COUNTY OF CLEVELAND, NORTH CAROLINA AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

August 30, 2018

4:00 PM

County Commissioner Chambers

Call to order and Establishment of a Quorum

Invocation and Pledge of Allegiance

Approval of Minutes

Board of Adjustment Meeting Minutes from 7-26-18 meeting

Cases

Case 18-08: Solar Farm at 172 Pony Barn for Apex Solar, LLC

Miscellaneous Business

Adjournment

COUNTY OF CLEVELAND, NORTH CAROLINA AGENDAITEM SUMMARY

Minutes			
Department:			
Agenda Title:	Board of Adjust	ment Meeting Minutes	from 7-26-18 meeting
Agenda Summary	:		
Proposed Action:			
ATTACHMENTS:			
File Name		Description	
7-26-18_BOA_minutes	s.pdf	Minutes from 7-2	6-18 Minutes BOA



MINUTES CLEVELAND COUNTY BOARD OF ADJUSTMENT

Commission Chambers – County Administrative Building

311 East Marion St., Shelby, North Carolina Regular Meeting - 4:00 p.m.

July 26, 2018

Members Present Members Absent Others Present

Jeff Ward, Chairman Tommy Brooks Chris Martin, Senior Planner

Joyce Coleman, Vice Chairman Bobby Watson Henry Earle, Planner

Paul Aulbach Doug Lawing Anna Parker, Admin. Assistant

Thomas Fletcher

Ricky Cobb, Applicant

Robin Cobb, Applicant

Ronnie McCurry, Applicant

Glenda McCurry, Applicant

CALL TO ORDER

Chairman Ward called the meeting to order at 4:00 pm.

INVOCATION AND PLEDGE OF ALLEGIANCE

Joyce Coleman led the Invocation and Bobby Watson led the Pledge of Allegiance.

ROLL CALL TO ESTABLISH QUORUM

Chairman Ward determined quorum was present. He let the applicants know that a Conditional Use Permit requires a 3/4 vote and a Variance requires a 4/4 vote, since there were only four members present. The applicants responded that they would be okay to proceed with the hearings.

APPROVAL OF JUNE 28, MINUTES

Paul Aulbach made the motion to approve the June 28, 2018 minutes. It was seconded by Bobby Watson and unanimously carried.

CASE #18-06 VARIANCE: FRONT YARD SETBACKS

Applicant: Ricky and Robin Cobb

Location: 322 Harrelson Rd.

Parcel #: 36495

Chris Martin was sworn in to present a Staff Report on case 18-06. The homeowners Ricky & Robin Cobb want to add an attached carport garage to their home at 322 Harrelson Rd. Their home is turned sideways to the road so the attached carport would be between the side of their

home and Harrelson road. This new garage is to replace an old carport that is in a Duke Power Easement on their property.

Board Discussion: Bobby Watson pointed out that they cannot replace the carport in the current position because of the Duke Power Easement and the setbacks to the side property lines. Paul Aulbach discussed the road right-of-way. Their property line is thirty feet from the center of the road to account for the 60 foot road easement. The Variance cannot allow them to build in the right-of-way.

Chairman Ward opened the Public Hearing at 4:14 pm. There was no public comment for this case and he closed the Public Hearing at 4:15 pm.

Bobby Watson made the motion to grant the Variance. The Board determined that there was hardship related to the land, that it was not self-created, that it is in harmony with the area, and that it is safe and just. Bobby Watson amended the motion to add approval is based on the presented site plan, and that the new building will not encroach on the right-of-way. Paul Aulbach added to the motion that the existing carport be torn down (the applicants agreed to this addition to the motion.) The motion was seconded by Joyce Coleman and unanimously carried.

CASE #18-07 CONDITIONAL USE PERMIT: TEMPORARY DEPENDENT CARE HOME PERMIT RENEWAL

Applicant: Ronnie and Glenda McCurry

Location: 3534-1Plainfield Dr.

