

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, DECEMBER 2, 2013

The Lincoln County Board of County Commissioners met December 2, 2013 at the Citizens Center, Auditorium, 115 West Main Street, Lincolnton, North Carolina, at 6:30 P.M.

Commissioners Present:

Alex E. Patton, Chairman
Carl E. Robinson, Jr., Vice Chair
James A. Klein
Carrol D. Mitchem
Cecelia A. Martin

Others Present:

W. Tracy Jackson, County Manager
Martha W. Lide, Assistant County Manager
Wesley L. Deaton, County Attorney
Amy S. Atkins, Clerk to the Board

Planning Board Members:

Christine Poinsette, Chair
Darrell Gettys, Vice-Chair
Dr. Crystal Mitchem, Secretary
Jeffrey Todd Burgin
John Dancoff
Cathy Davis
Floyd Dean
Keith Johnson
Brian Rabalais

Call to Order: County Manager, Tracy Jackson called the December 2, 2013 meeting of the Lincoln County Board of Commissioners to order. Commissioner Robinson gave the Invocation and led in the Pledge of Allegiance.

Election of Chair: Mr. Jackson opened the floor to nominations for Chairman. Commissioner Robinson nominated Commissioner Alex Patton as Chairman.

Mr. Jackson called for a vote for Commissioner Patton as Chair: Unanimously approved.

Election of Vice Chair: Chairman Patton conducted the election of Vice Chairman.

Commissioner Martin nominated Commissioner Robinson for Vice Chairman.

Chairman Patton called for votes for Commissioner Robinson: Unanimously approved.

Adoption of Agenda: Chairman Patton presented the agenda for the Board's approval.

AGENDA
Lincoln County Board of Commissioners Meeting
Monday, December 2, 2013
6:30 PM

James W. Warren Citizens Center
Auditorium
115 West Main Street
Lincolnton, North Carolina

	Call to Order
	Invocation - Commissioner Robinson
	Pledge of Allegiance
1.	Adoption of Agenda
2.	Consent Agenda <ul style="list-style-type: none">- Tax Requests for Releases - Over \$100<ul style="list-style-type: none">- October 16 - November 15, 2013- Tax Requests for Refunds - Over \$100<ul style="list-style-type: none">- September 16 - 29, 2013- September 30 - October 13, 2013- October 14 - 27, 2013- Minutes for Approval- CDBG Monthly Status Update- Capital Project Ordinance Amendment #3- Resolution #2013-38: A Resolution Requesting Reallocation of Funds Held in the Public School Building Capital Fund- Budget Ordinance Amendment #2- Capital Project Ordinance #3 - NC 150/Henry Dellinger Rd. Line Relocation- 2014 Meeting Schedule
3.	Zoning Public Hearings - Randy Hawkins <p>PCUR #161 Jean Turbyfill, applicant (Parcel ID# 02322, 88251 and 88250) A request for a parallel conditional use rezoning of 2.6 acres from B-N (Neighborhood Business) to CU I-G (Conditional Use General Industrial) to permit a storage, picking, packing and shipping center, self-storage and related services. The property is located at 301 N NC 16 Hwy, on the W side of NC 16 Business about 2,000' N of NC 73, in Catawba Springs Township.</p> <p>CUP #327 Strata Solar, LLC, applicant (Parcel ID# 30199, 90500 and 90501) A request for a conditional use permit to establish a solar power generation facility in the R-SF (Residential Single-Family) district. The</p>

	proposed 36-acre site is located on the N and S sides of Webbs Rd at Burton Ln in Catawba Springs Township.
	CUP #326 American Tower Corp., applicant (Parcel ID# 25789) A request for a conditional use permit to erect a 195' wireless telecommunications tower in the R-T (Transitional Residential) district. The proposed site is on an 11-acre tract located at 1875 Buffalo Shoals Rd, on the W side of Buffalo Shoals Rd at Sandy Park Rd, in Ironton Township.
4.	Public Comments (15 minutes allowed per Rules of Procedure – 3 minutes per person)
5.	Other Business
	Adjourn

Consent Agenda: UPON MOTION by Commissioner Klein, the Board voted unanimously to approve the Consent Agenda.

- Tax Requests for Releases - Over \$100
 - October 16 - November 15, 2013
- Tax Requests for Refunds - Over \$100
 - September 16 - 29, 2013
 - September 30 - October 13, 2013
 - October 14 - 27, 2013
- Minutes for Approval
- CDBG Monthly Status Update
- Capital Project Ordinance Amendment #3
- Resolution #2013-38: A Resolution Requesting Reallocation of Funds Held in the Public School Building Capital Fund
- Budget Ordinance Amendment #2
- Capital Project Ordinance #3 - NC 150/Henry Dellinger Rd. Line Relocation
- 2014 Meeting Schedule

Items listed in the Consent Agenda are on file in the office of the Clerk to the Board and are hereby made a part of these minutes as though fully set forth herein.

Zoning Public Hearings: Randy Hawkins presented the following:

Parallel Conditional Use Rezoning #161 – Jean Turbyfill, applicant:

The applicant is requesting a parallel conditional use rezoning of 2.6 acres from B-N (Neighborhood Business) to CU I-G (Conditional Use General Industrial) to permit a storage, picking, packing and shipping center, self-storage and related services.

Warehousing and shipping are permitted uses and self-storage is a conditional use in the I-G district, and all are conditional uses in the Eastern Lincoln Development District (ELDD). If the rezoning request is approved, the use of the property would be subject to the approved plan and any conditions mutually approved by the county and the applicant.

The property is located at 301 N. NC 16 Hwy., on the west side of N.C. 16 Business about 2,000 feet north of N.C. 73. It is adjoined by property zoned B-G (General Business) and B-N. Land uses in this area include business and residential. This property

is located in an area designated by the Lincoln County Land Use Plan as regional business.

Chairman Patton opened the public hearing.

Larry Turbyfill, 181 Quail Glen Court, Denver, NC, stated that he is the General Manager of Turbyfill Hardware and Rental Company. He said he is here to answer any questions the Board has. Mr. Turbyfill said it will probably be the same or less traffic on-site as before.

Being no additional speakers, Chairman Patton declared the public hearing closed.

The following transcript was taken and submitted by Geri Halma Court Reporting for Conditional Use Permit #327 – Strata Solar, LLC, applicant:

Lincoln County Board of Commissioners Meeting

James W. Warren Citizens Center Auditorium
115 West Main Street
Lincolnton, North Carolina
Monday, December 2, 2013
6:30 p.m.

County Commissioners

Alex E. Patton, Chairman
Carl E. Robinson, Jr., Vice Chairman
James A. Klein
Carrol D. Mitchem
Cecelia A. Martin

Lincoln County Planning Board

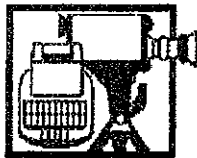
Christine Poinsette, Chair
Darrell Gettys, Vice-Chair
Dr. Crystal Mitchem, Secretary
Jeffrey Todd Burgin
John Dancoff
Cathy G. Davis
Floyd Dean
Keith Johnson
Brian Rabalais

CUP #326 Strata Solar, LLC, Applicant

Reported by:

Geri Halma, M.F.A., CSR, RPR, CLVS

COPY



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2 (Pages 2 to 5)

Page 2

APPEARANCES

1
2 **WESLEY L. DEATON and ELYSE B. JOHNSON,**
3 **Attorneys-at-law, (Pendleton, Pendleton & Deaton), 211 North**
4 **Academy Street, Post Office Box 159, Lincolnton, North**
5 **Carolina, 28093-0159, 704.735.0483, wldeaton@ppd-law.com,**
6 **appearing on behalf of Lincoln County.**
7 **JAMES E. SCARBROUGH, Attorney-at-law, (Ferguson,**
8 **Scarborough, Hayes, Hawkins & DeMay, P.A.) 65 McCachern**
9 **Boulevard, Southeast, Post Office Box 444, Concord, North**
10 **Carolina, 28026-0444, 704.788.3211, appearing on behalf of**
11 **Sailview Owners and Concerned Citizens Association.**
12 **ROBERT L. BURCHETTE and R. SUSANNE TODD,**
13 **Attorneys-at-law, (Johnston Allison & Hord) 1965 East**
14 **Morehead Street, Post Office Box 36469, Charlotte, North**
15 **Carolina, 28236, 704.332.1181, gahlum@jahlaw.com, appearing**
16 **on behalf of the Strata Solar.**
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24
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Page 3

INDEX

WITNESS	EXAMINATION BY	PAGE
George Arena		15
	Mr. Burchette	54
Ted Campbell		61
	Mr. Burchette	72
James L. Kiser		74
Martha Carolyn McLean		91
Nadine Deason		94
Jane Roddy		97
Marty Wulforth		111
Deborah Catalano		112
Timothy Mooney		114
	Mr. Burchette	122
Geoffrey Zawtock		124
	Mr. Deaton	142
	Ms. Todd	143
Fred Beck		146
George Arena		149
David E. Cowley		156
Mary Wilson		159
Rudy Bauer		160
Robert Bonner		160
Loy Dellinger		166
Charles Bolen		172

Page 4

Richard E. Wilson		174
Walter Fields		174
	Mr. Burchette	184
D. C. Harris		187
Brent Niemann	Mr. Burchette	190
Richard Kirkland	Ms. Todd	200
	Mr. Scarbrough	205
Damon Bidencope	Ms. Todd	214
	Mr. Scarbrough	230
Fred Beck		239
Damon Bidencope		244
Lance Williams	Mr. Burchette	246
	Mr. Scarbrough	252
Fred Beck		258

Page 5

PROCEEDINGS

1
2 **CHAIRMAN PATTON:** The next item on the agenda is
3 **Conditional Use Permit Number 327. Randy.**
4 **MR. HAWKINS:** This is the continuation of the public
5 hearing on the proposed solar farm on Webbs Road. Strata
6 Solar, LLC, is the applicant. And I think it would be
7 appropriate at this time, the hearing was continued for an
8 appeal hearing in front of the Board of Adjustment, and I
9 think it would be appropriate for Wesley to summarize that.
10 **CHAIRMAN PATTON:** We need a public hearing. Can we
11 do this?
12 **MR. DEATON:** Yes.
13 **CHAIRMAN PATTON:** All right. We'll declare the
14 public hearing open on Conditional Use Permit Number 327.
15 Wesley.
16 **MR. DEATON:** Well, the procedure where we are is
17 that Strata Solar made their initial application and or had
18 their initial hearing in September and put forth their
19 evidence at that time.
20 Some questions were made by members of the board and
21 the Planning Committee about Strata and the appraisals they
22 used.
23 Then some folks in opposition got up and moved to
24 continue the matter, and the matter was continued initially
25 to the next hearing. After the initial hearing, some group

Page 6

Page 7

1 of opponents made a request for interpretive definitions of
2 Randy Hawkins. Randy gave those definitions. An appeal was
3 taken to the Board of Adjustment.

4 Because of that, the opposition group that
5 Mr. Scarbrough represents asked that the hearing be delayed
6 again just until the definition part could be heard by the
7 Board of Adjustment. Strata Solar agreed to that.

8 The hearing was last Monday night. And the
9 opponents and the applicants put in some evidence, as well
10 as Mr. Hawkins on behalf of the county. And at the end of
11 the evidence, the Board of Adjustment dismissed the appeal
12 as being untimely.

13 The decision behind it was that the time for appeal
14 on any kind of interpretations as to whether certain code
15 applied would have been after Mr. Hawkins made his initial
16 determination that the Strata application satisfied the
17 Unified Development Ordinance, and at the latest he provided
18 notice at the September hearing. And thirty days from the
19 September hearing was when the time of the appeal should
20 have run.

21 So there has been no overturning of Mr. Hawkins'
22 definitions or his interpretations of that or his
23 determination that the application has met the UDO.

24 And where we are tonight is I think each side, or
25 each represented side, I should say, and there are people

1 that are not represented, would like to give a very brief
2 summary. And then from that point it would be up to the
3 group led by Mr. Scarbrough to come give evidence in
4 opposition. If there are unrepresented folks that also want
5 to give evidence in opposition, they should be allowed to do
6 that as long as it is not duplicative.

7 And then Strata should be allowed to give rebuttal
8 testimony.

9 CHAIRMAN PATTON: All right. With that we'll call
10 Robert Burchette.

11 MR. BURCHETTE: Good evening. The last time I was
12 here was November 4th, and Wesley did a great job of
13 creating some traction, if I made add, to that.

14 The September hearing consisted of a number of
15 witnesses or affidavits. Testimony was taken. At that time
16 our testimony that was presented showed that this was--there
17 are 40 of these sites across the state and never had a
18 problem with any of them. They are environmentally
19 friendly; you know, no increased traffic. All the
20 requirements we thought that we had to meet, we thought we
21 met.

22 Prior to that hearing concluding, the commissioners
23 took questions from the audience, asked questions, had
24 observations: What would it look like if I was driving down
25 the road? Tell us what would be done and, by the way, get

Page 8

Page 9

1 together with the property owners and see if you guys can
2 get something worked out. There was a meeting that took
3 place in October with the property owners. I'll come back
4 to that a second.

5 We came back November 4th or November 5th. I think
6 it was the 4th. Jim had filed a couple of motions, a motion
7 to recuse Mr. Mitchem, motion to continue, wanted to have a
8 hearing before the Board of Adjustment. We said fine. You
9 know, we'd like to get that taken care of.

10 That took place on the 25th, and, you know, it was a
11 three-and-a-half-hour hearing. It wasn't just somebody
12 walked in there and we said good-bye. There were lots of
13 things discussed at that hearing.

14 We're here today to say a couple things to you.
15 One, we heard what you said. We had a meeting in October of
16 the residents. We asked the residents, tell us what's
17 wrong, you know.

18 And they had comments. They said: We didn't like
19 this. We didn't like the fence. We don't like the
20 screening. We would like more screening.

21 The most telling part though was when Mr. Arena
22 asked. There were 50 people there. Lance was there.
23 Ms. Todd of our office was there. And at that meeting they
24 was asked, well, hey, if they completely screened this
25 property, how many of you would then be in favor of letting

1 Strata build this project.

2 Forty-eight people said no out of 50. There wasn't
3 anything we could do that they would accept. Now, what we
4 did though is we listened to what they said. And I'm not
5 going to present this as evidence. You got a drawing of it
6 back here. We listened to what they said. And this
7 convention planning board could come back and say to us, by
8 the way, you know, you have a Conditional Use Permit, the
9 staff has supported it, but we want to place some conditions
10 on it.

11 And we want to give you a preview of what they said
12 to us were things that they were concerned with. And, you
13 know, I want to say right now that, you know, the people in
14 Sailview community have a great community. They have an
15 enclave. All communities-- I live in Charlotte. And it's
16 you've got Dilworth. You've got Foxcroft. You've got Myers
17 Park. Everybody has a little community, a little enclave
18 they live in. And Sailview has a little enclave. It's got
19 berms. It's got screening that takes place. Anything back
20 there you can't see into it. It's a nice little place
21 bordering the lake.

22 What's interesting is when I read the transcript of
23 what people said at the hearing before the Board of
24 Adjustment, they talked about things they can see driving
25 down the road. Forty years ago Gary Dellinger built a

Page 10

Page 11

1 concrete plant there. You see that driving down the road.
2 Thirty years ago he built the porta-john business there.
3 And theres hundreds of porta-johns sitting there. There is
4 a variety of uses if you drive around there, some of which
5 are residential, some of which are not.

6 Okay. This development was 15 years old. And
7 they've got a great development back there. We don't think
8 we adversely impact it at all. But one of the things, if I
9 might just direct your attention, you have a drawing back
10 here. What we did was-- Is this okay to walk up this way?

11 VOICE: No.

12 CHAIRMAN PATTON: Stay with the microphone. People
13 can hear you.

14 MR. BURCHETTE: Okay. If you look at what we did,
15 we took-- First of all, we went and surveyed what they had.
16 The plants that you see there are the same plants that they
17 used in that area for the Sailview and the other community
18 is--

19 MS. TODD: Lake Norman.

20 MR. BURCHETTE: --Lake Norman. Those are the same
21 trees, the same bushes, everything else.

22 The fence behind that is a wooden fence. It's not a
23 chain link fence. It's not that fence. Okay. It's a
24 wooden fence. They complained about that. If you want to
25 put conditions on it, we put an opaque wooden fence. You

1 can't see through it. It's slatted.

2 Okay. The trees--the fence would be eight feet
3 tall--the trees actually are going in at a little over four
4 feet and in two years they would be over the top of the
5 fence.

6 VOICE: That's not the lay of the land.

7 MR. BURCHETTE: All right. There have been lots of
8 these hearings but I usually-- Anyway that's if you have
9 conditions, that's some of the conditions that, when we
10 heard what they had to say, that's what we're willing to do.
11 That's what we put into effect.

12 And, you know, we presented our evidence. We've got
13 rebuttal evidence if it's necessary. But that's where we
14 are today. If you've got any questions, I'll be happy to
15 answer them now or we can wait until later.

16 CHAIRMAN PATTON: Are there any questions by any
17 Board of Commissioners or members of the Planning Board?

18 MR. KLEIN: Mr. Chairman, is this what you're
19 proposing for all three properties or just Webbs Road or
20 where are we? What are we looking at here?

21 MR. BURCHETTE: You have a drawing. Yes, it's a
22 buffer that has all the property except there's a portion of
23 the property that borders woods.

24 MR. KLEIN: Right.

25 MR. BURCHETTE: Okay. On that portion we've got the

Page 12

Page 13

1 wooden fence and stuff, but we don't have the landscaping
2 there because you've got a half a mile or quarter of a mile
3 of wood with mature trees there. So there is no reason to
4 screen it. Nobody can see it to begin with.

5 VOICE: You can.

6 VOICE: How about the lay of the land? I've walked
7 the back.

8 CHAIRMAN PATTON: I believe the audience is going to
9 have to refrain from making comments. All right. Any other
10 questions? Mr. Klein, anything else?

11 MR. KLEIN: Not from me.

12 MR. BURCHETTE: Again Walt did the drawings that are
13 there. They are behind you. I didn't want to be passing
14 them out. We'll let them present theirs, and if you want to
15 talk about it some more, the drawings have the details on
16 them, height of the fence, type of plants and everything.

17 MR. KLEIN: Just for a point of clarification,
18 Page 11 of 11 shows the landscaping of the land and where
19 the buffer is and is not on both parcels, all three parcels.
20 This replaces Page 11.

21 MR. BURCHETTE: Yes.

22 MR. KLEIN: This rendering replaces this rendering?

23 MR. BURCHETTE: I think the answer to your question
24 is, yes.

25 MR. KLEIN: I hope so.

1 MR. LANCE WILLIAMS: Yes, we would ask that the
2 planning board, when they issue a recommendation, consider
3 what we're just presenting as a condition to be complied
4 with. And then as Bob mentioned, based on your question
5 specifically in the hearing and one of the planning board
6 members, you know, wanted more specifics and beef your
7 landscaping. And so we responded very positively with what
8 you guys asked for.

9 MR. BURCHETTE: Okay.

10 CHAIRMAN PATTON: Any other questions? Thank you.

11 MR. BURCHETTE: Thank you.

12 CHAIRMAN PATTON: I believe next is Mr. Scarbrough.

13 MR. SCARBROUGH: Thank you, Mr. Chairman. My name
14 is Jim Scarbrough from Concord. I represent quite a number
15 of people who are opposing this application. And I think it
16 might be proper if I go ahead and give a list of my
17 individual clients. We have said they're an association,
18 but there was some discussion about that at the Board of
19 Adjustments. Some technicalities were raised. I have a
20 complete list here. I'd like to put it in the record.

21 CHAIRMAN PATTON: Okay.

22 MR. SCARBROUGH: Thank you. Now, before I go on,
23 just briefly, by the way, we had two witnesses come in after
24 we started who will need to be sworn in when they get to the
25 point.

Page 14

1 That map you see behind you now from Strata, we
2 haven't seen it. Now, they brought that map here to this
3 hearing tonight. We have some expensive experts over here.
4 None of them have seen it. This is a proposal brand new
5 tonight. They could have given us that before tonight, but
6 they didn't. So they're going to use that to argue to you.
7 And Mr. Arena will testify in just a minute that he told
8 them after that meeting to get back to him and the group if
9 they had any screening changes they wanted to make.
10 Nothing. We heard nothing. Our witnesses will
11 testify to that. This is wrong for them to come up here
12 tonight when our experts over here have not seen this and
13 they can't see it from over there. And then they come up
14 here and present this. So we have tonight--
15 We worked hard to be here tonight. Our witnesses
16 have worked hard. We're very well organized. We have some
17 experts. We also have some property owners. They all know
18 what they're going to say. They're not going to waste your
19 time. There are not going to be duplication of testimony.
20 We have about eight or nine witnesses.
21 And then they're going to sit down. And I suppose
22 there will be more rebuttal. But we're going to object to
23 evidence that's not rebuttal. And this is not rebuttal
24 because it was not presented in evidence in chief. And
25 Wesley can advise you on that. We strongly object to these

Page 16

1 county's Land Use Plan steering committee and the Unified
2 Development Ordinance Committee.
3 I have a bachelor of science degree and an MBA. I
4 co-founded and ran a microwave radio equipment company for
5 15 years. And for the three years prior to moving to North
6 Carolina in 2004, I was a division manager for Sear-Brown, a
7 large northeast US architect engineering firm, for their
8 commercial and institutional division.
9 I'm speaking on behalf of many citizens that live in
10 Sailview and other subdivisions in the immediate area. I
11 have a great deal of information that I'm going to present
12 to you tonight. It's going to take some time, but I think
13 you need to have a background on what's going on in this
14 industry.
15 Based on some of the questions that you asked of
16 Strata the last time, what are these pictures going to look
17 like when they go in, what is going on with other solar
18 farms in the area, we've got some responses for you too.
19 The first question I want to say is, that isn't
20 exactly what I asked at the meeting. We were getting
21 essentially a lot of back and forth information in an
22 attempt to try to clarify what would be good and what would
23 not be good.
24 What I asked the people was, are you concerned that
25 if you completely screen this thing and still have an issue

Page 15

1 new things.
2 We spent a lot of money to be here tonight. And for
3 them to come here with a plan that we haven't seen to me is
4 not something that I have seen anybody else do at a hearing
5 like this. And I don't think it should be tolerated.
6 Our first witness will be George Arena. As some of
7 you may know, George is a past county commissioner. He is
8 very familiar with the UDO ordinance. And he is going to
9 talk. You know, you have four elements of findings of fact.
10 And we've got witnesses that are going to talk about each
11 one of them. He's going to talk about Number 2, which is:
12 Does the use meet all the conditions and specifications of
13 your ordinance?
14 And then we have other witnesses that are going to
15 go right down the line on the other requirements. Thank
16 you.
17 * * *
18 GEORGE ARENA, having first been duly sworn, testified as
19 follows:
20 MR. ARENA: Good evening, commissioners. My name is
21 George Arena. I reside at 3898 Channel Point Lane in
22 Denver. That is in the Sailview Subdivision.
23 I was a county commissioner from 2008 to 2012 in
24 Lincoln County. Prior to that time I was on the Lincoln
25 County Planning Board. And I was on a number of the

Page 17

1 and still have a property value impact and you would still
2 be concerned about this development. And that's the way the
3 question got answered yes or no.
4 So all these people are still concerned whether they
5 screened it opaquely or not, that there would still be other
6 issues that would affect their property value.
7 I will also say at the time there were a lot of
8 questions on buffering and screening. And the Strata folks
9 did not give an inch that night. They did not offer any
10 additional screening. And I sat there next to Ms. Todd
11 while Mr. Williams was doing a nice job in the audience.
12 And I said, would you, please, get back to us if you're
13 going to make any changes. Please put your best effort
14 forward and let us know what that would be.
15 And as Mr. Scarbrough said, we heard absolutely
16 nothing. Mr. Williams has my contact information. If they
17 were going to make that plan change, it would have been
18 appreciated had they done that prior to tonight.
19 I'm glad to see that they have done something. I'm
20 glad to see that they responded. It's nice that they were
21 listening. Mr. Williams did a nice job at the meeting. But
22 it would have been prudent to do that prior to tonight's
23 meeting.
24 I want to thank you for your continuance the last
25 time. As I go through this evidence, a lot of what's going

Page 18

Page 19

1 on in this industry, there has never been opposition allowed
2 or had the ability to present expert testimony. And that's
3 going to be very important as we go through our issue and
4 finding of fact.

5 I also want to say that we are concerned about our
6 property values. We are concerned about the Land Use Plan.
7 We are concerned about the harmony, and we've taken the time
8 to do our research.

9 This group behind me is not against solar energy.
10 It has its place. But it's not for private developers to
11 come in and take tax credits that we pay for, impact the
12 harmony, impact our property values and walk away the
13 winners. The government that gives 65 percent tax credits
14 to these folks between federal and state should not mandate
15 who is going to win and who is going to lose in this
16 industry.

17 Additionally I want to say, there is a landowner
18 involved. And we respect his property rights and his
19 ability to use his land for how he sees fit and to make a
20 profit.

21 But so too should he respect our property rights.
22 We live in the area. The area has grown up around his farm.
23 And we would hope that he would have worked with us together
24 to work out a plan to do something a little differently.

25 If we felt this application and met the conditions

1 of the UDO and would not impact our property values and it
2 meant the Land Use Plan was in harmony, we wouldn't be here
3 tonight. We wouldn't have argued this case at all.

4 But this is a huge issue. And let me kind of tell
5 you why. We have done a lot of research. And there's three
6 things about this application that are unique compared to
7 any other solar farm that we can find in North Carolina.

8 First, it is the only one that we could find that is
9 encapsulated within a zoned area called residential single
10 family. Yes, there's a cement plant that was built um teen
11 years ago. And, yes, everybody that bought houses knew
12 that. But if you look at this area in the meantime,
13 everything around it has developed residential single
14 family. So with the exception of that nonconforming use,
15 this whole area has developed over 800 houses over all this
16 time totally residential single family.

17 Second, it's the only solar farm that is split
18 between two sides of a residential collector road. We can
19 find no other solar farm which you have to drive through
20 literally with almost 6,000 cars a day continually going
21 past and in between the solar farm.

22 Third, it is by far—and our appraisers will tell
23 you—it has the most property value that either adjoins,
24 abuts or drives through this divided solar farm. The value
25 of the property that we're talking about here that has to go

Page 20

Page 21

1 through this because of the way the road system works and
2 the way that residential collector Webb's Road takes traffic,
3 it's over \$400 million in property value. That's 8 percent
4 of the total residential property value in Lincoln County.
5 So you're talking about a significant portion of your
6 property value, your property taxes and our investment in
7 this community. And it's very important for us to
8 understand whether or not there is going to be a financial
9 impact on this community and for the property that abuts or
10 adjoins this.

11 We've already had a sale canceled that we'll talk
12 about. But as I said, there's a great deal at stake here.
13 The bottom line is we've got the most houses at risk of
14 losing value of any solar farm we have seen. We've got
15 8 percent of your value at risk, your comparable tax
16 revenues. We're going to go through an appraisal in another
17 12 months, and it's going to be January of 2015. This is
18 going to go right in before that appraisal. We'll show you
19 another county that's lowered property tax values because of
20 the solar farm appraisal, which didn't appear in their
21 original evidence. So we're going to show you all that.

22 The burden of proof in this also lies with the
23 applicant. They have to meet the four findings of fact.
24 We're going to go through that. We believe we will show you
25 evidence that actually proves three of the four findings of

1 the fact in the negative.

2 We're not going to attempt to do anything with
3 Finding of Fact Number 1. Is it a public safety issue, or
4 is it affecting anybody's safety. We're not experts in that
5 regard. We're granting that. There has been enough solar
6 farms and no safety impacts around that we know of. And so
7 we're passing.

8 But we are going to talk on findings 2, 3 and 4. I
9 am going to present a lot of data. It has moved over the
10 course of the last several months. If I have not given you
11 data correctly or there's some new information on any of
12 these solar farms in other counties or cities that Strata
13 has that I don't have, they're free to please join in and
14 make a case about what's going on.

15 But one of the questions that was asked the last
16 time was: What about other solar farms? Have any other
17 solar farms been turned down? What's going on?

18 So let me start by telling you, this is really a
19 moving target. The legislation that prompted all these
20 solar farms was done in 2007. It mandated that investor in
21 utilities provide an increasing amount of power from
22 renewables and they could do that in a number of variety of
23 ways. They had to hit certain targets in the amount of
24 energy over a course of a period of time.

25 I also want to tell you that repeal of that act was

7 (Pages 22 to 25)

Page 22

Page 23

1 considered by the legislature this year but was voted down.
2 It was also considered to stop it at the current level of
3 the percentage of power that renewables must generate. That
4 was also turned down. But it's still controversial and
5 could still sit in committee.

6 And so after 2007 all of these LLCs sprung up to
7 take advantage of 65 percent of federal and state tax
8 credits and to take advantage of that mandate. And that's
9 fine. That's good business. That's their business plan.

10 But as typically happens in a fast-moving industry,
11 local government is starting to catch up. These things all
12 went in. There weren't a lot of ordinances that
13 specifically address solar farms.

14 According to the North Carolina Solar Center, now we
15 have 18 counties and 34 municipalities in North Carolina
16 that have revised their ordinances specifically to deal with
17 solar farms. So far 12 of them have specifically dealt
18 with zoning districts are going to allow solar farms in.

19 Why has Lincoln County not done that? Why has
20 Lincoln County approved two solar farms and then not created
21 a revised ordinance? Well, we found out at the appeal
22 hearing that you are working on one. It's been sitting
23 there for six months. Now, is that fair to these people
24 back here when you look at maybe what would be in that
25 ordinance? So when are we going to get that approved?

1 We've got 18 counties and 34 municipalities that have
2 already reacted. And certainly Lincoln County reacts.

3 Okay. In addition, we've got a number of local
4 governments. Commissioner Klein asked a question of Strata,
5 has anybody turned down one of these before. And he got an
6 answer that said something like, well, one was turned down,
7 but it got overturned and they put it back in the Board of
8 Adjustment.

9 Well, let me give you some specifics because, as I
10 said, counties and cities are starting to catch up.
11 Laurinburg in Scotland County, which had a previous farm,
12 had a recent farm rejected by commissioners. Strata
13 requested a hearing in superior court. Strata presented
14 their expert evidence in the commission hearing. The
15 opponents did not. One Realtor and some citizens spoke
16 against it.

17 The issues were property values, harmony and Land
18 Use Plan. We believe the case is awaiting a final decision
19 by superior court.

20 Robeson, in Rowland County, commissioners rejected a
21 new farm based on similar findings. Strata appealed to
22 their Board of Adjustment. The Board of Adjustment did
23 overturn the decision based on no expert testimony. Again
24 it's another case that Strata presented expert testimony. A
25 group of citizens was not able to.

Page 24

Page 25

1 An unusual one, the Moore County Planning Board
2 rejected a proposed change in the zoning ordinance to allow
3 solar farms because they didn't like the fact that the
4 people were paying tax credits that went to the solar farm
5 developers. However, the commission approved an ordinance
6 noting district differentiation in that they must not impact
7 property values and must conform to the Land Use Plan.

8 Shelby, right down on from us, rejected a farm
9 outright because the proposed farm did not fit the
10 comprehensive Land Use Plan. It was not in harmony with
11 nearby properties, and it must not injure adjacent
12 properties. That's one I would ask that you pay particular
13 attention to.

14 Clay County had a previous farm, issued a
15 moratorium, developed an ordinance, and they lowered
16 property values on 18 parcels in a nearby subdivision due
17 specifically to the small solar farm. We'll present
18 evidence on that.

19 So this is a situation, which our appraiser will
20 discuss, and represents documented evidence of lowered
21 property values specifically due to a solar farm. Strata
22 did not tell you about that example in their testimony even
23 though it was out there.

24 Rutherfordton, not too far away, enacted a
25 moratorium earlier this year to deal with solar farms. They

1 have a proposed ordinance coming that requires a 15-foot
2 vegetation buffer to block the view as it's currently
3 written. I don't know if that will go through or not. But
4 that's where it is at the moment.

5 There is the Zebulon farm that's also noted in
6 Mr. Kirkland's report. It is noted in his report as
7 approved. In fact it was approved, but until recently it
8 has not been built. And it has had a recent hearing in
9 superior court. Citizens filed a suit against that farm in
10 superior court. It looks like in superior court it was
11 allowed to go through, but they significantly increased
12 buffers and setbacks beyond what was proposed.

13 There are two solar farms that are proposed in
14 Yadkin County where the citizens have taken their complaints
15 to the Public Utilities Commission. Both Oakboro and
16 Wadesboro solar farm proposals had challenging public
17 hearings. Oakboro turned down their farm in November. And
18 I don't have other details. And I'm not sure what Wadesboro
19 is.

20 These have all happened by commissioners after
21 listening to a small number of citizens object to concerns
22 about property value and harmony. They did not have the
23 benefit that we've had of expert witnesses.

24 And so based on that, these folks in these other
25 counties and these communities have really taken a hard look

Page 26

Page 27

1 at solar farms. So it's not just one solar farm that was
2 turned down and has previously then got approved. There is
3 a lot going on in this industry and a lot of specific
4 examples.

5 I would like to talk a little bit about our attempts
6 to try to minimize anticipated damage to property value by
7 (1) meeting with Strata and (2) requesting an appeal on
8 decisions made by county staff on buffering.

9 We did arrange a meeting with Strata. Approximately
10 a hundred people attended a meeting at Unity Church.
11 Mr. Lance Williams did a fine job. He attempted to answer
12 all the questions. When people expressed concern about
13 buffers, he did not give in. When people expressed concern
14 about the fence, he did not give in.

15 And we were basically getting nowhere in terms of
16 trying to come to some sort of agreement. And so, yes, I
17 asked a couple of questions of the folks involved, including
18 one that was to try to put where their concerns were. Some
19 were concerned about buffering. Some were concerned with
20 the screening. Some wanted berms.

21 But that question about would you still not want
22 this if they did this opaquely was specifically related to
23 property values. There is a fear with all of these folks,
24 and their \$400 million of property, mine included, that this
25 is going to harm our property values. And it has already

1 harmed one property value.

2 And again we've talked about they did not get back
3 to us at the time. And they haven't. In the two months or
4 month and a half since then, we've heard nothing from them.

5 So it's a little disconcerting that they come here
6 tonight and give this to you and don't have the courtesy to
7 give that to us before they come here for us to react to it.

8 After you granted us a continuance, we reviewed the
9 UDO. One of our people involved, Mr. Michael Mock, who is
10 in our group, talked with Mr. Hawkins several times relative
11 to the UDO.

12 Based on Mr. Hawkins' response, we then had our
13 lawyer write a letter to Mr. Hawkins asking for some written
14 interpretations. Now, keep in mind you gave us a 60-day
15 continuance to review evidence from Strata, to review the
16 UDO, to understand the impact of this. Okay. And so we
17 wrote those requests, two separate requests to Mr. Hawkins.
18 Actually I think we wrote three, and we appealed two of
19 them. And we were within the 30 days of when we wrote the
20 letters and within the 30 days of when we got the response.

21 And excuse us if we mistook the fact that a
22 continuance might not move the clock on the presentation.
23 And I think Mr. Scarbrough will address that later.

24 At the Board of Adjustment all of our evidence was
25 presented. And Mr. Deaton, your attorney, informed the

Page 28

Page 29

1 board that because our appeals were late from the original
2 target date, that they had the option of rejecting the
3 appeal or moving forward. Well, they rejected the appeal
4 even though you gave us a 60-day continuance.

5 Why he or Mr. Hawkins couldn't have told us when the
6 appeal was filed, the same question I would have for Strata
7 tonight. Are we playing secrets here? Couldn't they have
8 said, "Don't waste your time and money. You are late"? Did
9 they have to wait until we presented all of our evidence to
10 give to the Board of Adjustment that option? I don't think
11 so.

12 I would also like to talk about we've learned a lot
13 in the appeal process and a lot throughout. And I would
14 like to mention a couple other things. Obviously, we had
15 the concerns with Mr. Mitchem. And he has graciously
16 recused himself.

17 We learned in the appeal process that Lance Williams
18 and Randy Williams, our senior planner, are cousins. It
19 doesn't have to be disclosed because he's a staff member.
20 But we did learn that. We learned at the appeal that a
21 revision to this UDO has been sitting around for six months
22 and has not yet been implemented.

23 We were told by a staff member that another staff
24 member generated a map of all substations in Lincoln County
25 and mailed that map out to a number of solar companies. In

1 some cases we understand it is unsolicited. So now
2 understand this. On one side you're working on a revised
3 ordinance and you know you've got a problem with your
4 ordinance. On the other side, you're mailing out issues
5 where you've got substations and encouraging business to
6 come in.

7 There's something wrong here. You are doing two
8 different things with solar farms. And, yeah, what's going
9 to happen is we're going to get the results here. We're
10 going to get an application in a residential single family
11 area near a substation because it is a benefit to the
12 applicant. It's not a benefit to the people in the
13 residential subdivision.

