

**COUNTY OF CLEVELAND, NORTH CAROLINA**  
**AGENDA FOR THE PLANNING BOARD MEETING**

**February 26, 2019**

**6:00 PM**

**Commissioner's Chamber**

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**Call to order and Establishment of a Quorum**

**Invocation and Pledge of Allegiance**

**Approval of Minutes**

Minutes from the January 22 2019 Planning Board Meeting

**Items**

Case 19-05: Request to rezone property from Restricted Residential to General Business at 1201 South Post Road

Case 19-03: Cleveland County Solar Facility Ordinance

Case 18-12: Garages and Carports Text Amendment

**Miscellaneous Business**

**Adjournment**

**COUNTY OF CLEVELAND, NORTH CAROLINA**

**AGENDA ITEM SUMMARY**

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**Minutes**

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**Department:**

**Agenda Title:** Minutes from the January 22 2019 Planning Board Meeting

**Agenda Summary:**

**Proposed Action:**

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**ATTACHMENTS:**

File Name	Description
<input type="checkbox"/> 1-22-19_PB_Minutes.pdf	Minutes



**CLEVELAND COUNTY PLANNING BOARD**  
**Cleveland County Administrative Building – Commission Chambers**  
**311 E. Marion Street, Shelby, NC**  
**January 22 2019 - 6:00 p.m.**

**Present:**

Max Hopper, Chairman  
Tom Spurling, Vice-Chairman  
Lucas Shires  
Darryl Crawford  
Eddie Kee  
Susan Scruggs  
Charles Christenbury

**Absent:**

**Others**

Chris Martin, Senior Planner  
Anna Parker, Administrative Assist.  
Henry Earle, Planner  
Bill McCarter  
Spencer Borders  
Keith and Irene Tooney  
Deja Lawrence

**CALL TO ORDER AND ESTABLISH QUORUM**

**Chairman Max Hopper** called the meeting to order at 6:00 pm. It was determined that a quorum was present.

**INVOCATION AND PLEDGE OF ALLEGIANCE**

**Chairman Hopper** led the invocation, followed by the Pledge of Allegiance.

**AGENDA ORDER**

**Vice Chairman Tom Spurling** made a motion to reverse the order of the agenda to hear the re-zoning cases first. It was seconded by Lucas Shires and unanimously carried.

**NEW MEMBER OATH**

Eddie Kee (Harold Edwin Kee) was sworn in as a new Planning Board Member.

**APPROVAL OF THE NOVEMBER 27, 2018 MINUTES**

**Susan Scruggs** made a motion to approve the November 27, 2018 minutes. It was seconded by Tom Spurling and unanimously carried.

**CASE 18-13 RE-ZONE 1650 S. POST ROAD FROM RR TO GB**

**Challenger Three Golf, Inc.** is requesting to rezone their property at 1650 S. Post Rd. They own three parcels that include an amusement park (mini golf, arcade, etc.) and a driving range. The surrounding area is restricted residential with some general business uses. The area is designated as Future Commercial in the Land Use Plan. The Corridor Protection along S. Post Rd. currently covers a portion of the property, but does not extend over the whole site. Staff has not received any negative comments at this time regarding the re-zoning. The business was in operation prior to zoning being adopted.

**Chairman Hopper** inquired if any public would like to speak. There was no public comment.

**Charles Christenbury** made a motion to recommend to the Commissioners approval of re-zoning case 18-13 for 1650 S. Post Rd. It was seconded by Susan Scruggs and unanimously carried.

**CASE 19-01 RE-ZONE 134 SHADY LN FROM RA TO R**

**Chris Martin** said the applicant, Diane Gillespie, lives on the property and wants to re-zone from Rural Agriculture to Residential. There is Residential zoning to either side of the property. The difference in zoning districts is that Residential allows for one or one-half acre subdivisions (depending on the watershed area) and Rural Agriculture has a 3 acre minimum requirement. The Town of Mooresboro does not have a Future Land Use Plan. Staff has not received any comments from the residents.

**Chairman Hopper** inquired if any public would like to speak. There was no public comment.

**Lucas Shires** made a motion to recommend to the Town of Mooresboro approval of re-zoning Rural Agriculture to Residential for Case 19-01. It was seconded by Eddie Kee and unanimously carried.