Parcel #: 35820

Chris Martin was sworn in to present a Staff Report on case 18-07. The applicants originally applied in 2003 for their temporary dependent care home, they renewed it in 2008 and in 2013, and they want to renew it again since it is still needed. The home is a Double Wide Mobile Home (DWMH) and the applicants wish to continue using the home for their disabled son.

Chairman Ward opened the Public Hearing at 4:22 pm.

Glenda McCurry was sworn in. She said the DWMH is kept in nice condition to keep up the property value of their home. Their son was in an accident and he is disabled. He needs a place close by for his care and safety.

Chairman Ward closed the Public Hearing at 4:24 pm as there was no more public comment.

Board Discussion: No Board discussion.

Paul Aulbach made the motion to grant the Conditional Use Permit. The Board determined that the home does not endanger public health or safety, it will not injure adjoining property values, it will be in harmony with its surrounding area, and it is in conformity with the Land Use Plan. Bobby Watson seconded the motion and it unanimously carried.

MISCELLANEOUS BUSINESS

No Miscellaneous Business.

ADJOURNMENT

Chairman Ward entertained a motion to adjourn.

Joyce Coleman made the motion to adjourn the meeting. The motion was seconded by Bobby Watson and unanimously carried to adjourn at 4:24 pm.

	ATTEST:	
Jeff Ward, Chairman	Anna Parker, Administrative Assistant	

COUNTY OF CLEVELAND, NORTH CAROLINA AGENDAITEM SUMMARY

Cas	e 18-08		
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Dep	partment:		
_		at 172 Pony	Barn for Apex Solar, LLC
_	enda Summary:	,	, p ,
	•		
Pro	pposed Action:		
ATT	CACHMENTS:		
	File Name	Description	
	18-08_Staff_Report_172_Pony_Barn_Solar_Farm.pdf	Staff Report	
	Site_Plan_08-30-18.pdf	Site Plan	
	18-08_Decommission_plan_172_pony_barn_solar.pdf	Decommissionin	g Plan
	18-08_Adjoiners_Apex_Solar_Pony_Barn_Rd.pdf	Adjoiners List	
	18.08 Aprial IIID Zoning mans 172 Dony Ram Pd ndf	Mane	

