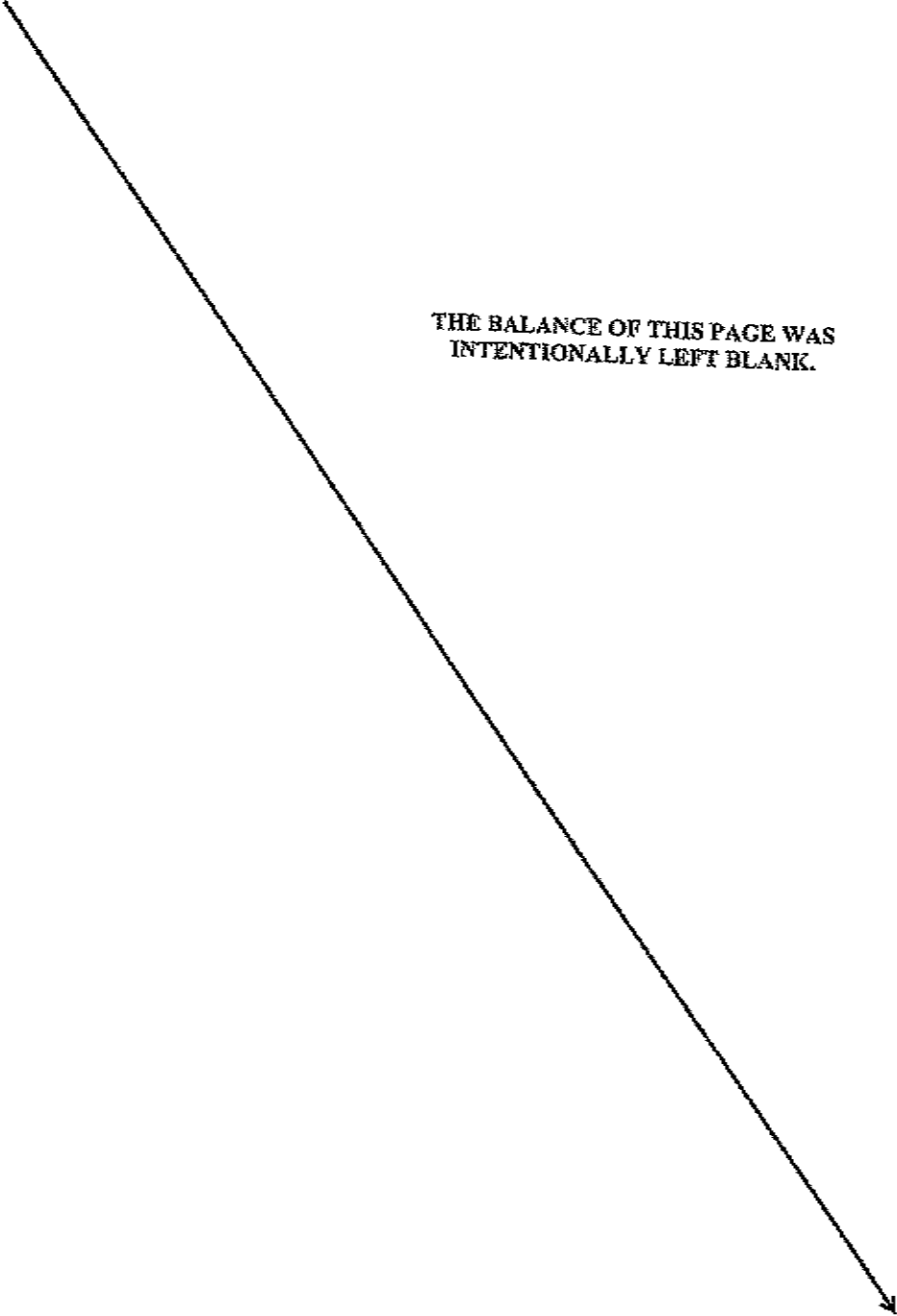
- (b) Decommissioning shall include removal of Wind Turbines, buildings, cabling, electrical components, roads, and any other associated facilities down to thirty-six (36) inches below grade.
- (c) Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.
- (d) Prior to the issuance of a building permit, the owner of a Medium or Large Wind Energy Facility shall provide a cash bond or irrevocable letter of credit in favor of the County in an amount equal to the estimated removal cost of the Wind Energy Facility, less the salvage value of the equipment prior to construction. If the Wind Facility Owner elects to use a letter of credit, it shall be issued by a federally chartered bank with a branch office located in northeastern North Carolina. The bond or letter of credit shall remain in full force and effect until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the Conditional Use Permit.
- (8) Additional Reports for evaluation of Noise, Ice Drop and Ice Throw, Blade Drop and Blade Throw, and Shadow Flicker:
- (a) Noise Evaluation Report. The applicant or petitioner shall submit a noise evaluation report for each of the proposed wind turbine locations and any alternative wind turbine locations at the proposed site and any alternative sites in accordance with the noise control regulations established by the Perquimans County Zoning Regulations. The report shall include, but not be limited to, the following:
- (1) A detailed description of the potential noise levels that would be generated by the proposed wind turbines and any alternative wind turbines at the proposed site and any alternative sites, including, but not limited to, existing sound levels at the proposed site and any alternative sites, projected sound levels to be generated by the operation of the proposed wind turbines and any alternative wind turbines, the methodology used to monitor and evaluate sound levels, the wind turbine manufacturer's technical documentation of the noise emission characteristics of the proposed wind turbines and any alternative wind turbines, and an analysis of compliance with the noise control regulations established by Perquimans County.
 - (2) Calculations in accordance with the noise control regulations established by Perquimans County for the projected maximum cumulative sound levels generated when the proposed wind turbines and any alternative wind turbines are in operation at the proposed site and any alternative sites measured at nearest existing occupied building, projected maximum day-time and night-time sound levels generated when the proposed wind turbines and any alternative wind turbines are in operation measured at the nearest occupied building, and projected maximum levels of infrasonic sound, ultrasonic sound, impulsive noise and prominent discrete tones generated when the proposed wind turbines and any alternative wind turbines are in operation at the proposed site and any alternative sites measured at the nearest occupied building.
 - (3) A study area map for the proposed site and any alternative sites depicting the noise analysis study area radius, site boundaries, sound level monitoring locations and nearest occupied building.
 - (4) Identification of any potential mitigation measures to minimize sound levels at the nearest occupied building, including, but not limited to, utilization of best practical noise control measures in accordance with the Perquimans County Zoning Regulations.
- (b) Ice Drop and Ice Throw Evaluation Report. The applicant or petitioner shall submit an ice drop and ice throw evaluation report for each of the proposed wind turbine locations and any alternative wind turbine locations at the proposed site and any alternative sites that shall include, but not be limited to:
- (1) A detailed description of the conditions at the proposed site and any alternative sites that may cause ice to be dropped or ice to be thrown, or both, from the wind turbine blades of the proposed wind turbines and any alternative wind turbines, the methodology used to evaluate and assess the risk of ice drop or ice throw, or both, and the wind turbine manufacturer's technical