14 We learned in the appeal process that the road yard
15 tree requirement, as it is currently written and
16 specifically written in the UDO, should apply. But it's
17 felt as an interpretation that this is in the wrong section
18 of the UDO.

19 It says that all roads require tree buffers. It was
20 interpreted by your staff--and I will talk about that
21 later--that it's in the wrong place, therefore it doesn't
22 apply.

23 The one that really boggles my mind, having been in
24 your shoes, is you have an ordinance. The ordinance
25 describes roads. It describes what a local road is, what

Page 30

Page 31

1 collectors are and what arterials are. Your whole UDO and
2 where you put buffers and screening relate to how you
3 describe your roads. This kind of road requires a buffer
4 that a local road does not.

5 We learned in the hearing that Randy Hawkins,
6 Mr. Hawkins, at first felt that a buffer was needed for a
7 roadside buffer, Class A buffer, based on how the UDO read
8 with the road descriptions.

9 However, somebody went to him later with
10 descriptions of roads by NC DOT, which NC DOT uses for
11 planning purposes. And I know that because I was on the
12 RPO. And they're a little bit different. And they said,
13 well, look here, if you look at their map and you look at
14 this here, well, Webb's Road then is not a-- It's called a
15 local road. So then if you go back into your ordinance and
16 take that, you don't need to do a buffer.

17 So you're taking--you're ignoring the road
18 descriptions you've got in your UDO. You are going outside
19 to find something else that is not consistent and it is not
20 law and you are putting it back into your law, saying we're
21 going to take this and apply it over here.

22 Now, maybe this has gone away. And had we known
23 about that Monday night, we wouldn't have presented that
24 evidence. But we didn't that courtesy. But that's not good
25 behavior. That's not good interpretation.

Page 32

1 the line and you're always presenting data and you're always
2 in the affirmative and you use the same, you're basically
3 called an advocate. And I think at this point we need to
4 ask Mr. Kirkland, does he consider himself an advocate
5 because that has implications in his testimony. So that's
6 one thing I would ask that you ask him later on.

7 Specifically in the AM Best Solar Farm in Goldsboro,
8 now this was his matched pair. This was really the only
9 sale that he comparably told you was equivalent to all the
10 subdivisions that we have around this area. He pointed that
11 out as a matched pair.

12 Well, I had a conversation with their senior planner
13 in Goldsboro on October 7. I learned that the land where
14 the solar farm was located was previously zoned prior to the
15 solar farm partially as industrial property and partially as
16 general business property and that the part that's next to
17 Spring Garden Subdivision was the part that was zoned
18 general business.

19 So when Spring Garden was established, the people
20 that could buy lots in Spring Garden knew they were buying
21 lots that backed up to something that was going to be
22 commercial or general business. They have since rezoned the
23 whole thing industrial.

24 But knowing you're buying property that's
25 \$70-a-square-foot property, you're basically buying

1 When Mr. Hawkins came to you in September and said
2 this meets all the conditions and specifications of the UDO,
3 he needs to say, based on our interpretations. And the
4 interpretations are his and Mr. Bryant's and Mr. Williams'.
5 Because as you read the UDO, it doesn't specifically meet
6 those and others that we'll talk about.

7 So we're over here trying to minimize damage to our
8 property by meeting with Strata. We're over here trying to
9 understand what's going on with the appeals. And basically
10 we've got nowhere although I think tonight we did get
11 somewhere. At least we're part of the way there. We still
12 have some major concerns, and we'll deal with that.

13 Next I'm going to point out our response to the
14 expert witness affidavits that were presented that night.
15 And I don't know, is Mr. Kirkland here with you tonight?

16 MR. KIRKLAND: I am.

17 MR. ARENA: Okay. Thank you. We looked
18 specifically at his affidavit, and I would just like that.
19 The first question I think you need to ask Mr. Kirkland is
20 every time or virtually every time we looked at another case
21 in another county or another city, Mr. Kirkland was an
22 expert witness. He's an expert witness for Strata. He's an
23 expert witness for other solar companies. We learned from
24 our appraiser that there is something in the appraisal
25 community called an advocate, that if you go too far over

Page 33

1 first-family-type houses and trying to house your young
2 family in as large a facility as you can. And if you know
3 you're going next to it, that's a whole different criteria
4 than when you're buying property at \$150 a square foot and
5 it's an upscale property and it's your second or your third
6 home and you are trying to enter into a specific community
7 with specific restrictions.

8 Certain parcels in there, all the newer parcels have
9 yet to be built on. We were told now maybe since October
10 some houses have been built on the part that's actually got
11 the solar farm visible. But if you look at the map, and we
12 were told by the planner that none of the houses today
13 actually look at the solar farm, so that's the second thing
14 he didn't tell us.

15 The third thing was he had two sales that were
16 listed as after the solar farm. One had a bunch of not
17 applicables after it in terms of dollars per square foot and
18 square foot.

19 And there was one home that was sold afterwards, and
20 he said it was comparable to the sale price of the homes
21 beforehand. Well, if you will look closely, that's a ranch
22 house. Ranch houses cost more per square foot to build
23 because they require even more crawlspace, more slab or more
24 basement and more roof. Yet it sold actually for less per
25 square foot than the houses before the solar farm was built.

Page 34

Page 35

1 And those were all one and a half or two stories.

2 So none of that was reported. Those are key facts
3 in terms of whether this a good matched pair or not. We
4 knew it was less per square foot. We knew they were starter
5 family homes. We were not pointed out that the land was
6 zoned general business to began with and that would set
7 different expectations. We were not pointed out about the
8 fact that there were no views of the solar farm until some
9 of the more recent properties would be developed.

10 And the one sale that's in the whole report is
11 really at less per square foot absolute in that table and
12 it's a ranch house, which should have at least 10 to
13 15 percent more cost per square foot in it because it's a
14 ranch house.

15 The second thing was there was another subdivision,
16 another solar farm in Zebulon. We spoke with Mr. Massey,
17 who was the developer of the Meadows of Duke Lake
18 Subdivision that abuts the Zebulon approved but not built
19 solar farm. He didn't tell us it was approved but it was
20 not built awaiting a superior court decision.

21 Mr. Massey had a whole different perspective to us.
22 And he said basically that while he started this thing
23 during a recession, since the solar farm has been announced,
24 he specifically pointed to that as the cause that those lots
25 have not been sold.

Page 36

1 how they felt they were in conformance, again no evidence.
2 And others will go specifically into depth on that.

3 None of the three gentlemen appear to be an expert
4 in Land Use Planning or landscape architecture, their
5 testimony regarding the location and character and use in
6 harmony. And if you look--and we're going to present
7 evidence that says--when you look at the location and
8 character, you need location, scale, size and aesthetics as
9 written in the UDO.

10 They did not compare any of that to any of the
11 surrounding area. They simply said we are passive, which is
12 great. We don't generate traffic, which is great. But they
13 did not talk about the scale, the size, the aesthetics or
14 location. So again in those affidavits, there is really no
15 body of proof that meets finding of fact. They have left
16 this up to you to decide.

17 I am going to now turn my attention specifically to
18 Finding of Fact Number 2. When the UDO was first completed
19 in 2008, it's my opinion, having served on the UDO committee
20 and on the planning board at the time, that solar farm
21 applications were not discussed or contemplated in the UDO
22 when considering conditional uses in zoning districts. We
23 require cluster subdivisions in a residential area to buffer
24 themselves from other residential property. Do you think we
25 would have required solar farms, if we had known about them,

1 Further, Mr. Kirkland presented no negative data
2 relative to solar farms. We will present, as I said, this
3 information on Clay County tonight, which was first observed
4 on a basic Internet search by one of our community members.
5 So imagine if we can have a committee member go and spend 10
6 minutes typing in solar farms value impact North Carolina,
7 and it immediately pops up, I don't know why in an unbiased
8 appraisal report that was not included.

9 There is an issue relative to sales of property
10 versus property value assessments. But when the tax
11 assessor specifically looked at a subdivision, and they have
12 made lowering of the property values conditionally right on
13 the solar farm, that should appear in an appraisal.

14 So really when you look at their affidavit, there's
15 nothing in there. The burden of positive proof is on them.
16 There's nothing in that affidavit that would give you or the
17 planning board or us any comfort that these homes aren't
18 going to be negatively impacted by this solar farm project
19 here. There is no burden of proof.

20 Additionally, the three witnesses that testified did
21 not indicate any reference to general conformance or lack of
22 conformance or anything about the Land Use Plan. They
23 didn't even mention the Land Use Plan.

24 Fact 4 says, are you in general conformance with the
25 Land Use Plan. We saw no wording of the Land Use Plan or

Page 37

1 to buffer themselves in residential areas? Of course, we
2 would have. We spent a lot of time doing buffering and
3 screening, as we'll point out. And we didn't talk about
4 that.

5 When we asked Mr. Hawkins in the hearing, what other
6 things are required for solar farms, what other buffering,
7 what other screening, where in this ordinance do we talk
8 about solar farms.

9 And he mentioned setbacks. Well, everything needs a
10 setback. But there's nothing, other than the three words
11 that appear in the use table, electric generating plant.
12 That's being considered as a similar use. That's what's
13 qualifying this whole application as part of the UDO,
14 nothing else.

15 I would also like to point out to you as we go into
16 this, that the two previously approved farms, one not built
17 and one built in Lincoln County, are in different zoning
18 districts. And they're in different areas of land use
19 surrounding them.

20 So much of the specifics of our UDO, which would
21 apply to this development and residential single family,
22 don't necessarily apply there, including some things like
23 what is residential single family for. What about road
24 buffers. What about tree buffers. What about surrounding
25 properties, aesthetics, et cetera.

Page 38

Page 39

1 Their location, their scale and their size, as
2 compared to the surroundings, are significantly different
3 than this application here.

4 I would also like to tell you that in Section 2 of
5 our UDO it is expressly noted that any use that is not
6 defined in the use group table or description of groups is
7 expressly prohibited under Section 2.3.1 of the UDO.

8 So in my opinion I do not believe the intent of
9 listing an electrical generating plant as a conditional use
10 in areas zoned residential single family was ever to allow a
11 private business that call themselves developer/construction
12 companies to develop solar farms covering significant
13 acreage in residential single family areas for their own
14 investors' profit. The intent of why we put that in there
15 was to allow the predominant electric utility providing
16 coverage to the greater region the possibility to add
17 capacity in that area, should they need it for anticipated
18 growth and should it not be able to go in a less critical
19 area. That's all.

20 Mr. Hawkins stated in his testimony that this
21 conditional use was in there because it was left over from
22 the zoning usage table in the 1990s and that no discussions
23 took place regarding upgrading of this definition. I agree
24 with him. He is right. As I said, we didn't really discuss
25 this.

1 The use is there, as I said, in case a utility
2 directly needs additional capacity and it comes to you and
3 says, look, I can't find anywhere else in your county to put
4 an electric generating plant. I need to put it there.
5 Well, then you've got the ability to deal with them on a
6 considerable use basis. The same way with a water plant and
7 the same way with a sewer treatment plant.

8 If there's no other place in the county that that
9 could go, it can be allowed. This is not a voluntary type
10 of opportunity here. This is a conditional use based on
11 need and necessity.

12 And further proof of that is offered under the fact
13 that this is grouped under something called civic use groups
14 in Section 2.2. And it is conditional in R-SF zoning along
15 with other conditional uses such as places of worship and
16 community centers. A civic group is defined as an
17 organization or a business or a club that improves life in
18 society and in a community.

19 Here is specifically what the section says. The
20 interpretation notes about grouping of uses:
21 Characteristics include the type and amount of activity, the
22 types of customers, how goods and services are sold and
23 delivered, likely impact on surrounding properties and site
24 conditions. Strata doesn't have the same type of customers
25 as Duke Power does or as your water department does or as

Page 40

Page 41

1 your sewer department does.

2 They have an industrial relationship with Duke
3 Power, who is required to buy their power, not thought of
4 when we did the UDO, not specifically listed when we did the
5 UDO. It does not have the same implication on the site or
6 the ability to impact surroundings or good for the community
7 as does a place of worship or a community center. It wasn't
8 anticipated.

9 The development of an industrial power plant by a
10 private LLC that can require the utility to purchase its
11 power does not meet the requirements of civic use. Where is
12 the common customer list? Where is the common delivery of
13 goods and services?

14 In the City of Laurinburg testimony, Mr. Williams
15 called Strata the developer and construction company. He
16 didn't use the word utility when describing Strata.

17 The North Carolina Department of Insurance does not
18 consider solar farms a public utility. So the code and
19 inspection requirements are different than if a utility was
20 doing the building.

21 Also in Mr. Hawkins' response, the one we didn't
22 appeal, was the fact that he said Strata is not a public
23 utility. So even a private water system or private sewer
24 system is equipped to and serves end customers. This is
25 basically an industrial application that's being allowed

1 into this UDO because of those three words, electric
2 generating plant in conditional uses.

3 Okay. Also from a technical perspective this plant
4 still does not, I don't believe, show inverters or the
5 noisiest equipment in the facility. I don't and I can't see
6 whether the poles are there or the poles are removed or not.
7 I have some pictures for you of what the poles look like in
8 Kings Mountain. And I'm going to pass those out. They're
9 not very pretty.

10 And so specifically we don't believe this use was
11 ever officially called out in the UDO and specifically not
12 specifically stated. So therefore, it has got to be
13 excluded.

14 There's a couple of other sections that would make
15 you think the same thing. There is Section 3.4.8.D.1 that
16 states: All roof, ground and wall-mounted equipment,
17 examples, air-handling equipment, compressors, ductwork,
18 transformers, solar panels--and that's a plural--and
19 elevator equipment shall be screened from view from
20 residential properties or public rights-of-way at ground
21 level of the property line.

22 This is the only section that mentions solar panels.
23 Mr. Hawkins' interpretation at the appeal was that this is
24 related to--this type of equipment that's related to
25 buildings. So if a building has a solar panel, somewhere on

Page 42

Page 43

1 the ground that has to be screened. It is not related to
2 solar panels that are part of a solar farm.

3 So if that is the only place in the UDO that
4 mentions solar panels that's not applicable to a solar farm,
5 what is, seriously?

6 Aboveground utilities and appurtenances. There is
7 another Section 3.4.8.E. Aboveground utilities and
8 appurtenances to underground utilities which require
9 aboveground installation shall be screened by a continuous
10 planting of shrubs with a minimum mature height equal to
11 that of the utility structure. Required accessways are
12 exempt from this.

13 Mr. Hawkins stated this doesn't apply for the same
14 reason. It's designed to be screening for that type of
15 equipment as it's related to building construction. He
16 further stated that if this applied, why you would have to
17 screen telephone poles for utilities.

18 And as he said that, I'm thinking, well, none of our
19 subdivisions in this area have telephone poles except the
20 old ones that are along Burton Lane and Webbs Road that were
21 there before. Within the subdivisions there are no more
22 telephone poles. Everything is done underground. The
23 county even had Duke do underground utility construction in
24 Airlie Business Park in an industrial zone. So why do these
25 people get to put telephone poles above the ground? And I

1 will pass these pictures out to you that really look pretty
2 pathetic.

3 And again if that's the only place it mentions
4 utility structures, then how was it applying to this
5 specific application?

6 There is another section in the UDO that states:
7 All development, other than construction of a detached
8 single-family, alley-loaded or two-family house on a
9 previously approved individual lot shall provide landscaping
10 in accordance with provisions of this section of the UDO.

11 You go back to the definitions in Section 12. It
12 talks about what structure is and what development is.
13 These are structures under the definition that are going
14 into a development. If that's the case, it says a
15 landscaped plan shall be submitted in conjunction with a
16 required site plan for all development regulated by this
17 section. A registered landscape architect or other
18 qualified professional shall prepare this plan.

19 So now we've got to check the new plan and see if it
20 meets it. This must be the old plan that's sitting up here,
21 I guess, because that buffer doesn't meet what was just
22 presented. So now we've got to go back and check their new
23 plan to see if it was done by a landscape professional or a
24 qualified landscape architect.

25 Section 3.4.7.A--this is what I talked about

Page 44

Page 45

1 previously--exactly reads: Road yard trees shall be
2 required along all--I'm going to say that word again--all
3 collector roads, residential collector roads, residential
4 roads and cul-de-sac roads at the rate of one canopy tree
5 per lot or one canopy tree for every 40 linear feet.

6 It doesn't state new roads. The interpretation was,
7 well, this is for subdivisions only, so we got to move it to
8 the subdivision section. Well, that's nice, but move it to
9 the subdivision section when you put your solar ordinance
10 in, not while it's expressly written here for some level of
11 protection.

12 And as I mentioned previously, this whole local road
13 issue, your section of the UDO classifies a local road as
14 generally local roads are generally cul de sacs, loop roads
15 less than 2,000 feet in length or roads less than one mile
16 in length that do not connect thoroughfares or serve major
17 traffic generators and do not collect traffic for more than
18 100 dwelling units. Well, we're collecting traffic from
19 about 800 or more dwelling units.

20 Section 5.4.10.E.2 states: Residential collector
21 roads are also classified as local roads when they serve as
22 the connecting road system between local residential roads
23 and the thoroughfare system.

24 Another section states: Road buffers--and road
25 buffers states: All new development with frontage on an

1 arterial or collector road, and that would include major
2 collector, minor collector and residential collector as
3 defined in your UDO, shall provide a minimum Class A buffer
4 as set forth in Paragraph C below.

5 They went out and found the NC DOT rulings which
6 does not talk about this in quite the same manner, which is
7 used for transportation planning, and applied it to
8 determine that a buffer was not necessary. Thankfully we've
9 got some sort of buffer tonight.

10 And we'll look at this. And I'd like to see
11 us--while other people are talking--I would really like to
12 get copies of this so we can have the ability.

13 MR. BURCHETTE: I will hand you a copy now.

14 MR. ARENA: Thank you. Okay. So in conclusion,
15 under Section 2, or under Part 2 Finding of Fact, I have
16 just pointed out several areas to you why this application
17 does not qualify. Is it an electric generating plant? You
18 can decide that. Is this a civic group? Was this use
19 anticipated under the holistic question?

20 Now let's move to conditional use. And I'm only
21 going to spend a minute on this because we have other people
22 talking. Conditional uses within each general district are
23 uses that may or may not be applicable in a particular
24 district depending on the location, the scale or size of use
25 or other factors requiring individual review.

Page 46

Page 47

1 I didn't hear them compare how their location, their
2 scale or their size under Finding of Fact 4 complied with
3 that conditional use.

4 We've already gone through the location argument.
5 This is a 36-acre solar farm split down the road. It
6 doesn't quite match half-acre, well landscaped lots with
7 subdivision berms and no fence like this.

8 Talk further, what does a residential single family
9 say in the general use district? Residential single family
10 is established to provide for traditional single-family
11 subdivisions and/or maintain areas in the county for
12 traditional single-family residential uses. That's what
13 it's for. It's not for 36 acres of a solar farm. It says
14 that right in the UDO. Further it goes on to say, certain
15 areas in the county can be set aside exclusively for
16 single-family purposes. And unlike the R-S district where
17 public utilities are currently in place or not expected to
18 be in the near future, the provision of public utilities is
19 not a factor in the location of the R-F district. It is
20 exclusively for single-family development. It says that
21 right in the UDO.

22 The next most restrictive residential district down
23 is residential suburban. It states that it's established to
24 encourage residential-type development in portions of the
25 county where one or more public utilities are currently in

1 service or anticipated to be installed in the future.
2 Residential development is somewhat more likely in this
3 district than in the R-R or R-T districts. R-R and R-T is
4 where you put the other solar farm and the other one that
5 was approved but not built.

6 And here is what else it says: Given that
7 residential will be the major use of land in this area,
8 careful attention must be given to the list of non-essential
9 residential uses which can take place in order to maximize
10 the esthetics and overall quality of life in such areas.

11 So you need to maintain areas in R-SF exclusively
12 and preserve them for residential single-family exclusively,
13 according to the UDO. And if you take a step down from
14 that, anything that you do that is not residential still
15 needs to be viewed from an esthetic-use perspective to not
16 impact quality of life. Does this really apply to this
17 application?

18 Finally, let me talk to you about the reasoning that
19 was used and the findings of fact to accept the other two
20 Conditional Use Permits for the other two solar farms.

21 The finding of fact justification in CUP 314 under
22 Finding of Fact 4 specifically said: This site is remotely
23 located away from the public highway, Highway 27. The
24 passive nature of this use is compatible with the rural,
25 agricultural nature of the area. Our Land Use Plan

Page 48

Page 49

1 designates this as rural preservation and encourages limited
2 commercial uses. It's away from the public highway, and
3 it's a rural agricultural area of the county.

4 In CUP 321 the reasoning for Finding of Fact 4
5 states: The site is remotely located away from a main
6 highway. The passive nature of this use fits in with this
7 rural, agricultural and low-density residential area.

8 Nothing about this matches those. In fact, this is
9 the opposite. This is a highly developed residential area.
10 I don't know how you compare the reasoning for those two and
11 can still come away with a positive Finding of Fact 4 on
12 this one.

13 So in summary, let me just kind of think what we've
14 got here. We have a company that's a developer/construction
15 company, which is not a public utility, requesting to
16 provide an industrial power plant of a scale and size of 36
17 acres in a residential single-family location that is to be
18 maintained for single-family development exclusively that
19 already has an established and adequate capacity of existing
20 utilities.

21 And we did check with your public works department.
22 The electric capacity, the water capacity and the sewer
23 capacity need no expansion for this 36-acre set of parcels
24 to be developed as residential single family. The stuff
25 that's already there, the infrastructure that's already

1 there, will accommodate Burton Creeks development and this
2 development and all expected development in residential
3 single-family with the exception that if they extend the
4 sewer line down Webbs Chapel Church Road and pick up some of
5 those areas that not don't have water, they may need to do
6 something about the water capacity. And that's it.

7 This application doesn't comply with the road
8 buffering--maybe now it does--comply with road buffering
9 because we require Class A under road buffering.

10 And I don't know about tree requirements. We'll
11 look at that. It is not maximizing the esthetics. It does
12 not maximize quality of life. They've also put the staging
13 areas right by Webbs Road at the Sailview Subdivision. Do
14 you think, since the cement plant was there for 30 years,
15 they could have figured out to put the staging area behind
16 the cement plant and kept it away from the subdivisions? I
17 can't understand that either.

18 So basically when you look at this, it doesn't meet
19 the UDO requirements. It doesn't meet Finding of Fact 2.
20 They have not proven anything about positive findings on
21 Fact 3 or Fact 4.

22 And we have people that will discuss some additional
23 technical requirements that are necessary in
24 solar-farm-panel applications, property values and
25 compliance with Finding of Facts 3 and 4 and your Land Use

Page 50

Page 51

1 Plan and harmony. That was a lot for me.

2 Do you have any questions about what I have really
3 had to copy from my notes there?

4 CHAIRMAN PATTON: Any questions for Mr. Arena? Any
5 member?

6 MR. DEAN: I have one, Mr. Chairman. Mr. Arena, on
7 Page 4 of your prepared document, it states that two solar
8 farms in Yadkin County have had complaints filed with the
9 Public Utilities Commission by citizens.

10 MR. ARENA: Yes.

11 MR. DEAN: Number 1, what were the complaints? Were
12 they upheld? Were they dismissed?

13 MR. ARENA: I don't know if they were dismissed or
14 not. One of the options for complaining is when the utility
15 files their certificate of need. You have 30 days or so to
16 complain, to write a letter to the Public Utilities
17 Commission to try to get the certificate of need not issued.
18 And they took that route in those two applications.

19 I don't know what the result of those was. I
20 suspect because the Public Utilities Commission has provided
21 those certificates previously to most solar farms that they
22 will go through. But I don't have the specific answer to
23 that question.

24 CHAIRMAN PATTON: Mr. Johnson.

25 MR. JOHNSON: Thank you. Mr. Arena, if you know,

1 approximately how many dwelling units are in Sailview?

2 MR. ARENA: How many--

3 MR. JOHNSON: --dwelling units in the Sailview
4 Subdivision.

5 MR. ARENA: Yes, sir. There's 473 lots.

6 Approximately 40 of those that's counted are not built on
7 yet, so you've got something between 400 and 440 units in
8 the Sailview Division.

9 MR. JOHNSON: In your documents you talk about the
10 berms. What's the purpose of the berms that were installed
11 at Sailview?

12 MR. ARENA: To prevent people on the roads from
13 seeing the houses that are--that have their backyards that
14 border the road right-of-way.

15 MR. JOHNSON: And given that, is it not true that
16 those berms also prevent the people in Sailview from seeing
17 the road?

18 MR. ARENA: If you are on the first floor, yes.
19 Now, if you are on their second floor, it's seen from there.

20 MR. JOHNSON: So the real issue here, is it not, is
21 seeing the solar farm as you drive into Sailview?

22 MR. ARENA: That's one of the issues, yes. It is
23 also seeing the solar farm from the backyards of people on
24 Burton Lane. It's also seeing the fencing. It's also
25 understanding that no matter what you put up here, the way

Page 52

Page 53

1 the road slopes, you're going to see this driving up the
2 road.

3 MR. JOHNSON: The group you're representing, how
4 many people in that group are from outside of Sailview?

5 MR. ARENA: There are people from the Lakewood
6 Subdivision. There are people from the Norman Pointe
7 Subdivision, and I think we've got a couple people from
8 Ashley Cove Subdivision. I don't think the totals. But
9 they have all been involved with the meetings.

10 MR. JOHNSON: And those surround that?

11 MR. ARENA: Those surround it, yes.

12 MR. JOHNSON: One final thing, on Page 6 of your
13 document--

14 MR. ARENA: Yes, sir.

15 MR. JOHNSON: --you state that Mr. Kirkland has not
16 produced any evidence to unequivocally and positively prove
17 that there would be no impact on adjoining or adjacent
18 properties.

19 Now, my reading of Number 4 says that the test is
20 whether or not the use will substantially injure the value
21 of adjoining or abutting property. Now,--

22 MR. ARENA: Yes.

23 MR. JOHNSON: --do you say the test is no impact, or
24 do you agree that it's substantial injury?

25 MR. ARENA: What I said was he has produced no

1 evidence to talk about impact at all.

2 MR. JOHNSON: Well, what do you think is the test?
3 Is the test that you have no impact or that the impact has
4 got to be substantial injury to adjoining or abutting
5 property?

6 MR. ARENA: You decide that. To me 5 percent of a
7 property value is a substantial loss. Clay County was
8 30-percent loss on their lots. We have a homeowner here who
9 lost a total sale because those signs appeared.

10 MR. BURCHETTE: Objection.

11 MR. JOHNSON: But once again, can we not agree, you
12 and I, that the test is substantial injury to adjoining or
13 abutting property?

14 MR. ARENA: That's what are your finding of fact
15 says. So you determine what substantial is.

16 MR. JOHNSON: Thank you.

17 CHAIRMAN PATTON: Any other questions?

18 MR. ARENA: In some of these houses 5 percent
19 represents \$100,000. Is that substantial? To me it is.
20 (There was applause.)

21 CHAIRMAN PATTON: Any other questions of Mr. Arena?
22 Thank you, sir. May I ask a couple questions?

23 CHAIRMAN PATTON: Yes. Oh, I'm sorry. Sure.

24 MR. BURCHETTE: Thank you, sir. A couple things
25 real quick.

Page 54

EXAMINATION

BY MR. BURCHETTE:

Q. You do know that utilities has given us, state utilities has given us a certificate of public necessity for this solar farm, right?

A. It is called a certificate of need and necessity, yes.

Q. And you did mention the fact that the legislature actually enacted, the state legislature enacted a law that said that this is the type of thing that the state was going to encourage to require utilities to buy power from these solar farms, right?

A. At the time the democratic administration was in, I understand that they enacted that legislation, yes.

Q. Well, they actually went, and there were some people that tried to undo it again, and they reaffirmed it. They didn't--

A. No, they didn't reaffirm it. It didn't get to a vote is my understanding. It was still in committee, was it not?

Q. Well, that means they didn't. Okay. I'm sorry. They didn't reject it, did they?

A. That's correct. They did not take it out of committee this time.

Q. And the legislature that has been passed already

Page 56

we got from Mr. Hawkins and we got from our UDO and--

Q. And when you got this best information in Anson County, you did say to begin with that you acknowledge there's nothing harmful about this, right? You didn't contest it, in other words?

A. I said from a Finding of Fact Number 1's perspective on a safety-issue perspective, we're not contesting that.

Q. Okay. Did you know that in Wadesboro they actually said that this was dangerous? A woman held up a cell phone and read from an article she said existed and that's why they deferred it?

A. As I mentioned, I didn't know why Wadesboro did or did not defer it. I just simply said they had a hearing.

Q. They had question about it.

A. Right.

Q. The Wadesboro was a text amendment? It wasn't rezoned. It was just a text amendment.

A. Again I didn't say specifically. These are all done differently for different counties and different cities depending on how their ordinance reads, whether it's a conditional use, whether it needs to be a text amendment, whether it needs to be a conditional use, et cetera.

I am simply providing information on a number of them recently that have had issues relative to public hearings and approvals.

Page 55

defines the solar farm as a utility, doesn't it? The legislature, in effect, defines what a solar farm is. It says it is a utility, right?

A. Where does it say that?

MR. BURCHETTE: Have you got the statute?

Q. (By Mr. Burchette) We'll get it to you.

A. Well, that's fine. I'm going by what our ordinance says and what a civic group says and what Mr. Hawkins said and what Mr. Williams said in his testimony and what the Department of Insurance says.

They said that a solar farm is not a public utility.

Q. So if the legislature defines it as a public utility--

A. Is it a public utility or a utility?

Q. Whatever the legislature defined it as--

A. That's my question to you.

Q. --we'll accept that.

A. What did the legislature define it as?

Q. Pardon?

A. What did the legislature define it as? A utility or a public utility?

Q. We'll put it up, and we'll make sure that the commissioners get it. Okay?

A. Okay. As I have said here, I'm using my best

information that we got from the Department of Insurance and

Page 57

Q. And I understand that. I'm just asking, did you delve into, for example, Clay County? Did you find out that the original tax assessment was actually a member of the county commission who asked that his tax value be lowered, and he said it was because of that solar farm?

A. I understand that one of the properties that was lowered, not one of the subdivision properties, was a former county commissioner.

Q. The first guy to do it.

A. But he did not serve on the tax committee, if I understand correctly. And he was not one of the owners in the subdivision.

Q. He was the first person to ask to have-- Let me back up.

A. Okay.

Q. How many solar farms are there in Clay County? Do you know?

A. More than one.

Q. You don't know then?

A. Pardon?

Q. You don't know how many there are?

A. I understand there were more before there was a moratorium. And so I don't know specifically, no. We talked to the assessor's office about why they particularly lowered the value of this farm--why they particularly

16 (Pages 58 to 61)

Page 58

1 lowered the subdivision. And our assessor will give you
 2 that.
 3 Q. All right. If you have any questions after you take
 4 a look at that plant, if you will come over, we'll be
 5 happy--
 6 A. I don't know if we can do that so fast tonight since
 7 you kindly gave it to us right before the hearing. But
 8 we'll do our best.
 9 (There was audience applause.)
 10 CHAIRMAN PATTON: All right. Any other questions
 11 for Mr. Arena?
 12 MR. ARENA: I also have--
 13 CHAIRMAN PATTON: Mr. Klein.
 14 MR. KLEIN: Go ahead and finish.
 15 MR. ARENA: I also have five copies of the Strata
 16 site in Kings Mountain. And I would like to show you the
 17 telephone poles that are involved, which are still going to
 18 be seen above this scenario, I think, depending on
 19 where they are on the plan, if they are on the plan, and the
 20 lack of maintenance on the fence area. Maintenance is an
 21 issue. I will just give them to the clerk.
 22 CHAIRMAN PATTON: Who is your next presenter that
 23 can come up while you're doing that.
 24 MR. ARENA: Right. So if you have any questions.
 25 CHAIRMAN PATTON: Mr. Klein, do you have a question?

Page 60

1 farm?
 2 MR. ARENA: Correct. From it says in the UDO, it
 3 should not be in residential single-family.
 4 MR. KLEIN: And we don't know about buffers because
 5 this is new to you and your group. So you don't know
 6 whether this is palatable or not as a second piece?
 7 MR. ARENA: That's another piece, yes. In our
 8 summary I have a significant list of a number of questions
 9 that need to be answered under Facts 2, 3 and 4 that would
 10 have to be positively done.
 11 But, yes, it's my contention that in a residential
 12 single family, specifically as I read as it is stated in the
 13 UDO, it is to be maintained for residential single family
 14 developments and exclusively. And this is not one of those.
 15 (There was audience applause.)
 16 CHAIRMAN PATTON: Please, please.
 17 MR. ARENA: I'm sorry.
 18 CHAIRMAN PATTON: Please hold the applause so we can
 19 get through this if you would. All right. Any other
 20 questions for Mr. Arena? All right.
 21 MR. SCARBROUGH: I think next-next we have Mr. Ted
 22 Campbell.
 23
 24
 25

Page 59

1 MR. KLEIN: I do.
 2 CHAIRMAN PATTON: Okay.
 3 MR. KLEIN: Mr. Arena, are you representing some
 4 number of the members of the HOA? Or are you representing
 5 George Arena? Or what--
 6 MR. ARENA: The HOA is going to speak for itself, I
 7 believe, tonight. The HOA is a formal organization of
 8 elected officials within Sailview.
 9 I am speaking on behalf of myself and the citizens
 10 of Lake Norman that have contributed to helping to hire
 11 those experts. And I will ask you to stand up if you've
 12 contributed to the fund.
 13 (Members of the audience stood up.)
 14 MR. ARENA: So unless they signed up to speak for
 15 themselves, that's who I'm speaking for.
 16 MR. KLEIN: Okay. Thank you.
 17 CHAIRMAN PATTON: Any other questions?
 18 MR. KLEIN: Let me summarize my take, and obviously
 19 I haven't read all of this in great detail.
 20 MR. ARENA: I know.
 21 MR. KLEIN: It strikes me that your position is
 22 fundamental in some respects. One is that it is residential
 23 single family--
 24 MR. ARENA: Correct.
 25 MR. KLEIN: --and should not be used for a solar

Page 61

1 ***
 2 TED CAMPBELL, having first been duly sworn, testified as
 3 follows:
 4 MR. CAMPBELL: I'm sorry, I do not have so many
 5 copies. So if you can share these--
 6 VOICE: We can do that.
 7 MR. CAMPBELL: --I would appreciate it.
 8 Okay. Good evening. My name is Ted Campbell. I
 9 live at 4716 Ashley Lane in Denver, which is just outside of
 10 the Sailview Subdivision.
 11 I am a bachelor of science degree engineer. And for
 12 25 years I worked with a large electrical supplier for
 13 Equipment Services & Solutions. During the last two and a
 14 half years of working for this company, I actually ran the
 15 solar business, the global solar business for this company,
 16 where we installed and sold equipment to hundreds of
 17 megawatts per year.
 18 I will state that I'm a big fan of renewable energy
 19 and solar in general. And in fact when I see a solar farm
 20 when I'm riding down the road near an airport or in an area
 21 that is very unpopulated, I mean I think it's a thing of
 22 beauty. And I think we should pursue the development of
 23 solar farms in those areas.
 24 I can give you two good examples. In the other
 25 Denver of the West, I mean if you leave Denver International

Page 62

Page 63

1 Airport driving between the airport and downtown Denver,
2 which is about a 25-mile drive in the desert, there is a
3 5-megawatt solar farm sitting there. It looks great sitting
4 there in the desert, unpopulated, no houses around it.

5 Recently I took a trip to the eastern part of North
6 Carolina down 74 between Charlotte and Calabash. There is
7 another solar farm approximately 3 to 5 megawatt, maybe one
8 that Strata developed. I don't know. It is in a very
9 unpopulated area farmland and there a very appropriate place
10 for a solar farm.

11 So you know, and I can cite other examples. Those
12 are just two. But there are recent examples of ones that I
13 know about that are in the proper locations as far as I'm
14 concerned.

15 I have personally visited 20 to 25 solar farms at
16 minimum. And from sites that we or others have developed,
17 I've seen aerial photos of our planned and subsequent
18 development.

19 And I can tell you that none of the ones that I have
20 visited have been in residential areas. Sure, there is an
21 occasional farmhouse here or there, but never have they been
22 located inside of a densely populated residential area.

23 I did not want to go by my own account. So I
24 reached out to some of my colleagues in the industry. And
25 we did not count up how many solar farms we know about. But

1 I would say it goes into the hundreds. And none of them
2 know of a solar farm that has been placed inside of such a
3 densely residential area that we're talking about the
4 proposed site. Again they're typically located in sparsely
5 populated areas in farmlands and in deserts.

6 You know, a solar farm needs three basic things to
7 happen for it to be successful. And I've listed those here.
8 And this is in order to get the power to the grid quickly
9 and start making money for the investors, which
10 coincidentally are usually not in the state where the solar
11 farm is being put in. That is a close-by grid connection so
12 that the run does not have to be very long because it's very
13 expensive to build the grid connection.