STAFF REPORT

To: Board of Adjustment Date: August 30, 2018

From: Chris Martin, Senior Planner

Via: Henry Earle, Planner

Subject: Conditional Use Permit Application 18-08

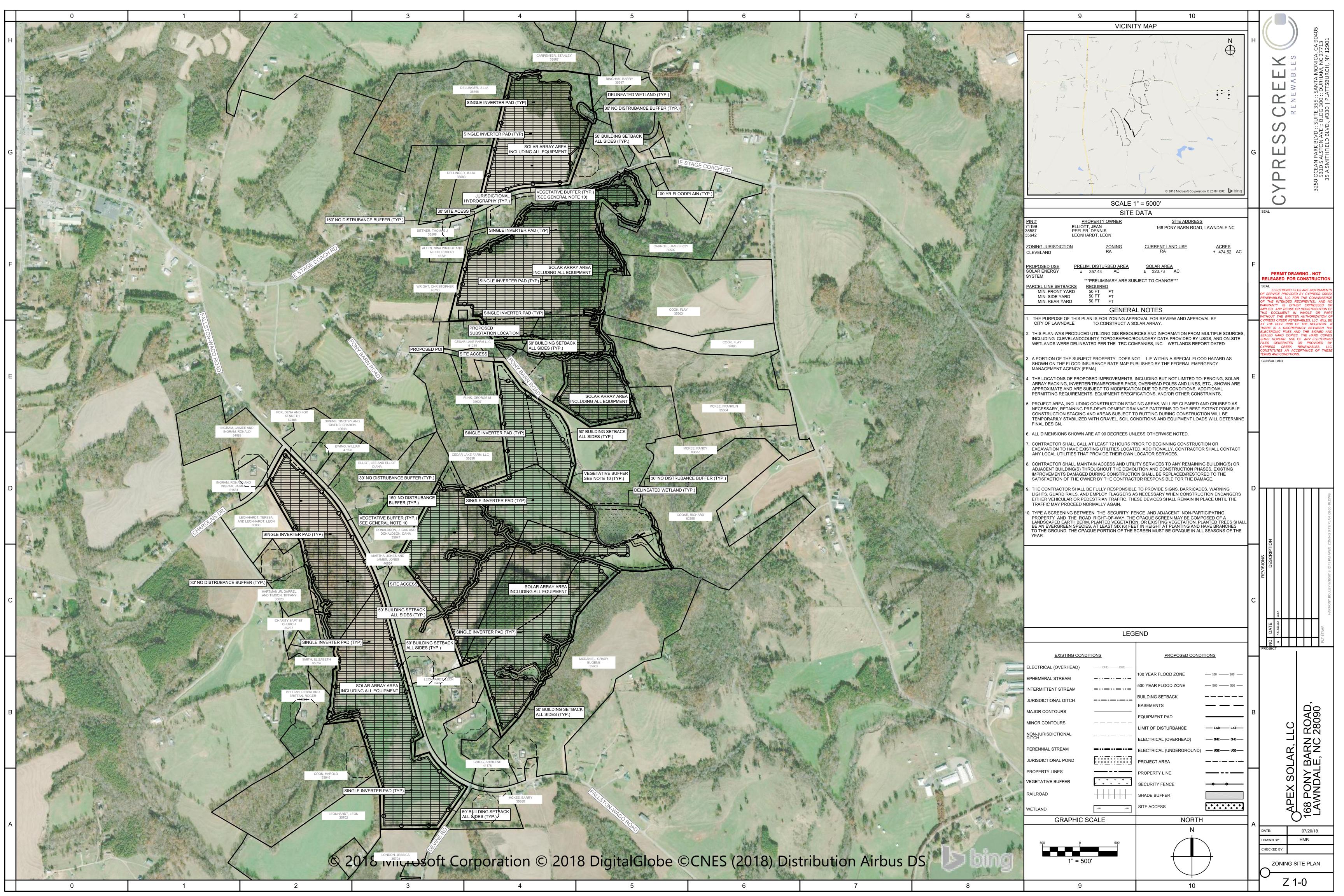
<u>Summary Statement</u>: Cypress Creek Renewables, under the name Apex Solar, LLC, is requesting a Conditional Use Permit to operate a 357 acre solar facility at 172 Pony Barn Road. They have submitted a completed application, a site plan, and a decommissioning plan.

Review: The property for consideration is a combination of parcels 35642, 59529, 57509, 35644, 35649 and 3561, owned by D. Leon Leonhardt, as well as parcels 35586, 35587 and 35585 owned by Dennis Peeler and parcel 71199 owned by Jean Elliot. The properties are located mainly between East Stage Coach Trail to the north, Fallston-Waco Road to the west and south, and Plainsview Church Road to the east. The property is currently zoned Rural Agriculture, with a portion of parcel 71199 being zoned Residential. The land use plan calls this area Low Density Residential. The surrounding area consists mostly of large tracts of residential land.

Solar Facilities are a compliant use in the Rural Agriculture zoning district with the issuance of a Conditional Use Permit from the Board of Adjustment. There are required standards for Solar Farms that are described in Section 12-160 of the Cleveland County Development Code, and included in your packet.

When issuing conditional use permits, the Board must consider the following four findings;

- (1) Will not materially endanger the public health or safety;
- (2) Will not substantially injure the value of adjoining or abutting property;
- (3) Will be in harmony with the area in which it is to be located; or
- (4) Will be in general conformity with the land use plan, thoroughfare plan, or other plans officially adopted by the board of commissioners.