**CASE 19-02 RE-ZONE 823 OLD STUBBS RD FROM R to LI-CD**

**Chris Martin** stated the Commissioners plan to set the Public Hearing for Feb. 19<sup>th</sup> during their Feb. 11<sup>th</sup> meeting. The building that was at the site previously partially collapsed during a snow storm. In order to re-build, the zoning needs to match the proposed use. Jason Hamrick acquired the property in the Fall of 2018. Mr. Martin stated that this is spot zoning so it would need to be justified- for instance with the Conditional Use, safety, and with the Future Land Use Plan. The building had always been used for yarn manufacturing. The property sits close to the intersection of Cherryville Highway and the site is in a Future Land Use “business node”. It is close to other businesses, and the applicant has signatures of the adjoining property holders on either side. The Conditional Use for this site would be for welding and metal fabrication, which is allowed in Light Industrial Zoning. The new building will be in the same footprint of the old one.

**Lucas Shires** felt that the screening on the site plan is too high to be so close to the building (Leland cypress trees get to be 40’ to 50’ tall) and could cause damage. The minimum screening requirements should be okay.

**Chairman Hopper** inquired if any public would like to speak. There was no public comment.

**Lucas Shires** made a motion to recommend to the Commissioners approval of the re-zoning Residential to Light Industrial-Conditional Use for a welding and metal fabrication shop for Case 19-02. It was seconded by Charles Christenbury and unanimously carried.

### **CASE 18-10 CELL TOWER ORDINANCE**

Chris Martin plans to present the Ordinance at the Commissioner's February 5<sup>th</sup> meeting as a presentation only, and at their direction, the Public Hearing date would be set.

**Mr. Martin** discussed the following:

1. Definitions
2. Table of Contents
3. Application process
4. Encouraging co-location
5. Fee Schedule for consultants
  - a. Possibly charge per tower that is reviewed on small modifications since they have to review each tower in the 1.5 mile buffer.
  - b. Review other county's fee schedules.
6. Site Plan
  - a. Should it require a boundary survey? How can it verify the fall zone without a boundary survey? This leaves risk and liability.
  - b. The Board requested to delete #1, and use the language "survey site plan signed by a licensed surveyor in NC." Or "The site plan shall include an Alta Survey sealed and signed by a licensed surveyor in NC."
  - c. Design and appearance
    - i. Chairman Hopper requested to remove the "red strobes" example from the design standards to not single out any one option.
  - d. Setbacks from habitable structure- we need to define a habitable structure. Is it a business, home, barn?
  - e. Guidewires are not included in the setbacks, just the tower structure itself.
7. Add weather standards to H1: ANSI and TIA standards for weather, since weather standards change and are updated every so often.
  - a. Darryl Crawford suggested adding this language to paragraph three.
8. Mr. Martin said he will present the ordinance to the commissioners and bring the new draft version before the Planning Board in their February meeting.

**Tom Spurling** made a motion to brief the Commissioners on the draft version of the ordinance as amended and to bring feedback from the Commissioners back to the Planning Board. It was seconded by Charles Christenbury and unanimously carried.

### **CASE 18-12 TEXT AMENDMENT: GARAGES AND CARPORTS**

Chris Martin reviewed the application received by Britt Bernhardt to allow detached accessory garages and carports in the front of property yards. Mr. Bernhardt submitted a proposal to allow accessory structures in the front yard if the property is 2 acres or more, with 150' setbacks from the road. Staff created a version with standards that would be more compatible county wide. Planning Board made the following suggestions:

- Add “Detached” to the header to clarify.
- Eddie Kee inquired if the “50% of the home size” include stories, or is it just the footprint. Lucas Shires suggested it should be just the footprint of the home.
- Chairman Hopper inquired if this would be for garage apartments. Mr. Martin said no, only for cars or parking/storing vehicles.
- Vice-chairman Spurling said to remove “primarily” in the definition before cars, and use “motor vehicles” instead of cars.
- Correct spelling of “principle” in section #2.
- Clarify if the 50’ is from the house (point to point) or the front plane of the house, and is to the nearest point of the structure, or the furthest.