14 You need someone to lease the land because almost
15 never that I know of is that land purchased by the investor.
16 It's always leased.

17 And you need a good PV location that's clear,
18 relatively flat and you do not have a lot of shading from
19 trees on adjacent properties. This property certainly fits
20 that bill.

21 However, it is all of those things or all three of
22 those things do not work in accordance with the actual
23 surrounding harmony and how well it fits into that area.
24 And I think this is the case for this particular solar farm.

25 In the case of Strata as a solar developer, you know

Page 64

Page 65

1 they have from, what I understand, a sweet spot of 5
2 megawatts. I believe all that they build are 5-megawatt
3 plants like this site. I mean it's in their benefit and the
4 investors' benefit. They want to get in quick. They want
5 to get out quick. You know, they want to get power to the
6 grid fast. They want to do a quality job. I'm sure they
7 build a fine solar farm.

8 But in doing so, they want to minimize as many areas
9 as possible in order to make the maximum profit for
10 themselves and their investors. From a business standpoint
11 I mean this is a great business strategy.

12 But the problem is, and pertinent to this case, it
13 doesn't take into account the negative impacts that can
14 actually happen in the adjoining or abutting areas.

15 And additionally, and we saw the case tonight in the
16 challenges to the UDO, this kind of fast-paced approach is
17 intended to do just what happened here, allow people that
18 have issues with the development not to be able to pass
19 their judgment on it and have, you know, their issues heard
20 like in the case of a challenge of the UDO. I'm glad we
21 have the opportunity tonight to be able to talk about this.

22 So the drawing that was on the screen earlier, the
23 one that was presented in the first meeting in September and
24 all of the affidavits that were presented, I reviewed them
25 from a technical point of view. In the affidavits I can say

1 that there was really nothing meaningful from a technical
2 point of view. So all of the comments that I'm about to
3 make are solely based on the drawings that I reviewed.

4 So about the inverters and the transformers, they're
5 not shown on the drawing. I think there was mention in the
6 meeting last time where they are, but they're not shown.
7 What do they look like? Are they freestanding, individual,
8 weather-proofed devices? Are they in what's called PV boxes
9 or some kind of housing or some other integrated solution?
10 Really unknown to me from a technical point of view, from an
11 esthetic point of view what they look like.

12 Where are they located inside of the farm? There's
13 no drawing. There's no known location as far as I could see
14 on the initial drawing that was handed out in the meeting.

15 Whose are they? You know, I assume they're SMA. I
16 believe Strata uses SMA, which is a brand of inverter on the
17 market. If it is, I mean what are the noise specifications?
18 How much noise do they make? How much noise do the
19 transformers make?

20 I do know in some places. I know it's not in the
21 U.S., but in Ontario, Canada, they put in very specific
22 noise requirements on installing a solar farm. You had to
23 go in and do a pre-installation study. And after that
24 pre-installation study, you had to come back and make sure
25 that the noise met that level after the solar farm was put

Page 66

Page 67

1 in place.

2 But again in Ontario the places that I visited, the
3 only thing that could hear the inverters humming or the
4 transformers humming or the inverters whining were cows
5 because it was not in residential areas. It was not in
6 earshot to people.

7 In terms of security monitoring, I notice security
8 monitoring does not show upon the drawing. It was mentioned
9 in the last meeting. It is true that most solar farms do
10 not have any type of security monitoring. Again not many
11 people are going to drive 25 miles out into the desert to go
12 break into a solar farm. However, that's a little bit
13 different case here, that we are surrounded by lots of
14 children, lots of people that could try to get in or gain
15 access to the solar farm.

16 And some big precautions, in my mind, need to be
17 taken in this particular case so that if unauthorized access
18 is gained, that the solar farm is shut down so that it
19 cannot hurt those people.

20 Mr. Arena talked about this in his testimony, about
21 the cables. He mentioned that. He showed some pictures
22 that are being passed around. How many cables are going to
23 be underground? How many are going to be aboveground? I
24 mean it is true and it was mentioned in the testimony that
25 most of the cables are underground, absolutely true.

1 However, there definitely will be cables
2 aboveground. How many, where will they be, how big will
3 they be, how will they be clustered. You know, all of those
4 questions are not known or not shown in the drawings.

5 A single point of interconnection has been shown on
6 the drawing or marked on the drawing. There are no details
7 about this point of interconnection. It's across the road
8 by the way, across Burton Road from the biggest array field.
9 I could--I'm looking at the drawing now--it is on the bottom
10 right-hand corner there. So I mean is there really one? Or
11 are there two? There are two array fields. It's very
12 uncommon to have two array fields. Mr. Arena mentioned that
13 in his testimony.

14 Is one going to be interconnected at one point and
15 the other interconnected at another point? They only show
16 one. I don't really know. But if it is the case there is
17 only one interconnection point, how are the cables going to
18 get across the road? Are they going to be aboveground? Are
19 they going to be belowground? How will it look if they're
20 aboveground? How many? How big? You know, all of those
21 questions.

22 Will there be a substation required? I don't know.
23 It's not shown on the drawing. Or will the feed come
24 directly from the inverter/transformer combination directly
25 to the point of interconnection? I don't know.

Page 68

Page 69

1 Will the interconnection cables be aboveground or
2 belowground? Will they be draping across Burton Lane? Or
3 will they be underground? If they're draping across Burton
4 Lane, how big will they be, how many will there be,
5 et cetera.

6 Again none of this is really known from the drawing,
7 and there are no technical details that have been made
8 available through the proposal as to be able to answer those
9 questions from my point of view.

10 So those are the technical aspects, the technical
11 questions that I have about this solar farm that are not
12 very clear or not clear at all.

13 Just one other point, and I think it's a critical
14 point because I think that the interest of all of us is
15 certainly to develop our community, to give jobs to people
16 that work in this community, and that's an important thing.

17 And during the presentation it was mentioned--and I
18 think 120 was the right number, but it was said that 120
19 people were working at one of the sites at the time of that
20 presentation. And certainly it's true, 120 people is for a
21 very short period of time though. It's for a three-month
22 period of time. That's peak. So, yes, we will give 120
23 people jobs for three months.

24 However, 90 percent of what goes into the solar farm
25 will be from out of North Carolina and probably out of the

1 country. For example, Canadian solar panels, as well as SMA
2 inverters, so all of that is coming from even out of the
3 U.S. and not from here. So I just think we should take that
4 into account, that it is not having that big of an impact on
5 our community from the point of view of putting people to
6 work over the long term.

7 So I am going to conclude by saying that, as far as
8 I'm concerned and with what I have been able to review, this
9 proposal is missing a lot of technical details. There are a
10 lot of questions that are unanswered, according to me. It
11 is--and maybe this is a more important than the first
12 point--that it is not common or known in hundreds of sites
13 that a solar farm would be put in the middle of a
14 residential area or has been put in the middle of a
15 residential area. And certainly--and I have never seen a
16 solar farm split into two array fields so that you have to
17 drive through, which makes it even worse.

18 So as I look, standing here today and looking at it,
19 I think there's a lot of incomplete data. And I think that
20 this solar farm is not appropriately placed based on my
21 experience and my knowledge of what I have seen. So that's
22 my testimony. And I certainly will answer any questions as
23 needed.

24 CHAIRMAN PATTON: Any questions for Mr. Campbell or
25 any member of the Board of Commissioners or Planning Board?

Page 70

1 MS. MARTIN: Yes, I have one. Mr. Campbell, do you
2 consider yourself an expert witness on this?
3 MR. CAMPBELL: Yes, ma'am.
4 MS. MARTIN: And are you being compensated by any
5 one of the groups--
6 MR. CAMPBELL: No, ma'am.
7 MS. MARTIN: --that are opposed to this?
8 MR. CAMPBELL: No, ma'am. Sorry.
9 MS. MARTIN: Do you live in the area?
10 MR. CAMPBELL: I live at 4716 Ashley Lane in Denver,
11 which abuts or is near to Sailview Subdivision.
12 MS. MARTIN: Thank you.
13 CHAIRMAN PATTON: Any other questions? Mr. Jackson.
14 MR. JACKSON: Are you a professional engineer? Do
15 you hold a professional engineer's license?
16 MR. CAMPBELL: I'm not a professional engineer. I
17 am a degreed bachelor of science EE.
18 CHAIRMAN PATTON: Okay. Mr. Johnson.
19 MR. JOHNSON: Thank you, Mr. Campbell, for your
20 comments.
21 Is there a typical noise level for a solar farm of
22 5 megawatts?
23 MR. CAMPBELL: Well--
24 MR. JOHNSON: How many decibels would you think?
25 MR. CAMPBELL: I mean from the dB, if you look at

Page 71

1 what they did in Ontario, they looked at a 10 to 20 dB level
2 coming out of the solar farm, which is a very quiet level.
3 And that was what they required, that that would not
4 be--that more than that would not be emitted from the solar
5 farm.
6 MR. JOHNSON: Ten to twenty dB?
7 MR. CAMPBELL: I'm sorry?
8 MR. JOHNSON: Ten to twenty dB. What's a chainsaw,
9 for example? Do you know how that--
10 MR. CAMPBELL: A chainsaw would be 90, around 90, I
11 assume.
12 MR. JOHNSON: Okay.
13 MR. CAMPBELL: It depends on the chainsaw and the
14 motor but somewhere 80 to 90.
15 MR. JOHNSON: One other question, if the
16 transformers and the inverters that you talked about are
17 totally screened from the site, does it really matter how
18 they're housed?
19 MR. CAMPBELL: Well, certainly not. If they are
20 totally screened from the client or from the people that are
21 viewing it, no doubt.
22 MR. JOHNSON: If they are, I understand.
23 MR. CAMPBELL: But that's certainly notwithstanding
24 the fact of whether this is fit for the area or not, which
25 is another question.

Page 72

1 MR. JOHNSON: Bigger question, I understand.
2 MR. CAMPBELL: Right.
3 MR. JOHNSON: Thank you, sir.
4 MR. CAMPBELL: Sure.
5 CHAIRMAN PATTON: Any other questions?
6 MR. BURCHETTE: May I?
7 CHAIRMAN PATTON: Certainly.
8 EXAMINATION
9 BY MR. BURCHETTE:
10 Q. And who do you work for?
11 A. I am retired.
12 Q. Pardon?
13 A. I am retired.
14 Q. Who did you work for?
15 A. I worked for Schneider Electric.
16 Q. And Schneider Electric does what?
17 A. Does anything electrical, including the installation
18 of large-scale electrical installations, solar farms being a
19 good example of that. We sold inverters for residential and
20 commercial use. We actually took our inverters, mated them
21 with solar panels and did turnkey installations around the
22 world. And in addition to that Schneider Electric does
23 anything electrical.
24 Today--I haven't looked lately--but it is a \$30 to
25 \$40 billion company that is traded on the French stock

Page 73

1 exchange.
2 Q. Okay. And what projects did you work on in North
3 Carolina? Did you work on any solar farms?
4 A. We sold some inverters into North Carolina. We did
5 not do any turnkey installations in North Carolina.
6 Q. And when you say we sold inverters, did you sell
7 equipment or--
8 A. We sold equipment, yes. We sold the inverters and
9 transformers and disconnect switches and any other type of
10 electrical equipment that might be required for a solar
11 farm.
12 Q. I'm just trying to get a picture of what you did. I
13 represent electrical contractors, W B Moore, guys that go to
14 a project and wire things up.
15 A. Yeah, that was not us. We were not electrical
16 contractors.
17 Q. Okay. You provided equipment to contractors who
18 then use that equipment in the work that they did?
19 A. Yes, that is correct. And in the right circumstance
20 we did turnkey installation of the electric equipment.
21 Q. Okay. But you didn't do any turnkey installations
22 in North Carolina?
23 A. No.
24 MR. BURCHETTE: Okay. That's all. Thanks.
25 MR. CAMPBELL: Okay.

Page 74

1 CHAIRMAN PATTON: Any other questions? Thank you.

2 MR. CAMPBELL: Okay. Thank you.

3 CHAIRMAN PATTON: Who is the next presenter?
4 (There was audience applause.)

5 * * *

6 JAMES L. "JACK" KISER, having first been duly sworn,
7 testified as follows:

8 MR. KISER: Good evening, Mr. Chairman and members
9 of the Board of Commissioners and members of the Planning
10 Board. I am James L., nicknamed Jack, Kiser, residing at
11 1211 Oakwood Avenue in Gastonia, North Carolina.

12 And my consulting business is Kiser Planning &
13 Development, LLC, addressed at the same. I'm a consultant
14 to Concerned Citizens of Lake Norman and their attorney.

15 And my primary focus tonight will be on Finding D,
16 that is, whether the proposed use is in harmony with the
17 area and in conformity with the county's plan.

18 I have considerable experience in community Land Use
19 Planning and development codes, particularly including the
20 structuring of Conditional Use Permit application processes,
21 and in handling numerous CUP cases and the administration
22 and enforcement thereof.

23 After 40 years of professional level public service
24 in community planning and development, I have, after
25 retiring on 10-1 of this year, formed my own planning

Page 75

1 consulting firm. For 25 years I have been credentialed by
2 the American Institute of Certified Planners, over 18 years
3 as director of planning for the City of Gastonia where I
4 went through two complete comprehensive plans and two
5 complete code revisions and processed hundreds of zoning
6 cases and nearly eight years as planning director for
7 Centralina COG where we provided local planning technical
8 assistance to jurisdictions over the eight-county Charlotte
9 region and specifically close to you while at COG, providing
10 planning and zoning services to the City of Lincolnton and
11 oversight of services to Lincoln County, and was lead
12 planner in writing the Gaston County's first zoning code.
13 But since then I started working with the City of Gastonia
14 after that in 1992.

15 And for the record I will certainly state that I am
16 for renewable energy and solar energy, of course, being
17 among that. But, of course, everything has its place, so to
18 say.

19 Finding D or Finding 4 reads: The location and
20 character of the use, if developed according to the plan as
21 submitted and approved, will be in harmony with the area in
22 which it is to be located and will be in general conformity
23 with the approved Land Development Plan for the area in
24 question.

25 What does this and other findings mean, and

Page 76

1 particularly this finding? It means that the Conditional
2 Use Permitting process is a filtering process. Those
3 applications that meet the findings get approved and those
4 that do not meet the findings do not. Of course we all know
5 that.

6 Thus it assumes that not every location within a
7 district is going to be right for a use that is listed as
8 conditional, whereas, when a use, of course, is listed as
9 permitted, the code assumes that it can go, and should fit,
10 anywhere within the applicable zone.

11 And so that is what the hearing is about tonight,
12 taking relevant testimony as to whether the Conditional Use
13 Permit should be granted based upon these findings. And
14 more particularly the finding I am addressing, quite simply
15 put, whether it fits within the surrounding area.

16 Finding Number 4, in my opinion, speaks most clearly
17 to the simple point: There are right places and wrong
18 places within a respective zoning district for a particular
19 conditional use and in this case what your staff has
20 determined the solar farm to be, a major utility.

21 This is exactly what your UDO is saying in
22 Section 9.11.1: Conditional uses within each general zoning
23 district are uses that may or may not be appropriate in a
24 particular district, depending on the location, size or
25 scale or other factors requiring individual review of the

Page 77

1 Planning Board or Board of Commissioners. Again right
2 places and wrong places for conditional uses.

3 Finding Number 4 has two parts, harmony and Land Use
4 Planning consistency. And I'm going to address each of
5 those two parts separately. First of all, whether the
6 location and character of the use, if developed according to
7 the plan as submitted, will be in harmony with the area in
8 which it is to be located.

9 Harmony, harmony is the key word here. So let's
10 take a look at what harmony means in this context. Your UDO
11 does not define harmony. But it says words not defined in
12 it shall be defined by Webster's New International
13 Dictionary. So that's where I went.

14 And it says in this definition, in Definition Number
15 2--and I will have to say Definition Number 1 was a musical
16 context and that certainly doesn't apply. But when you get
17 to Definition Number 2, it says a pleasing combination or
18 arrangement of different things--I'll repeat it--a pleasing
19 combination or arrangement of different things.

20 Secondly, the proposed use is a solar farm spread
21 over a 36-acre site consisting of 26,000 solar panels. The
22 general area surrounding the proposed solar farm is single
23 family residential with some agricultural or vacant land.
24 So you're going to have to ask yourselves if this solar farm
25 as described is a pleasing combination or arrangement of

Page 78

Page 79

1 different things.

2 You might want to refer to the pictures you've been
3 handed in deciding that question. Incidentally there are
4 pictures there from Kings Mountain and, I think, one over
5 near the Belwood Community.

6 Well, yes, when you read the definition of
7 harmony--and I will read it again--a pleasing combination or
8 arrangement of different things, it would seem to me that
9 the solar farm is not in harmony in the sense that it does
10 not represent not together with the residential, represent a
11 pleasing combination of different things.

12 Of course, the tract on which the solar facility is
13 to be located is currently agriculture and/or vacant
14 although it is almost surrounded on encapsulated, if you
15 will, by developed or developing single family residential.
16 The predominant surrounding land use is single family
17 residential, including also land which has been developed
18 and subdivided and prepared for construction of new single
19 family homes.

20 Given the size, prominence and visibility of the
21 proposed solar farm, it is my opinion that it would not be
22 in harmony with either the existing established residential
23 development pattern or the continuing pattern of new
24 residential development. The site of the proposed facility
25 backs up to existing single-family residential development

1 and may be visible from second floors of homes in the
2 Sailview Community that back up to Burton Lane.

3 The location of the solar generation facility on
4 both sides of Webbs Road, in my opinion, compounds its
5 visual impact--compounds its visual impact. Webbs Road
6 serves as a collector road. It connects communities with
7 over 600 existing homes plus lots for future homes to NC16
8 Business, an arterial road.

9 Webbs Road is a primary connector to the SailView,
10 Cottonwood, Lakewood, Ashley Cove, West Bay, Governor's
11 Landing, Governor's Island and other residential
12 communities. In essence it serves as a gateway corridor.

13 Now, in the planning profession, the concept of
14 gateway is important. Community gateways are important,
15 whether it be a county, town or neighborhood. The concept
16 of gateway follows the old axiom that the first impression
17 can be the most lasting. That's why developers create nice
18 entry features for subdivisions and planned developments and
19 often make that first house you see when you enter a
20 subdivision a large one, that first impression.

21 So it's important that communities have positive
22 gateways. No other road provides such convenient access
23 between these communities and NC16 Business. If you approve
24 this application, the gateway to those communities would
25 include, for a lengthy distance along either or both sides

Page 80

Page 81

1 of the road, a six-foot chain link fence topped with barbed
2 wire, and immediately behind the fence thousands, 26,000
3 solar collection panels and related supporting electrical
4 facilities.

5 The impact of this would be disharmonious not only
6 with the residential communities adjoining or within sight
7 of the solar facilities, but also those communities that use
8 Webbs Road to connect to work, shopping, schools and other
9 destinations. This stretch of Webbs Road is their community
10 gateway.

11 But the bottom line is that you don't need a planner
12 like me to tell you that this proposed development is not in
13 harmony with the surrounding area. It's just plain common
14 sense.

15 If approved, would this solar farm create--and I'm
16 going to read that definition again of harmony--a pleasing
17 combination or arrangement of different things?

18 Now, good designers know how to mix uses in a way
19 that creates harmony like Birkdale and Huntersville, but
20 this is not the harmonious mixing of uses. It is an
21 intrusive use, and it is even more intrusive by the lack of
22 sensitivity to surrounding development.

23 There are plenty of good places where solar farms
24 fit right in. I have given you pictures of the one in Kings
25 Mountain. What you are seeing is a portion of a larger

1 solar farm and another picture just taken outside of the
2 solar farm fence showing an open pit mine across the road at
3 this location. It's a wonderful fit.

4 I read in the newspaper the other week or maybe the
5 week before last, last week, that Charlotte Douglas
6 International Airport is going to request proposals to put
7 solar panels in between airport runways and on top of the
8 parking decks, a wonderful fit, great places for renewable
9 energy generation. But it does not necessarily need an open
10 pit mine or to be in between runways, airport runways, to be
11 a good fit for the area. There are plenty of other
12 appropriate locations.

13 But on the other hand, it does not belong in what is
14 in essence a residential community, a suburban
15 neighborhood.

16 I will also say that much of the problem with the
17 harmony question relates to what Mr. Arena has said in that
18 through interpretation as a major utility it's being allowed
19 in residential, just as your water treatment plant up the
20 road. It's a big difference. They're not the same as that
21 water treatment plant and its necessity. It says by
22 definition a large-scale utility.

23 In my mind, a utility, a public utility, is a
24 utility that provides direct service, of a necessary service
25 to the public. And so the examples listed under major

Page 82

Page 83

1 utility in your ordinance definition are also examples of
2 where a major utility, where a utility is providing services
3 directly to the public. And it's not large scale. The
4 terms utility and public, and it's not large scale. And
5 that's the modifier here.

6 Electrical generator, it's not a large-scale
7 electrical generation plant. And large scale is modifying
8 that term in the definition. It will generate a drop in the
9 bucket in terms of electricity to a large-scale plant such
10 as Marshall or McGuire.

11 But the problem comes in when you shoehorn something
12 into the code by interpretation. And then you end up with
13 questions of what applies and what doesn't. That's because
14 the ordinance makes no mention of it.

15 This is also combined with the unfortunate
16 circumstances that staff has determined that Webbs to be a
17 local road instead of collector as defined in the UDO. And
18 legally you're supposed to follow the definition in the
19 ordinance, but they have not done that. They have actually
20 used a map provided that they got from NC DOT. But when a
21 term is defined in the ordinance, you are supposed to follow
22 that definition. And if you follow that definition in the
23 ordinance, it is clearly a collector road.

24 So we end up with staff saying, this does not apply
25 and that does not apply. So the application comes in with

1 woefully deficient screening and actually screening that
2 Strata put up there voluntarily and absurd consequences,
3 such as your UDO requiring a cluster residential development
4 to be buffered against conventional subdivision and no
5 project buffer for a solar farm. So the end result is
6 profound disharmony, an ordinance that does not contemplate
7 solar farms but you are trying to apply to it anyway.

8 Okay. The second part of Finding Number 4, will the
9 location and character of the use, if developed according to
10 the plan as submitted, will be in general conformity with
11 the Lincoln County Land Use Plan?

12 It is my opinion that the proposed solar generation
13 facility will not be in general conformity with the Lincoln
14 County Land Use Plan. And I am going to tell you why.

15 Specifically, the site and surrounding area is
16 designated suburban residential in the Land Use Plan.
17 Describing this designation on Page 44, the plan states:
18 These planning areas are primarily single family in
19 character, with options for a limited amount of townhome and
20 patio-home development. Nothing is mentioned about
21 commercial, solar farms or electrical generation.

22 Future residential development in such areas is
23 likely and encourages especially once public utilities are
24 extended. It anticipates densities of up to one to two
25 units per acre once those water and sewer utilities are

Page 84

Page 85

1 extended. The site and surrounding area generally have
2 public water, and some areas have access to sewer. I have
3 driven all around there, and there are quite a number of
4 lift stations in the area. So there's probably sewer
5 available to this site too. There is no mention of
6 industrial-type facilities in the way that this future land
7 use category is defined in your Land Use Plan.

8 The Land Use Plan states on Page 11 that it should
9 be used in determining the granting of Conditional Use
10 Permits and that such permits will be granted on the basis
11 of harmony with the surrounding area and the general
12 conformity with the plan.

13 As I stated previously, the size, visibility,
14 prominence and placement of the proposed facility makes it
15 disharmonious with the surrounding area of primarily single
16 family residential.

17 Now let me address the principle of efficient use of
18 water and sewer capacity in the area. Guiding Principle
19 Number 1, Number 1 in the Lincoln County Land Use Plan, is,
20 I quote, infrastructure shall direct growth in Lincoln
21 County. As further detailed on Page 59 of the plan, I
22 quote, in keeping with the county's interest in maximizing
23 the return on public investment, growth is encouraged where
24 infrastructure is planned or in place to support it. Quote,
25 areas with both public water and sewer need a user base to

1 pay for them. I'm quoting from your plan. I'll quote it
2 again. Lincoln County should encourage growth in those
3 areas where infrastructure and capacity currently exist
4 and/or where new infrastructure is proposed or can be easily
5 accommodated, unquote.

6 Using this property for residential development as
7 called for in your Land Use Plan would create 50 to 100 new
8 water and sewer customers, depending on density, whereas
9 using the property for a solar farm would generate little to
10 no water and sewer sales, probably none. This is what
11 Lincoln County is saying in its Land Use Plan.

12 The county has made significant investments in water
13 and sewer infrastructure, treatment plants and major lines,
14 to serve the overall area, and therefore it behooves the
15 county to facilitate development that will pay income to pay
16 for those utility investments.

17 In a sense certain sections of the UDO become part
18 of the approved Land Use Plan. The UDO too can be part of
19 the Land Use Plan or the growth objectives and strategies
20 for the county because all those sections serve to provide
21 purpose and intent of the code overall, and they define
22 purpose and intent of particular districts.

23 The statutes require that zoning be in accord with a
24 comprehensive plan. The state supreme court has ruled that
25 a zoning ordinance, when comprehensive, in and of itself,

Page 86

Page 87

1 can serve as a comprehensive plan. So it would follow that
2 a comprehensive plan, whether it be called simply the Land
3 Use Plan or Land Development Plan, together with all
4 physical plans of a jurisdiction, coupled with applicable
5 provisions, particularly for the purposes of such codes and
6 zoning districts can, as a package, be considered a
7 comprehensive plan. The proposed development, in my
8 opinion, is inconsistent with the following provisions of
9 the UDO and the purposes behind the applicable zoning
10 district.

11 First off, the purpose of the UDO is to regulate and
12 restrict the location and general design, appearance and use
13 of buildings structures for trade, industry, residences, and
14 other purposes.

15 And also zoning is to preserve and improve the
16 character of development in the county and its
17 neighborhoods. The character of the jurisdiction and its
18 areas and particular suitability for particular uses and
19 belong to the residential single family district, its
20 definition, its purpose is established to provide for
21 traditional single-family subdivisions and/or maintain areas
22 in the county for traditional single-family residential
23 purposes.

24 I know Mr. Arena addressed that point, but what I'm
25 trying to say here is that that statement of maintaining for

1 traditional single-family residential uses speaks very
2 clearly to finding them for in terms of being consistent
3 with the Land Use Plan.

4 As stated, those of us who work in the planning
5 profession sometimes refer to Conditional Use Permitting as
6 a filtering process. In some locations it will work fine.
7 In some locations it might work if enough mitigating
8 measures are taken. And in some locations it won't work at
9 all because feasible mitigating measures won't solve the
10 problem.

11 I certainly don't know every acre of land that's
12 zoned R-SF in Lincoln County, but it would be hard to
13 imagine a location without private restrictive covenants
14 more disharmonious for this type of use than this land along
15 both sides of Webbs Road. It is land well suited for
16 residential development, and the continuation of that
17 residential development pattern that has taken place and
18 continues to take place is the most appropriate use for this
19 land. And that is what your Land Use Plan and your UDO say.

20 It is recognized in your Land Use Plan and your UDO,
21 and it is universally recognized that esthetics can and
22 should be a consideration in granting a Conditional Use
23 Permit. But is the property marketable for residential use?
24 Of course it is. All around it land has been developed
25 residential. The home building business is climbing out of

Page 88

Page 89

1 the bust. The outlook is good for the Charlotte region and
2 particularly good for the Lake Norman area.

3 I believe this was in Friday's Charlotte Observer.
4 It says, Norman region leading the rebound. And now with
5 the new NC 16 built, travel time to the 485 loop that can
6 take you to all points around Charlotte, St. James Church
7 Road, 16 minutes; North Carolina 73, 11 minutes. So the
8 site is very appropriately designated as single-family
9 residential in both your Land Use Plan and your UDO. And
10 it's a great place to build homes.

11 Now, let me briefly refer to--in terms of the
12 esthetics refer to the only two solar farm Conditional Use
13 Permits you have granted, the first one that is board
14 approved, yet to be built, will go in off NC 27 and Hebron
15 Church Road. This site was so isolated, I don't think it
16 will be seen from any public road. And it is one of the
17 most rural parts of Lincoln County. A solar farm is a good
18 fit there. I agree with that decision.

19 How about the second one now completing construction
20 off Maiden Highway, accessed by Triple H Lane? There are
21 homes along Triple H, including site-built homes,
22 manufactured homes and an older manufactured home park. But
23 only a small part of the solar farm can be seen down towards
24 the end of Triple H Lane. And even there it seems to be set
25 back a good distance from this dead-end road. And as far as

1 I can tell, that's about the only public road view. And
2 it's not a bad fit there either.

3 Now, how did this board address Finding Number 4 in
4 those two preceding--and I may add--precedent cases?

5 Well, in the first one the board found for Finding
6 Number 4--and I'm quoting from your record--the first
7 statement made, I quote, this site is remotely located away
8 from the public highway, Highway 27.

9 Now, in the other solar farm Conditional Use Permit
10 this board granted, the one off Maiden Highway and Triple H
11 Lane, for Finding Number 4, this board's answer was
12 again--and I'm quoting from your record, the first statement
13 made--the site is remotely located away from the main
14 highway.

15 Now, why do I go back to these other two solar farm
16 CUP applications that came before this board? I want to
17 point out that the first point you made in both these
18 cases--and obviously the first point being a key and
19 important point--was that the sites were remotely located
20 from heavily traveled roads.

21 So you felt it important to find first in these
22 cases the relationship of the solar farm site to the heavily
23 traveled roads. There was no relationship to the main road.
24 You couldn't see it. Quite simply, they're tucked away,
25 mostly tucked away. I could not agree more that this was a

Page 90

Page 91

1 key factor in answering Number 4 in these cases, and I think
2 you answered it correctly.

3 But where does relationship to heavily traveled roads
4 put us with respect to the case before you tonight? NC DOT
5 2012 traffic counts for Webbs Road is 5,900 vehicles per
6 day, and that alone, by the way, makes it a collector, 5,900
7 vehicles. There are some thoroughfares that don't have
8 5,900 vehicles per day or arterials. And just as important,
9 Webbs Road serves as a gateway for all the neighborhoods I
10 have mentioned earlier, which consists of well over 600
11 homes in these Lake Norman developments.

12 The solar farm will straddle both sides of Webbs
13 Road along with a high barbed-wire-topped fence near the
14 road margin. And it can be seen from Burton Lane as well
15 and can be seen from numerous single-family-residential
16 homes in the adjoining area or from the rears of their lots.

17 I should also point out that the immediate area has
18 potential, again this area around here, this land for future
19 residential construction, the immediate area will grow
20 provided the county manages land use in this area in a way
21 that continues to promote quality residential growth.

22 And that's the end of my remarks, and I will be glad
23 to answer any questions.

24 (There was audience applause.).

25 CHAIRMAN PATTON: Any questions from any member of

1 the Board of Commissioners or the Planning Board? Thank
2 you, sir.

3 Who is next to present?

4 MR. SCARBROUGH: Mr. Chairman, our next witness was
5 Ms. McLean. But if the board would like to take a break,
6 we're happy to do that. We have a few more witnesses to go.
7 We also have our appraisers, which will be a PowerPoint
8 presentation so . . .

9 CHAIRMAN ALEX PATTON: Let's keep going for just a
10 little bit longer.

11 MR. SCARBROUGH: Okay. Ms. McLean. She has an
12 affidavit, a copy. We're going to pass out a copy of that
13 affidavit right now. And she'll testify.

14 * * *

15 MARTHA CAROLYN McLEAN, having first been duly sworn,
16 testified as follows:

17 Good afternoon. I'm not happy to be here
18 necessarily under these circumstances, but I appreciate the
19 opportunity to speak. My name is Martha Carolyn H. McLean,
20 my full name.

21 I am a citizen of Lincoln County. I live at 7860
22 Butternut Lane in the-- I can't remember where I live.
23 Isn't that awful. After all this, it's hard to say. I
24 actually live in the Lakewood neighborhood.

25 What I'm speaking with you about today, however, is

Page 92

Page 93

1 our property of 4301 Burton Lane. This property is adjacent
2 to the proposed solar farm and next to the staging area. In
3 fact, our swimming pool, it will be some 30 feet from the
4 pool, which is not a very pleasant thing either.

5 On or about July 1st, 2013, we listed our house for
6 sale with Coldwell Bankers. Marty Wulforst is our Realtor.
7 The list price was \$225,000. There were about three people
8 who came and looked at the house, that for various reasons
9 they weren't interested.

10 The next people who came along were interested, and
11 they were very happy about the house. They wanted to buy
12 it. We gave them a lower price because of the fact that the
13 house needs some upgrades. Everyone was happy. They were
14 having all of their work done, their appraisals-- I mean
15 their surveys and everything were done. They had cabinet
16 makers come in to do some work.

17 The next day they were driving down the road and saw
18 the zoning sign. Mr. Hibben called me and said, "What's
19 going on?"

20 And I said, "What do you mean?"

21 And he said, "Well, I just called the county and
22 found out that they're going to put a solar farm here
23 next-door."

24 And I said, "Well, that's the first that I heard of

25 it." And about that time my husband came in the door with a

1 letter from the planning commission announcing it. So that
2 was the first that we heard.

3 About--this was about four or five days prior to the
4 closing date, which would have been August 23rd. Mr. and
5 Ms. Hibben decided that they would wait a few days until
6 after the hearing that we had, the first hearing that we
7 had.

8 They-- We did extend the due-diligence period for
9 them and extended the closing date. After the September 9th
10 meeting, they decided that-- They started thinking about
11 it. And then by October, the new due-diligence date, they
12 decided that they wanted to terminate the contract, which
13 was certainly understandable because when you look out the
14 kitchen window, you see the solar panels. And you also are
15 going to have that business around the pool for a summer or
16 so.

17 Since the time that these rezoning signs were placed
18 on the property, we have had nobody come with the intent to
19 buy this house. The proposed solar farm was the only thing
20 that caused the Hibbens to walk away. If the solar farm is
21 approved and it's constructed, I would have no idea what it
22 would take for us to sell this house.

23 So with that, I just give you my case. And I
24 appreciate the opportunity of speaking with you. Does
25 anyone have any questions?

Page 94

1 CHAIRMAN PATTON: Any questions from any member of
2 the Board of Commissioners or Planning Board? Thank you.
3 (There was audience applause.)

4 MR. SCARBROUGH: Mr. Chairman, at this time we have
5 a couple of Realtors from the area to testify. Nadine.

6 * * *

7 NADINE DEASON, having first been duly sworn, testified as
8 follows:

9 Good evening, ladies and gentlemen, commissioners
10 and everyone involved in the zoning hearing.

11 My name is Nadine Deason. And I'm a Realtor with
12 Keller Williams Realty. I have been a Realtor since 2003
13 in this area.

14 When I first became a Realtor, my office was located
15 just down the road from Webbs Road, Prudential Carolinas
16 Realty. And within two years I became Prudential's Number 1
17 Realtor in the Charlotte region.

18 When I left Prudential in 2010, I became Keller
19 Williams Number 1 agent in North and South Carolina. And
20 today in 2012 I am still Number 1 in the Lake Norman region.

21 So I would like to share with you my thoughts and
22 professional opinion as to how buyers will interpret the
23 solar farm when they drive down Webbs Road. It is my
24 professional opinion that they will be just overwhelmed with
25 the feeling of driving into an industrial facility right

Page 96

1 are refusing to disclose, it's always a red flag. It is
2 always a deterrent. When you put all this together, I feel
3 it's going to greatly affect the property values in
4 Sailview. It is a beautiful community, beautiful
5 residential community.

6 I too love solar power and would love to see more
7 around us but not right in front of a residential community
8 or communities. It belongs in an area but not right in
9 front of someone's entrance or gateway to their homes.
10 That's my testimony.

11 Does anyone have any questions?

12 CHAIRMAN PATTON: Any questions from any board of
13 the Board of Commissioners or Planning Board?

14 MR. ROBINSON: I have one. Currently you've
15 probably sold some of the Sailview property. Currently do
16 you disclose that there's a septic tank plant on the
17 entrance and a porta-john facility?

18 MS. DEASON: I do not--

19 MR. ROBINSON: And do you think that a solar farm
20 would be worse than that?

21 MS. DEASON: Yes, I do feel it would be worse than
22 that. I don't think it's necessary to disclose that there
23 is a cement plant there. It's in obvious plain sight. It's
24 not hidden in any way and so is the porta-john company that
25 is there.

Page 95

1 before entering that entire peninsula.

2 I did so appreciate the city planning gentleman who
3 spoke and termed it as gateway. Webbs Road is a gateway to
4 some beautiful homes and communities. And to drive through
5 an industrial-looking facility will be repulsive to future
6 buyers. And I really feel that it will be detrimental to
7 all property values in that area.

8 I did a little homework and called the North
9 Carolina Association of Realtors to be sure as a listing
10 agent what we have to put on disclosure forms. And what
11 they advised me was the mandatory disclosure form that all
12 homeowners have to fill out would indeed have to reflect
13 that there's an industrial facility outside of the Sailview
14 Community, both being proposed and if it does pass.