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Dec	omr	niss	ion	ina	Plan

Decommissioning Flan
Decommission Plan for Apex Solar, LLC ("Facility"), located at Pony Barn Road, Lawndale,
NCC 28090.
Prepared and Submitted by <u>Apex Solar, LLC</u> , the owner of Apex Solar
This decommissioning plan is presented as required by Subsection 12-160(f) of the Cleveland County Code.
Decommissioning will occur as a result of any of the following conditions:
1. The land lease ends
2. The system does not produce power for 12 months
3. The system is damaged and will not be repaired or replaced
The owner of the Facility, as provided for in its lease with the landowner, will do the
following as a minimum to decommission the project.
1. Remove all non-utility owned equipment, conduits, structures, fencing, and
foundations to a depth of at least three feet below grade.
2. Remove all graveled areas and access roads unless the owner of the leased real estate requests in writing for it to stay in place.
3. Restore the land to a condition reasonably similar to its condition before SES development, including replacement of top soil removed or eroded.
4. Re-vegetate any cleared areas with warm season grasses that are native to the
Piedmont region, unless requested in writing by the owner of the real estate to not
re-vegetate due to plans for agricultural planting.
All said removal and decommissioning shall occur within 12 months of the facility ceasing to
produce power for sale.
The Facility Owner, currentlyApex Solar, LLC, is responsible for this
decommissioning. Nothing in this plan relieves any obligation that the real estate property

The owner of the Facility will provide the Cleveland County Planning Department and the Register of Deeds with an updated signed decommissioning plan within 30 days of change in the Facility Owner.

This plan may be modified from time to time and a copy of any modified plans will be provided to the planning staff and filed with the Register of Deeds by the party responsible for decommissioning.

PocuSigned by:

Pur Brund

06C2D600D4D446F... Authorized Person on behalf of Apex Solar, LLC

Landowner signature pages attached.

Facility Owner Signature:

6/19/2018

Date:

The owner of the Facility will provide the Cleveland County Planning Department and the Register of Deeds with an updated signed decommissioning plan within 30 days of change in the Facility Owner.

This plan may be modified from time to time and a copy of any modified plans will be provided to the planning staff and filed with the Register of Deeds by the party responsible for decommissioning.

acility Owner Signature: Authorized Person on behalf of Apex Soler, LLC		
Date:		
Landowner (if different) Signature: _	Dennis	Dale Luder Elizabet Peeler
Date: 6 -1 -18		

The owner of the Facility will provide the Cleveland County Planning Department and the Register of Deeds with an updated signed decommissioning plan within 30 days of change in the Facility Owner.

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Facility Owner Signature:	Authorized Person on behalf of Apex Soler, LLC
Date:	
Landowner (if different) Signature:	vany Ellicat

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This plan may be modified from time to time and a copy of any modified plans will be provided to the planning staff and filed with the Register of Deeds by the party responsible for decommissioning.

Facility C	Owner Signature:	Authorized Person on behalf of Apex Solar, LLC
Date:		
Landowr	ner (if different) Signature: _	Pheonlard
Date:	6-14-18	

"Clebeland County Grows Greater"



PLANNING DEPARTMENT

CHARLES F HARRY III ADMINISTRATIVE BUILDING
PO BOX 1210 • 311 E MARION STREET • SHELBY NC 28151-1210
www.clevelandcounty.com
Telephone 704-484-4979

PUBLIC HEARING NOTICE CERTIFICATION

Case 18-08 CUP: Solar Farm by Apex Solar LLC/ Cypress Creek Renewables Parcels 35642, 59529, 57509, 35644, 35649 and 3561, owned by D. Leon Leonhardt; parcels 35586, 35587 and 35585 owned by Dennis Peeler; parcel 71199 owned by Jean Elliot