**Lucas Shires** made a motion deny the petitioners text amendment request. It was seconded by Eddie Kee and unanimously carried.

**Chairman Hopper** requested that Staff work on the version that would be more comprehensive, and fair for everyone countywide.

### **CASE 19-03 TEXT AMENDMENT REVIEW FOR SOLAR FARMS**

The Commissioners have requested that the Planning Board evaluate the current Solar Facility Ordinance. They are concerned about larger Solar Facilities/Farms (150 to 300+ acres) and how we can preserve the Agricultural Heritage of the community. Some areas that Staff suggested be looked at are setbacks, screening, zoning districts, and fess. Tom Spurling suggested looking at greenspace and density requirements.

### **Miscellaneous Business**

There was not miscellaneous business at this time.

### **ADJOURNMENT**

There being no further business, **Chairman Hopper** adjourned the meeting at 9:00 pm.

ATTEST:

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Max Hopper, Chairman

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Anna Parker, Administrative Assistant

# COUNTY OF CLEVELAND, NORTH CAROLINA

## AGENDA ITEM SUMMARY

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### Case 19-05 Rezoning 1201 South Post Road

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**Department:** Planning Department

**Agenda Title:** Case 19-05: Request to rezone property from Restricted Residential to General Business at 1201 South Post Road

**Agenda Summary:**

**Proposed Action:**

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#### ATTACHMENTS:

File Name	Description
<input type="checkbox"/> 19-05_Staff_Report.pdf	Staff Report
<input type="checkbox"/> 19-05_Zoning_Map_1201_South_Post_Road.pdf	Zoning Map
<input type="checkbox"/> 19-05_Aerial_Map_1201_South_Post_Road.pdf	Aerial Map
<input type="checkbox"/> 19-05_Land_Use_Map_1201_South_Post_Road.pdf	Land Use Map

## STAFF REPORT

To: Cleveland County Board of Commissioners Date: February 12, 2019  
From: Chris Martin, Senior Planner  
Subject: Rezoning Case 19-05

Summary Statement: South Post LLC is requesting to rezone property at 1201 South Post Road from Restricted Residential (RR) to General Business (GB).

Review: The property is 1.93 acres located at 1201 South Post Road on the corner of South Post and Joe's Lake Road. The property is zoned Restricted Residential and is also covered by the Highway Corridor Overlay. The property has been used since 1999 as a Commercial building with tenants covering multiple business uses allowed in the Corridor.

The surrounding zoning is Restricted Residential to the immediate South and East, with General Business to the North, Neighborhood Business and Light Industrial to the immediate North West across Joe's Lake Road, and General Business across South Post Road to the East. Surrounding uses include residential houses to the south and east along Joe's Lake Road. There is a gas station and food mart further south along Post Road, a solar facility to the north east and a tee shirt printing shop to the east.

The Land Use Plan designates the proposed parcel as Future Commercial, denoting that this rezoning would be in compliance with the Land Use Plan

### Pros:

- Greater allowance of business uses for a parcel already being used for commercial purposes giving owner and tenants greater flexibility.
- Complies with the Future Land Use Plan
- Fits with the area comprised of several business and industrial uses.