15 Now, they did tell me that a homeowner had the right
16 to plead the Fifth Amendment and plead nondisclosure. And
17 that means kind of like they don't want to say yes or no if
18 there is something out there that people need to know about.
19 But it is a Realtor's job, such as myself, it is a material
20 fact that we will be held to make sure that all the Realtors
21 and the buyers are aware of this industrial facility even
22 being proposed or being there.

23 So it is my view that is a terrible detriment when a
24 buyer comes in and they see anything on this disclosure form
25 that's negative or maybe the homeowner is saying that they

Page 97

1 The eyesore with the solar farm, in my mind, can't
2 be hidden. With a change in topography in the center, it
3 might be difficult, no matter how high you make berms or to
4 have trees there, I still think it is going to be an
5 eyesore.

6 So either way you need to make sure that the buyer
7 of these homes are aware that there's an element there
8 that's going to potentially change the value of the home
9 that they're buying.

10 CHAIRMAN PATTON: Any other questions? Thank you.

11 MS. DEASON: Thank you.

12 (There was audience applause.)

13 CHAIRMAN PATTON: Next witness.

14 MR. SCARBROUGH: Excuse me, but I'll have to ask if
15 she's here right now. Is Jane Roddy here?

16 * * *

17 JANE RODDY, having first been duly sworn, testified as
18 follows:

19 Thank you-all for hearing my testimony. My name is
20 Jane Roddy. I'm a licensed real estate agent with Allen
21 Tate Realtors and a 13-year resident of Sailview.

22 There has been a lot of talk about passing the
23 porta-potties and passing the cement plant. They were all
24 there when Sailview was built. So everybody is used to it.
25 When we got down to the end of the road and people

Page 98

Page 99

1 saw this beautiful farmland, they said, oh, this is nice.
2 It makes up for seeing a porta-potty and seeing that the
3 cement plant is there.

4 We do not need to add insult to injury to what we
5 have to drive past through to get through the gateway of all
6 of these expensive homes in the area.

7 As a Realtor, we keep track of what's going on in
8 the market. And what I have provided you are slides of the
9 market as of today, and one was at the end of October. So
10 if you will look at Slide Number 1, down at the bottom it
11 says Subdivision Sailview.

12 This is a chart that shows you October 12 through
13 October 13th. What I want to point out on this chart is it
14 says that the homes for sale are up, that under contract are
15 down, and this was as of the end of October. They were down
16 22.7 percent. And the solds for the year in Sailview were
17 up 20.2 percent. I want to make note here that during the
18 month of October we did not have a single home go under
19 contract. We had some close, but they had previously been
20 under contract before the solar-farm thing started.

21 If you look to--and I'm sorry, some of these are out
22 of order--but it would be Page 3--excuse me. And I have
23 gotten the pages out of order. At the bottom--at the top it
24 says "market dynamics supply and demand one year monthly,"
25 and you'll see The Peninsula.

1 I wanted to compare our community with other
2 high-end Crescent built communities that have a lot of
3 amenities. They're waterfront and water-oriented
4 communities. Their stats, or "for sale" was down 4.8,
5 meaning they can't keep any inventory because they're
6 selling so fast. They're "under contracts" were up for the
7 year 46.2 percent. And they have--their sales have been up
8 46.2 percent.

9 So we haven't had any closings in November now that
10 it's done. And some of these supporting documents, if you
11 go to Page 2, shows you that Sailview, our "under-contract"
12 numbers are down 66.7 percent. And our "sold" numbers are
13 down by the same amount. Now, these charts I pulled today,
14 so they have data through 11-16. Of course, it takes time
15 for data to catch up sometimes in these systems.

16 And then The Peninsula is only down 3.1 percent
17 homes for sale. Their "under contract" is up 18.2 percent
18 versus our 66.7 percent. And they're down, "sold" is down
19 29.4 percent, but we're down 66.7 percent.

20 In today's market we are--everybody don't laugh
21 because the press hasn't told you--but we're not in a
22 buyers' market any longer. They are in a sellers' market.
23 And homes aren't staying on the market very long.

24 Prior to this announcement with the solar farm, I
25 had houses going under contract in one day in Sailview. Now

Page 100

Page 101

1 these on market are getting longer, and things are happening
2 that way.

3 So right now we kind of have more homes on the
4 market than were being absorbed at the fast rate that they
5 were at the first part of this year.

6 And our sales are up from that chart in October only
7 because that we had a lot good sales at the beginning of the
8 year and mostly through the summer months, as you see by the
9 red spikes on that chart.

10 So in my opinion, if people are afraid, they don't
11 know what's coming, I talk to clients, and they said, "Jane,
12 I really like Sailview."

13 And I said, "Well, good because it's such a
14 convenient location. It's the quickest commute to the
15 Charlotte airport. We have good schools."

16 And my client from Texas said, "I know, and that's
17 what I want. But I'm not going to drive past all of those
18 chain link fences every day when I come home and I go to
19 work. I do not want to see it. It is an eyesore."

20 This client is coming from Texas. They're looking
21 at the whole lake region. And she said to me, "Jane, there
22 are so many subdivisions that Sailview is competing with. I
23 know you live there, and I like the community; but if they
24 put that farm there, it is going to be a detriment. And I
25 will choose to live someplace that's more beautiful to come

1 in."

2 I don't know if any of you have been to The
3 Peninsula. You drive through that Jetton Road. It is
4 beautifully landscaped. They have no wires anywhere. The
5 Town of Cornelius has put all of those wires underground.
6 So they have a beautiful entrance. The Pointe has a
7 beautiful entrance. Mooresville has spent tons of money to
8 promote that big, big, big tax revenue for Mooresville and
9 Iredell County by widening the road and making The Pointe
10 something that more people want to live at.

11 It seems that we should all have that same mindset
12 considering the numbers that have been shown of the tax
13 revenue that this area provides to the county. And just
14 talking about taxes in general, and I know it's a sore spot
15 for a lot of you; but back in 2008 when the taxes were
16 reassessed, the average sales price of a home in Sailview
17 versus the tax value--and this is through the end of 2008
18 when all of this stuff started--the houses were still
19 selling above tax value, 116 percent above tax value.

20 They've tainted it and said, now it's going to be
21 market value is what your homes are going to be assessed at.
22 So the very following year in 2009 we went from 116 percent
23 above tax value to 79 percent below tax value. That was the
24 same number in 2010.

25 In 2011, the year that it was reevaluated, the

27 (Pages 102 to 105)

Page 102

Page 103

1 average went up 90 percent, so we were at 90 percent of tax
2 value. We were getting closer to what was deemed market
3 value, fair market value.

4 In 2012 it was 93 percent of tax value.

5 And in 2013 year-to-date, homes are finally starting
6 to sell above tax value at 98 percent of tax value.

7 Now, I think the residents of The Peninsular and a
8 lot of the people here have felt that they have paid their
9 share of additional taxes investing, investing in this
10 particular area to bring high-paying jobs, the people that
11 are moving here are people that are relocating and their
12 concern, if the tax value is going to continue to go down or
13 if they're not going to have the same resale value, it's a
14 very transient area. People come and go every few years.
15 And if their resale value, they're not going to look at us,
16 and we're going to go down. And therefore the tax values
17 will go down.

18 I'm not talking our property values. Yeah, they're
19 going to go down too. And that's going to hurt a lot of
20 good people that have saved a lot of money to live there.
21 Everybody that lives in Sailview isn't rich and just had
22 money handed to them. Everybody in that subdivision has
23 worked hard to get to where they are. And they've made a
24 huge investment.

25 (There was audience applause.)

Page 104

Page 105

1 MS. RODDY: I know. I'm sorry, I messed that up for
2 you.

3 MR. JOHNSON: Do you have Page 1?

4 MS. RODDY: Yes, it is a market dynamics with
5 Sailview at the bottom.

6 MR. JOHNSON: Would that indicate that, over the
7 year that's shown here, the average number of units for sale
8 is about 20?

9 MS. RODDY: Well, I would have to look at that. We
10 have 29 right now for sale.

11 MR. JOHNSON: Well, look at the average over the
12 year.

13 MS. RODDY: Uh-huh.

14 MR. JOHNSON: Would you say it's around 20 or 22,
15 something like that?

16 MS. RODDY: Yeah.

17 MR. JOHNSON: Okay. Look at the last page. Page 4
18 is the last page of my packet here.

19 MS. RODDY: Right, the one at the Peninsula.

20 MR. JOHNSON: And it appears that the average number
21 for sale in The Peninsula for that '12 year is about 50?

22 MS. RODDY: Uh-huh.

23 MR. JOHNSON: About double?

24 MS. RODDY: Uh-huh. Well, it's a double-size
25 neighborhood, so it would be double.

1 MS. RODDY: They have made a huge investment in
2 their homes just like the woman whose home wouldn't sell.
3 That's probably her retirement income. And it is all gone
4 now.

5 So, you know, I too am for solar energy, but I
6 cannot comprehend how 36 acres with 26,000 solar panels that
7 only can provide energy to 750 homes, how that is a viable
8 solution for our future. There is not enough land in this
9 United States to take up 36 acres to power 750 homes.

10 And as that plant sits there, you-all have said that
11 the number and the amount of energy it provides is going to
12 be diminished. So, you know, solar farms are good if that's
13 what they want. But I don't believe they're going to be
14 around for 20 more years. And we will be left with the
15 eyesore and degraded values. Thank you. That's the end of
16 my testimony. And I welcome all questions.

17 CHAIRMAN PATTON: Any questions? Mr. Johnson.

18 MR. JOHNSON: Ms. Roddy, do you know how many houses
19 that are in The Peninsula?

20 MS. RODDY: Oh, about 800.

21 MR. JOHNSON: About twice as many as Sailview?

22 MS. RODDY: Twice as many.

23 MR. JOHNSON: Let me ask you something about not
24 percentages but absolute numbers based on the information
25 you have given us. On Page 1 I believe is--

1 MR. JOHNSON: Okay. Over the last six months, your
2 Page 2 would appear to be that--I think it maybe didn't
3 print correctly, but it appears to be about 17 for sale?

4 MS. RODDY: Uh-huh.

5 MR. JOHNSON: Average 17 units?

6 MS. RODDY: Uh-huh.

7 MR. JOHNSON: And that's a similar comparison for
8 The Peninsula, which is Page 5, would indicate about 40 or
9 41?

10 MS. RODDY: Uh-huh.

11 MR. JOHNSON: Again a little more than double?

12 MS. RODDY: Uh-huh.

13 MR. JOHNSON: Is that correct?

14 MS. RODDY: Yes.

15 MR. JOHNSON: And as to the units that are under
16 contract for six months, I counted 12 for Sailview?

17 MS. RODDY: For six months?

18 MR. JOHNSON: Is that correct?

19 MS. RODDY: No. Where are you counting numbers?

20 MR. JOHNSON: Page 3.

21 MS. RODDY: But you are counting the market
22 dynamics, The Peninsula and the Sailview, right?

23 MR. JOHNSON: On Page 3, this page.

24 MS. RODDY: Okay. Your Page 3.

25 MR. JOHNSON: This page.

28 (Pages 106 to 109)

Page 106

Page 107

1 MS. RODDY: Oh, that page. Thank you.
 2 MR. JOHNSON: And that's under contract?
 3 MS. RODDY: Yeah. See, I don't have mine in the
 4 same order because I have all the supporting data. So
 5 excuse me for making a mess up here. Go ahead.
 6 MR. JOHNSON: Have you got that page?
 7 MS. RODDY: Yes.
 8 MR. JOHNSON: And that shows 12 units under contract
 9 at Sailview in the last six months; is that correct?
 10 MS. RODDY: Twelve. Where are you getting that
 11 number?
 12 MR. JOHNSON: Well, if you go to the unit numbers,
 13 it looks like that each blue stack, if you will.
 14 MS. RODDY: Seven, 8, 9, 10, 11. Okay.
 15 MR. JOHNSON: Twelve, I believe, correct?
 16 MS. RODDY: Three, 4, 5, 6, 7, 8, 9, 10, 11, yeah,
 17 12.
 18 MR. JOHNSON: Now, you've got a thing that this is
 19 down 66.7 percent?
 20 MS. RODDY: Uh-huh.
 21 MR. JOHNSON: Compared to what?
 22 MS. RODDY: Compared to 6-17-13 to 11-18-13. In
 23 October--
 24 MR. JOHNSON: But you're saying that this total of
 25 12 is 66 percent less than something?

1 MS. RODDY: Uh-huh.
 2 MR. JOHNSON: Less than what?
 3 MS. RODDY: Less than what it was on 6-17. There
 4 was 8. Now there's 2. And it was 66.7. I don't work these
 5 numbers. I put it in a chart, and it plugs in the numbers
 6 for me.
 7 MR. JOHNSON: Okay. Look at the same analysis for
 8 The Peninsula if you will. Do you see that?
 9 MS. RODDY: Uh-huh.
 10 MR. JOHNSON: And that shows 23 units under contract
 11 during that same period; is that not correct?
 12 MS. RODDY: Twenty-four.
 13 MR. JOHNSON: About twice of Sailview?
 14 MS. RODDY: Uh-huh.
 15 MR. JOHNSON: So during this period of time, would
 16 it not be the case that Sailview and The Peninsular track
 17 each other almost exactly?
 18 MS. RODDY: No, because their under-contract homes
 19 went up 18.2 percent for the same time period.
 20 MR. JOHNSON: Compared to what?
 21 MS. RODDY: The same time period 6-17 to 11-18--
 22 MR. JOHNSON: So you're telling me--
 23 MS. RODDY: --as that page shows on the bottom of
 24 this chart, from this date to this date.
 25 MR. JOHNSON: Well, it looks like on 11-18 the last

Page 108

Page 109

1 number is 1?
 2 MS. RODDY: Look how many homes. Look how many
 3 homes there are in this chart.
 4 MR. JOHNSON: Sure. I understand. I'm talking
 5 about absolute--
 6 MS. RODDY: Look at how many there are here.
 7 MR. JOHNSON: I understand. But I'm talking about
 8 absolute numbers not percentages. The numbers are about
 9 twice?
 10 MS. RODDY: But the percentage is telling us what is
 11 happening in the market. We can't compare number to number
 12 because it's not the same size subdivision.
 13 MR. JOHNSON: So on your market dynamics for The
 14 Peninsula,--
 15 MS. RODDY: Yes. Sailview? This one?
 16 MR. JOHNSON: --the red line, do you see the red
 17 line?
 18 MS. RODDY: Uh-huh.
 19 MR. JOHNSON: Over here it says .09.
 20 MS. RODDY: Uh-huh.
 21 MR. JOHNSON: What does that mean?
 22 MS. RODDY: That was what was there. That .09 is
 23 the number right below 1. It's .09.
 24 MR. JOHNSON: But .09 of what?
 25 MS. RODDY: That is one unit.

1 MR. JOHNSON: Okay.
 2 MS. RODDY: Okay. Because they divide it down by
 3 unit, we talk about sales in units. One unit is a house.
 4 So .9 is .9 units of a house. Sir, you are going in a
 5 little too deep on this.
 6 What this is showing clearly is that The Peninsula,
 7 about the time that our solar-farm discussions came up,
 8 which would be 9/9 where they have this line, The Peninsula
 9 line goes up and the Sailview line goes way down.
 10 (There was audience applause.)
 11 MR. JOHNSON: Okay. And that's attributable to this
 12 solar application?
 13 MS. RODDY: I believe it's very contributable to
 14 this solar farm, yes.
 15 (There was audience applause.)
 16 MS. RODDY: In my professional opinion, yes. I
 17 talked to many Realtors. The Realtors don't even want to
 18 show Sailview if they don't live in Denver.
 19 MR. JOHNSON: Do you know the reason that there were
 20 no contracts in The Peninsula between early July until mid
 21 August?
 22 MS. RODDY: No, I don't but there was--
 23 MR. JOHNSON: Thank you.
 24 CHAIRMAN PATTON: Any other questions? Thank you.
 25 We're going to declare a ten-minute recess.

Page 110

Page 111

1 MR. DANCOFF: I have one. I've got a pretty simple
2 question on this side. I guess my question is if the demand
3 went down in Sailview, do these folks stay in Lincoln
4 County? You know, we have other high-end land developments
5 around the lake. Do you know if they stayed?

6 MS. RODDY: Not that isn't serviced by Webbs Road,
7 sir. There are some down Unity Church Road. But most of
8 those were developed not by Crescent, do not have a
9 community pool, do not have tennis courts, do not have boat
10 slips, do not have amenities that Sailview offers. Sailview
11 is the only community in the Denver area on the water that
12 offers all of those amenities.

13 VOICE: Except the golf course.

14 MS. RODDY: Oh, Verdict Ridge, but they don't offer
15 the lake. And you have to be a member of Cowans Ford at
16 least, so it is the only one with included amenities for
17 your homeowners dues.

18 MR. GETTYS: So we would conclude that if they did
19 not get a home in Sailview, they went of county?

20 MS. RODDY: Yes, if they wanted a waterfront
21 community, yes.

22 CHAIRMAN PATTON: All right. Any other questions?
23 Thank you.

24 MS. RODDY: Thank you.

25 CHAIRMAN PATTON: I am going to declare a ten-minute

1 recess.

2 (There was applause. There was a recess.)

3 CHAIRMAN PATTON: I call the meeting back to order.
4 Before we get started, let me make one comment. First off,
5 I appreciate everybody being here tonight. And I know this
6 is an important issue to each of you, and I know this is an
7 emotional issue to each of you. But we have to maintain
8 order to get through this.

9 All I'm asking is, hold your applause. Hold your
10 comments. I don't want to ask anybody or have anybody leave
11 this hearing. I want you to be here. I want you to be here
12 to the end of it. Okay. But we have to maintain order to
13 get through this process, so I'm asking you to do that.

14 All right. Continue on.

15 MR. SCARBROUGH: Mr. Chairman, our next two
16 witnesses are going to be very brief, just a minute or two,
17 and they'll be finished with their testimony. And they have
18 already been sworn in. Marty Wulphorst and Deborah
19 Catalano, will you come on down here.

20 * * *

21 MARTY WULFHORTST, having first been duly sworn, testified as
22 follows:

23 My name is Marty Wulphorst. And I'm an agent with
24 Coldwell Bankers United, formerly Hecht Realty here in
25 Denver. And I have been there 35 years.

Page 112

Page 113

1 So I was the Realtor that had the contract on the
2 McLeans property. And he called me the week before it fell
3 apart. We actually extended the due diligence for about a
4 month until after the two meetings. They had to buy a
5 house. They're gone. And that's basically what I was asked
6 to come up here and talk about. Any questions?

7 CHAIRMAN PATTON: Any questions? Thank you.

8 MS. WULFHORST: It was a sad situation for both.

9 CHAIRMAN PATTON: I understand. Thank you.

10 * * *

11 DEBORAH CATALANO, having first been duly sworn, testified as
12 follows:

13 Hi. I'm Deborah Catalano. My backyard is on the
14 back of Burton. I'm at the highest point of the lay of the
15 land on the right side going into Sailview. So my backyard
16 is--when you look at my backyard, you will see the top of
17 the solar panels.

18 My husband and I went over there, and we measured.
19 He worked for Hybrid Technologies, which is clean-energy
20 electric cars. He also worked for Celgard, which does
21 membranes for a lot of lithium batteries.

22 Basically, I don't want to see a sea of solar panels
23 from my second story. It is unsightly. And I've got to
24 tell you, nobody is going to buy these houses. You are
25 welcome, Strata can buy my house for \$500,000. I mean, and

1 I'm not being obnoxious. I'm being honest.

2 We all worked hard for our properties, and we really
3 are trying to keep the area unified, keep it nice. We have
4 people that actually walk Webbs Road 16 picking up freely,
5 on their own, garbage, keeping Denver beautiful. And that's
6 what we want. We want to keep Denver beautiful. And I'm
7 sure everybody here would agree with me, that it just needs
8 to be unified.

9 We've got storage facilities. For a while we had
10 seven Pizzerias. There seems no unification. And I would
11 love to stay in Denver. But, you know, it's making a lot of
12 us hesitant, that there doesn't seem to be a plan and the
13 plan needs.

14 I mean I would love to see a sidewalk down 16,
15 Business 16, so people could walk and go into shops. That
16 would make Sailview and all the subdivisions down Webbs
17 Road, you get subdivisions farther down, it would make it a
18 meeting spot. That's what I would love to see for Denver,
19 you know.

20 And I just-- Really it's sad that it happened here,
21 and it was very late for a lot of us to know, that it was
22 all of a sudden a shock that we see these little signs, and
23 we pass them, and then they're knocked down. I had to get
24 out of my car to read the sign to know that a solar farm was
25 coming.

Page 114

Page 115

1 And then I started talking with the neighbors. Most
2 of my neighbors didn't know. It was like it just blindsided
3 us.

4 And I'm sure nobody here on the board, the
5 commission, would want to be blindsided and have something
6 dumped in your backyard that is unsightly when you worked so
7 hard for it.

8 And that's really all I have to say. And, you know,
9 thank you for all your hard work. And hopefully, you know,
10 Denver and Lincoln County could come together. Thanks.

11 CHAIRMAN PATTON: Thank you. Thank you.

12 * * *

13 TIMOTHY MOONEY, having first been duly sworn, testified as
14 follows:

15 Good evening, Chairman Patton, and ladies and
16 gentlemen of the board. My name is Timothy Mooney. I live
17 at 4320 Crepe Ridge Drive in the Sailview Subdivision with
18 my family.

19 We purchased our home in Sailview just two years
20 ago. Prior to our recent purchase in Sailview, we lived in
21 the area for year years near Webbs Road and Cindy Lane.

22 I find myself standing before you tonight defending
23 our community, our neighborhood and my recent financial
24 investment. I would have never thought that this would be
25 the case. Who in their right mind would have contemplated

1 such an extreme industrial proposal be located right outside
2 of our door?

3 With the exception of the concrete plant and the
4 Sani-Can business, which were both grandfathered into the
5 zoning ordinance when it was developed, the entire area is
6 zoned residential single family.

7 When you drive down Webbs Road east from Highway 16,
8 it's apparent that the area has grown almost exclusively
9 residentially in nature, neighborhoods of Webbs Chapel Cove,
10 Eastwind Cove, Burton Creek, Norman Pointe, Lakewood, West
11 Bay, Sailview, Ashley Cove, et cetera.

12 The trend has been and continues to be exclusively
13 residential, a 100-degree departure from an industrial
14 setting.

15 I relied on my personal experience and the county's
16 published plans in making my investment in our current home.
17 I relied on what I observed happening in the area. I relied
18 on my personal experience living off of Webbs Road for four
19 years. And I relied on Lincoln County Zoning Unified
20 Development Ordinance and its Future Land Use Plan for the
21 area. The Future Land Use Plan actually depicts a park near
22 Burton Lane and Webbs Road.

23 Barbed-wire fencing and a chain link fence with
24 massive utility poles and wires atop of them, electrical
25 transformers and inverters, they fit the description of a

Page 116

Page 117

1 prison better. They do not fit the county zone future land
2 plan for the area.

3 Please do not allow this industrial use to
4 infiltrate our community. By allowing this inappropriate
5 and unnecessary use to proceed, you would be killing and
6 stomping the reasonable expectations, the investments and
7 the enjoyment of the residents in the area.

8 My wife and I have three children under ten years
9 old. If this is allowed, my children and the children of my
10 neighbors will have to drive through this industrial eyesore
11 every day on their way to school and back. Every time we
12 drive to the store, to the movies, virtually anywhere, we
13 will be forced to drive through the middle of this ugly
14 eyesore. Please do not allow this. It just doesn't fit.

15 As residents we have a desire, an expectation and a
16 duty to improve our community, not to damage it. There is
17 no need for this industrial plant. There is no need for
18 1,300 feet of barbed-wire-topped fence or any type of other
19 fencing that they may propose tonight and 26,000 solar
20 panels. This does not fit in with the recent growth or
21 nature of the area.

22 What we have here is a large corporation attempting
23 to slam down a huge industrial cash cow right in the middle
24 of a predominantly residential area. They're here for one
25 reason and one reason only, profitability and cash. Do not

1 let them exploit our county, its residents, homeowners and
2 taxpayers for their exclusive corporate gain.

3 On September 9, 2013, they tried to convince us that
4 they will hire local labor and create local jobs. That's
5 quite a stretch, isn't it? Perhaps a few temporary jobs for
6 three to six months but nothing permanent. Are the fencing
7 contractors local to Lincoln County? Are the electricians
8 and utility workers residents of Lincoln County?

9 They told us that they and their certified
10 appraisers cannot find evidence of any lowered values due to
11 a solar farm. Mr. Kirkland, who has been hired and paid by
12 Strata Solar to prepare and testify in numerous cases where
13 they have applied for Conditional Use Permits, has never
14 found an instance, not one that he mentions, where property
15 values may have been damaged due to a solar farm. Do you
16 believe him because that's odd?

17 I Googled it. And within ten minutes I found
18 evidence that convinced me otherwise. I found and read the
19 Clay County Progress Newspaper online, that in Clay County,
20 North Carolina, the property values were negatively impacted
21 by a 5-acre solar farm to the tune of 20 to 40 percent.

22 I telephoned the Clay County Manager Paul Leek and
23 the Clay County Tax Assessor Nancy Kimsey. I had
24 conversations with both of them concerning what I read in
25 the paper.

Page 118

Page 119

1 If you have any doubt that the solar farm will
2 directly negatively impact residential property values in
3 our area, I would suggest your telephone them too.

4 Counties across North Carolina have implemented a
5 moratorium or moratoriums halting any additional solar farm
6 applications or construction until they can prepare an
7 ordinance specifically addressing them. If that is not
8 evidence that they have serious concerns about the
9 construction of solar farms relative to residential
10 communities, I don't know what is.

11 According to the Lincoln County Tax Department,
12 there's approximately \$400 million in residential real
13 estate surrounding the proposed site of Webbs Road and
14 Burton Lane. Can you imagine the effect of a 30-percent
15 decline in taxable values? What impact would this have on
16 our county budget, our schools and our police and fire
17 departments?

18 On a personal level, my wife and I cannot afford to
19 take a 30-percent hit in value of my house. I'm a small
20 business owner. I own two pieces of residential real estate
21 in Lincoln County. After barely surviving the recent
22 recession, this is the last thing I, or any of my neighbors
23 behind me, need. I have a \$500,000 home. I cannot afford
24 to lose \$150,000 because of this.

25 Strata Solar is going to get up here and try to

1 convince you that that won't happen. Where is their proof?
2 The burden is on them, correct? How can they guaranty that
3 this will not happen? How can they guaranty that driving
4 through a gauntlet of barbed wire or other fencing on both
5 sides of Webbs Road and driving right through the middle of
6 a 36-acre parcel of shiny black panels, electrical
7 transformers and wires will have no effect on the value of
8 the homes in our area?

9 Have you ever heard of an entire group of
10 neighborhoods, as I mentioned earlier, and their residents
11 that actually had to drive through the middle of a solar
12 farm to reach their homes? I have not because none exist
13 that I could find.

14 When my wife and I relocated to North Carolina for
15 work, we had numerous choices on where we could have located
16 our family. We spent a year and four or five trips visiting
17 and driving around Charlotte, Lake Norman and other suburbs.

18 We chose Lincoln County for a number of reasons.
19 They have great schools, a quieter lifestyle and access to
20 the lake, a better family experience for us. We had
21 choices. And we looked at and researched all that we could.
22 We decided on this area based upon what we found.

23 If there had been a gauntlet of fencing with barbed
24 wire or otherwise and a solar farm full of ugly panels and
25 electrical equipment, we would not have moved here, not a

Page 120

Page 121

1 chance. And that will be exactly what other potential
2 purchasers in the market will do. They will take their
3 home-buying dollars elsewhere. That will hurt the value of
4 my home.

5 And these corporate folks from Strata want us to
6 ignore that. Not me. That's why I'm standing here tonight.
7 I have documents with me tonight, petitions signed by over
8 300 people, who reside in the area, who are opposed to this
9 application.

10 The petition states that the proposed use is not in
11 harmony with the primarily residential area. Residents have
12 contributed money, volunteered time and made efforts to pull
13 together to prevent this from happening. Please listen to
14 us. I ask you to step back and look at the big picture.
15 Please understand, the only thing Strata wants to do is
16 this: Get in and get out and collect those big North
17 Carolina tax incentives as fast as they can.

18 Their next step in this project will be to cash out
19 and walk away from it, selling it to some outside investor
20 group, laughing all the way to the bank with our tax dollars
21 while we are left to deal and live in the middle of this
22 monstrosity.

23 This is the quintessential corporate disregard to a
24 community that people despise, that they have no involvement
25 with. It reminds me of the movie Erin Brockovich and the

1 Pacific Gas and Electric Company. In that PG&E was more
2 interested in its profitability and cash for its
3 shareholders than the well-being of the communities they
4 were affecting.

5 Do not let them chisel a meaning into the UDO where
6 there is none. This use, a solar farm of this size and
7 scale, was never considered by the UDO. Don't let them take
8 advantage of us. Do the right thing for the citizens of
9 Lincoln County, in particular those who live in the
10 immediate area of this proposed site. Recognize that this
11 will not be in harmony with the area and that it will
12 directly adversely affect the values of the surrounding
13 homes, screened or not. Anything short of that will be a
14 tremendous mistake. Thank you for your time.

15 CHAIRMAN PATTON: Thank you. Any questions?
16 Mr. Johnson.

17 MR. JOHNSON: Mr. Mooney, you said something about a
18 30-percent reduction in value of your property. What is the
19 basis for the 30 percent?

20 MR. MOONEY: If you research the Clay County
21 information that I found, that's the average reduction to
22 the property tax assessment that they issued in response to
23 the solar-farm construction.

24 MR. JOHNSON: And where is Clay County?

25 MR. MOONEY: Clay County is in western North

Page 122

1 Carolina.
 2 MR. JOHNSON: Okay. And what is your business?
 3 MR. MOONEY: I'm own a motorcycle dealership and a
 4 gym.
 5 MR. JOHNSON: Very good. Thank you.
 6 CHAIRMAN PATTON: Any other questions?
 7 MR. BURCHETTE: I have some.
 8 EXAMINATION
 9 BY MR. BURCHETTE:
 10 Q. Did I understand you say that it didn't matter what
 11 type of sceening you have around the solar farm wasn't
 12 acceptable?
 13 A. That's my opinion.
 14 Q. Okay. And the next thing, as far as you are
 15 concerned, because I have been listening to this, the only
 16 use that property should be put to is residential?
 17 A. I did not say that.
 18 Q. Okay. As long as it doesn't require a Conditional
 19 Use Permit, do you care what--
 20 A. I think a park would be wonderful.
 21 Q. Pardon?
 22 A. I think a park would be wonderful.
 23 Q. You want to buy the land from Mr. Dellinger?
 24 A. I would consider it.
 25 VOICE: Me too.

Page 124

1 CHAIRMAN PATTON: Any other questions? Thank you.
 2 MR. MOONEY: Thank you.
 3 CHAIRMAN PATTON: Do you have any other witnesses?
 4 (There was audience applause.)
 5 MR. SCARBROUGH: We have our appraisal witnesses
 6 with the PowerPoint presentation.
 7 ***
 8 GEOFFREY ZAWTOCKI, having first been duly sworn, testified
 9 as follows:
 10 Good evening. My name is Geoffrey Zawtock. I work
 11 with Fred Beck & Associates in Charlotte. I am a certified
 12 general real estate appraiser, MEA.
 13 CHAIRMAN PATTON: What's your name again? I'm
 14 sorry.
 15 MR. ZAWTOCKI: Excuse me?
 16 CHAIRMAN PATTON: What's your name again? I'm
 17 sorry.
 18 MR. ZAWTOCKI: Geoffrey Zawtock.
 19 CHAIRMAN PATTON: Okay. Thank you.
 20 MR. ZAWTOCKI: And I'm going to speak of the effect
 21 of Strata Solar's Webbs Road project on the surrounding
 22 property.
 23 So first I am going to go over just a project
 24 overview. I am going to define what our problem is that we
 25 were tasked to do.

Page 123

1 VOICE: Me three.
 2 VOICE: Me too.
 3 Q. Do you care if he uses it for any applicable purpose
 4 that's allowed by the ordinance?
 5 A. In my opinion, as long as it does not affect the
 6 property values of the adjacent land owners, including
 7 myself, I have no problem as long it is contemplated by the
 8 UDO appropriately.
 9 CHAIRMAN PATTON: Any other questions?
 10 CONTINUED EXAMINATION
 11 BY MR. BURCHETTE:
 12 Q. The ordinance contemplates a use for any
 13 agricultural purpose they want, correct?
 14 A. Within reason.
 15 Q. Well, what's within reason?
 16 A. As long as it doesn't negatively affect the property
 17 value of adjacent.
 18 Q. If it permitted already--
 19 VOICE: If you are going to keep talking, do it from
 20 the microphone.
 21 Q. If it's permitted, can you use it for any
 22 agricultural purpose? I'm just asking.
 23 A. I'm not familiar with the definition of any and all
 24 agricultural purposes, but for farming as it has been for
 25 the last few years, I have no issue.

Page 125

1 I'm going to go over the results of some of the
 2 demographic analysis that we did. Next I am going to give
 3 you an example of how it's already affecting, how Webbs Road
 4 solar farm is already affecting property values. We have
 5 seen that previously.
 6 I am going to show the effect on adjoining property.
 7 I am going to show how it has reduced property taxes in Clay
 8 County, and finally provide I am going to provide an example
 9 of the value impairment by an incompatible use and then
 10 finally my conclusions.
 11 So project overview. So again what we're talking
 12 about is Strata Solar is proposing a 5-megawatt solar farm
 13 on both sides of Webbs Road. It is adjacent to Sailview
 14 Community and other subdivisions.
 15 These pictures just show renderings of what the
 16 property looks like currently as it is. It is an
 17 agricultural use, and I would consider that an unimpaired
 18 view.
 19 And these are pictures showing what possibly it
 20 would look like with the solar farm. Due to security it
 21 requires a chain link fence with, of course, a barbed wire
 22 on the top. In my opinion these would be the impaired
 23 views.
 24 Next, I would like to define the problem that we
 25 were asked. We were asked to try to determine the effect of

33 (Pages 126 to 129)

Page 126

Page 127

1 the proposed solar farm on property surrounding the farm.
2 And we were asked to look at it, whether it would be a
3 positive, negative or no impact at all. We were also asked
4 to estimate, if we could, the magnitude of that effect.

5 So to start off to try to understand the problem, we
6 did a demographic analysis. Due to time constraints we
7 could not research every solar farm in the state of North
8 Carolina. So I chose to research the major publicly
9 announced projects in North Carolina.

10 It's a representative sample of about 42 projects
11 that were completed from 2006 to 2013. And of these
12 projects we looked at the demographics within a one-mile
13 radius. And we used Niesen as our source for the
14 demographic analysis.

15 So just to get an understanding of this project, in
16 my mind, I looked at the distribution of these 42 sample
17 solar farms in the state. And if you look on the screen,
18 the 42 solar farms major projects ranged from about
19 1 megawatt to 20 megawatts with an average of about
20 5 megawatts. And lo and behold, Webbs Road project is a
21 typical solar farm. It's approximately 5 megawatts and is
22 right in the distribution of a typical solar farm. So that
23 gives us an idea what kind of a project we're dealing with.

24 So the next thing we looked at was the median
25 housing values. And again of those 42 sample solar farms, I

1 looked at the distribution of median housing values. And
2 they ranged from about \$39,000 to a maximum of about
3 \$259,000 with an average of about \$114,000.

4 If you look at Webbs Road, the demographics from
5 Webbs Road, you see that the median housing value is well
6 outside the range of this distribution, an average of about
7 \$451,000.

8 Next, I looked at the number of households just to
9 get an idea of the density of houses around this project.
10 Again with the typical projects in the sample, the number of
11 households within a one-mile radius ranged from 2 to up to
12 about 814. But most of them ranged in this area between 5
13 and 155 houses and the average somewhere around here of
14 around 266. If you look at the Webbs Road project, again
15 they fall outside the distribution with a total of about 913
16 houses within a one-mile radius.

17 We next looked at the average household income. And
18 again the distribution here shows that at a minimum for the
19 projects that we looked at, the sample, they had a minimum
20 of about \$38,900 in household income and a maximum of about
21 \$103,000 with an average generally around \$49,000 or
22 \$50,000. And if I look again at the Webbs Road
23 demographics, again the demographics of the Webbs Road
24 project fall well outside this distribution averaging about
25 \$131,000.

Page 128

Page 129

1 So the conclusions from our demographics are that
2 this project is just not typical of other projects that have
3 been completed in the state just because it has a much
4 higher housing density. The median housing values are above
5 what the distribution is, as well as the household income.

6 So next I will go over again just briefly what the
7 McLeans, this testimony has been given, I guess, a couple
8 times already. Again the McLeans listed their home in July
9 of 2013 for an asking price of \$225,000.