PARCEL	OWNER	MAILING ADDRESS	CITY, STATE, ZIP
35632	ANGELA & DENNIS MILNE	203 CHAROLAIS DR	LAWNDALE NC 28090
		5310 S ALSTON AVE BLDG	
Applicant	APEX SOLAR, LLC	300	DURHAM NC 27713
71199 & 60616	BARBARA AND JEAN ELLIOTT	PO BOX 191	FALLSTON NC 28042-0191
35625	BARBARA FISHER	102 LEAFLOCK LN	LAWNDALE NC 28090
35547	BARRY L BINGHAM	214 BINGHAM ROAD	LAWNDALE NC 28090
	BILLY DELLINGER & MARY		
35580	CONLEY, ETALS	1121 E STAGECOACH TR	LAWNDALE NC 28090
61249 & 35638	CEDAR LAKE FARM LLC	PO BOX 6929	STATESVILLE NC 28687-6929
	CHARITY BAPTIST CHURCH		
35627	TRUSTEE	113 CHARITY CH RD	LAWNDALE NC 28090
52600	CHRISTIAN AND MICHAEL FUNK	PO BOX 1572	FALLSTON NC 28042-1572
46728 & 46730	CHRISTOPHER S WRIGHT	2161 LYNN MOUNTAIN RD	VALE NC 28168-7501
Applicant	CYPRESS CREEK RENEWABLES	3250 OCEAN BLVD STE 355	SANTA MONICA CA 90405
	DARRELL EDGAR AND		
35628	BERNADINE HARTMAN	117 CHARITY DR	LAWNDALE NC 28086
35640	DENNIS AND DIANA ELLIOTT	3836 FALLSTON WACO RD	LAWNDALE NC 28090
35585, 35586,	DENNIS DALE AND ELIZABETH		
35587 & 35589	PEELER	PO BOX 166	LAWNDALE NC 28090-0166
35676	DICE BRITTAIN	227 CHARITY DR	LAWNDALE NC 28090-9420
35702, 35633, 35641, 35642, 35644, 35649,			
54007, 57509,	DOUGLAS LEON AND TERESA		
57863, 59529, & 61774	LEONHARDT	PO BOX 580	FALLSTON NC 28042
35624	ELIZABETH ROXANNE SMITH	PO BOX 391	FALLSTON NC 28042
47028	EMILY AND WILLIAM B EWING JR	3864 FALLSTON-WACO RD	LAWNDALE NC 28090
35603 & 59085	FLAY AND JANET COOKE	521 PLAINSVIEW CH RD	LAWNDALE NC 28090
35604, 35613,	FRANKLIN, BARRY, AND SUSAN	Marie Control of the	
35650	MCKEE	3617 FALLSTON WACO RD	LAWNDALE NC 28090