### Cons:

- None

### Fiscal Impact:

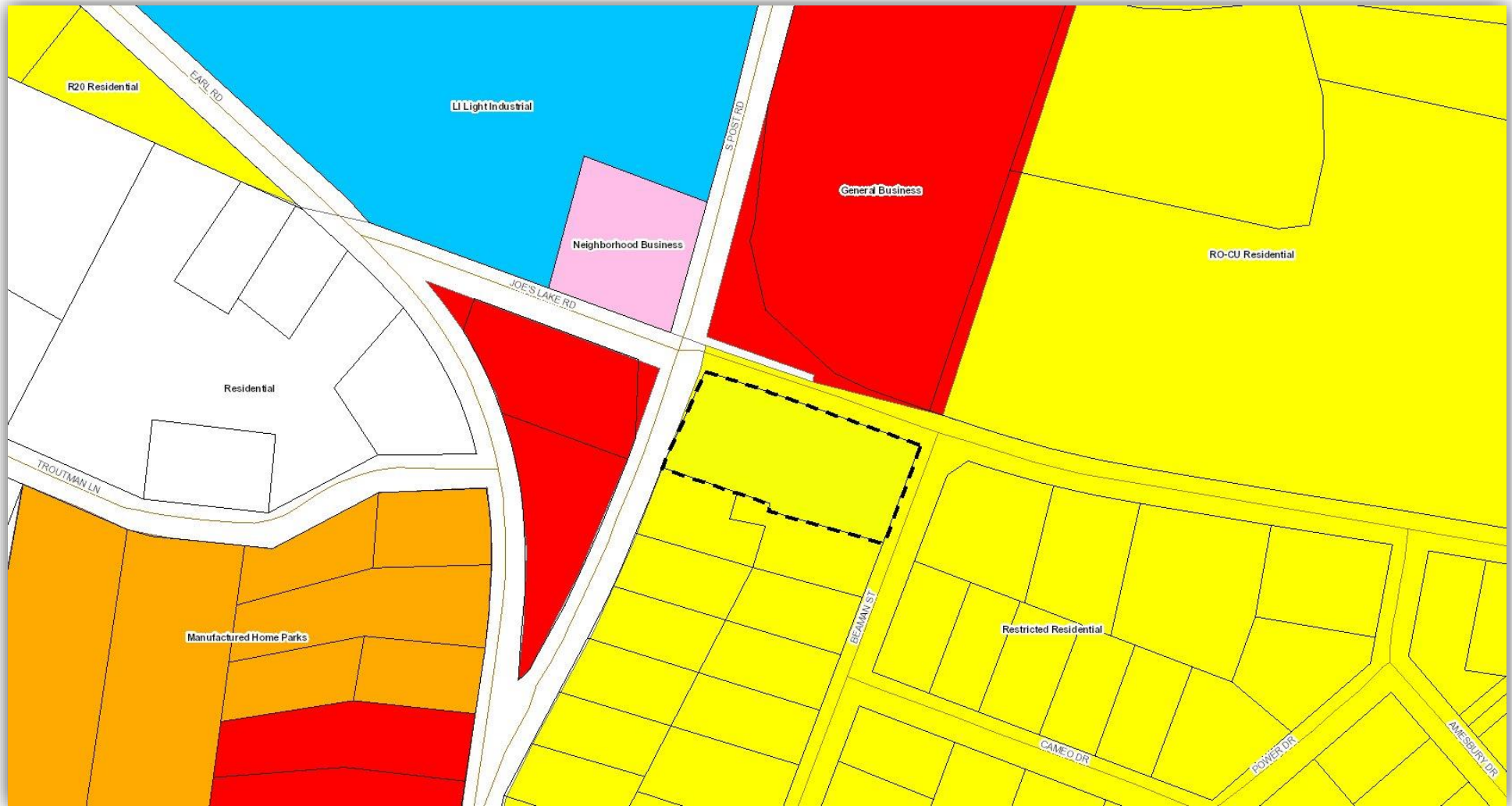
- None

### Recommendations:

- Planning Board: The Planning Board will review this case and make a recommendation at their February 26, 2018 meeting.



**Case # 19-05 Re-Zoning** for 1201 South Post Road RR to GB  
**Zoning Map**, Parcel # 3108 1.93 acres





**Case # 19-05 Re-Zoning** for 1201 South Post Road RR to GB  
**Aerial Map,** Parcel # 3108 1.93 acres





**Case # 19-05 Re-Zoning** for 1201 South Post Road RR to GB  
**Land Use Map**, Parcel # 3108 1.93 acres



# COUNTY OF CLEVELAND, NORTH CAROLINA

## AGENDA ITEM SUMMARY

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### Case 19-03: Solar Facility Discussion

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**Department:**

**Agenda Title:** Case 19-03: Cleveland County Solar Facility Ordinance

**Agenda Summary:**

**Proposed Action:**

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#### ATTACHMENTS:

File Name	Description
<input type="checkbox"/> 19-03_Staff_Report.pdf	Staff Report
<input type="checkbox"/> Sec.12-160_Solar_Electric_Power_Generation.pdf	Section 12-160
<input type="checkbox"/> Chart_of_Ordinance_Requirements_for_Solar_in_Counties_Nearby_Cleveland.pdf	Ordinances from Other Counties
<input type="checkbox"/> Pasquotack_County.pdf	Pasquotack County
<input type="checkbox"/> Agricultural_Advisory_Board_Thoughts.pdf	Agricultural Advisory Board Thoughts

## STAFF REPORT

To: Cleveland County Planning Board

Date: February 21, 2019

From: Chris Martin, Senior Planner

Subject: Text Amendment Case 19-03: Solar Facility Ordinance Update

Summary Statement: The Board of Commissioners has requested that the Planning Board evaluate, and suggest improvements to, the Cleveland County Solar Facility Ordinance.

Review: Our solar facility ordinance was adopted by the Board of Commissioners in 2016 and provides standards for Solar Facilities. Recently approved solar facilities are significantly larger than in the past, and the number of facilities has steadily increased in the County. This has caused an increase in citizen comments and questions regarding solar standards. At their January 15, 2019 meeting, the Board has requested the Planning Board to reevaluate this section of the Code and to explore the following components:

- Setbacks
- Landscape screening
- Emergency access
- Decommissioning
- Bonding requirements

At the February 11, 2019 regular meeting, the Board of Commissioners adopted a moratorium on solar facilities, with the intent to give sixty (60) days for the Planning Board to evaluate the above mentioned section of the Code and to submit suggestions for improved standards by April 12, 2019.

Pros:

- Evaluating standards will create the opportunity to create a more effective ordinance that will be reflective of the continued growth of solar facilities in Cleveland County

Cons:

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Recommendations:

- Planning Board:

**Sec. 12-160. - Solar electric power generation.**

The following development standards shall apply to the construction of any solar facility designed to generate electricity for a commercial purpose. Any solar facility on properties less than ten (10) acres shall be prohibited:

- (a) A site plan shall be prepared in accordance with section 12-33. The site plan does not require a boundary survey as described in subsection 12-33(a)(1). The site plan shall show the location of any structures within one hundred (100) feet of the property line, and also demonstrate compliance with the other standards in this section.
- (b) Opaque (Type A) screening shall be installed between the security fence and adjacent non-participating property and the road right-of-way, prior to the operation of any solar equipment.
- (c) Security fencing shall be installed around the perimeter of the solar farm. The fencing shall be a minimum of six (6) feet in height, chain link, and equipped with a gate and locking mechanism.
- (d) Setbacks shall be measured from the security fencing:
  - (1) Fifty (50) feet from any non-participating property;
  - (2) One hundred (100) feet from any habitable dwelling or commercial structure;
  - (3) One thousand (1,000) feet from the right-of-way of a NCDOT Scenic Byway.
- (e) Landscape screening, fencing, gates and warning signs shall be maintained in good condition until the facility is decommissioned.
- (f) *Decommission plan.*
  - (1) The owner/operator of the solar facility shall submit a decommissioning plan prior to the issuance of a zoning permit or conditional use permit (example provided following this section); however, nothing about the issuance of this permit relieves the landowner of the obligation to remove the equipment as outlined in the conditional use or zoning permit.
  - (2) If the owner/operator of the solar facility fails to ensure the removal of the equipment within six (6) months after power production ceases for a period of twelve (12) continuous months, the landowner shall be in violation of the conditional use or zoning permit, and be subject to the penalties set forth in section 12-94.

- (3) Each day that the violation continues after notification to the landowner by the administrator, shall be considered a separate offense for purposes of penalties and remedies.

(g) *Enforcement by injunction, abatement and liens.*

- (1) If a violation continues under section 12-94, the violation may be enforced by an order of abatement issued by the general court of justice for failure of the landowner to correct the unlawful condition of the property. Upon issuance of an abatement order by the general court of justice, a landowner must comply with the order within the time limit specified. If the landowner fails to do so, the county may take steps necessary to correct the condition of the property. The cost to correct the condition shall be a lien on the property in the nature of a mechanic or material man lien.
- (2) The equipment which remains shall be deemed abandoned and salvaged for the cost of decommissioning.
- (3) Should the salvage value exceed the cost of decommissioning, the balance shall be placed with the office of the clerk of court for abandoned funds.