- documentation relating to recommended ice drop and ice throw setback distances and installed ice monitoring devices and sensors.
- (2) Calculations in feet of the maximum distance that ice could be dropped from the wind turbine blades of each proposed wind turbine and any alternative wind turbines at the proposed site and any alternative sites when the wind turbines are stationary and calculations in feet of the maximum distance that ice could be thrown from the wind turbine blades for each proposed wind turbine and any alternative wind turbines at the proposed site and any alternative sites when the wind turbines are in operation.
 - (3) A study area map for the proposed site and any alternative sites depicting the ice throw study area radius, site boundaries and locations where ice could be dropped or locations where ice could be thrown from the wind turbine blades, or both, of each proposed wind turbine and any alternative wind turbines at the proposed site and any alternative sites when the wind turbines are stationary and in operation.
 - (4) Identification of any potential mitigation measures to minimize the risk, occurrence and impact of ice drop or ice throw, or both, from the wind turbine blades of each of the proposed wind turbines and any alternative wind turbines, including, but not limited to automatic and remote manual shutdown of the wind turbines.
- (c) Blade Drop and Blade Throw Evaluation Report. The applicant or petitioner shall submit a blade drop and blade throw evaluation report for each of the proposed wind turbine locations and any alternative wind turbine locations at the proposed site and any alternative sites that shall include, but not be limited to:
- (1) A detailed description of the conditions at the proposed site and any alternative sites that may cause a blade or any portion of a blade to be dropped or that may cause a blade or any portion of a blade to be thrown, or both, from each of the proposed wind turbines and any alternative wind turbines, the methodology used to evaluate and assess the risk of blade drop or blade throw, or both, and the manufacturer's technical documentation relating to recommended blade drop and blade throw setback distances and installed blade monitoring devices and sensors.
 - (2) Calculations in feet of the maximum distance that a blade or any portion of a blade could be dropped from each of the proposed wind turbines and any alternative wind turbines at the proposed site and any alternative sites when the wind turbines are stationary and calculations in feet of the maximum distance that a blade or any portion of a blade could be thrown from each of the proposed wind turbines and any alternative wind turbines at the proposed site and any alternative sites when the wind turbines are in operation.
 - (3) A study area map for the proposed site and any alternative sites depicting the blade throw study area radius, site boundaries and locations where a blade or any portion of a blade could be dropped or locations where a blade or any portion of a blade could be thrown, or both, from each of the proposed wind turbines and any alternative wind turbines at the proposed site and any alternative sites when the wind turbines are stationary and when the wind turbines are in operation.
 - (4) Identification of any potential mitigation measures to minimize the risk, occurrence and impact of blade drop or blade throw, or both, from each of the proposed wind turbines and any alternative wind turbines, including but not limited to, automatic and remote manual shutdown of the wind turbines.
- (d) Shadow Flicker Evaluation Report. The applicant or petitioner shall submit a shadow flicker evaluation report for each of the proposed wind turbine locations and any alternative wind turbine locations at the proposed site and any alternative sites that shall include, but not be limited to:
- (1) A detailed description of the potential shadow-flicker producing features of each of the proposed wind turbines and any alternative wind turbines at the proposed site and any alternative sites, including, but not limited to, an analysis of conditions that may cause shadow flicker, the methodology used to evaluate shadow flicker and the manufacturer's technical documentation relating to shadow flicker, if available.
 - (2) Calculations from each proposed wind turbine and any alternative wind turbines at the proposed site and any alternative sites to each off-site occupied