PARCEL	OWNER	MAILING ADDRESS	CITY, STATE, ZIP
35652 & 35651	GRADY MCDANIEL	PO BOX 125	FALLSTON NC 28042-0125
	GREGORY AND RICHARD		
35590 & 55090	BRITTAIN	1223 E STAGE COACH TRL	LAWNDALE NC 28090
35669	IRMA FAYE GOFORTH	234 CHARITY CH RD	LAWNDALE NC 28090
35623	JACQUELYN CHILDERS	392 MARTIN HILLS RD	BLACKSBURG SC 29702
59165 & 58890	JAMES & LUCILLE GREEN	PO BOX 126	FALLSTON NC 28042-0126
35667	JAMES AND MARTHA JONES	3820 FALLSTON WACO RD	LAWNDALE NC 28090
46654	JAMES AND MARTHA JONES	PO BOX 2658	SHELBY NC 28151-2658
35646	JAMES HAROLD COOK	PO BOX 395	FALLSTON NC 28042-0395
35592	JAMES ROY CARROLL	1324 E STAGECOACH TRL	LAWNDALE NC 28090-9550
·*·	JANET AND WALTER		
61780 & 44457	NAHALEWSKI	PO BOX 564	FALLSTON NC 28042
35672	JEANETTE OWENS	3904 FALLSTON WACO RD	LAWNDALE NC 28090
35662	JOE AND DONNA SMITH	PO BOX 550	FALLSTON NC 28042-0550
61285 & 35731	JOEL & JESSICA LONDON	PO BOX 621	FALLSTON NC 28042-0621
35617	JOHN E PORTER	1300 E STAGECOACH TRL	LAWNDALE NC 28090
62488	KENNETH AND DENA FOX	1015 ALLENDALE DR	SHELBY NC 28150
35647	LUCAS AND DANA DONALDSON	3824 FALLSTON WACO RD	LAWNDALE NC 28090-9141
···	MARY ELLEN CONLEY & DORIS D		
35568 & 35583	WILSON, ETALS	1121 E STAGECOACH TR	LAWNDALE NC 28090
60837	RANDY MCKEE	PO BOX 389	FALLSTON NC 28042-0389
52598	MELISSA & REGINALD LAWRENCE	112 WOODROW HOYLE RD	CASAR NC 28020
35637	MICHAEL AND GEORGE FUNK	PO BOX 127	FALLSTON NC 28042-0127
 ,	MICHAEL S HARRISON & LESLIE		
35616	CARPENTER	1301 E STAGE COACH TRL	LAWNDALE NC 28090
35591	MYRA CLARK	PO BOX 762	SHELBY NC 28151-0762
35582	NELSON AND APRIL MOSES	1142 E STAGECOACH TR	LAWNDALE NC 28090
46731	NINA AND ROBERT ALLEN	PO BOX 263	FALLSTON NC 28042-0263
	PAULA LEONHARDT & TANYA		
52599	ERVIN-LEONHARDT	1140 EAST STAGECOACH	FALLSTON NC 28042
35698	PEGGY B COSTNER	4113 DEVINE RD	LAWNDALE NC 28090
52300	RICHARD & MARY CARROLL	1316 E STAGECOACH TR	LAWNDALE NC 28090
62019	RICHARD AND SARAH BRITTAIN	1225 E STAGECOACH TRL	LAWNDALE NC 28090
62286	RICHARD H COOKE SR	5121 PARKWAY PLAZA BLVD	CHARLOTTE NC 28217
44609 & 35622	ROGER AND DEBRA BRITTAIN	229 CHARITY CH RD	LAWNDALE NC 28090-9412
61551 & 54983	RONALD AND JAIMEE INGRAM	PO BOX 726	FALLSTON NC 28042
35704	RUTH LONDON	4143 DEVINE RD	LAWNDALE NC 28090
58114	SHANNON AND LORI BINGHAM	3600 FALLSTON WACO R	LAWNDALE NC 28090
44178	SHIRLENE ROYSTER GRIGG	PO BOX 6357	GASTONIA NC 28056
	SONYA PARTON & DONALD		LAMARALENGES
60922	DELLINGER	235 CHARITY CHURCH R	LAWNDALE NC 28090

PARCEL	OWNER	MAILING ADDRESS	CITY, STATE, ZIP
	STANLEY D CARPENTER &	1 11 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	1948
35567	JEFFERY S CARPENTER TRUSTEES	7698 PARKER FARM RD	LAWNDALE NC 28090
44921	TAMMY GREEN MCKOWN	193 CAP WRIGHT ROAD	LAWNDALE NC 28090-9400
63523 & 35673	THOMAS & KAREN BESS	205 CHAROLAIS DR	LAWNDALE NC 28090
35588	THOMAS J BITTNER	3793 HOLLIS RD	ELLENBORO NC 28040
49646	TIMOTHY AND SHARON GIVENS	3870 FALLSTON WACO RD	LAWNDALE NC 28090

CERTIFICATION

I, Anna Parker, do hereby certify that the above listed adjoining property owners were mailed Public Hearing notices on 08/17/2018.