10 Mr. Hibben did sign a contract with them for
11 \$200,000. To give the people in the audience an
12 understanding of just where this property is located, the
13 McLeans property is located right here along Burton Lane.
14 And this is where the solar farm is proposed to be. Again
15 this is right next to the Salview Subdivision. And again
16 the contract was canceled.

17 And we interviewed both the buyer and the seller.
18 And according to the buyer, they canceled the contract due
19 to this proposed solar farm. And they would not reconsider
20 purchasing that property even for a significant discount.

21 So I mean our conclusion is that the proposed solar
22 farm is already impairing property value before it is even
23 being built.

24 Next I'm going to show you an example of an effect
25 on an adjoining property. Tusquittee Trace is a 15-lot

1 subdivision in Hayesville, North Carolina. It is designed
2 for higher priced and second homes, averaging starting at
3 around \$325,000.

4 The subdivision began in 2006 just before the
5 financial crisis. And due to that financial crisis, no lots
6 sold through 2008. However, in 2009 the developer was able
7 to sell his first lot. And in 2010 he was able to sell two
8 more lots.

9 Now, in 2011 a 1-megawatt solar farm was constructed
10 on the adjoining farm. And most of the remaining lots will
11 have a view of this farm and so will the entrance. So the
12 entrance to the subdivision is right around here.

13 And when I went to the subdivision, you can see the
14 solar farm from the entrance. You can see the solar farm as
15 you drive along this road here. And because of the lay of
16 the land, these lots here are all elevated. So they look
17 down upon the solar farm. So most of these lots have a
18 direct view of the solar farm.

19 Since that solar farm has been constructed, the
20 developers have been unable to sell lots. A number of
21 brokers have brought potential buyers over to the
22 subdivision to try to sell lots. And all the brokers have
23 said that the buyers are not interested in the lots here and
24 it is due to the solar farm. The buyers are telling the
25 brokers that they require an unimpaired view. And although

34 (Pages 130 to 133)

Page 130

Page 131

1 the solar farm may only be part of the view, they do not
2 want that solar farm as part of their view at all.
3 So the conclusion that we came to from this
4 Tusquittee Trace is that the adjacent solar farm affects the
5 value and competitiveness of the lots and homes. Because
6 there are no sales after the solar farm went in, we cannot
7 quantify that effect. But we know that it's significant.

8 And we also know, based on conversations with
9 brokers and interviews, that it's the visual impairment,
10 that buyers want unimpaired views and especially at these
11 price points. The higher-priced buyers have more
12 discriminating tastes and high expectations for their
13 property.

14 Next I am going to show an example of how solar
15 farms have reduced property tax assessments. Clay County
16 has several solar farms in the county. And in 2011
17 residents voiced their concerns about solar farms either
18 adjacent or neighboring to their properties. And the Board
19 of Equalization decided to reduce the assessments on 19
20 properties.

21 Now this table is very difficult to see. But what
22 it shows is the 19 properties here. It shows the price that
23 the tax value before the Board of Equalization allowed the
24 assessments to be reduced and then the reduced assessed
25 value. And the result is that it was about-the Board of

1 Equalization agreed to about a 30-percent reduction in
2 assessed values.

3 Now I'm going to show you an example of an
4 incompatible use located next to a neighborhood and show how
5 it will affect the entire neighborhood. Southridge is a
6 community located in Elgin, South Carolina. It's a little
7 northeast of Columbia. It's a gated community. And the
8 houses range from about \$400,000 to \$800,000 with sizes
9 ranging from about 4,000 to 8,000 square feet.

10 I would consider this fairly similar to Sailview, as
11 best as we can get. In 2010 Verizon built a call center
12 here in the fall of 2010. Now, similar to Sailview, the
13 main entrance to the community is along this road here. And
14 you have to go by the Verizon Call Center. And there's a
15 gate here.

16 And Verizon, to their credit, tried. You can't see
17 it in this picture. It is hard to see. But they did put
18 some berm in along the road here, and they put several
19 evergreen trees to try to shield the view. In addition, the
20 community is gated and walled. There is a wall along here
21 that the first floor of the houses along the road here, I
22 haven't been in every house, but I would assume you cannot
23 see the Verizon Call Center from the first floor. I don't
24 know if you can see it from the second floor. Again I can't
25 go into every house and verify that. But I assume that you

Page 132

Page 133

1 probably can see the Verizon Call Center.

2 In any case you do see it going through the entrance
3 similar to Sailview would have to do, going along this road
4 to the entrance. For this example we did a matched pair
5 sales analysis. So we looked at houses that the same house
6 had sold twice and tried to see if there had been any
7 appreciation or depreciation in the housing values.

8 Before the call center went in, there were three
9 sales shown here. All had appreciation. And to note the
10 appreciation was also during our recent recession. So you
11 see, for example, in this first one that the first sale of
12 this house was in 2006. The second one was in 2007, and it
13 had a 27-and-a-half-percent increase. As you can see, the
14 range of appreciation ranged from 9.6 to about 27-and-a-half
15 percent.

16 After the call center was built, there have been
17 five sales of matched paired sales of homes in that same
18 community. All have depreciated. And it looks like the
19 range is from about 10.7 percent to 23 percent. I would
20 even conjecture that the depreciation is understated because
21 the first sale is well before 2010 for most of these before
22 the peak of the market when the Verizon Call Center went in.

23 So the conclusion that we draw from Southridge is
24 that the only thing that we knew that changed between that
25 time in 2010 was the addition of this call center. And it

1 appears to be an incompatible use in the neighborhood. All
2 the sales were appreciating before the call center. And
3 this is even during the recession. And after the call
4 center was put in, all we were seeing are depreciating
5 sales.

6 We also came to the conclusion that it affects the
7 entire neighborhood and not just the homes along the roadway
8 that front the call center.

9 So now I'll just give you some of the conclusions of
10 what I said. So again solar farms are a relatively new use.
11 There's very little data available. I went through a
12 demographic analysis to show that the Webbs Road project is
13 not typical of solar farms based on the sample that I have
14 looked at.

15 The Webbs Road project has a demographics with much
16 higher housing density, housing values and household income.
17 We have already shown multiple times tonight that the
18 project is already significantly impairing property value.
19 That's from the 4301 Burton Lane.

20 And based on the other examples that I gave, the
21 solar farms impair adjacent and adjoining properties, the
22 competitiveness and values of these properties. And I
23 explained that through the Tusquittee Trace Subdivision and
24 through the Hayesville Board of Equalization.

25 I also showed that the incompatible uses, an

Page 134

Page 135

1 incompatible use in a neighborhood will negatively affect
2 neighboring properties, and it will affect the entire
3 neighborhood and not just the properties fronting the
4 incompatible use. And that's just shown by the Southridge
5 example.

6 Although we're unable to quantify the effect of the
7 solar farm on property values, we believe or I believe that
8 the magnitude is significant and it's negative. Thank you
9 very much.

10 CHAIRMAN PATTON: Any questions? Mr. Dean.

11 MR. DEAN: The Elgin, the last comparable that you
12 used, if I was looking at it right when it was up there, in
13 2010 that showed a reduction of 23 percent--

14 MR. ZAWTOCKI: Uh-huh.

15 MR. DEAN: --where the site was. And in 2013 it
16 shows a reduction of 13 percent, which would lead me to
17 think that the initial effect of the building of the solar
18 may have had some effect, but it looks like it is improving
19 at that site from 23 percent to 13 percent.

20 MR. ZAWTOCKI: I don't understand how-- I don't
21 understand your logic.

22 MR. DEAN: Well, I don't either except that you
23 showed in 2010 a 23-percent reduction--

24 MR. ZAWTOCKI: Correct.

25 MR. DEAN: --in value--

1 MR. ZAWTOCKI: Correct.

2 MR. DEAN: --at that comparable. In 2013 the sale
3 that you showed showed a 13-percent reduction in value?

4 MR. ZAWTOCKI: Okay. So there--

5 MR. DEAN: And I'm saying over time it looks like
6 that market has improved at that site.

7 MR. ZAWTOCKI: I don't understand how you come to
8 that conclusion.

9 MR. DEAN: Because you have got a 13 percent--

10 MR. ZAWTOCKI: Are you comparing two of the same
11 houses together?

12 MR. DEAN: I'm comparing the same subdivision that
13 you showed.

14 MR. ZAWTOCKI: Okay. So you're saying this one
15 here, this 23 percent, is that the one you're looking at?

16 MR. DEAN: Well, in 2010 you're saying all
17 depreciation--

18 MR. ZAWTOCKI: I'm saying that there's matched
19 pairs. And each house that sold multiple times, when you
20 have a sale before the call center went in and after the
21 call center went in, the prices all decreased. And I'm

22 saying that this is actually understated because if you
23 think of the peak of the market, the peak of this market
24 being right before the Verizon Call Center went in, then
25 these numbers would be even more negative.

Page 136

Page 137

1 MR. DEAN: Okay. I understand that. But the only
2 thing I'm asking is, in 2013 and 2012 you are showing
3 13 percent?

4 MR. ZAWTOCKI: Right. Sure.

5 MR. DEAN: Are you saying that's that the market
6 decrease for that period of time?

7 MR. ZAWTOCKI: I'm saying that for those two houses,
8 that they decreased approximately 13 percent. And that
9 between the time the first sale had occurred and the second
10 sale occurred, this call center went in.

11 And we can't find any other reason for the decrease.
12 If you look, there's three sales that occurred where one
13 sale occurred, another sale occurred, and then the Verizon
14 Call Center was built. And they all appreciate.

15 So I mean my opinion is that it's the Verizon Call
16 Center that's causing the depreciation. I don't understand
17 how it would be otherwise.

18 MR. DEAN: Okay. Now, did you compare any other
19 subdivision in this market similar to this subdivision that
20 showed an increase in values--

21 MR. ZAWTOCKI: No, I did not.

22 MR. DEAN: --during the same period of time?

23 MR. ZAWTOCKI: We didn't. We looked at this one.
24 We have time constraints. And we have to do what we can.

25 MR. DEAN: But I'm asking you a question. How can

1 you say that this subdivision decreased in value because of
2 this solar site when you didn't compare another subdivision
3 of similar values to find out if that market changed in the
4 same market also.

5 MR. ZAWTOCKI: How can you say that it didn't
6 though?

7 MR. DEAN: I can't say it.

8 MR. ZAWTOCKI: I mean how can you say that it
9 didn't?

10 MR. DEAN: I didn't do the research. You're
11 supposed to do the research.

12 MR. ZAWTOCKI: I did. It's right there.

13 MR. DEAN: No, no, you did not. I'm saying if you
14 compare that subdivision with another subdivision in that
15 market is the only way you can determine that.

16 MR. ZAWTOCKI: It's not feasible to look at every
17 single subdivision in every market to determine that. It's
18 just unfeasible to look at everything.

19 MR. DEAN: In 2010--

20 MR. ZAWTOCKI: If you have information, I'm free to
21 look at it.

22 MR. DEAN: Wait a minute. I'm just asking you a
23 question. You're putting your point of view out.

24 MR. ZAWTOCKI: Correct.

25 MR. DEAN: And I'm saying the only way that you can

Page 138

Page 139

1 compare that is to compare it with another subdivision of
2 similar value homes in the same market to see if they
3 decreased or increased during that because there's other
4 things in the market that causes problems to happen.

5 MR. ZAWTOCKI: Oh, sure.

6 MR. DEAN: In Sailview, in Sailview after the crash,
7 interior lots were selling for \$70,000 or \$75,000. After
8 the crash in Sailview in 2010, 2012, the market did exactly
9 the same thing. And this solar farm was not involved.

10 Now, as the Realtor stated earlier, market prices
11 have started to increase because the market is getting
12 better. But in 2010 Sailview, the markets stunk. I
13 appraised houses down there all the time.

14 MR. ZAWTOCKI: And why do you think the market was
15 weak in 2010? Could it have been because of the U.S.
16 recession?

17 MR. DEAN: That's right.

18 MR. ZAWTOCKI: Right. And I showed you--

19 MR. DEAN: I'm saying there's other factors that can
20 affect this if you don't compare it against other
21 subdivisions.

22 MR. ZAWTOCKI: That's wonderful. But I said that
23 for the appreciating houses, it occurred during the U.S.
24 recession.

25 MR. DEAN: That's right.

Page 140

Page 141

1 MR. JOHNSON: Quickly, do you have any evidence in
2 your research that anyone did not buy a house in Sailview or
3 the surrounding area because of the concrete plant or the
4 Sani-Can business?

5 CHAIRMAN PATTON: Mr. Klein--

6 MR. ZAWTOCKI: I did not. I did not look at that.
7 I did not look at--I did not research that. I can't testify
8 to that.

9 MR. KLEIN: Mr. Zawtock, I have a couple questions
10 for you.

11 MR. ZAWTOCKI: Sure.

12 MR. KLEIN: Were you tasked with finding data of the
13 kind and descriptions that you showed us? Or were you
14 tasked to finding data and whatever it said it said?

15 MR. ZAWTOCKI: I'm tasked to try to find any data at
16 all.

17 MR. KLEIN: Well, then explain something to me. I'm
18 not an appraiser.

19 MR. ZAWTOCKI: Uh-huh.

20 MR. KLEIN: You're saying solar farms negatively
21 impact residential properties?

22 MR. ZAWTOCKI: That's my opinion, yes.

23 MR. KLEIN: And that's your opinion based on?

24 MR. ZAWTOCKI: Based on the evidence that I was able
25 to obtain.

1 MR. ZAWTOCKI: So despite the downward pressure on
2 prices because of the recession, this subdivision was able
3 to show appreciation in spite of it.

4 MR. DEAN: I understand. I understand that. I'm
5 just saying--

6 MR. ZAWTOCKI: So I mean I think I can agree to
7 disagree.

8 MR. DEAN: --that if you're going to compare, if you
9 are going to make testimony as to what happened in a
10 subdivision and how the market decreased in that subdivision
11 or increased, you would have to compare the whole market as to
12 to other factors in the market besides a solar panel as to
13 why it decreased or increased. That's your conclusion.

14 MR. ZAWTOCKI: I disagree. I disagree with that. I
15 don't know how. I mean I just disagree. That's my opinion.
16 I disagree with the way you're characterizing it.

17 MR. DEAN: Are you saying the market that nothing
18 else in the market affects value?

19 MR. ZAWTOCKI: I'm not saying that at all. I'm
20 saying in this specific instance, we can't think of anything
21 else that could affect the value. So by deduction it has to
22 be the call center. I mean--

23 MR. DEAN: I understand what you're saying. And I
24 appreciate it.

25 CHAIRMAN PATTON: Mr. Johnson.

1 MR. KLEIN: Mr. Kirkland--

2 MR. ZAWTOCKI: Uh-huh.

3 MR. KLEIN: --says all the data he has suggests that
4 nothing impacts. There's no impact from solar farms. Now,
5 what are we, absent an appraiser in this group of folks on
6 the other side of the microphones to conclude? We have
7 competing opposing professional witnesses.

8 MR. ZAWTOCKI: Uh-huh. I know. I can't make your
9 mind up for you.

10 MR. KLEIN: Somebody says yes. Somebody says no.
11 At the end of the day we aren't any further along in
12 reaching a conclusion.

13 MR. ZAWTOCKI: I mean all I can do is show you the
14 evidence that I was able to obtain. I just report what I
15 see in the market. I don't make the market.

16 MR. KLEIN: So are you telling me that of the solar
17 farms that are built in this state, the only data you found
18 was these three pieces, and there was no data stream that
19 said if the solar farm hadn't been there? Is that what you
20 are telling me?

21 MR. ZAWTOCKI: For the 42 solar farms that we looked
22 at, I could not find the evidence because there are a very
23 new use. They started being built in 2008 to 2013. And
24 some of them are located near residential areas, but these
25 residential areas, as I showed you in the demographic

37 (Pages 142 to 145)

Page 142

Page 143

1 analysis, they're lower housing density. The market isn't
2 very active. So it's very difficult to find direct
3 evidence.
4 And the direct evidence would be--the best would be
5 a matched-pair-sales type of evidence. So this is the best
6 that we could find.

7 Now, with Sailview if this solar farm does go in, it
8 will be a precedent. I mean we will be able to measure it
9 and quantify the effect of the solar farm over time.

10 CHAIRMAN PATTON: All right. Any other questions?

11 MR. ZAWTOCKI: My opinion is it will be very
12 negatively affected.

13 MR. KLEIN: Thank you.

14 EXAMINATION

15 BY MR. DEATON:

16 Q. Just a brief clarification, you had stated that--and
17 just to clarify for the other board members here--that the
18 Elgin project is not a solar farm. It's a call center?

19 A. Yeah. Just to clarify, the purpose of the Elgin
20 project is just to show an incompatible use in the
21 neighborhood. So it's not a solar farm. But think of the
22 Verizon Call Center as a proxy for it. It's something
23 similar.

24 And the point of that is to show that it affects the
25 entire neighborhood, and it's not only by proximity. And as

1 an incompatible use, it affects the whole neighborhood. So
2 that's the point of it.

3 CHAIRMAN PATTON: Any final questions?

4 MS. TODD: I have a couple questions.

5 CHAIRMAN PATTON: Thank you.

6 EXAMINATION

7 BY MS. TODD:

8 Q. Do you have an appraisal to support your
9 presentation tonight?

10 A. I have a document, yes. I have a document.

11 Q. Are you going to share that with the folks?

12 A. Can you give it to them.

13 Q. Is it an appraisal?

14 A. It's an opinion of the problem that we were asked to
15 define is the effect of the solar farm. Is it an appraisal
16 of a specific property, of a specific house, no. The use of
17 the appraisal is the effects of a Strata Solar farm.

18 Q. So it's not an appraisal?

19 A. Well, I mean define an appraisal for me, what your
20 definition of an appraisal is.

21 Q. An indication of value, meeting USPAP standards.

22 A. Of what? Of just--of a property or of-- I mean I
23 don't understand the question you're trying to-- I mean I
24 want to understand. Is it an appraisal of a property? Or
25 is it an opinion of value?

Page 144

Page 145

1 Q. Well, it's an opinion of value that you made?

2 A. It's an opinion, yes. It's an opinion.

3 Q. But it doesn't meet USPAP standards; is that
4 correct? Why don't you define USPAP.

5 A. You want us to define USPAP?

6 Q. What does USPAP stand for?

7 A. It's the appraisal standards that we're required to
8 utilize when we develop a report.

9 Q. Okay.

10 A. My opinion is that it applies, that it applies by
11 that standard.

12 Q. Did you, in fact, use those appraisal standards when
13 making this report?

14 A. Yes, I attempted to do that, yes.

15 Q. Did you certify your presentation?

16 A. Did I put a stamp on that presentation?
17 (Audience laughing.)

18 Q. Yes.

19 A. On this presentation, my stamp is not on that
20 presentation, no.

21 Q. How about on your opinion of value for your report
22 here, your document?

23 A. Did I certify it?

24 Q. Yes.

25 A. Is it on the first page?

1 Q. You sealed it.

2 A. Okay.

3 CHAIRMAN PATTON: Any other questions?

4 DR. MITCHEM: You made a comment that the best
5 evidence are matched-pair sales; is that correct?

6 MR. ZAWTOCKI: That would be the best evidence that
7 I think you could use, yes.

8 DR. MITCHEM: And your analysis, as far as your
9 analysis here today, is based on these renderings that you
10 were given?

11 MR. ZAWTOCKI: It's not based on the renderings.
12 That's merely illustrative.

13 DR. MITCHEM: Were you ever given a copy of the
14 Strata Solar site plan?

15 MR. ZAWTOCKI: I believe I was given a copy of this.

16 DR. MITCHEM: Okay. You elected not to add any
17 landscaping to the site plan or to the--

18 MR. ZAWTOCKI: What do you mean, I elected not to
19 add landscaping to it?

20 DR. MITCHEM: Well, the renderings in your
21 presentation don't have any landscaping.

22 MR. ZAWTOCKI: Well, they're illustrative. They're
23 for illustrative purposes. And I said that it could look
24 like. You presented a new site plan this evening showing
25 different--you know, something different than what we had in

Page 146

Page 147

1 the information.
 2 DR. MITCHEM: But the site plan that you had, did
 3 that show any landscaping?
 4 MR. ZAWTOCKI: Yeah, it shows landscaping.
 5 DR. MITCHEM: So it's a little misleading, isn't it?
 6 MR. ZAWTOCKI: Did the pictures not show landscaping
 7 at all?
 8 DR. MITCHEM: No.
 9 MR. ZAWTOCKI: Again I don't know how to say it.
 10 CHAIRMAN PATTON: Any other comments?
 11 DR. MITCHEM: No other questions.
 12 CHAIRMAN PATTON: All right. Any other questions?
 13 Thank you.
 14 * * *
 15 FRED BECK, having first been duly sworn, testified as
 16 follows:
 17 My name is Fred Beck. I'm the owner of Fred Beck &
 18 Associates in Charlotte, North Carolina. I've been an
 19 appraiser in Charlotte for about 30 years. I have an MAI
 20 designation by the Appraisal Institute, which is what some
 21 consider the highest commercial designation in the
 22 Institute. I also have the SRA designation, which is the
 23 highest residential designation within the Appraisal
 24 Institute.
 25 I've been active in appraising houses and commercial

1 property for, like I said, 30 years. We were asked to give
 2 an opinion or do a research project on this solar plant,
 3 solar plant near this residential subdivision and see if
 4 there was any impact.
 5 We looked at as much data as we could. The South
 6 Carolina study that was presented was presented to the
 7 county commissioners by a colleague of mine. And the taxes
 8 were reduced significantly on every one of those properties.
 9 So regardless of what was happening in other places,
 10 this guy is an expert. He shared some data with me. And
 11 the taxes were reduced substantially. So that alternate use
 12 is something we did.
 13 But one of the things that I would like to say is we
 14 can come up with paired sales and we can come up with all
 15 this research and all kinds of things that you can look for.
 16 We looked for articles and things like that in all of the
 17 literature. We found one study from a guy that said, even
 18 if you have one of these huge transformer power poles in
 19 your backyard, that it's more valuable because you have a
 20 bigger backyard, which I thought was ridiculous but--
 21 So it goes to show that you get a lot of different
 22 opinions from a lot of different appraisers about a lot of
 23 different things.
 24 The way I see it is if you grant this solar farm to
 25 be built on this site, it's a grand experiment, which if

Page 148

Page 149

1 what we say comes true, it's going to affect substantially
 2 every human being out here that has a home, substantially.
 3 And if it's 10 percent or 5 percent or 20 percent or
 4 30 percent of your life savings that are gone, somebody
 5 better be right.
 6 And what we did was to give our honest opinion as to
 7 what we thought the effect of this kind of property in front
 8 of a residential subdivision will have. I think this is
 9 more industrial in nature. It doesn't look like
 10 residential. In some ways in looking at it, it looks more
 11 like a mini-storage facility than it does something that's
 12 pretty like a residential, like the pretty farm that's there
 13 that belongs.
 14 So I think that after all of the studies and
 15 everything else, the impact on the human beings that are
 16 sitting behind me is what the question is, and I think they
 17 will be damaged, and damaged severely.
 18 CHAIRMAN PATTON: Thank you. Any questions?
 19 Mr. Johnson.
 20 MR. JOHNSON: Mr. Beck, other than tonight, how many
 21 hours did you personally spend in preparing this report?
 22 MR. BECK: I spent a substantial number of hours,
 23 probably at least two weeks working with Jeff.
 24 MR. JOHNSON: Eighty hours?
 25 MR. BECK: Probably.

1 MR. JOHNSON: Okay. Thank you.
 2 CHAIRMAN PATTON: Any other questions? Thank you,
 3 sir.
 4 MR. ARENA: This group has asked me to prepare a
 5 brief summary for you, and I'm going to do that in the form
 6 of handing out questions that pertain to Findings of Fact 2,
 7 3 and 4.
 8 Oh, I do need to reiterate, especially to the
 9 planning board, in a finding-of-fact situation, Mr. Johnson
 10 and Mr. Dean, in a finding-of-fact situation, the burden of
 11 proof is on the applicant, and I would caution you to please
 12 look at the applicant's proposal.
 13 There is one sale after a solar farm versus sales
 14 before the solar farm. That sale is a ranch house. It is
 15 shown at less dollars per square foot. We're not sure of
 16 whether or not it has visibility of the solar farm. That is
 17 the only example in the whole burden of proof, and it's a
 18 ranch style for less per square foot.
 19 Okay. Let's just go--and I also want to say, I was
 20 responsible for the pictures that were questioned here.
 21 Those were for illustrative purposes. We didn't know what
 22 kind of final landscaping was going to be proposed. It can
 23 be superimposed or not superimposed. We were trying to
 24 respond to, I think, a question Mr. Klein asked, what is
 25 this going to look like when you go up the road, Webbs Road,

Page 150

Page 151

1 in the last hearing. So we spent the time and effort.

2 The person that did that actually took pictures of
3 Webbs Road. He went out to the Strata Solar site on Kings
4 Mountain and took pictures of the solar panels and then
5 worked 3D to try to put the right set of facts in and the
6 right panels in the right orientation. And it's an
7 illustration. It's not supposed to be-- It's an attempt to
8 be accurate as best we can.

9 But here are some of the things that need to be
10 answered for Finding of Fact Number 2: Is the applicant
11 qualified under the description of civic groups? Are they a
12 utility? Mr. Hawkins has said, no, they're not a public
13 utility. Do they meet the requirements noted as a
14 conditional use for location, scale and size? Was the use
15 contemplated in the UDO? If so, what are the requirements
16 that would apply? Why is the only section of the UDO
17 referring to solar panel screening not applicable? Does
18 this maintain areas in R-SF zoning for exclusive single
19 family housing as noted specifically in the UDO? Why was
20 the road classification changed? Is the plan complete?

21 Fact 3, where is the positive proof by the applicant
22 on housing value sales after a solar farm? As I mentioned,
23 the one sale has concerns about visibility. It's a ranch as
24 compared to one-and-a-half and two-story homes.

25 How do they explain the impact on the sale on Burton

1 Lane? They didn't. How do they explain the negative impact
2 on property values in Clay County? They didn't. How do
3 they explain the negative value?

4 And I would like to clarify the questions you asked
5 Mr. Zawtock. The recession took place before the sales in
6 both cases. He is comparing properties in a timeframe where
7 the recession is neutral on the ones that were negative and
8 the ones that were positive. He is not comparing that
9 aspect with some other subdivision. So the recession gets
10 taken out because all of those sales had the recession as
11 impact.

12 What have they done to minimize the negative impact
13 on property values during construction? They haven't
14 changed the location of the staging areas. At any one time
15 we have 25 houses for sale in that area. This is a
16 construction period for six months. If there's any
17 vegetation proposed, how long is it going to be before view
18 of that fence and view of that barbed wire is down? What is
19 that going to do? You saw the demographics on this
20 property. Where is the answer to that? Have they met the
21 burden of positive proof? There is none in Finding of
22 Fact 3.

23 In Finding of Fact 4, they haven't talked about the
24 Land Use Plan at all. We've given you specific definitions
25 of the Land Use Plan, what it says about each of the zoning

Page 152

Page 153

1 districts, what it says about saving that area to get your
2 money back on investment of the utility infrastructure you
3 put in. How much did we spend on our new sewer plant? \$20
4 million. You know, we're going to take that area of the
5 county, the precious area we have zoned residential single
6 family and take a chunk out of it and lose the return from
7 that particular section of residential single family on that
8 \$20 million sewer plant? That's directly against the Land
9 Use Plan.

10 How do we reconcile the fact that this one splits a
11 collector road where the other two approved applications
12 specifically we know that they were not visible from the
13 highway, considerably different applications. They're in
14 different residential zones. They're not visible from the
15 highway.

16 They didn't address harmony at all in their
17 presentation. They said the use was passive. It is, and
18 that's nice, and it's commendable. But they didn't talk
19 about anything else that's in that area and how it compares
20 to the Salview landscaping, the Norman Points berm wall and
21 landscaping or any of those replications.

22 How do you comply with the requirements for a
23 conditional use? And is it appropriate, given its location,
24 given its size, given its scale and, as noted in residential
25 suburban, given its esthetics. No answer to these

1 questions.

2 So Mr. Klein is asking, well, how do we compare?
3 You have evidence on one side. You have evidence on the
4 other. Again you are going to have to take that evidence
5 and determine what you think is best.

6 And again the positive burden of proof is on the
7 applicant to meet those requirements. So how are you going
8 to justify this application when you specifically said how
9 you justified the other two conditional use applications?

10 So in summary in regards to this application, we
11 have a developer and construction company, which is,
12 according to Mr. Hawkins, not a public utility requesting to
13 provide an industrial plant of the scale and size of 36
14 acres in a residential single family area that is per your
15 UDO to be maintained for exclusive single family
16 development. And it has established an adequate capacity of
17 existing utilities.

18 The application was not anticipated in the UDO. It
19 should not be allowed. It does not comply with the road
20 buffering. It does not comply with tree requirements as
21 written. It is not maximizing the esthetics and the overall
22 quality of life in this area. It is not in harmony with
23 surrounding properties. It is not a complete application.
24 And it will significantly impact value.

25 Other than those three words, electric generating

Page 154

Page 155

1 plant, as it appears in the UDO, what else is proof that
2 this thing belongs in this neighborhood?

3 Ms. McLean is right here. She wants to know who is
4 going to buy her poor house if this thing goes in. If
5 that's not direct impact on property value, I don't know
6 what else is.

7 We have given you a subdivision in Clay County that
8 had direct impact that was done by a tax assessor. Why
9 wasn't that included in the assessment? It didn't take
10 Mr. Mooney or I long to find that. Do you think that the
11 applicant gave selective evidence? I don't know.

12 This crowd has already come to us. I have the
13 burden of having been a former commissioner. They already
14 want to know where they put in their tax-appeal forms for
15 the 30-percent they're going to save when the property
16 values get reassessed.

17 So, you know, there they are. They're getting
18 ready. If we thought we had a tough appraisal the last
19 time, we're going to have a tough appraisal this time.

20 But let's draw the conclusion that Mr. Beck brought
21 here for a second. We have given you all sorts of
22 burden-of-proof questions that you have to answer in doing
23 this. We don't need this to be a grand experiment. We
24 don't need you to have an experiment on \$400 million worth
25 of property value when the burden of proof resides

1 elsewhere. Let them do the burden of proof in some other
2 neighborhood and some other community. Do it somewhere
3 else. And then when you have a history, come back here when
4 it's proven that it's not going to affect \$400 million worth
5 of property.

6 You have a lot of people signed up to speak. We're
7 going to try to minimize that by asking folks, if they have
8 something selective to say that wasn't already said, we
9 would like them to come down. I don't know what they want
10 to say, and I don't want to take their time away. But in
11 respect for all of your time if they think that this
12 presentation adequately represents what their concerns are,
13 then we would ask them just to say that and not to come
14 down.

15 So are there any other questions relative to our
16 conclusion?

17 CHAIRMAN PATTON: Any questions for Mr. Arana?

18 MR. ARENA: Thank you-all for your time. I know it
19 has been a long one. There has been a lot of data, and we
20 appreciate it. Thank you.

21 CHAIRMAN PATTON: Thank you. I have about two pages
22 of people signed up to speak here, so again if your issue
23 has already been addressed, please let us move on to the
24 next person and try to get through this.

25 And if you've already spoken and I will call your

Page 156

Page 157

1 name, I apologize for that. David Hibben. Jessika Tucker.
2 Vince Catalano. Robert Lombardo. William Baker. David
3 Cowley.

4 * * *

5 DAVID COWLEY, having first been duly sworn, testified as
6 follows:

7 Here. I'm David E. Cowley, Colonel of the United
8 States Army, retired. For the past--

9 CHAIRMAN PATTON: What is your address, sir?

10 MR. COWLEY: 7924 Chapel Creek Drive, Sailview
11 Subdivision in Denver.

12 CHAIRMAN PATTON: Thank you.

13 MR. COWLEY: For the past 18 years since I retired
14 from the army I've had an independent
15 contracting--government contracting business for technical
16 engineering support for primarily the U.S. Army.

17 My wife and I came down here to Lake Norman when our
18 kids were little. We had friends on the other side of the
19 lake. And so when we got ready to find a retirement home,
20 we were living up in northern Virginia, we kept going back
21 to the Lake Norman area.

22 We had friends that lived in Sailview. And we
23 looked all around the lake just like most other people have,
24 and we decided to build in Sailview. We have a waterfront
25 lot.

1 I'm not impacted visually from my house from this
2 proposed solar farm. But I do have to drive in and out of
3 there every day. And we're never going to move. I mean my
4 last move will be to Arlington Cemetery. And thank God,
5 being a retiree, my wife will be able to join me there.

6 But we look forward to being able to turn that house
7 over to our children. We have two grandsons that live here.
8 And they enjoy that lake during the summertime. And we
9 enjoy having them over.

10 And as far as the use, potential use for this area,
11 if not a solar farm, any other agricultural use. Most
12 people know when they moved in here that was being used for
13 free grazing of cattle. And if it's a hog farm, it won't
14 bother me. I'm a member of the North Carolina Pork Council.
15 And I know that the regulatory requirements for a hog farm
16 won't disrupt our neighborhood. And the regulatory
17 requirements are so strict now, you don't have to deal with
18 the smell that may have had to deal with once before.

19 But I don't have much to add. Other than as an army
20 officer and as a small business owner, I always ask myself
21 the question, whether it's training troops or whether it's a
22 business undertaking that I take, you know, what's the
23 upside to this?

24 And as George has said, the burden is on the
25 applicant to show that they meet the criteria for this

Page 158

1 Conditional Use Permit. I don't think they have done it so
2 far.

3 But I keep having to ask the question, what is the
4 upside for the people around the county for building a solar
5 farm here. And nobody has been able to tell me that yet,
6 and certainly not the Strata Solar people.

7 I think the questioning we've heard from the
8 planning board and some from the council has been more like
9 cross-examination of the citizens that don't have the burden
10 of proof. And I have been to all of these hearings.

11 (There was audience applause.)

12 MR. COWLEY: I have been to all of these hearings.
13 In the first one when Solar Strata or Strata Solar came in
14 and gave their presentation, I didn't hear that kind of
15 questioning from them. And I certainly haven't seen them
16 have to put forward all the evidence that's required to meet
17 the three out of the four conditions on that conditional use
18 request or application.

19 So that's all I have to say. If there are any
20 questions, I will be glad to take them.

21 CHAIRMAN PATTON: Any questions?

22 MR. COWLEY: I would like to take the answers to my
23 questions too.

24 MR. DEAN: I would just like to make a comment.

25 When the appraiser for the solar company gave his testimony,

Page 160

1 against solar whatsoever, but not in our community. And I
2 just want to say that I stand for everything and back up
3 what everyone has said tonight. I agree with everything
4 they said. And I hope you will take this all into
5 consideration. Thank you.

6 CHAIRMAN PATTON: Thank you.

7 MS. WILSON: Questions?

8 CHAIRMAN PATTON: Rudy Bauer.

9 ***

10 RUDY BAUER, having first been duly sworn, testified as
11 follows:

12 I got to say something. Rudy Bauer, 8252 Blades
13 Trail. I'm not against solar farms, but I'm against the
14 location of this one. Thank you.

15 CHAIRMAN PATTON: Margaret Dunn. Lynette Jarvis.
16 Patricia Moreira. Bob Bonner.

17 ***

18 ROBERT BONNER, having first been duly sworn, testified as
19 follows:

20 Robert H. Bonner, 4249 Rustling Woods, Sailview
21 Subdivision, Denver. I'm a taxpayer and maybe a little bit
22 more blunt than some of my neighbors and also a voter.

23 I've got the--kind of draw the short straw here and
24 get to read what we would like from the Sailview standpoint
25 if in fact you decide to allow the solar farm. Some of

Page 159

1 he was questioned just like the appraisers tonight.

2 MR. COWLEY: Well, I didn't hear very much deep
3 questioning.

4 MR. DEAN: I didn't question them.

5 CHAIRMAN PATTON: Any other questions or comments?

6 Thank you, sir, and thank you for your service.

7 MR. COWLEY: Thank you.

8 (There was audience applause.)

9 CHAIRMAN PATTON: Barry Vogtli. Jean Vogtli. David
10 Balok. Rick Phillippi.

11 MR. PHILLIPPI: I'm here. I just want to say I
12 agreed with everything that has been presented.

13 CHAIRMAN PATTON: All right. Thank you, sir. Matt
14 Lankford. Mary Wilson.

15 ***

16 MARY WILSON, having first been duly sworn, testified as
17 follows:

18 Here. I promise to be short. My name is Mary
19 Wilson. I live at 7828 Tranquillity Lane. And I back up to
20 Burton lane, and my house will be affected, very much so.

21 Right now at this time of the year, with the leaves
22 down and everything, I will see those solar panels. And
23 it's not summer where I can lay out there and get a suntan
24 without going to the tanning beds.

25 But I just think that it can be put-- I'm not

Page 161

1 these things may already be covered in the new plan that was
2 submitted tonight. We didn't have the opportunity to review
3 it. So some of these things might be a little bit
4 redundant.