structure location within a one mile radius, including, but not limited to, the following:

- (A) Distance in feet;
 - (B) Shadow length and intensity;
 - (C) Shadow flicker frequency;
 - (D) Specific times shadow flicker is predicted to occur; and
 - (E) Duration of shadow flicker measured in total annual hours.
- (3) A study area map of the proposed site and any alternative sites depicting the shadow flicker analysis study area radius, site boundaries, locations of the proposed wind turbines and locations of any alternative wind turbines, locations of off-site occupied structures, and areas of shadow flicker occurrence identified according to total annual hours.
- (4) Identification of potential mitigation measures to minimize the impact of shadow flicker, including, but not limited to, vegetation, screening and fence construction.

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Rule 33. Quasi-Judicial Proceedings

- (a) Chair (designee or County Attorney) presiding
 - (1) Calls the Meeting to Order
 - (2) Establishes that there is a quorum
 - (3) Announces the case to be heard
 - (4) Informs those present of the methods used to notify the parties and the public of the hearing and request for representatives.
NOTE: The notice to the parties shall include that those who plan to be represented by counsel or a designated representative of their group notify or have their counsel notify the County Attorney.
 - (5) Explains the procedure that will be followed
- (b) After being sworn, the Planning Director summarizes the case
- (c) Chair will swear applicant and applicant's witnesses
- (d) The Chair in his/her discretion may allow opening statements. If the Chair in his/her discretion allows opening statements, the Chair in his/her discretion may limit the time that each party may have to present their opening statement. An opening statement may only be given by parties who intend to present evidence at the quasi-judicial hearing and shall be limited in scope to statements as to what each party believes their evidence will show.
- (e) Applicants' witnesses will testify. Following each witnesses' testimony, the opposing parties through their designated attorney(s) or representative(s) will be given the opportunity to question the witness, followed by the County Attorney and Board Members. The Chair in his/her discretion shall have the right to limit repetitive questions asked of the witness.
- (f) The opposing parties, through their designated attorney(s) or representative(s) will then have their witnesses sworn and give testimony. Following each witnesses' testimony the applicant will be given an opportunity to question the witness, followed by the County Attorney and Board members.
- (g) Chair asks if any parties, who have not testified as witnesses and not committed to be represented by the designated attorney(s) or representative(s) wish to be sworn and testify. The Chair in his/her discretion may limit testimony of the parties if their testimony becomes repetitious.

- (h) At the Chair's discretion, Applicant may present its rebuttal testimony. Following each witnesses' testimony the opposing parties through their designated attorney(s) or representative(s) will be given an opportunity to question the witness, followed by the County Attorney and Board Members. The Chair in his/her discretion shall have the right to limit repetitive questions asked of the witness.
- (i) The Chair in his/her discretion may allow the opposing parties, or their designated attorney(s) or representative(s) to make a closing statement. If the Chair in his/her discretion allows closing statements, the Chair in his/her discretion may limit the time that each party may have to present their closing statement. A closing statement may only be given by parties who have presented evidence at the quasi-judicial hearing and shall be limited in scope to statements as to inferences, findings and conclusions as to what each party believes their evidence has shown.
- (j) The Chair summarizes the evidence presented (Written findings of fact are required). However, in the case of a lengthy hearing and numerous witnesses, the Board may choose to table its decision to allow time for the findings of fact to be drafted. NOTE: This is the last opportunity for the applicant to request a continuance or to withdraw their application.
- (k) When the Board resumes the hearing on this case, the Chair asks the Board for a Motion on the findings of fact. It can be approved, or denied or continued. A denial can be followed by another motion from the Board.
- (l) If an application is approved, the Board will state any conditions of the application, if needed.