5 I would like to go through them real quickly. We do
6 not believe that the location, character of use, if
7 developed according to the plan submitted, will be in
8 harmony with the area it would be located. So don't
9 misconstrue this as something saying that we want it.

10 This is just if we have to live with it, this is
11 what we want. However, the following conditions would
12 improve the level of nonconformance and harmony and minimize
13 the damage to property values that apply as follows: That
14 an earth berm of five feet in height along the entire
15 perimeter be provided to minimize the height and density of
16 the amount of buffering that would be required of a
17 vegetation buffer.

18 That a vegetation buffer be provided and maintained
19 at all times around the perimeter of the entire exterior of
20 the fencing and gates that are required. Nothing contained
21 herein shall be construed so as to require such continuous
22 evergreen and ornamental buffer to block reasonable access
23 to the solar farm.

24 An opaque vegetation buffer to be provided on the
25 berm that will completely block the view of the fence when

Page 162

Page 163

1 planted, completely block the view of the fence. We don't
2 want to see the fence.

3 This buffer shall be one that is designed by a
4 landscape professional to be opaque upon planting and
5 contain multiple rows of plantings at multiple heights,
6 placed sufficiently close as to screen the fence from view
7 from the roadside.

8 This buffer would have to be maintained in good
9 condition and dead plants and trees replaced at least twice
10 a year in the spring and fall.

11 This earth berm and buffer will be completed before
12 any installation of solar equipment to (1) minimize the
13 visual and financial impact of this application on nearby
14 property during the construction phase; and (2) so its
15 effectiveness could be verified and approved prior to
16 hardware installation.

17 Provide and maintain a grassed area between the
18 berm/vegetation buffer and the bordering roads and adjacent
19 properties.

20 Maintain a minimum-100-foot setback from the fence
21 to any adjoining property or edge of the road and the start
22 of the buffer to be a minimum of 25 feet from any adjoining
23 property or road.

24 The fence around the perimeter of the solar farm be
25 comprised of materials consistent with the surrounding

1 neighborhood subdivision ordinances and architectural
2 guidelines. The fence will be opaque or a semi-opaque fence
3 consisting of earth-tone colors and shall be at least six
4 feet in height. It is to be constructed of wood or wrought
5 iron uprights spaced no less than eight feet apart. The
6 adjoining material may be chain link to provide additional
7 security but the fence should be constructed in such a
8 manner as to minimize the use of chain link and maximize the
9 appearance of the wood or wrought iron uprights.

10 The fence shall be required to be maintained in good
11 condition at all times.

12 That the gate areas be set back from the buffer by
13 25 feet to minimize visual impact of these gates and access
14 points from the road and that they be placed on Webbs Road,
15 as far from Burton Lane as possible. The gates should be at
16 a right angle to the roads to minimize visual appearance
17 from the road. The access to the gates should curve from
18 the road, and there should be a plant buffer provided to
19 minimize the appearance of the gate and any associated sign
20 from the road.

21 That there be a maximum height not to exceed
22 eight feet for the top of any solar panels or equipment on
23 site.

24 That no power poles or other buildings or hardware
25 on the site exceed eight feet in height and that all

Page 164

Page 165

1 electrical connections be underground.

2 That the power inverter be mounted as far away from
3 road right-of-ways and adjacent or adjoining residential
4 lots as possible so as to minimize the noise generated by
5 these devices at the property lines. That the inverters be
6 housed in structures that are not visible from the road, and
7 that do not exceed the eight feet in height and that
8 minimize the noise generated at the property lines.

9 That a sound study be conducted before and after the
10 installation of the inverters to verify that no noise level
11 increase is noted at adjacent residential property lines or
12 street rights-of-way.

13 That the staging area be modified to be behind the
14 existing industrial property and not in direct sight of
15 Webbs Road or Burton Lane to minimize impact on property
16 values of those selling homes during the construction phase
17 of the project.

18 That a form of surety, either through an escrow
19 account, bond or otherwise, be provided to assure that the
20 buffer and grassed areas are maintained accordingly and for
21 the county to have the financial ability to maintain the
22 buffer should the applicant not provide adequate
23 maintenance. And that's not a small amount of money. Those
24 that are in Sailview know what we have to pay to maintain
25 ours.

1 Removal requirements shall apply to this site when
2 it has reached the end of its useful life or not operated
3 under contract within one year's time or when the site has
4 failed to be maintained for a period of more than six
5 months. That within 150 days of such time, the owner or
6 operator shall notify the county and remove all hardware
7 from the site.

8 Disposal of all solid and hazardous waste shall be
9 done in accordance with state, local and federal
10 regulations. Stabilization of the site will be completed as
11 necessary to minimize erosion on the site.

12 That a form of surety, either through an escrow
13 account, bond or otherwise, be provided to cover the cost of
14 removal in the event that the county must remove or have
15 removed the installation and remediate the landscape in an
16 amount and form determined to be reasonable by the county.
17 Any questions?

18 CHAIRMAN PATTON: Any questions? Thank you. Mike
19 Bizon. David Bok. Elizabeth Harris.

20 MS. HARRIS: Here. I don't need to speak. I just
21 want you to know that I agree with what has been said
22 tonight. And I respectfully request that you consider all
23 points of view.

24 CHAIRMAN PATTON: Tracey Horton. Michael Mock.
25 Gail Clark. Joe Murphy. Rose Hemmerich.

43 (Pages 166 to 169)

Page 166

1 MS. HEMMERICH: My concerns have been addressed.
 2 CHAIRMAN PATTON: Patricia Pearson. Janet
 3 Schmerber. Glenn Pearson.
 4 MR. PEARSON: My concerns have been met.
 5 CHAIRMAN PATTON: Holly Ziss. Jane Roddy.
 6 MS. RODDY: I spoke.
 7 CHAIRMAN PATTON: Dale Peterson.
 8 MR. PETERSON: They have been addressed. Thank you.
 9 CHAIRMAN PATTON: Clark Wetstone. Stephen Giodano.
 10 Martin Oakes. You signed up. Thank you for not talking.
 11 Loy Dellinger.
 12 MR. OAKES: Do you look at the bottom of the page
 13 all the time?
 14 CHAIRMAN PATTON: Loy Dellinger.
 15 ***
 16 LOY DELLINGER, having first been duly sworn, testified as
 17 follows:
 18 My name is Loy Dellinger. I live off of Burton Lane
 19 on Dellinger Road. I have been a resident there since the
 20 place in 1968. I have been a real estate broker since 1977.
 21 I would like to thank all the commissioners and the
 22 planning board for giving me an opportunity to speak. I
 23 would like to speak about probably the most important thing,
 24 which, I think, is water.
 25 The Catawba River is the most electrified river in

Page 167

1 the world. Every drop of that water is precious to us.
 2 It's our lifeblood. Every drop of water we waste, it goes
 3 down the river. The nuclear plants waste two-thirds of the
 4 water. We have more hydro plants, than any river, in the
 5 water.
 6 It's like when I go out with my brother and them on
 7 a commercial fishing boat and we carry 12 tons of ice.
 8 Every nugget is precious. Every nugget of that water is
 9 precious.
 10 If we can save any of that water by generating some
 11 solar power, then God be for us. We need to be better
 12 stewards of this earth. You folks came down here because
 13 you said you love this lake. Well, if you love it, you need
 14 to take better care of it.
 15 How many people around here remember the
 16 Riverkeeper? How many of you-all are members of the
 17 Riverkeeper? We've got a couple up here. You know about
 18 the Riverkeeper? I am a member of the Riverkeeper. I'm a
 19 member of the American Rivers. I'm a member of the Sierra
 20 Club. I'm a member of Save the Whales, Save the Snails and
 21 about all of them. I'm a tree hugger. Yeah, I am. And I'm
 22 proud of it.
 23 I'm not proud of people being selfish. And it seems
 24 like there's a lot of selfishness going around here. Other
 25 people have rights. You-all go up and down that road on

Page 168

1 Webb's Chapel Road for 30 years. Gary and them has been
 2 farming for generations. I'm not kin to Gary. We're
 3 friends, but we're political. We're not allies, but we're
 4 buddies. I can say that.
 5 I mean, what have you been blindsided by the power
 6 lines? What about the big old power line? Are you going to
 7 tell Duke Power to tear them down? You don't want to look
 8 at them? I don't want to look at them. You don't want to
 9 look at them sewer plant? Tear that then. Make sure you
 10 are going into the little Saliview Community down there, you
 11 know.
 12 Gary is not going to put any more cows there. He
 13 has done told me that. And you keep talking. Some guy out
 14 here is wanting to tell him to put residential houses in
 15 there. That's the best idea. Oh, yeah, residential. Get
 16 some more houses. That's all we need. We need some more
 17 cars. We need some more infrastructure. The sewer plants
 18 can't handle it now. Ride by them on your bicycle. I do.
 19 What do they smell like?
 20 You better learn to take care of this river. How
 21 many of you people got the weeding boy or whatever coming by
 22 there? You spread these poisons on your lawns. Where do
 23 you think it's going? It's going in your water supply.
 24 I was born and raised on that lake. I used to catch
 25 25-pound stripers. Do you know what you catch now? You

Page 169

1 catch white perch, and you catch catfish because that's all
 2 that's live there. We've got some spotted bass. They're
 3 trying to breed bass to live in there. But we just throw
 4 them in the lake. You-all are destroying the very thing
 5 that you say here you're trying to protect.
 6 All you're trying to protect is your little old
 7 investment out there, your greedy part, your greed. I've
 8 never seen such greed in my life. You ought to be ashamed.
 9 Having these appraiser in, we did have one MAI. Thank God.
 10 And where does the 20-percent pie-in-the-sky
 11 reduction of your value come from? Who pulled that out of
 12 the pie? Where did that come from? The place hasn't even
 13 been built. I can't believe it. I mean you sit up here and
 14 you sent posters out in my mailbox, alert, alert, alert.
 15 Big chain link fence look like Stalag 13.
 16 VOICE: Yeah.
 17 MR. DELLINGER: That's not what it looks like. Do
 18 you know there gentleman are going to put \$350,000 worth of
 19 landscaping up there? So you got to go by there. So you're
 20 going to develop solar power like Superman? Are you going
 21 to be able to see through the fence? Are you going to be
 22 able to see through the trees and the bushes?
 23 Wow. Even one of our commissioners said, What am I
 24 going to be seeing when I'm going down the road? Well, I
 25 hope you're looking at the road. It would be the safest

Page 170

Page 171

1 thing to look at the road.
 2 And I'm going to tell you what, you talk about all
 3 this should be residential. Well, I'm going to tell you
 4 what, it ain't residential. And we have our county planner
 5 over here. It's agricultural. And they have been doing it
 6 forever. And he can put 300 pigs on there. And if it was
 7 me--yeah.
 8 (There was audience applause.)
 9 MR. DELLINGER: He can put 300 pigs on there,
 10 free-range pigs. You like to go buy a free-range chicken
 11 egg. Well, you are going to get free-range pigs, buddy.
 12 How about that?
 13 (There was audience applause.)
 14 MR. DELLINGER: Right on. Get you some free-range
 15 pigs, and maybe he'll put some free-range chickens on top of
 16 them. I mean have a bunch of them. You talk about, oh, my
 17 house is right there beside it. Oh, it's going to be
 18 30 feet from my swimming pool. Well, how about 300 pigs
 19 starting to coming to your swimming pool? Hope they don't
 20 go under the fence. You know pigs can root under fences.
 21 You better think about that.
 22 I'm just saying there's two sides to every story.
 23 We all are stewards of this earth. And I don't think a
 24 little solar thing is going to hurt nobody. It's going to
 25 be hidden. Gary is not going to put any. He's not going to

1 put any cows out there, you can tell where I see. Oh, you
 2 can come to my place. You see cows, and they will be going
 3 into the neighborhood.
 4 You talk about lights. This guys is wanting to put
 5 lights out there, I mean no lights.
 6 Well, I want to tear them down in Sailview. I don't
 7 like them lights riding my bicycle through there at night.
 8 How about eliminating them?
 9 There's two sides to every story. And I don't want
 10 you thinking you can just go in there and tell Gary and them
 11 what to do, you know.
 12 I mean solar power is renewable, and it's the only
 13 one we got. Duke Power don't want to put them out in the
 14 country. I done had another farmer called and talked to
 15 them about it. They want it visible. They want to show
 16 that they're getting their percentage of electricity in
 17 renewable source the way they're supposed to. They want you
 18 to see it. But you-all don't want to see it, and you ain't
 19 going to see it.
 20 And I don't know what the big fuss is over. I mean
 21 why can't you let it be? And that's all I have to say. Let
 22 it be.
 23 (There was applause.)
 24 CHAIRMAN PATTON: Thank you, sir. Scott Dykes.
 25 Let's see. Shannon Landrum. Julie Wyatt. Walter Strader.

Page 172

Page 173

1 Damon Bidentope.
 2 MR. BURCHETTE: Damon is here on rebuttal.
 3 CHAIRMAN PATTON: I'm sorry. Okay. Let me go
 4 through these other ones first, and then we'll get back.
 5 Charles Bolen.
 6 MR. BOLEN: Bolen.
 7 CHAIRMAN PATTON: Sorry.
 8 * * *
 9 CHARLES BOLEN, having first been duly sworn, testified as
 10 follows:
 11 Good evening. I'm Charles Bolen. I live at 4325
 12 Artesian Cove, Denver, North Carolina. I am in the Sailview
 13 Community. I'm here. Mr. Klein asked if there was a
 14 representative from the Sailview HOA. And I wanted to be
 15 sure that we submitted our statement. I will give it to the
 16 clerk.
 17 I won't bore you by reading it although that was my
 18 intention. All of our points have been covered. Walter
 19 Strader, our president, could not make it this evening. You
 20 just read his name a minute ago.
 21 We talked about, in our statement, the fact that we
 22 don't believe that the solar farm is harmonious with the
 23 Sailview Community and the residential community in which it
 24 is planned.
 25 We also talk about the berm that we have around the

1 Sailview Community. The berm was just mentioned by
 2 Mr. Bonner. The berm is eight feet high, and it extends
 3 about 40 feet in depth. And we would-- If the solar farm
 4 is approved, we would expect a similar berm could be
 5 established so that it would be harmonious with the Sailview
 6 berm.
 7 But we also talk about our architectural--our
 8 covenants and restrictions and the architectural
 9 requirements of people in our community. And we would think
 10 if the solar farm would be harmonious, it would be similar
 11 to the restrictions that are put upon our residents, which
 12 are to have fences that are attractive, that are not topped
 13 with barbed wire and that are not visible because they're
 14 behind the berm. They're not visible from either side of
 15 the berm.
 16 In summary, the Board of the Sailview Owners
 17 Association respectfully request that you deny this special
 18 use permit for the solar farm to avoid what amounts to
 19 visual pollution at the curb of our community. Thank you
 20 for your kind attention.
 21 (There was audience applause.)
 22 CHAIRMAN PATTON: Thank you. Anthony Schiano.
 23 Richard Wilson.
 24
 25

Page 174

Page 175

1 RICHARD E. WILSON, having first been duly sworn, testified
2 as follows:

3 I'm not drinking. I'm visually impaired. My name
4 is Richard E. Wilson. I'm a retired colonel of the United
5 States Army, 32 years.

6 My wife and I, who is a retired teacher, that owns
7 the private investigative company that I once owned, but
8 since I went blind, I can't watch you anymore.

9 There's not much I can say. We spent over half a
10 million dollars six years ago, basically our life savings,
11 to retire there, to leave it for my daughter, her husband
12 and my granddaughter. So it's tough listening to what's
13 happening to that community.

14 And anything else I have to say, the gentleman that
15 said that pigs might get in my pool. Well, I don't have a
16 pool. But if I do, I will have a lot in my freezer. Thank
17 you.

18 CHAIRMAN PATTON: Thank you for your service.
19 (There was audience applause.)

20 CHAIRMAN PATTON: Baleka Williams. Walter Fields.

21 WALTER FIELDS, having first been duly sworn, testified as
22 follows:

23 Mr. Chairman, members of the county commission and

1 madam chairman and members of the planning board, my name is
2 Walter Fields. I live at 4667 Webbs Chapel Road in Denver,
3 North Carolina, in the Ashley Cove Subdivision.

4 I'm a city planner. I've been a city planner for 41
5 years. I outrank Jack just a little bit on that. That just
6 means I'm older, not necessarily better. I worked for 25
7 years in local governments in North Carolina and Virginia.
8 I've done comprehensive plans, area plans, written zoning
9 ordinances, processed probably over 2,000 rezoning cases
10 special use, Conditional Use Permits, Board of Adjustment
11 Variances and so on and so forth.

12 In the 16 years since I left public service, I have
13 been working as a planning consultant, including doing work
14 for Lincoln County with the 1999/2000 Comprehensive Plan,
15 Gaston County, and several other places around. I have
16 written ordinances for Concord and Tega Cay; North
17 Charleston, South Carolina; and numerous communities.

18 I have delivered expert testimony in a number of
19 lawsuits. I'm a member of the American Institute of
20 Certified Planners, a full member of the Urban Land
21 Institute, and hold a North Carolina State Real Estate
22 broker's license.

23 I would tender myself to you as an expert in matters
24 of planning, zoning and land development unless there's any
25 objection.

Page 176

Page 177

1 I'm not here tonight to speak against this
2 particular proposal. I don't come at it from a negative
3 standpoint. I am a resident in the community. I drive down
4 Webbs Road every day to get to Burton to get to Webbs Chapel
5 to get home and get to the lake.

6 I moved to Lincoln County shortly after I worked on
7 the comprehensive plan up here a little over a decade ago
8 because I thought it was the best kept secret in the region
9 in terms of quality of life and a place to live. So my wife
10 and I moved up here.

11 And we have talked about this development. And I'm
12 here tonight speaking on my behalf and her behalf. I'm also
13 on the board in Ashley Cove. And our board has talked about
14 this proposal. And we concluded that we would not take a
15 position as a neighborhood organization but encouraged our
16 residents, if they wanted to participate, to please do so.

17 Before I came here tonight, I had researched the
18 ordinance that has been so oft quoted and misquoted and
19 cursed and discussed tonight.

20 I have researched Strata Solar. I've looked at
21 their website. I have done some research on your
22 corporation. I've looked at the materials on their website
23 about their other locations that are on that site.

24 I reviewed the application, which seems to be
25 changing all the time. I wasn't aware that there was going

1 to be a submission tonight in terms of a landscape buffer,
2 but I'm certainly glad to see it.

3 I've spoken to Mr. Williams on two occasions and
4 talked directly with him about my concerns in terms of
5 information on the application, lack of adequate screening
6 and so on and so forth.

7 I've spoken on many occasions to Randy Hawkins to
8 try to get updated.

9 I have spoken with George Arena and met with him and
10 his group on two or three, maybe, occasions.

11 I've attended the Strata community meeting and
12 listened to the presentation there. And I have watched the
13 video of the September public hearing. And one thing I
14 wanted to comment on with Mr. Mitchem asking a question
15 about what can go there with the existing zoning. And
16 that's one of those questions as a planner that I always ask
17 because if you don't own the land, then you better be sure
18 what can happen with it. So I thought that was a great
19 question. And it is something that my wife and I talked
20 about because we sort of like the idea of having some
21 certainty in our lives as we boom on up through our baby
22 boomer years.

23 So in terms of all this information that I put
24 together in looking at from a planning standpoint, I've got
25 several observations I would like to share with you. You've

Page 178

Page 179

1 heard a lot testimony tonight. A lot of it is relevant to
2 the findings of fact and the ordinance. I don't envy you
3 the choice of sorting out the relevance from those that are
4 not so relevant.

5 But, in my opinion, this application, as it's filed,
6 really can't be approved. There are just too many questions
7 with the site plan. There's too many issues that I think
8 are unanswered. I'm going to just touch on a few of those
9 if you will allow me.

10 The application says it applies to three parcels.
11 And yet no site plan that I've seen ever actually includes
12 all three of those parcels. We see a plan that shows us a
13 portion of those three parcels. It looks like there's going
14 to be some activity on some of that land. But we don't have
15 a clue what's going to happen to the rest of it.

16 And that was one of the questions that I put to
17 Randy early in the process because it jumped out at me as
18 being a major deficiency in what was being submitted and
19 what the community was reviewing. To this very day I don't
20 see that the application has provided any more information
21 on that point.

22 There is some contradictory information on the
23 application and what I've seen at the community meeting and
24 what I have read in the affidavits from Strata Solar and
25 what I heard in the community meeting in terms of height.

1 If I was administering this site plan once it was
2 approved, I wouldn't allow anything over eight feet in
3 height because that's what that site plan says as a height
4 limit.

5 But I've heard testimony and seen written affidavits
6 that say ten feet in height. And there still seems to be an
7 unanswered question about whether there are going to be
8 utility poles or other features beyond that.

9 That plan says nothing will be over eight feet tall.
10 If there is something that's going to be over eight feet
11 tall, as the applicant has suggested, then I think that plan
12 somehow needs to deal with that so Mr. Hawkins and the
13 planning staff later on know what to administer.

14 I don't see any sort of buffer on this plan. We've
15 heard a lot of conversation tonight about the findings of
16 fact and one dealing with—the Number 4 dealing with a
17 harmonious relationship. There's nothing about this which
18 is remotely adequate to address any sort of harmonious
19 relationship, notwithstanding the comments that you've heard
20 from other folks. And as I said, there's nothing in there
21 that talks about poles or wires or anything else.

22 There is no information on the site plan or any
23 testimony from Strata Solar and their witnesses during the
24 September hearing about what happens to these staging areas
25 after the construction is done. They appear to be on the

Page 180

Page 181

1 outside of the area defined as a buffer. But it doesn't say
2 anywhere on the plan nor does the ordinance provide any
3 guidance in terms of how those areas have to be revegetated
4 or replanted or stabilized or whatever.

5 It also occurs to me that those staging areas are
6 part of the operation. And I find it curious that the
7 buffers that are proposed, minimal as they are, do not
8 include the staging areas. It would seem logical, that
9 since that's part of the development, the buffers would be
10 on the outside of the staging areas and they would be
11 included as well, and even down on Burton Lane next to the
12 single family home that's been discussed here tonight.

13 So by normal metrics from a land-use standpoint, I
14 think Strata has a point. There's no noise. There's no
15 traffic. There's no impact on schools. There's no smoke.
16 There's—the sorts of things that we typically deal with in
17 an ordinance that we typically regulate through a
18 conditional use process, where it is very site specific,
19 simply don't exist here.

20 So we're sort of in a new area, as has been pointed
21 out, and I think that is a challenge to the board in terms
22 of how to findings of fact are met.

23 And the only one that I want to talk about is the
24 one dealing with harmony and the general conformity with the
25 plan. And I will tell you, I'm not going to talk about

1 general conformity with the plan.

2 No Land Use Plan that I'm aware of tries to
3 contemplate in advance every location for a facility like
4 this or a power substation or a sewer pump station. They
5 sort of have to go where they have to go.

6 This facility likes this site because its south
7 facing this open land and they can operate without being
8 shaded. That makes perfectly good sense to me. There are
9 places all over the county that probably fit that same
10 thing. So in terms of what's harmonious, what's left to
11 deal with?

12 I would suggest to you that what's missing from this
13 plan and what has been missing from the beginning is any
14 sort of a serious commitment to the edges, to the portions
15 of the plan that the community will see and interact with.

16 There was a very comprehensive list read just a few
17 moments ago about some conditions that might be added. And
18 that's really what I want to talk about is the ordinance
19 specifically provides that the Board of Commissioners can
20 add reasonable conditions to the approval of a conditional
21 or special use permit.

22 And one of the specific things listed there are
23 buffers. In my conversations with the Strata folks, I have
24 raised the issue of buffers in every conversation that I
25 have had. And I have checked with Randy from time to time

Page 182

Page 183

1 to see if anything has been submitted. And he has told me
2 that nothing was submitted.

3 So I retain the services of a landscape architect.
4 And she is familiar with the site as she has been to my
5 house on many occasions. And I gave her some instructions.
6 And I said, I need to propose something that the Board of
7 Commissioners could consider if all the other findings are
8 met that can be added to this site plan to deal with this
9 question of buffering.

10 And so the instructions I gave to her were that the
11 buffer had to be evergreen. They had to use native species,
12 species that had shapes that wouldn't require a lot of
13 maintenance so they basically go in and they don't change
14 their shape beyond that, that they are evergreen, that they
15 are drought tolerant and that they are something that is
16 easily acquirable from nursery stock in the surrounding
17 area.

18 What I would like to do at this point is to hand
19 these out to you just for the record. And I'll pass them to
20 the Planning Board and the Board of Commissioners and to the
21 other parties with your permission, Mr. Chairman.

22 If in fact you conclude, after sorting through all
23 of the testimony that you've heard in this lengthy hearing
24 from September through tonight, that the findings of fact
25 for this proposal have been met, I would encourage you to

1 consider establishing a condition that would be applied to
2 the site as a condition of approval that would create a
3 buffer of the sort that's listed here.

4 This is a little bit wider than the area that Strata
5 has shown on their plan. I have seen their buffer plan
6 tonight only for just a few seconds, and so it's difficult
7 to compare. But it's my opinion that this is a buffer which
8 will significantly screen this development and will create a
9 corridor along Webbs Road and along Burton Lane and
10 effectively screen the view of these things from surrounding
11 properties.

12 Can you hide them completely? It's not possible.
13 The land isn't flat. Will this go a long way towards
14 minimizing the impacts that folks have talked about here
15 tonight? I believe that they will.

16 So in conclusion let me just again offer for your
17 consideration that if these findings are met and assuming
18 all of the other deficiencies in the application can be
19 addressed to your satisfaction, I would ask you to consider
20 including this cross section for a buffer to be installed
21 prior to the installation of the solar facilities and
22 including the staging areas so they are inside the buffer
23 and not outside the buffer. In my opinion, that would make
24 a huge difference.

25 CHAIRMAN PATTON: Any questions for Mr. Fields?

Page 184

Page 185

1 Thank you.

2 MR. FIELDS: Thank you very much.

3 MR. BURCHETTE: I have a few.

4 EXAMINATION

5 BY MR. BURCHETTE:

6 Q. Walter, you and I have worked together on some other
7 projects in the past. It is good to see you again. You
8 attended the meeting that I referenced.

9 You weren't here for my opening, were you?

10 A. No, sir, I missed that. I'm sorry.

11 Q. There was a meeting that took place with the
12 residents, and you were at that meeting, as was Susanne,
13 Ms. Todd.

14 A. Yes.

15 Q. And you've worked with Susanne before as well.

16 Susanne had asked you about at that time as to whether or
17 not you had some thoughts on the plan, right?

18 A. She did.

19 Q. In fact she even followed up with an e-mail to you
20 on October 12th soliciting whether or not you had some
21 ideas, right?

22 A. She did indeed.

23 Q. The reason I ask that is because we've worked
24 together before. And I think that you would agree that our
25 firm works and tries to be collaborative with the people

1 we're developing property with.

2 The question I have for you right now is in
3 evaluating putting a buffer around. I don't think I've ever
4 had a project in which construction had to take place that
5 they to put a buffer around.

6 I'm assuming in your plan there would be a way to
7 actually build it and get through the buffer that you plan?

8 A. Well, neither one of us have ever done a solar farm
9 either before, I don't imagine. Perhaps you did. You
10 represent some others.

11 Q. Walter, I have actually done a solar farm.

12 A. I think it's quite easy to establish the buffer in
13 advance because, based on my understanding of how the site
14 is laid out, behind the buffer is your security fence and
15 behind your security fence is where the construction occurs.
16 So putting the buffer in ahead of time doesn't seem to me to
17 be an undue hardship if in fact that goes towards creating a
18 more harmonious relationship with the surrounding property
19 owners.

20 Q. I hear your point with that. But if it did affect
21 construction erecting the buffer partially and then leaving
22 an area so that you could complete the project would be one
23 approach, right?

24 A. That could be an approach. I would argue in that
25 approach that you would install the buffer in the most

Page 186

Page 187

1 sensitive areas first and leave the areas that could most
 2 stand the disruption and have the last part go in once the
 3 final construction is complete.
 4 MR. BURCHETTE: I understand your position. I
 5 appreciate that. Thank you.
 6 MR. FIELDS: Thank you.
 7 CHAIRMAN PATTON: Any other questions? Thank you,
 8 Mr. Fields.
 9 MR. FIELDS: Thank you very much.
 10 CHAIRMAN PATTON: Before I allow the applicants'
 11 final comments, is there anyone else who wishes to address
 12 the board on this matter?
 13 MR. SCARBROUGH: Mr. Chairman, we had testimony
 14 about the draft of the renewable energy addendum to the
 15 Lincoln County UDO. And we neglected to put a copy of that
 16 in the record. And we would just like to put a copy of that
 17 in the record. I got this today from Randy Hawkins. We
 18 didn't have it before today. And I have given one to the
 19 Strata people.
 20 CHAIRMAN PATTON: All right. Have you been sworn
 21 in?
 22 MR. HARRIS: I have. You skipped my name. It's
 23 D. C. Harris.
 24 CHAIRMAN PATTON: I apologize for that. What's your
 25 name?

1 MR. HARRIS: My name is D. Harris.
 2 CHAIRMAN PATTON: D. Harris.
 3 * * *
 4 B. C. HARRIS, having first been duly sworn, testified as
 5 follows:
 6 MR. HARRIS: I live at 4611 Sierra Road View Drive
 7 in Sailview.
 8 CHAIRMAN PATTON: Okay. Go ahead.
 9 MR. HARRIS: We have lived there for about ten years
 10 or so. We lived in Virginia. I am an engineer, graduate
 11 engineer. I held a PE license, certified PE at one time,
 12 worked for DuPont for 35 years.
 13 I also was on the planning commission in Waynesboro,
 14 Virginia. I'm not being paid for anything I'm saying, so
 15 none of that really applies. But I thought maybe I better
 16 tell you.
 17 I came looking for a house around the lake. I
 18 looked at the school systems and this sort of stuff. I'm
 19 long past that, but certainly I want to be able to sell my
 20 house for somebody that might have kids. So I entertained
 21 that in looking at it.
 22 I could not find a house. And we then decided to
 23 build one. My brother is an architect, so I always wanted a
 24 house he designed anyway. So I wound up in Sailview. And
 25 we went into the Sailview and said, we're interested in this

Page 188

Page 189

1 lot.
 2 The ladies got all excited and brought out papers to
 3 sign and everything else. They told me how much the lot
 4 was.
 5 And I told them, no, no, this is not the lot. The
 6 lot we're talking about doesn't have a house on it. And
 7 they said that one doesn't have a house on it.
 8 So with that understanding of values, you can see
 9 how that would impact my finances to try to build a house on
 10 a lot that I thought was expensive enough to include the
 11 house.
 12 So while I was trying to recover from that, I got a
 13 copy of the covenants for Sailview and took them home with
 14 me, that thick, 8 and a half by 11, and studied it.
 15 And I convinced myself that I don't particularly
 16 like all the things that are in there, but by golly where I
 17 invest my money, a good part of my savings and everything
 18 else, it's protected by knowing what the house next-door is
 19 going to be, by knowing what the surrounding area is going
 20 to be.
 21 I looked into finding that this area was zoned
 22 single family homes. So it looked like I had quite a bit of
 23 protection and it was a good place to build my house. The
 24 money that I put in my house might be trivial to some. It
 25 is certainly not to me. And to know that it's--I don't care

1 whether you say 5 percent or 30 percent, that's huge for us,
 2 and I think for a lot of people.
 3 I don't see how in the world you can consider
 4 approving something like this. A major part of the project,
 5 when I first heard about it back on September 9th, I
 6 believe, they were describing what was a very poor attempt
 7 at screening it and what they were going to do to break up
 8 the sight of this.
 9 That's exactly what it is. That's exactly what it
 10 is: Chain link fence with barbed wire on the top of it.
 11 You saw those pictures passed around. Part of them I took.
 12 So it's really disturbing to think that something like that
 13 can come in and just ruin people like me because of the
 14 amount of money that it will cost me.
 15 Mr. Mitchem, and this sort of stuff, might not be
 16 worried about something like that, but I am. And I'm really
 17 glad to hear the Dellingers are so green oriented. I
 18 couldn't figure out what they were going to do with that
 19 land if solar doesn't go on it. I believe I know now.
 20 They're going to probably put a public park in there. And
 21 I'm going to thank them for that.
 22 But please, please, don't consider putting a solar
 23 farm right there in Sailview. Thank you.
 24 (There was audience applause.)
 25 CHAIRMAN PATTON: Thank you. Anyone else? All

Page 190

1 right. I'll turn it over to the applicant for final
2 comment.
3 MR. BURCHETTE: We actually have some rebuttal. Are
4 you ready to hear that?
5 CHAIRMAN PATTON: I can't hear you.
6 MR. BURCHETTE: We've got a little bit of rebuttal.
7 CHAIRMAN PATTON: That's fine. You're up.
8 MR. BURCHETTE: Brent. I forgot Mr. Campbell, the
9 guy who was the electric equipment salesman, had mentioned
10 some things about the plan. And I don't know where Brent
11 is. Get up here. Yeah. You've already been sworn, I
12 believe.
13 * * *
14 BRENT NIEMANN, having first been duly sworn, testified as
15 follows during EXAMINATION by MR. BURCHETTE:
16 Q. Brent, there was some discussion about how the plan
17 addressed handling cables, whether they were up overhead or
18 underground.
19 A. Yes. The northern part of the facility is all
20 underground. It is going to be a proposed directional bore
21 under the road.
22 Once we get under the road, then we have our
23 overhead lines on the northern part of the property, as
24 indicated on the site plan here. And the connection point
25 is on the eastern side near Burton Lane.

Page 192

1 A. Single line diagrams and that such.
2 MR. BURCHETTE: Do you have any questions?
3 CHAIRMAN PATTON: Any questions? Mr. Johnson.
4 MR. JOHNSON: Where is the current connection point?
5 MR. NIEMANN: The interconnection point?
6 MR. JOHNSON: Yes, sir.
7 MR. NIEMANN: What typically happens--and this is an
8 on-site meeting with the utilities specifically--but
9 typically there's an existing pole that is selected. The
10 utility will then construct three to four overhead poles for
11 their meter and equipment reclosers.
12 MR. JOHNSON: Since both utilities are there, is
13 this being sold to Duke, Duke Energy, whatever it is now?
14 MR. NIEMANN: We are connecting with Duke, yes.
15 MR. JOHNSON: And did you just say that the
16 interconnection point is on Burton Lane?
17 MR. NIEMANN: It's on Burton, yes. It's just south
18 of Mr. Dellinger's house.
19 MR. JOHNSON: Why could it not be west of
20 Mr. Dellinger's house?
21 MR. NIEMANN: You're saying the lines on Webbs Road?
22 MR. JOHNSON: On Webbs Road.
23 MR. NIEMANN: Those are Energy United lines.
24 MR. JOHNSON: I'm sorry?
25 MR. NIEMANN: Those are Energy United lines.

Page 191

1 We have to bore under the road because of the
2 existing overhead lines along Webbs Road that are already in
3 place that are similar in height or taller than the
4 structures that we will be constructing.
5 Q. Okay. Those are existing lines on Webbs Road?
6 A. Yes, there's also existing lines on both sides of
7 Burton Lane, south of Webbs and north of Webbs from two
8 different utilities, Energy United and Duke.
9 Q. You are a professional engineer?
10 A. Yes, sir.
11 Q. Have you designed these before?
12 A. About 80.
13 Q. Eighty of them. The next question for you: Your
14 design, were you involved in the design of the landscaping
15 around?
16 A. Yes, I was.
17 Q. Are you licensed to do that because the statute or
18 the ordinance they were talking about said "or other
19 licensed professional."
20 A. That is generally accepted by planning departments.
21 Q. There are other documents that you actually have to
22 file, electrical drawings, other documents. Have you filed
23 any of those with the county?
24 A. We have for the public necessity letter.
25 Q. Okay.

Page 193

1 MR. JOHNSON: So Duke Power is on the north side of
2 Webbs Road?
3 MR. NIEMANN: Duke Power is on Burton Lane.
4 MR. JOHNSON: Not on Webbs Road at all?
5 MR. NIEMANN: That's correct. That's my
6 understanding.
7 MR. JOHNSON: And the interconnection point would be
8 three more utility poles?
9 MR. NIEMANN: They construct three poles at a
10 minimum.
11 MR. JOHNSON: Would they have to be larger or higher
12 than the existing poles?
13 MR. NIEMANN: No, sir.
14 CONTINUED EXAMINATION
15 BY MR. BURCHETTE:
16 Q. I could give the commissioners--we have some
17 profiles?
18 A. Cross sections, yes, sir.
19 Q. You are going to need to point these out because one
20 of the questions that was asked was what you would see from
21 the road.
22 Would you do that? Let me make sure we've got
23 those. Do you have those available on a slide?
24 MR. BURCHETTE: You might want to just pass these,
25 share a couple of those.

Page 194

Page 195

1 Q. (By Mr. Burchette) Do you want to explain those
2 drawings, please.
3 A. Certainly. Do you have those available on the
4 slide?
5 VOICE: We can put them up on a slide.
6 MR. BURCHETTE: In fact you can probably-- It might
7 be easier just to turn around to Commissioner Klein and look
8 at what we have back here.
9 Q. (By Mr. Burchette) What have you got? What are you
10 depicting on these plan sheets?
11 A. These are cross sections cut through the site. As
12 you sit in your car on Webbs Road, the first three are
13 looking northward. These are drawn to scale so everything
14 you see is accurately scaled. And this is based on
15 field-run topography.
16 Q. Okay. So having the buffer, the screen, the plant
17 screens, can you see, riding in a car, can you see the solar
18 panels?
19 A. Not from your line of sight looking in this
20 direction from your car. The line of sight that you see is
21 projected. Obviously we have an eight-foot-opaque fence.
22 You can't see through that.
23 The buffer plants in front are depicted at a
24 conservative mature height, that the first cross section of
25 those are hollies, specifically yaupon hollies. They can

1 grow anywhere from 12 to 25 feet tall. These are depicted
2 at about 15 feet tall. So the line of sight takes your eye
3 over the top of the tree. And as you can see, the panels
4 are below, which our line of sight would be.
5 Q. Do you have the next slide, next, please. C-5, have
6 you got that?
7 A. These three are looking southward, sitting in Webbs
8 Road.
9 Q. And with the buffer in there, can you see the panels
10 as you are seated in your car?
11 A. No, sir. In general, the south side of the property
12 is below the road so that the lines of sight are even higher
13 above the panels.
14 The other vegetation that we have represented here
15 is a variegated Chinese privet, which has a mature height of
16 10 to 12 feet, and also a Burgandy Laurel Pedlum, which has
17 a mature height of eight to twelve feet. These are depicted
18 at approximately ten feet tall.
19 VOICE: How long does it take to get to mature
20 height?
21 MR. NIEMANN: Mature. We're planting four foot at
22 the time of planting. Its mature height, I would say,
23 depending on rainfall and fertilizer, I would say three to
24 five years.
25 VOICE: Five years to see the standard height from

Page 196

Page 197

1 what you are saying?
2 CHAIRMAN PATTON: Don't answer. Okay. Sorry, sir.
3 You are not sworn to speak.
4 VOICE: You got to ask the right questions.
5 Q. (By Mr. Burchette) Brent, did you hear his
6 question?
7 A. I'm sorry?
8 Q. Did you hear his question?
9 A. I heard the first one, yes.
10 Q. Did you answer?
11 A. I did.
12 Q. Okay. When you prepared this landscape buffer, did
13 you make sure that it complied with the R-SF ordinance?
14 A. This would be above and beyond what was required.
15 We submitted a previous plan that was less material than
16 that this.
17 VOICE: So you are modifying a plan for another
18 proposal?
19 CHAIRMAN PATTON: Do you have any other questions?
20 MR. BURCHETTE: Brent? That's all we have.
21 CHAIRMAN PATTON: Is there anything else?
22 MR. SCARBROUGH: I might have some questions,
23 Mr. Chairman.
24 MR. JOHNSON: On your drawing C-1, you have a
25 proposed overhead medium voltage line after the bore?

1 MR. NIEMANN: Yes, sir.
2 MR. JOHNSON: What's the height?
3 MR. NIEMANN: Those are about 30 feet.
4 MR. JOHNSON: How many?
5 MR. NIEMANN: Thirty.
6 MR. JOHNSON: So would that be installing additional
7 poles?
8 MR. NIEMANN: Those are additional poles as
9 proposed, yes. They are very similar, actually probably
10 slightly smaller than the existing ones.
11 MR. JOHNSON: Well, what's the difficulty of putting
12 that cable underground to the interconnection point? Is it
13 just a cost matter?
14 MR. NIEMANN: It's a cost. It is also a maintenance
15 scenario for us. I would have to consult specifically with
16 our electrical designers on that to give you the specifics.
17 MR. JOHNSON: It seems that it could be put
18 underground.
19 MR. NIEMANN: It's possible.
20 MR. JOHNSON: You haven't done any studies whether
21 or not you would have problems with rocks or anything else?
22 MR. NIEMANN: With rocks?
23 MR. JOHNSON: Stone, rock, boulders.
24 MR. NIEMANN: Rocks. I don't think our rock
25 manufacturer has been on site yet for that testing. In

Page 198

1 general we're embedding a depth on a post as four to eight
 2 feet down, soil conditions. But, no, we have got done that
 3 yet.
 4 MR. JOHNSON: Thank you.
 5 MR. ARENA: We have a couple of questions.
 6 CHAIRMAN PATTON: Come to the microphone.
 7 MR. NIEMANN: We could share. It doesn't work.
 8 MR. ARENA: How often? I've got Laurel Pedlums at
 9 my house. How often are you planning to maintain and trim
 10 Laurel Pedlums in this environment?
 11 MR. NIEMANN: I would have to defer to our
 12 maintenance folks on that question. I would say at least
 13 twice a year has been my experience.
 14 MR. ARENA: Okay. They would be pretty overgrown. I
 15 think in Sailview We trim them at least four times a year.
 16 They're very fast growing.
 17 The other question is, so you submitted this new
 18 plan into evidence at this point.
 19 MR. NIEMANN: Is that correct?
 20 MR. BURCHETTE: Yes.
 21 MR. ARENA: Okay. Does it take into account the
 22 southern section of the road where it goes down, as you
 23 mentioned, below grade, and then far away it rises
 24 abovegrade? It doesn't seem like on your site drawings that
 25 are attached to this plan you've shown the far effects of

Page 199

1 the field from Webbs Road.
 2 MR. NIEMANN: We showed the highest point on the
 3 site relative to the road.
 4 MR. ARENA: And where is that? If I'm riding up
 5 Webbs Road, I'm looking south. Where is that highest point
 6 on this plan?
 7 MR. NIEMANN: Of which cross section?
 8 MR. ARENA: That's what I'm asking you. Which cross
 9 section depicts the highest point on the south side of Webbs
 10 as you're looking southeast?
 11 MR. NIEMANN: On the south side of Webbs?
 12 MR. ARENA: You're driving up Webbs Road. You've
 13 got a south side that drops and then rises.
 14 MR. NIEMANN: The south side drops and then rises.
 15 The south side just drops over here.
 16 MR. ARENA: Over here, right?
 17 MR. NIEMANN: This is the north.
 18 MR. ARENA: Over here.
 19 MR. NIEMANN: This drops.
 20 MR. ARENA: Over here drops, and then over here in
 21 this corner it starts to rise again if you look at your--
 22 MR. NIEMANN: It is the elevation on here.
 23 CHAIRMAN PATTON: All right. Any other questions?
 24 MR. ARENA: I'm just trying to get a particular--
 25 MR. NIEMANN: It's 20 feet below the road.

Page 200

1 MR. ARENA: The far rise of the hill is 20 feet
 2 below the road?
 3 MR. NIEMANN: Twenty feet.
 4 MR. ARENA: But you still see it because of the dip
 5 in the road?
 6 MR. NIEMANN: With the landscaping in front, if
 7 you'll go to C-5, your line of sight won't allow you to see
 8 it.
 9 MR. ARENA: Won't allow you to see the far corner.
 10 Okay. Thank you.
 11 CHAIRMAN PATTON: Any any other questions? Hearing
 12 none. Any other comments from the applicant? Do you have
 13 some more?
 14 MR. KIRKLAND: Good evening.
 15 * * *
 16 RICHARD KIRKLAND, having first been duly sworn, testified as
 17 follows during EXAMINATION by MS. TODD:
 18 Q. Have you been sworn in?
 19 A. Yes, I was sworn in previously.
 20 MR. BURCHETTE: Can I have the mic back. Thank you.
 21 Q. Richard--Rich, there was some testimony earlier with
 22 regards to your impartiality in giving your appraisal or
 23 creating appraisals that you have worked for Strata on
 24 several occasions and performed appraisal reports for Strata
 25 Solar.

Page 201

1 Could you talk about, is your appraisal that you
 2 have got there, is that certified?
 3 A. Again this is a certified report. This follows
 4 USPAP. This is a report that follows an appraisal
 5 consulting assignment.
 6 Q. All right. And part of your certification is that
 7 you acknowledge that you are impartial; is that correct?
 8 A. It is.
 9 Q. And are you advocating for Strata Solar when you
 10 perform these appraisal reports?
 11 A. No, I am not.
 12 Q. But you have done a lot of these appraisal reports,
 13 correct?
 14 A. Well, I would like to think that's because I'm
 15 taking care of my client, and when they ask me to do an
 16 assignment, I fulfill it. I show up. I'm on time. I do my
 17 work.
 18 I do a lot of work. I do a lot of churches. I
 19 appraise lots of churches because my clients know I appraise
 20 churches. And I go and look at them. They know if I look
 21 at those, I'm not going to show them any surprises are
 22 coming.
 23 Q. And you get called again and again. You also
 24 appraise medical buildings, correct?
 25 A. I appraise office medical. I do a lot of office

Page 202

Page 203

1 medical again because I have and serve clients that know
2 that this is something I know how to do and this is what I
3 do. And so I got that kind of assignmentment. It is just
4 repeat business.

5 Q. And at some point you developed certain expertise,
6 which is what folks who ask you to perform appraisals,
7 that's what they're looking for; is that correct?

8 A. Yes.

9 Q. So you've developed quite an expertise in evaluating
10 and reviewing solar farms; is that correct?

11 A. Yes.

12 Q. And your appraisal has a lot of detail in it; is
13 that right?

14 A. I've been told that maybe I'm putting too much data
15 crunch in there as it is, but it's how I'm wired.

16 Q. Okay. And in fact you have recently updated your
17 appraisal because you found a couple more matched pair
18 sales?

19 A. Yes, I have been monitoring the Spring Garden
20 Subdivision in Goldsboro.

21 Q. Would you tell us more about those.

22 A. Sure. Since I last was here, there has been three
23 new sales in Spring Garden. Two of those back up to the
24 solar farm. In total I found five sales in Spring Garden
25 since the announcement of the solar farm, three since the

1 solar farm opened for business.

2 Of those five, four of them back up to the solar
3 farm, and one does not. There's plenty of lots available
4 that back up to the solar farm. There's plenty of lots that
5 don't back up. There seems to be a preferential going for
6 that.

7 The prices being paid for are pretty much what the
8 builder is asking. That is how these things work. If you
9 can look on my original report, you can see that what the
10 builder is asking for on these homes. And that's they're
11 getting for all of them.

12 The two most recent sales, there's one in September
13 sold. It's a two-story building backs up to--or two-story
14 home backs up to the solar home and sold for \$250,000 or \$76
15 a square feet.

16 In October of 2013 actually a slightly larger home,
17 a two-story home, sold across the street for less money and
18 for less per square feet. I'm not attributed there being an
19 enhancement from the adjoining to the solar farm, but
20 clearly there's no sign of any negative impact when you look
21 at those two sales that are across the street from each
22 other that happened a month apart.

23 So again I think that just reaffirms what I'm saying
24 is that the only matched pairs that I found, the only
25 matched pairs that the other appraisers found--they didn't

Page 204

Page 205

1 find any matched pairs next to solar farms. These are the
2 only ones I've been able to look at.

3 I know I've looked at over 20 solar farms. I'm not
4 sure how many they said. But these are the matched pairs
5 that are available. There's not other ones to look at. And
6 this information shows no impact.

7 Q. And based on your analysis and your detailed
8 appraisal report and what you have reviewed in the market,
9 what is your opinion as to the impact of the solar-farm use
10 on adjacent or abutting property?

11 A. It's my professional opinion that this is going to
12 have no impact on the adjoining properties.

13 MS. TODD: I have no further questions.

14 CHAIRMAN PATTON: Any questions? Any members of the
15 Board of Commissioners or Planning Board?

16 VOICE: Mr. Kirkland, can you comment on the Clay
17 County data that was presented by the appellant?

18 MR. KIRKLAND: I can't really comment on it.
19 Assessors do what assessors do, assess value. It's a
20 different process than the appraisal process. I don't know
21 what basis they use for it. But in any kind of a
22 transaction you never use assessed values in an appraisal
23 process.

24 CHAIRMAN PATTON: Anything else?

25 MR. BURCHETTE: We have another witness Mr. Damon

1 Bidencoppe. That will take care of it.

2 MR. JOHNSON: I do have one question. Did you say
3 these three recent sales were where?

4 MR. KIRKLAND: These were the Spring Garden
5 Subdivision that's in Goldsboro.

6 MR. JOHNSON: And were these three sales of new
7 houses or existing houses?

8 MR. KIRKLAND: Brand-new houses.

9 CHAIRMAN PATTON: Okay. All right.

10 CHAIRMAN PATTON: Any other questions? Thank you,
11 sir. Yes, sir.

12 MR. SCARBROUGH: I have some questions,
13 Mr. Chairman.

14 CHAIRMAN PATTON: You need a microphone.

15 MR. SCARBROUGH: I need a microphone, yeah.

EXAMINATION

17 BY MR. SCARBROUGH:

18 Q. Mr. Kirkland, is it your testimony that the houses
19 in Spring Garden are comparable to the houses in Sailview?

20 A. It's my opinion that any measurable impact on an
21 owner-occupied home that I could locate in that position of
22 those homes would be translated.

23 When you look for any kind of impact, you're looking
24 at proximity damage or you're looking at damage of any
25 sort, you're always looking for a ratio. You're looking for

Page 206

1 a ratio of value that can then apply to other properties.
 2 And so if I'm finding zero percent, even looking at at
 3 higher-priced homes, I still take that same zero percent
 4 forward.
 5 Q. Do you believe the effect of a solar farm on a
 6 \$75,000 or \$150,000 home is the same then as the effect on a
 7 \$750,000 home?
 8 A. That's a really good question because I actually
 9 have a property. I appraise subdivisions. It's a big part
 10 of what I do.
 11 I just looked at some property in Chapel Hill on
 12 Pickards Meadow. There's a home there that's under contract
 13 for \$750,000. And it actually fronts, the driveway fronts
 14 into a solar farm. It's a much smaller solar farm. It's at
 15 Pickards Mountain Eco-Institute.
 16 But Pickards Meadow is a subdivision where they're
 17 selling lots for \$250,000 or \$350,000,
 18 multiple-million-dollar homes being built out there. And
 19 every one of those houses come in a driveway--or the
 20 subdivision--excuse me--that points right at the
 21 Eco-Institute.
 22 Q. Did you hear the testimony of Ms. McLean?
 23 A. I did.
 24 Q. And you still say the proposed solar farm has no
 25 effect on the adjoining properties?

Page 208

1 the solar farm being there was considered an enhancement to
 2 the people buying because they like--(audience
 3 laughed)--they like the fact that it's an environmental area
 4 and they like that aspect.
 5 Q. Do you think Ms. McLean likes the solar farm?
 6 A. Again she is an individual participant. And clearly
 7 some participants don't like this. But that's not what the
 8 market shows.
 9 Q. How many times have you testified for Strata?
 10 A. I'm not sure.
 11 Q. How many?
 12 A. Again I would say about eight times.
 13 Q. And of those times you were hired by Strata to do
 14 the same thing, not to do an appraisal, but to do a research
 15 study; is that right?
 16 A. Correct.
 17 Q. And each time you said it didn't affect the
 18 adjoining property; is that correct?
 19 A. That has been my opinion, yes.
 20 Q. And that's what you are doing here tonight. And you
 21 don't call that being an advocate?
 22 A. Having a consistent opinion, no, I do not see that
 23 as advocacy.
 24 Q. Have you ever testified against a solar farm?
 25 A. No, I have not.

Page 207

1 A. Yeah. That's the activity of one market
 2 participant. And I'm looking at the activity of people who
 3 are multiple-market participants who are putting their money
 4 down and buying properties.
 5 Q. But, Mr. Kirkland, your testimony was this proposed
 6 solar farm would have no effect?
 7 A. Again what it does, when you talk about market
 8 value, you are never talking about what it does for one
 9 individual buyer. You're talking about overall.
 10 Q. But isn't this the most important evidence of all,
 11 that Ms. McLean is an abutting property owner and she can't
 12 sell her house?
 13 A. Again I would say that actual closed market sales is
 14 evidence of your appraisal for the bank, your appraisal for
 15 the IRS. They're not going to want to see that comps that
 16 didn't happen. They want to see the comps that did happen.
 17 Q. Spring Garden is in Goldsboro, right?
 18 A. It is.
 19 Q. Ms. McLean's house is next-door to this solar farm,
 20 correct?
 21 A. It is.
 22 Q. And you see no distinction?
 23 A. Again the property in Chapel Hill, the same price
 24 range to the homes that you are talking about, \$750,000, I
 25 spoke to the broker out there. And she actually said that

Page 209

1 Q. You are an MAI designation, correct?
 2 A. I am an MAI, yes.
 3 Q. You have rules of ethics?
 4 A. Yes.
 5 Q. And the rules of ethics say you may not be, you
 6 cannot be and shall not be an advocate for a client?
 7 A. I am not an advocate for a client. I am an advocate
 8 for my research.
 9 Q. Your research is not an advocate for a client
 10 either? Is that your testimony?
 11 A. No. I back up what I've done my research on. And
 12 again I'm defending what my research is. And that is not
 13 advocacy for a client.
 14 Q. What did you mean a while ago when you said that
 15 your job was to take care of your client?
 16 A. I was hired to do a research assignment. I did a
 17 research assignment. I do not have instructions on what the
 18 conclusions will come out as. But I was asked to look and
 19 see if there was going to be any impact.
 20 Q. Do you have other jobs right now that you're doing
 21 for Strata that you haven't completed or appraisals?
 22 A. I have one other assignment that I'm working on.
 23 Q. Where is that?
 24 A. That property is in Orange County.
 25 Q. And how far along are you?

Page 210

Page 211

1 A. I'm not terribly sure. I have looked at the
2 property, but I've not done anything beyond that.
3 Q. Okay. When does that hearing come up?
4 A. I frankly don't know.
5 Q. All right. And have you formed an opinion that that
6 solar farm is not going to have an effect on the adjoining
7 property?
8 A. Again I have not finished my research on that.
9 MR. ARENA: In regards to Spring Garden, you
10 neglected to tell us in the appraisal that these last border
11 an area that was zoned general business; is that correct?
12 MR. KIRKLAND: It has no impact on whether or not
13 the property owners are buying the property that backs up to
14 a solar farm.
15 MR. ARENA: Are you saying that there is no impact
16 if you are buying property that backs up to general business
17 versus residential?
18 MR. KIRKLAND: The people who were buying houses in
19 September or October are buying that backed up to a solar
20 farm. They're not buying raw land or buying property that
21 backs up to raw land. They're buying a house that backs up
22 to a solar farm.
23 MR. ARENA: That is correct.
24 MR. KIRKLAND: So the zoning underneath is really
25 immaterial.

1 MR. ARENA: If you are buying a home in this
2 square-foot price range and you know you are backing up to
3 general business, is that the same thing as buying a home in
4 a \$150-per-square-foot range and you have other choices of
5 where you are going to go?
6 MR. KIRKLAND: But again it's a false question
7 because they're not buying next to general business land.
8 They're buying next to a solar farm.
9 MR. ARENA: I understand that. They're buying a
10 house at \$75 per square feet. They're trying to get as much
11 house as they can for their family in this price range. And
12 whether they're behind a solar farm or it was a commercial
13 entity doesn't matter to them.
14 Isn't that different than somebody that is buying a
15 second home or a second-tier home that's up at the
16 \$150-per-square-foot range and they have different criteria
17 that they're looking for as opposed to the most square foot
18 per dollar?
19 MR. KIRKLAND: I think that a homeowner who is
20 looking to put- It's the biggest investment for that buyer
21 regardless of whether they're at the \$250,000 price point or
22 the million-dollar price point. So I think that they're
23 going to be concerned about a lot of the same things.
24 MR. ARENA: At the end of your testimony in
25 September, did you not make the statement that you think

Page 212

Page 213

1 these solar farms are a good idea?
2 MR. KIRKLAND: I have no idea.
3 MR. ARENA: Would that be an advocacy statement?
4 MR. KIRKLAND: It would be my conclusion.
5 MR. ARENA: And a good idea how?
6 MR. KIRKLAND: Again I'm not recalling the
7 circumstances at the time I made them, but again I think a
8 solar farm-I think that most people here stated that they
9 think a solar farm for green energy is a good thing.
10 MR. ARENA: Why did you not put data like Clay
11 County's in your appraisal?
12 MR. KIRKLAND: Again assessments have nothing to do
13 with appraising, and you can't use that in any type of
14 appraisal analysis.
15 MR. ARENA: Do you not think it is important
16 information for these people to know to make a decision?
17 MR. KIRKLAND: Again it's not relevant. That's what
18 an assessor did, which is not based on market data. An
19 appraisal is going to be based on actual market activity.
20 MR. ARENA: I understand. Do you not think that
21 information is important in a hearing like this?
22 MR. KIRKLAND: Again that's for you to bring up if
23 you think it's important. But I don't find that to have any
24 bearing on my appraisal.
25 MR. ARENA: So if a developer cannot sell a lot

1 because of a solar farm, and he ends up going and reduces
2 his appraisal, that's not relevant?
3 MR. KIRKLAND: Again that has nothing to do with the
4 assessment that you just talked about.
5 MR. ARENA: It doesn't?
6 MR. KIRKLAND: Again whether or not the assessor is
7 affected one way or the other, no, that doesn't. You are
8 bringing up multiple things.
9 MR. ARENA: So in a hearing like this where we're
10 trying to understand whether there's a negative impact, the
11 only thing that you are concerned about is specific sales?
12 MR. KIRKLAND: I'm looking for market transactions.
13 That's what an appraisal is supposed to do.
14 MR. ARENA: In the one transaction that you had in
15 your previous report, which was \$70 per square foot and was
16 a ranch, why was that equivalent to a one-and-a-half-story
17 house at more dollars per square foot?
18 MR. KIRKLAND: Again minor shifts in those things
19 happen all the time. But as you can see, there's two-story
20 houses out there that compare to another two-story house,
21 again one backing up to the solar farm selling for more per
22 square foot.
23 MR. ARENA: What's the equivalent construction cost
24 increment in a ranch house versus a one-and-a-half or a
25 two-story house on a per-square-foot basis?

Page 214

1 MR. KIRKLAND: Again the equivalent construction
 2 cost isn't necessarily the issue. That's one of the
 3 factors. The other factor is how much the market is going
 4 to be willing to pay premium for that.
 5 MR. ARENA: Is the owner of the land that's on the
 6 solar farm also the same owner as the Spring Garden
 7 Subdivision?
 8 MR. KIRKLAND: No.
 9 MR. ARENA: He is not?
 10 MR. KIRKLAND: I'm not aware of that, no.
 11 MR. ARENA: Okay. Thank you.
 12 CHAIRMAN PATTON: Any other rebuttal witnesses?
 13 MR. BURCHETTE: Yes, I have two more.
 14 CHAIRMAN PATTON: I can't. I can't hear you, sir.
 15 MR. BURCHETTE: I said that we have two more. Damon
 16 is going to be up.
 17 CHAIRMAN PATTON: Okay. Go ahead.
 18 * * *
 19 DAMON BIDENCOPE, having first been duly sworn, testified as
 20 follows during EXAMINATION by MS. TODD:
 21 Q. Damon, could you state your name and address for the
 22 record.
 23 A. Yes. My name is Damon Bidencope. My address is, I
 24 live at 2500 Montrose Court in Charlotte, North Carolina.
 25 Q. And what do you do for a living?

Page 216

1 And so I spent probably three-quarters of an hour on
 2 the phone with Nancy Kimsey, who is the county assessor for
 3 Clay County with that particular property.
 4 Q. Is there any way we could get that piece of that
 5 presentation back up so that we can all understand what
 6 we're talking about.
 7 A couple more. Right. This is a subdivision
 8 located next to a solar farm and apparently difficulty in
 9 selling the property, is that correct, or selling the lots
 10 in 2008?
 11 A. Some of the initial comments that were made to me
 12 that this is probably a subdivision that should never have
 13 been built in the first place. I think like many of them
 14 were at that time, it seemed like a grand idea, and then it
 15 ran into the recession.
 16 One thing that's important to note when you look at
 17 that is that the three lots that have sold actually have
 18 river frontage. And there's a very good creek that looks
 19 down there and then just looks across the fields below it.
 20 The upper lots at the rear really don't.
 21 But the general slope of the land is about what that
 22 label is on that page going south or going to the bottom of
 23 that page and out. And so the three homes there or the
 24 three lots that have sold all have a river frontage there.
 25 What's not also shown on that is the home to the

Page 215

1 A. I appraise real estate. I hold general
 2 certifications in North Carolina, South Carolina and
 3 Georgia. I also hold an MAI designation with the Appraisal
 4 Institute.
 5 Q. Okay. And you were here tonight when you heard
 6 Mr. Zawtock's presentation; is that correct?
 7 A. Yes, I was.
 8 Q. And you've had an opportunity to review that. I
 9 think we received that information last week; is that
 10 correct?
 11 A. Yes, I had a chance to look at the material that was
 12 presented in the PowerPoint demonstration this evening.
 13 Q. Okay. And could you tell us a little bit. There
 14 has been a lot of conversation about several things that
 15 were raised during that presentation. One of them would be
 16 the property in Clay County?
 17 A. Yes. I was interested. I used to live in the
 18 mountains in the western part of North Carolina. So I was
 19 interested when Clay County came up.
 20 Q. This was a 15-lot subdivision; is that correct?
 21 A. It was. It was. In fact there was a couple of
 22 subdivisions because when that came up, I went ahead and
 23 phoned and interviewed the assessor in Clay County because I
 24 wanted to find out what the substance of what had gone on
 25 actually was.

Page 217

1 upper right-hand side, which would be outside that
 2 subdivision. You know, it's sort of covered with solar
 3 panels as well. And that's not to say that someone can or
 4 can't do what they want to do with the house.
 5 It's just a simple case of I was looking in Clay
 6 County because of this article and something that the
 7 assessor had mentioned to me about these particular
 8 properties.
 9 And the other thing that she had mentioned is that I
 10 think one of those properties that had sold was in fact one
 11 of the Board of Equalization members, I believe.
 12 Q. And there was also some testimony or the
 13 presentation included reduction, and a chart showed
 14 reduction in property values--I'm sorry--tax values.
 15 And the question was about whether that was related
 16 to the solar farm. And you indicated you spoke with the
 17 county assessor?
 18 A. Yeah, I did. And what was interesting on that chart
 19 was one of the reasons I'm thought is--I'm looking for the
 20 chart or the table that has about 15 or 16 parcels listed.
 21 Yeah, that's the particular chart there, because my
 22 questions to Ms. Kimsey were fairly direct. What had
 23 happened, as she described it to me, is that one of the
 24 commissioners made an appeal on a piece of property and
 25 received a reduction in property value on that property.

Page 218

Page 219

1 And so I asked Ms. Kimsey, I said: Was any factual
2 evidence brought forward that was the basis of that because
3 usually that's what you would go on.

4 And she said there was not. And she said it was a
5 situation where this particular instance was--

6 MR. SCARBROUGH: Mr. Chairman, I'm sorry. May I
7 object to all the hearsay evidence at this point. He is
8 testifying to what somebody told him who was in Clay County.

9 MR. BURCHETTE: Counselor, is this similar to the
10 hearsay testimony you've been eliciting about what was told
11 to them at Clay County?

12 MR. SCARBROUGH: To our testimony, there was no
13 objection to our testimony.

14 A. Part of my normal course of business would be to
15 research by interview.

16 MR. BURCHETTE: That's the basis of his opinion and
17 he is entitled to check with other people who come and make
18 an opinion about whether or not this had any impact. And he
19 can, if you are using the Rules of Civil Procedure, say what
20 he did to consult with somebody and find out what was going
21 on to render his opinion.

22 You can question him about the source. You can
23 question him about the materials he read. All the materials
24 that are in every one of the appraisals that's hearsay.

25 MR. SCARBROUGH: He is offering her statements to

1 him as being truthful. I can't cross-examine her. She's
2 not here.

3 MR. DEATON: I would advise the board to overrule
4 the objection and let it go in.

5 A. Part of the reason for my question was I wanted to
6 understand--

7 CHAIRMAN PATTON: Objection is overruled? Overrule
8 his objection or sustain his objections? Our counsel has
9 advised that we overrule the objection.

10 MS. MARTIN: I make a motion.

11 CHAIRMAN PATTON: I have a motion by Commissioner
12 Martin. Any discussion? All in favor indicate by saying
13 aye.

14 (The response was unanimous.)

15 CHAIRMAN PATTON: Any opposed? All right. The
16 objection is overruled.

17 A. Part of the reason for my question is I was
18 searching for the sales evidence. I was searching for sales
19 data that would help me form an opinion. I also wanted to
20 understand the basis of the data that was produced in the
21 PowerPoint that I had the information that I was looking at.

22 And so I also asked the assessor, was there any
23 factual information brought forward at any of the other
24 hearings. And I was told no.

25 The reason why I asked that is because meetings with

Page 220

Page 221

1 the Board of Equalization are part of the North Carolina
2 open public meeting. And that information, when presented
3 at a public hearing, would be available. And so that would
4 be a source and a place that I could go.

5 I also asked the assessor, who has been a resident
6 there for over 20 years in that particular county, was there
7 any sales evidence that she was aware of that had a
8 detrimental impact. And she told me that she had no sales
9 evidence.

10 That was just part of the research I did, and I can
11 go a little bit further and explain how and what went on
12 with some of these pieces. But the main points that I think
13 you should understand is she is not aware of any factual
14 evidence. My efforts to research it was to ask her and
15 question her. She was there during all of these particular
16 appeals. And as she said, when the one commissioner that
17 received the decrease achieved that and then it was
18 publicized within the newspaper, which I think you heard
19 referenced earlier, a whole bunch of people jumped on that
20 bandwagon.

21 And so that new Board of Equalization, which was a
22 new board that heard the subsequent appeals, went along with
23 what a previous ruling was. And I have some experience with
24 that. I served for probably eight years on the Mecklenburg
25 County Board of Equalization. And so I understand the

1 process of with both precedence and trying to be-- The
2 board is also charged with not only the value but with an
3 equalization of value. So when one value drops, it's likely
4 that it would be consistent to be carried across the board.
5 So that probably describes your question about what happened
6 in Clay County.

7 The other comment that was also made that I thought
8 was interesting is they had quite a number of solar farms.
9 There is another one on the Chatuge Dam Road area. And I
10 think the assessor may have said they may have up to four or
11 five. There was some multiple number that she mentioned of
12 solar farms.

13 So I thought that if there was one county where you
14 could find evidence of that, that might be a good county.
15 And that was the reason for the research. And I spent
16 probably three-quarters of an hour on the phone with her.

17 Q. And her conclusion was the county assessor did not
18 see any evidence of a negative impact related to a solar
19 farm?

20 A. She did not, nor was there any material facts
21 presented in any of the appeals that were heard and the
22 assessments were lowered. There was no factual basis for
23 that happening.

24 MS. TODD: Just for the record, I would ask to
25 tender Mr. Bidscope as an expert witness.

57 (Pages 222 to 225)

Page 222

Page 223

1 Q. (By Ms. Todd) There was also conversation and also
2 part of the presentation was the Southridge Community in
3 Elgin, South Carolina. Are you familiar with Elgin, South
4 Carolina.
5 A. Yes, I am. My wife is from Columbia in South
6 Carolina. I was there over the weekend, Thanksgiving. And
7 Elgin is a--somewhat of a bedroom community to Columbia. It
8 sits right on the boundary line or the municipal line. It's
9 very close to where this facility is.

10 CHAIRMAN PATTON: Let me interrupt you just a
11 second. If you are here with Conditional Use Permit Number
12 326, I understand their attorneys agreed to hear that in
13 January. If you have endured this, we will not hear that
14 tonight. I appreciate you-all. I apologize for being here
15 this long.

16 Is that right, Randy? So we will hear that in
17 January. Thank you. I apologize.

18 (There was a discussion regarding that matter off
19 the record.)

20 CHAIRMAN PATTON: All right. Sorry. Continue on.

21 Q. (By Ms. Todd) I believe the presentation included a
22 comparison or the analysis of the impact of a Verizon Call
23 Center on the adjacent community.

24 Have you had an opportunity to look at the
25 Southridge neighborhood?

1 A. Yes, I have. I actually went and looked at the
2 property there on Sunday and prior to that had researched
3 sales within that subdivision.

4 Q. Okay. Can we show, there's a couple of photographs.
5 And this is in our presentation. Mr. Bidencepe, what is
6 this a photograph of?

7 A. That's the entrance, the entrance gates to
8 Southridge Subdivision.

9 Q. And the next photograph, what is that a photograph
10 of?

11 A. That's the driveway that approaches Southridge
12 Subdivision. That's taken looking away from the gate. So
13 that's the view that the residents see driving to and from
14 their home in Southridge.

15 Q. And did you take this photograph?

16 A. Yes, I did.

17 Q. And there's a call center? Is it on the right or
18 the left?

19 A. Well, I think that's probably a good question. I
20 know that the call center is on the right-hand side because
21 I was there. But you can't actually see it for the
22 vegetation. But that's where it's located.

23 Q. Okay. One story or two sorry?

24 A. It's a single-story call center. They have a
25 clerestory across that allows a little bit of light. But

Page 224

Page 225

1 it's basically a tan-sort-of-colored single-story building.

2 Q. Okay. And just to be clear, a call center is not
3 like a solar farm; is that correct?

4 A. Yeah, I think that's fairly obvious. A call center
5 is a structure building, structure car parking. Typically
6 they function 24 hours a day through shifts.

7 I appraised the Verizon one in Wilmington that's
8 three or four stories and acres and acres of car park. And
9 it's a very different use.

10 Q. A lot more traffic, a lot of noise?

11 A. Well, again, yeah, call centers have a high density
12 of people working in the building. And they're coming and
13 going.

14 Q. But even so, this, what they're dealing in a
15 noncompatible use, they basically-- Their analysis was that
16 that actually had an impact on property values so that if a
17 call center has impact on property values, therefore a solar
18 farm must also have impact on property values. I believe
19 that was their rationale.

20 Can you give us your thoughts on that position?

21 A. There has been discussion of view and all sorts of
22 discussion of matched sales and things that's going on.

23 I don't think that the residents within this
24 particular Southridge Community nor the next one that's
25 adjacent to this on the other side, they're in such a

1 protected enclave that they're really probably not aware.

2 When I was driving down this road approaching the
3 property, you couldn't see the building. I had to circle
4 the whole way around the next subdivision and come down the
5 main commercial thoroughfare, which I could show you on the
6 map to actually see what the building was.

7 An interesting bit of trivia, that Steve Spurrier
8 actually lives on that next subdivision around the corner,
9 which was just interesting as I was researching through the
10 sales because when I was doing that, I went looking at all
11 the sales activity that happened within that community. And
12 I put together a table that might actually show because that
13 would sort of demonstrate some more of the details out
14 there.

15 Q. And in the presentation there was a conclusion drawn
16 that the call center resulted in a decrease in sales value
17 or property values.

18 Did you reach that same conclusion?

19 A. No, I didn't. I went back and researched all of the
20 sales in that subdivision.

21 Q. And I believe we have a chart in our presentation.

22 A. And so what I did was work through all of the sales
23 in the subdivision. What's important to note, if you could
24 perhaps lower the cursor and maybe shrink the magnification
25 so you can see all the columns because what I found missing

58 (Pages 226 to 229)

Page 226

Page 227

1 in the material that I think is rather important, those
2 sales are sorted in terms of date of sale in the middle
3 where it has the sale date, you'll see they run from 2006
4 down to 2012 on that middle column.

5 And if you could also, yeah, expand those out, that
6 would be great. What you will see in that far right-hand
7 column is how many years old the residences were at the time
8 of sale. So all the sales, the last half a dozen or
9 thereabout sales on that particular list, the resales of
10 properties that are now four or five or six years old rather
11 than the sales that happened earlier were the sales of
12 brand-new homes.

13 So if you are selling in a relatively level
14 marketplace, you're not going to get the same premiums with
15 brand-new home sales as you are when they're being preowned,
16 used, so now they're now five or six years old. You're also
17 going to sell against other bits and pieces of properties.

18 So I thought what was important to note there is
19 when you look at those later sales that were referenced as
20 very clear proof, there are also homes that are now six or
21 seven or eight years old because this subdivision really got
22 going early, in 2006 and earlier before the market tanked,
23 2006 and 2007.

24 And so a lot of what you're seeing is the effect in
25 general, just the economy. And you're also seeing homes

1 that are significantly older than when they sold new.
2 Q. Okay. So did you also have an opportunity to review
3 Mr. Kirkland's appraisal?

4 A. Yes, I read Mr. Kirkland's appraisal.

5 Q. And did you find that it was based on sound
6 appraisal methodologies and principles?

7 A. Yes, I did. I found that there was supporting data.
8 It referenced matched pairs. It gave the data for the pairs
9 in the material. It described what it was going to do, and
10 it went about doing it. And it appeared to follow reasoned
11 normal appraisal methodology and reached a conclusion.

12 Q. So it was very detailed and very specific?

13 A. It contained specific data that I could follow and
14 understand.

15 Q. And did Mr. Zawtock's presentation follow similar
16 appraisal principles and methodology?

17 A. Again I only had the benefit of looking at the
18 PowerPoint presentation. And I wouldn't really call the
19 PowerPoint an appraisal per se.

20 Elements that are missing from it would be
21 certifications and substantial data that you would need to
22 actually understand the analysis. So from the reading of
23 that, then I was left with several questions from looking at
24 that material. So it wasn't the same as the material that I
25 looked at with Mr. Kirkland.

Page 228

Page 229

1 Q. Did you find that the conclusions arrived at in the
2 presentation were supported by specific data or detailed
3 analysis?

4 A. Relevant to which? I'm sorry.

5 Q. I'm sorry?

6 A. Relevant to which report or which--

7 Q. The conclusions in the presentation with regards to
8 the impact of a solar-farm use on--I'm
9 sorry--Mr. Zawtock's.

10 A. Well, in that report and one of the reasons why I
11 went ahead and placed the calls about Clay County and about
12 these other places and I went ahead to go visit that
13 subdivision near Columbia and Elgin was that I couldn't
14 really follow it.

15 That's another reason why I went to look up the
16 sales and look up the date of sales, bedroom, bathroom count
17 and things like that and go through all the sales within the
18 subdivision.

19 That list there is a complete list. It's not cherry
20 picking. There's a couple pairs that may prove a point or
21 not prove a point, but it's looking at the total sales
22 within that subdivision.

23 And from looking at that data, I didn't reach the
24 same conclusion that Mr. Zawtock and Mr. Beck reached in
25 the preparation of their report.

1 Q. So the evidence just wasn't there; is that correct?

2 A. When I went and looked at his data, I didn't get to
3 the same conclusion.

4 Q. Okay. There was also the McLean property that was
5 under contract, was presented as evidence that at least the
6 proposed solar-farm use would have significant impairment to
7 adjacent or abutting property values.

8 Did you have an opportunity to review the McLean--

9 A. Yes, I looked at that.

10 Q. --contract for sale?

11 A. Well, I wasn't able to see the contract for sale. I
12 did look at the listing information on the property. And I
13 also believe the property is still listed at the same
14 \$225,000 as it was before any of this.

15 During the course of our work, we did speak with the
16 broker handling it. And our question was, what happened
17 with the contract and what was going on.

18 And the response that we got was it was more due to
19 the uncertainty of what was happening and not due to a
20 particular specific. And so I qualify that. It was a
21 relatively short conversation, but the only feedback from
22 that part of my research was to go ahead and phone the agent
23 with the house.

24 And the feedback that we got, actually the office in
25 Lincolnton, a resident was working on that. And she called.

Page 230

Page 231

1 And that was the response that we got back was that it was
2 due to the uncertainty.

3 There are many situations where contracts fall
4 through for lots of reasons. I'm sure uncertainty would be
5 one of them, given all that's going on right now.

6 Q. That's typically why they're not considered evidence
7 in court, market value?

8 A. It is. And it's not uncertain factor. Certainly I
9 think a buyer and seller would take that into account, or
10 particularly a buyer would because they're looking at
11 future. The seller is looking at getting substantially paid
12 in that situation.

13 MS. TODD: All right. I have no further questions.

14 MR. SCARBROUGH: I know it's late.

15 EXAMINATION

16 BY MR. SCARBROUGH:

17 Q. Did you hear the evidence tonight, the testimony
18 from Ms. McLean?

19 A. To the best of my recollection.

20 Q. Okay. You heard the brokers testify also,--

21 A. Yes.

22 Q. --the real estate broker?

23 A. And that's why I qualified that in the discussion
24 the short piece of information that was offered to us when
25 we asked the question, was it due to the uncertainty? So I

1 can only report on what was told to me prior to that.

2 Q. Okay. But tonight now you know the answer, that the
3 buyer walked away because of the proposed solar farm?

4 A. Yes, I mean I've heard that put out there. And it
5 matches with uncertainty and a number of other things.

6 Q. Okay. Do you have any reason to question their
7 testimony tonight?

8 A. I don't question it whatsoever.

9 Q. All right. In an evaluation of property, do the
10 esthetics come into play of nearby property? How the nearby
11 property looks, does that come into play?

12 A. Yes, I think that within certain neighborhoods and
13 certain areas it does come into play.

14 Q. So this neighborhood we're talking about, Sailview
15 and that area, you have seen the value, the prices on those
16 homes; is that correct?

17 A. Yes, I'm relatively familiar. When I first moved to
18 the Charlotte area about 20 years ago, Sailview was just
19 getting started or thereabouts.

20 Q. And would you consider the buyers of homes in that
21 area to be discriminating as far as what they want on
22 adjoining property?

23 A. They probably are to some extent because Sailview
24 has got a planted landscaping that tends to separate itself
25 from the rest of that neighborhood and the homes in the

Page 232

Page 233

1 neighborhood. So they have kind of designed it in such a
2 way to protect themselves and really provide themselves an
3 insulated enclave in the whole design of it.

4 Q. But in reaching Sailview, they have to travel on
5 Webbs Road; is that correct? Have you been there?

6 A. Yes, I have.

7 Q. Okay. Then you know that Webbs Road is a gateway to
8 the subdivision?

9 A. Webbs Road is the road that you travel on to get to
10 the subdivision.

11 Q. Okay. Are you familiar with the original plan, site
12 plan that's been submitted by Strata in this case?

13 A. Yes.

14 Q. Okay. And that site plan does not completely hide
15 in any way the solar panels, is that right, the landscaping?

16 A. You are talking about the original submitted plan?

17 Q. Correct.

18 A. Yeah, I would probably defer to the engineers in
19 terms of line of sight. But one thing that did occur to me
20 while I've been listening to the different testimony is when
21 you're sitting in your car and you're driving, your eye
22 level is probably only four feet or five feet maybe above
23 the ground level, maybe six in an SUV. And the fence
24 heights I've heard discussed are six to eight. And planting
25 trees is significantly above that.

1 And it's my recollection on Webbs Road that the road
2 travels mostly the ridge line. It has got a bit of a dip
3 and a weave. But it tends to be rather the high ground
4 there and then the land falls away on both sides in a very
5 general sense, the topography.

6 And so if there is a fence of that height and the
7 rest of the land falls away, it's very reasonable to imagine
8 how a lot of the view of the near distance, that land that's
9 going to be occupied by the solar farm would actually be
10 obscured from your sight as you travel along and even most
11 of the plantings that I believe were suggested this evening.

12 Q. You heard Walter Fields testify tonight; is that
13 correct?

14 A. Yes, I did.

15 Q. And he is a well known land planner; is that right?

16 A. Yes. In fact Walter and I've worked on different
17 cases at different times. And I believe he is very well
18 qualified.

19 Q. And he found fault with the plan as submitted by
20 Strata; is that correct?

21 A. I think he was making--I think he was making
22 suggestions, and in his personal view he was putting forward
23 what he thought. What I noticed was he brought forth some
24 things that he referenced as inconsistencies within the
25 plan.

Page 234

Page 235

1 Q. Okay. Have you studied Walter's recommendations?
 2 A. No, I have not. I don't think Walter let them
 3 surface until tonight. I think the first time that those
 4 were seen was tonight. And I've not had any chance to do
 5 it.
 6 Q. Right. That's sort of like the plan that we got at
 7 the beginning of the hearing. It was the first time that we
 8 had seen that. Is that what you're saying?
 9 A. I don't set the rules. I'm sorry.
 10 MR. SCARBROUGH: Questions?
 11 MR. ARENA: I really don't have any questions for
 12 Mr. Bidencope. Well, I guess I do. You are hired
 13 specifically by Strata for what purpose?
 14 MR. BIDENCOPE: I was hired to look at the material
 15 that was presented, that was presented prior to, and also to
 16 research what sales evidence may be around different solar
 17 farms.
 18 To that extent since you asked, in my initial
 19 investigations I researched seven different solar farms in
 20 and around the area because we were also trying to look and
 21 locate information that showed a significant or any
 22 deleterious effect on properties.
 23 We were unable to find it in our research. We
 24 looked at properties in Catawba, Cleveland, Davie, and
 25 Catawba again, Lincoln County, Cleveland and Davie trying to

1 find examples of what Mr. Kirkland actually has the research
 2 on that he has found because he has much more experience in
 3 looking for it. But that's the extent of the work that I
 4 was asked to do.
 5 MR. ARENA: Okay. Did any of these solar farms have
 6 a road, a collector road of almost 6,000 cars per day
 7 driving through them?
 8 MR. BIDENCOPE: No, none of these, none of these
 9 properties did.
 10 MR. ARENA: Are passengers allowed to ride in cars?
 11 Or is the driver the only one with a view?
 12 MR. BIDENCOPE: No. I believe passengers ride at
 13 about the same eye level as the driver, and they're
 14 certainly welcome to look at the view, and the same with the
 15 driver.
 16 MR. ARENA: And your response to Ms. McKean was it
 17 was due to uncertainty even though she has presented an
 18 affidavit that it was directly responsible because of the
 19 solar farm?
 20 MR. BIDENCOPE: No, sir. I want to be very clear.
 21 MR. ARENA: Okay. Please.
 22 MR. BIDENCOPE: In our interview and our question
 23 when we phoned.
 24 MR. ARENA: When you phoned whom?
 25 MR. BIDENCOPE: Pardon?

Page 236

Page 237

1 MR. ARENA: When you phoned whom? Whom did you talk
 2 to?
 3 MR. BIDENCOPE: When we phoned the broker with the
 4 property.
 5 MR. ARENA: Ms. Wulforst?
 6 MR. BIDENCOPE: Yes.
 7 MR. ARENA: Okay. Go ahead.
 8 MR. BIDENCOPE: And what was stated to us was it was
 9 due to uncertainty. There was no more elaboration that was
 10 gone into. It was due to uncertainty.
 11 And I think we asked, is it because of the solar
 12 farm?
 13 And they said, no, it was due to the uncertainty.
 14 And so that was the information in total that was
 15 provided. There wasn't anything great in detail. There was
 16 more detail being given tonight. But that's the extent of
 17 the information.
 18 MR. ARENA: Do you still believe that tonight, based
 19 on Ms. McLean's testimony that this individual refuses to
 20 come back?
 21 MR. BIDENCOPE: I guess the owner of the property
 22 still has the property listed at that same price is my
 23 understanding of \$225,000. So clearly they believe it is
 24 still worth \$225,000.
 25 I wasn't looking into what is the property worth as

1 such. I was very curious about, well, here is the
 2 situation. The contract has fallen through. What's going
 3 on. I'm not sure I have exactly enough information to form
 4 an opinion on that. I think we heard the testimony. I've
 5 got no reason to doubt it.
 6 MR. ARENA: Did the folks at Clay County send you
 7 the specific letters that went to the individuals whose
 8 property values were lowered and the reasons for the
 9 property values being lowered?
 10 MR. BIDENCOPE: Again I was trying to gain any
 11 factual information that showed it. The assessor told me
 12 that there was no factual information, no appraisal brought
 13 forward that led to it. Now, if a Board of Equalization
 14 sends out a letter that changes an assessed value, if that's
 15 what you're referencing to.
 16 MR. ARENA: Right.
 17 MR. BIDENCOPE: That's a statement of a change of
 18 assessment that's relative to particular reevaluation data,
 19 as I'm sure you're aware.
 20 MR. ARENA: Correct.
 21 MR. BIDENCOPE: In the same way the equitable nature
 22 between taxpayers is an important consideration for the
 23 board, I have no reason to ask for that.
 24 What I'm trying to pursue is actual sales evidence,
 25 actually data that is showing it.

Page 238

Page 239

1 MR. ARENA: So it is your opinion that those people
2 that had that property are not harmed by that solar farm?

3 MR. BIDENCOPE: No. It's my opinion that the
4 assessor is not aware of any sales evidence in Clay County
5 that shows that.

6 MR. ARENA: So why would they lower the values?

7 MR. BIDENCOPE: Probably--again that's probably a
8 question for the Board of Equalization in terms of equity,
9 and particularly when you've got a commissioner who has
10 theirs lowered and that's published in the local
11 newspaper, it becomes a very difficult, you know, hot potato
12 kind of football deal to deal with.

13 MR. ARENA: Wouldn't they be sure before they
14 lowered a commissioner's property value that they had good
15 justification?

16 MR. BIDENCOPE: You are asking questions of people I
17 have not spoken to.

18 MR. ARENA: You didn't speak to Ms. Kimsey?

19 MR. BIDENCOPE: I did speak to Ms. Kimsey. She's
20 not responsible for lowering the values.

21 MR. ARENA: I understand.

22 MR. BIDENCOPE: The assessor sets them as of the
23 date of reevaluation. The Board of Equalization Review are
24 the ones that are charged by the commissioners to carry out
25 their duty.

1 MR. ARENA: I guess my next question to you is: You
2 were hired to support the Strata's findings, Mr. Kirkland's
3 findings?

4 MR. BIDENCOPE: No, I was not, sir.

5 MR. ARENA: We presented, and they presented to the
6 board. I will remind you that the burden of proof to
7 prevent damage to properties lies with--

8 CHAIRMAN PATTON: We understand that.

9 MR. ARENA: And we've got \$400 million of property.
10 Most of these people have stayed throughout the night here.

11 CHAIRMAN PATTON: We understand that. Any further
12 questions?

13 MR. DEAN: I have some questions.

14 CHAIRMAN PATTON: Wait just a second.

15 * * *

16 FRED BECK, having first been duly sworn, testified as
17 follows:

18 MR. DEAN: My question actually is from
19 Mr. Kirkland. You used comparable sales in Spring Garden
20 Subdivision. And I have here, and it supports what you were
21 saying that before and after the solar farm was built, the
22 properties didn't go down in value? Actually a couple of
23 them went up a little bit in value.

24 What I didn't have earlier was Mr. Becks' appraisal,
25 who also has Spring Garden in Goldsboro. And it supports

Page 240

Page 241

1 exactly the same thing that you support. Unless Mr. Beck
2 can explain to me on Page 39 of his report, it's the same
3 comparables.

4 And there was a question I asked from two brokers
5 that's in the report, did the solar farm affect values in
6 that subdivision. And both of the testimonies indicate that
7 it does not.

8 Would Mr. Beck like to address that from me?

9 MR. BECK: I think that in our report we tried to
10 find evidence of all kinds. So what we did, we put in our
11 report information from the brokers that we talked to, that
12 verified the information that he had in his report.

13 So we didn't have a biased report. We had some
14 information that showed that there was damage. We had some
15 information that showed there wasn't any damage.

16 One of the things I wanted to share with you,
17 Mr. Thomas Watts, who is an appraiser in Columbia, South
18 Carolina, that I got this information from, to start with,
19 appealed these individual taxes to the county assessment and
20 got reductions in their taxes. And the basis, and I have
21 his appraisal, the basis of it was that that call center
22 damaged those properties. So this wasn't some
23 pie-in-the-sky makeup thing.

24 The other thing in Clay County, when we talked to
25 the brokers, they went over there and said, we can't sell a

1 lot. We can't sell it. People come to the mountains for a
2 view. I spent a lot of time in the mountains. I live
3 there. When you go there, you go for a view. And if you
4 think somebody is going to pay big dollars to see a solar
5 farm, I don't know, you know.

6 MR. DEAN: The question I was asking or comment that
7 I had was that you-all used the same comparables?

8 MR. BECK: Yes, we did. We got this information,
9 and we verified the same conclusion in that subdivision that
10 he came to. And I put that in my report.

11 MR. DEAN: I didn't hear nobody, none of the
12 appraisers representing Salview state that they had come to
13 that conclusion. I read it.

14 MR. BECK: No one has asked that. You know, I mean
15 Jeff did most of the talking on that. But it's in the
16 report that I gave that these people that they can read.

17 MR. DEAN: I understand, but this is matched pairs
18 that both sides of the fence used. And they come up with
19 the same conclusion, that it didn't affect values in this
20 subdivision.

21 MR. BECK: Yeah. Well, one of the things, David and
22 I are friends, and I've known him for a long time. I
23 respect David and everything else.

24 My son took one of the appraisal classes from David.
25 And I think one of the things that he said that was really,

Page 242

Page 243

1 I think, very important, David said: After you get all the
2 facts and you get all the facts out there, you stand back
3 and you look.

4 MR. DEAN: That's what I'm trying to get.

5 MR. BECK: You say, what do I think. And that's
6 what we've come to. And that's what all of us appraisers
7 come to.

8 Now, if you're a person buying a house for \$750,000
9 and you have two choices, one to drive through this solar
10 farm and get to that \$750,000, or go over here to a place
11 that you drive by residential uses and other things, you are
12 going to pay more for the one you don't see the ugly
13 industrial use than you would the other one.

14 That's the basis of the whole thing. We can match
15 pairs. I can prove anything. Mr. Kirkland can prove
16 anything. Damon can prove anything that you want to.

17 Logic would tell you that this is going to hurt
18 these people's value. And over the next two or three years
19 if you go ahead and do this, we'll see. And we will have
20 evidence that this damage has occurred.

21 MR. DEAN: I understand that. But we've got to make
22 a decision on the evidence that you-all gave us. And I'm
23 just saying that both you-all's reports used the same
24 subdivision and come up with the same conclusion.

25 MR. BECK: One piece of evidence in the report.

Page 244

Page 245

1 Damon's evidence either. So I had about 15 minutes.

2 But all I know is I think—I'm dealing from my
3 heart. And my common sense tells me, after being in this
4 business for 30 years, my heart and my common sense tells me
5 that this is going to hurt these people, and it's going to
6 hurt them badly.

7 You can pair sales, get articles, do anything. My
8 heart and my common sense tells me they're going to be hurt
9 badly by this.

10 CHAIRMAN PATTON: Okay. We understand that. It has
11 already been testified to. Is there anything that hasn't
12 been testified to? Do you-all have any further rebuttal
13 witnesses?

14 MR. DANCOFF: Yeah. I'm sorry. I want to get out
15 of here too. But do you have a question for Damon?
16 Somebody had a question for him.

17 ***

18 DAMON BIDENCOPE, having first been duly sworn, testified as
19 follows:

20 MR. JOHNSON: Mr. Beck, in appraising properties, do
21 you consider the amenities as far as the value per the
22 square foot of a house, such as lake access, swim, tennis
23 club, those sorts of thing?

24 MR. BIDENCOPE: Yeah, sure. I mean there is some
25 preference with lake frontage. If you are down on 760

1 MR. DEAN: I understand that. Do you think that a
2 McGuire Nuclear Station is an eyesore? Well, I do when I
3 ride by it. But, you know, on Club Drive, the property
4 sells just as much per square foot as it does in Sailview
5 and in many cases much more.

6 MR. BECK: I wasn't asked to look at McGuire.

7 MR. DEAN: No. No.

8 MR. BECK: In a relatively short period of time.

9 MR. DEAN: You are trying to make a point, and I am
10 trying to make a point, that people buy properties because
11 Sailview is an exclusive subdivision. It is surrounded by
12 berms that they took a lot of effort and time in making it
13 into the neighborhood that it is.

14 Now, what I'm saying is, when you're going into that
15 subdivision, you're buying because of the amenities and
16 these people in these \$250,000 homes are still buying for
17 the amenities that are there.

18 But I'm just asking you a question. This wasn't
19 brought up to us. But, you know, you said read it. You
20 talked about them putting one thing on the board showing
21 that you didn't have evidence to start with. Well, I didn't
22 have this until tonight. But I sat here and read it and
23 said, well, you-all are using the same comps, but you-all
24 don't come up with the same conclusion.

25 MR. BECK: I didn't have any chance to look at

1 versus being back up the hill where you don't have a lake
2 view or your cove view or one of these other things, yeah,
3 that attracts a premium.

4 MR. JOHNSON: We've heard some discussion about some
5 of these houses at \$75 a square foot and Sailview houses at
6 \$150 a square foot. Would some of that difference in value
7 be attributable to those amenities like lake access, swim
8 and a tennis club?

9 MR. BIDENCOPE: If amenities didn't add value, then
10 a developer wouldn't build them. So it's fairly
11 straightforward. If fact, there is often an argument to be
12 made, they would add value greater than the cost to build
13 them. And that's why they build them.

14 MR. JOHNSON: And would those type of amenities be
15 affected by this solar farm and the value of those
16 amenities. Not driving in, but the value of those amenities
17 to a house in Sailview, would that be affected by the solar
18 farm?

19 MR. BIDENCOPE: Well, I don't believe that they're
20 influenced in any way because they've landscaped heavily the
21 perimeter of the subdivision, and none of those amenities or
22 their access to the lake or their enjoyment within the
23 subdivision is my belief that is impacted.

24 And in fact if the road is landscaped something like
25 that call center I was describing, I mean I have to tell you

Page 246

Page 247

1 which side that call center is on because you can't see it.
 2 And in fact, I had to drive a complete block to come
 3 down the main drag to find out actually what the building
 4 looked like. So it's a situation that, you know, if what,
 5 then they'll see at Saliview is coming along Webbs Road and
 6 it will a tree-lined driveway to the subdivision, that's a
 7 very different sort of thing. I know of other images of
 8 what could happen. I don't know what will happen.
 9 MR. JOHNSON: Thank you.
 10 CHAIRMAN PATTON: Okay. Thank you. You said you
 11 have one more witness?
 12 MR. BURCHETTE: Yes.
 13 CHAIRMAN PATTON: We would like to finish this up.
 14 MR. BURCHETTE: I was up at 3:30 this morning, and I
 15 have been up and back.
 16 * * *
 17 LANCE WILLIAMS, having first been duly sworn, testified as
 18 follows during EXAMINATION by MR. BURCHETTE:
 19 Q. All right, Lance. First question, you saw the
 20 landscape plan that Walter brought in and looked at that?
 21 A. Yes, I did.
 22 Q. Okay. And you heard Walter's testimony when I was
 23 asking him about how you build the thing and he wants to put
 24 the buffer around it?
 25 A. Yes.

Page 248

1 where you have a hundred workers. You have many goods
 2 coming and going. And it's in everybody's interest to build
 3 a good project and move on and to do it quickly and safely.
 4 We just finished one at the Haynes farm. I think if there
 5 were problems with Haynes farm, you-all would know about it.
 6 But we were here. We did a good job, and we look forward to
 7 doing a good job again.
 8 So on that comment we need to build the farm, get
 9 the workers in and out safely and quickly. And for us to
 10 sit around and say, well, let's put in a bunch of plants and
 11 see if they get in the way. Job one is safety.
 12 So let's not put a condition on there. People see
 13 construction projects. They want to know when the
 14 construction project is going to be complete. They want to
 15 know if it's going to be attractive. They want to know, you
 16 know, what kind of impacts it's going to have on the storm
 17 water, on the noise, on the view.
 18 Nobody really wants to micromanage and say, well, we
 19 want to do something that might not be the safest thing
 20 because we sat around a boardroom at 11:00 on Monday night
 21 and came up with that condition.
 22 Q. All right. One last thing, I'm going to direct your
 23 attention to the screen for a second. They're getting the
 24 video up real quick. You have driven down Webbs Road
 25 before, right?

1 Q. What comments do you have about that landscape plan
 2 from Walter and his comments about how to build the center?
 3 A. His landscape plan, in general, I thought
 4 was--provided a lot of buffer. It's not the same buffer
 5 that we asked as a condition tonight. The buffer we have
 6 put in was trying to use the same plantings that are in
 7 Saliview. But that doesn't have to be the only answer.
 8 And, you know, Chinese privets aren't considered the
 9 best plants by a lot of people. But since they're already
 10 out there, we put them in. So, you know, with the native
 11 species plants, then I would think that is a good idea.
 12 We had a conversation internally. He said, you
 13 know, you drive down Webbs Road, you see all kinds of
 14 things. And so we chose plants that were already on Webbs
 15 Road.
 16 But other than that, the other comments were, I
 17 felt, you know, the initial plant height of the plants was a
 18 little burdensome versus what is normally planted. We have
 19 been down to the CVS store. And those plants are so small.
 20 There's nothing, you know, within in the code saying, well,
 21 start at six feet. You know, hey, can you plant something
 22 that at maturity, you know, in a couple of years will be,
 23 you know, eight to ten feet.
 24 And then the final thing is the problem about people
 25 with good intentions micro managing a construction project

Page 249

1 A. Yes, I have.
 2 Q. A number of times?
 3 A. A number of times.
 4 Q. You have heard it described as the gateway, the
 5 entrance, right?
 6 A. Yes, I have many times tonight.
 7 Q. What is this?
 8 A. This is a driving down Webbs Road.
 9 Q. This is the gateway?
 10 A. This is driving down Webbs Road, yes, towards the
 11 solar farm. Those are obviously substations.
 12 Q. Those are power lines, substations, power poles?
 13 A. Yes, sir.
 14 Q. Porta-johns. We're still on the gateway right here?
 15 A. Yes, we're still on Webbs Road.
 16 Q. Keep going. Now, tell us when you get to the area
 17 with the solar.
 18 A. Well, you're coming up to an area where you will see
 19 the solar farm or the part of the solar farm on both sides
 20 of the road. It will be behind that white building on the
 21 left. And I think we're in excess of over 100 feet off of
 22 the road on the north, you know. So we're kind of behind
 23 the building there to begin with. And then on the right
 24 side, you see, you can't really see into the fields on the
 25 right.

Page 250

Page 251

1 So you know, you're not really-- We're closer to
2 the road. We have decent setbacks. But as you come down
3 that road, you don't have that same view coming in. You
4 don't need to be as far away from Webbs Road on the south
5 side as the north side.

6 And so this is on top of the knoll. This is right
7 at the entrance to Sailview. So this is Webbs Road coming
8 into Sailview.

9 Q. Okay. Let's take another view of this and see if we
10 can take a look at the berm and the landscaping in front of
11 Sailview. Do you remember doing that?

12 A. Yeah. As you get down, you will see a number of
13 plants that were on the plan that we submitted tonight.
14 You'll see those plants have been there over time and
15 permitted to mature. They do grow tall. I think people
16 testified that those Laurel Pedlums actually grow right
17 well. And I spent this weekend trimming for the second time
18 of the year my Laurel Pedlums. And mine at my house are
19 16 feet tall, not today. They're about five feet tall.

20 Q. This is coming back in the other direction, right?

21 A. Yes, it is.

22 Q. Is Sailview is on the right-hand side of this?

23 A. Yes, yes, that's Sailview on the right. And we see
24 a number of other things presently in place on the ground
25 existing on Webbs Road, and this is Burton Road.

1 And our landscape plan, and the landscape plan from
2 Walter is nicer than many things on the road as it exists
3 now. And we've gone great strides to meet with the
4 community to listen to the planning board's comments say,
5 show me what it's going to look like, and listening to the
6 county commissioners, give us a view of the road.

7 And we've done that. We've done that in excess of
8 your code. We have done that in excess of what we proposed
9 the first time. We have gone out and done the job you asked
10 us to do, that we expect of ourselves to do.

11 And so we're glad to present the plan that we would
12 like to be as a condition or something close to that from
13 the planning board.

14 Q. You understand the commission planning board can
15 place any conditions they want to on this Conditional Use
16 Permit request. And that's the reason that you were showing
17 this landscaping design, correct?

18 A. Yes, it is my understanding that they can place
19 conditions. Yeah, I don't know if I agree with any
20 condition they want to, but, yes, reasonable conditions,
21 yes.

22 And, you know, again we started with, as we always
23 start with, the planning department. We went out with the
24 planning department to Kings Mountain. You know, how will
25 this work in your community?

Page 252

Page 253

1 And we've got responses. There's a lot testimony
2 about the UDO. We comply with the rules of the county. And
3 we asked the planning staff to give us the rules and if you
4 will give us the rules. And we heard feedback.

5 And there is concern that that's not good enough for
6 what will be harmonious in this location. And we gave you
7 testimony about our low impacts, about how we don't create
8 traffic, how we don't have noise and emissions, and how we
9 have gone and tried to match the landscaping plan of
10 Sailview. And we put up a fence to be opaque because the
11 question is, what is opaque? Well, you know, a fence and
12 there's existing fences on that road. Yes, that is opaque.
13 So we'll do the plants and the fence to be opaque.

14 MR. BURCHETTE: Yeah, I think I hope we covered
15 that. I have no further questions.

16 EXAMINATION

17 BY MR. SCARBROUGH:

18 Q. Mr. Williams, you heard Walter Fields testify
19 tonight?

20 A. Yes, sir.

21 Q. And you're not in favor of his landscape plan? Is
22 that what you're saying?

23 A. I said I looked at his landscape plan and his
24 testimony. I liked the idea of native plants.

25 Q. So you are in favor of his landscape plan?

1 A. I'll finish my answer. So there are elements of it
2 that I thought were very good. I thought the additional
3 heights of the plants were not the most conducive to let's
4 say normal of other uses or other--or this use in other
5 areas, either one.

6 But I like the native-species part. And the other
7 part I didn't agree with is we have built 40 solar farms.
8 We put our landscape plans. Working with the counties, we
9 put them in place after construction. And I think it's good
10 for the plants. But I think it gets the site built well
11 and, you know, you need sight distances and all, people
12 coming out of sight.

13 So I would oppose his proposition to put the
14 landscaping in first. I think that is probably not the-- I
15 have questions on whether that would be the safest thing for
16 everybody.

17 Q. All right. Now, he put the landscaping in front of
18 the fence; is that correct?

19 A. The landscaping would be between the road and the
20 fence, yes, sir.

21 Q. That's not where your landscaping is; is that right?

22 A. Yes, it is.

23 Q. It is?

24 A. Yes.

25 Q. And how far back is your fence on the south side of

Page 254

1 the road?

2 A. The south side of the road, I'd have to look at it.

3 It think it was about 40 or 50 feet from the right-of-way.

4 I don't know. I'm looking for confirmation on that. And it

5 was not-- From the road it would be either farther. And it

6 would be very different than the picture that we saw

7 tonight.

8 Q. Well, the fence is farther back on the north side;

9 is that correct?

10 A. Yes, we saw in the video that's the part that you

11 see. Going down the gateway, you see the north side first,

12 yes, sir.

13 Q. Why don't you move the fence back on the south side?

14 A. Well, I'm trying to put conditions in to have proper

15 impact, size and scale. And as you drive down the road, you

16 see that effect more on the north side, not on the south

17 side. And not meaning to be offensive at all, but one of

18 the things I said in September is, you know, just kind

19 one-upmanship, you know, whatever you agree to, somebody

20 wants more.

21 But we think it's been very reasoned and well

22 versed. And the north side, as I testified to before, looks

23 like a larger buffer area would be appropriate, in my

24 opinion.

25 Q. We're looking at your plan here. And on the south

Page 256

1 solar farm in a county without any regulations; is that

2 right?

3 A. That is not correct. I'm a real estate developer by

4 trade. And every real estate project is different. And I

5 enjoy the public process. And I enjoy doing nice real

6 estate projects. And I've invested a lot of my career and a

7 lot of my money, although I'm just an employee of Strata,

8 doing such things.

9 So, no, I get great personal pleasure out of being

10 part of developing quality projects and tailoring them to

11 specific circumstances within a community.

12 Q. Not to argue with you, but Walter Fields presented a

13 quality plan for landscaping; is that right?

14 A. He has presented a plan that has some elements that

15 I think are nice.

16 Q. Now, your name is Lance Williams?

17 A. Yes, sir.

18 Q. You are the manager of site development for Strata?

19 A. Yes, sir.

20 Q. What's your connection to Lincoln County?

21 A. Lincoln County?

22 Q. Is your family from Lincoln?

23 A. No. We had a lake house growing up, but it was in

24 Iredell County. I do have-- We come to Denver most every

25 summer because we spend the 4th of July and the family

Page 255

1 side it's 25 feet from the road?

2 A. From the right-of way.

3 Q. From the right-of-way.

4 A. The fence is 25 feet from the right-of-way.

5 Q. Correct.

6 A. Yes, sir, I think that's very normal for a fence.

7 Our actual structures are farther away. And so I think, you

8 know, it fully complies with code.

9 Q. The code has no setback at all. The code has no

10 requirement here.

11 A. Well, good.

12 Q. Well, that's our point. This UDO has no

13 requirements for you to meet?

14 A. Well, so we've set it back a reasonable distance.

15 And one of the things, you know, we look at is, you know,

16 what are other uses. How does it fit on this road. I sat

17 on the steering committee of the North Carolina Sustainable

18 Energy Association, which has met with over 200 planners and

19 state agencies to come up with drafts and recommendations.

20 I have worked on text change amendments in many

21 counties. And based on that, I feel our proposal on the

22 south side of the road meets reasonable concerns for what

23 we're proposing. And plus we have the landscaping that's

24 gone above and beyond.

25 Q. All right. Let me ask you, you prefer to build a

Page 257

1 reunion just over the border in Catawba. But it's really a

2 Denver address. And as mentioned before, I have a relative

3 who works in Lincoln County.

4 Q. Randy Williams?

5 A. Randy.

6 Q. He works on the staff of the city?

7 A. Yeah.

8 Q. Planning and zoning.

9 A. And I'm involved in dozens of counties.

10 Q. Okay. You discussed? Before you came to Lincoln

11 County you discussed the ordinance with Randy?

12 A. Excuse me?

13 Q. Did you discuss the UDO with your cousin down here?

14 A. Before I came here?

15 Q. Yes.

16 A. No, sir. What I did was I had a meeting with the

17 former head of planning and, I believe, the president or

18 head of planning Andrew was in the meeting. And there was a

19 farmer from Catawba County.

20 And, you know, the questions are always the same

21 thing. Hey, you know, solar farms, how do we build a solar

22 farm in Lincoln County? Are you interested? Would you like

23 to go see one in Kings Mountain so you know what you're

24 looking at before you tell me, you know, this is something

25 you like. And so that's why I asked staff. All right. I

Page 258

Page 259

1 asked planning on the farm in Lincoln County--excuse
2 me--down at Kings Mountain, you know, would you like a solar
3 farm in Lincoln County? And the answer was yes.

4 Would you like quite a few of them?

5 And the answer was yes.

6 MR. SCARBROUGH: All right. No further questions.

7 CHAIRMAN PATTON: Mr. Johnson.

8 MR. JOHNSON: Mr. Chairman, this is actually for
9 Mr. Beck if we can when we're finished with Mr. Williams.

10 * * *

11 FRED BECK, having first been duly sworn, testified as
12 follows:

13 MR. JOHNSON: Mr. Beck, you had testified earlier
14 that, I believe, it was your opinion that this solar farm
15 would have a very bad effect on values at Sailview?

16 MR. BECK: That's my opinion.

17 MR. JOHNSON: Is it also your opinion that it would
18 have the same bad effect on all properties accessed by Webb's
19 Road?

20 MR. BECK: I can't say all properties. I'm not sure
21 about all properties.

22 MR. JOHNSON: My problem is this, if the detriment
23 is that you are driving to your property and you go through
24 the solar farm, if my property is on Governor's Island or my
25 property is down near the access the other way, you've been

1 down that access, is my property going to be affected the
2 same percentage as properties in Sailview?

3 MR. BECK: I think the closer you are to the farm
4 probably the more damage it might have, yeah.

5 MR. JOHNSON: Thank you.

6 CHAIRMAN PATTON: Any other questions? All right.
7 Hearing none, we'll declare this public hearing closed.
8 Thank goodness. All right.

9 (The hearing was closed at 12:49 a.m.)

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1 STATE OF NORTH CAROLINA

2 COUNTY OF CATAWBA

3 I, Geri Halma do hereby certify that said hearing
4 was taken by me and transcribed under my supervision and
5 direction; and that the foregoing 259 pages constitute a
6 true and accurate transcript of the hearing;

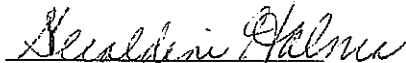
7 I do further certify that the parties were present as
8 stated in the caption.

9 I do further certify that I am not of counsel for or
10 in the employment of any of the parties to this action, nor
11 am I interested in the results of said action.

12 This the 11th day of December, 2013.

13

14



Geraldine Halma, MFA, RPR, CLVS

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Notary Public #19940100021

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Conditional Use Permit #326 – American Tower Corp, applicant:

Due to the late hour of the meeting, the applicants asked for their case to be continued to the January meeting.

Christine Poinsette asked that the Planning Board be allowed to reconvene next Monday night to deliberate due to the late hour. The Planning Board will deliberate the Turbyfill case immediately following the Board of Commissioners meeting.

Public Comments: Chairman Patton opened public comments.
Being no speakers, Chairman Patton closed public comments.

Recess: **UPON MOTION** by Commissioner Robinson, the Board voted unanimously to recess to December 13, 2013 at 9:00 a.m. at Lincoln Economic Development Association, 502 E. Main Street, Lincolnton, for the annual budget retreat.

Amy S. Atkins, Clerk
Board of Commissioners

Alex E. Patton, Chairman
Board of Commissioners