(Ord. of 4-5-16(1))

**Example of the Decommissioning Plan**

Decommission Plan for Big Bright Solar ("Facility"), located at \_\_\_\_\_.

Prepared and Submitted by \_\_\_\_\_, the owner of Big Bright 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, currently \_\_\_\_\_, is responsible for this decommissioning. Nothing in this plan relieves any obligation that the real estate property owner may have to remove the facility as outlined in the Conditional Use Permit in the event the operator of the facility does not fulfill this obligation.

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.

Facility Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Landowner (if different) Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

(Ord. of 4-5-16(1))



Summary of Zoning/Development Requirements for Utility Scale Solar in Counties Adjacent to or Nearby Cleveland County, North Carolina  
(Note: This chart is not intended to be a summary of every zoning requirement or development standard for a utility scale solar facility in the listed County.)

County		Setbacks	Buffering	Decommissioning	Other Standards of Interest
Rutherford County	<p>Solar Development Ordinance governing all unincorporated areas of the County.</p> <p>(Solar Energy Development Ordinance § 100.04)</p>	<p>a. A minimum setback distance of 50’ from all property boundaries shall be required. Exception: Property boundaries of adjoining parcels which are part of a single solar farm project as shown on the site plan shall not be subject to this setback requirement. A written waiver signed by the property owner(s) shall be required.</p> <p>b. Power inverters and other sound producing equipment shall be no less than 150’ from any dwelling unit at the time of construction/installation.</p> <p>(Solar Energy Development Ordinance § 100.08(a)-(b))</p>	<p>Solar farms shall be constructed with evergreen vegetative screening where existing buffers do not obscure solar energy system perimeters from dwelling units on adjacent parcels. At maturity required vegetative screening shall be not less than fifteen (15) feet tall, regardless of line-of-sight.</p> <p>(Solar Energy Development Ordinance § 100.08(d))</p>	<p>A Decommissioning Plan shall be submitted to the building inspector as part of the permit approval process and recorded with the Register of Deeds. The Decommissioning Plan shall include the following provisions and requirements:</p> <ol style="list-style-type: none"> <li>1. Defined conditions upon which decommissioning will be initiated (i.e. end of lease, condition of a potential public safety hazard, etc.)</li> <li>2. Removal of all non-utility owned equipment conduits, structures, fencing, roads, and foundations; and restoration of property to conditions prior to development of the solar farm. A written waiver signed by the property owner is required in order to release any portion of this provision.</li> <li>3. The timeframe for completion of removal and decommissioning activities.</li> <li>4. Signed statement from the party responsible for completing the Decommissioning Plan acknowledging such responsibility.</li> </ol> <p>(Solar Energy Development Ordinance § 100.10)</p>	<p>Height: The height of solar energy system solar panels shall be measured from the highest natural grade below each solar panel to the top of that panel. Panel height shall not exceed 15’. Poles and wires necessary to connect to public electric utility shall not be subject to this requirement.</p> <p>(Solar Energy Development Ordinance § 100.09)</p>

County		Setbacks	Buffering	Decommissioning	Other Standards of Interest
Rowan County	Ground-mounted solar energy systems over 6,000 sq. ft. – conditional use in RA (Residential Agricultural), RR (Rural Residential), CBI (Commercial, Business, Industrial), NB (Neighborhood Business), IND (Industrial) districts  (Zoning Ordinance § 21-113)	Solar collectors shall be located a minimum of fifty (50) feet from adjoining property lines.  (Zoning Ordinance § 21-60(4)(b)(1))	There are no specific buffering requirements in the Zoning Ordinance.	There are no decommissioning requirements in the Zoning Ordinance.	AZO. Systems proposed within the portion of the approach surface contained by the horizontal surface of the AZO shall provide an approved FAA form 7460-1.  (Zoning Ordinance § 21-60(4)(b)(2))
Union County	Renewable Energy Facilities is the defined use that governs solar facilities.  Special use in RA-200 only; no specific development standards for such facilities.	Facility is subject to the general setbacks of the RA-200 district, which are:  1. Street/front: 40' (corner lots: one street side yard shall be ½ of the required street/front setback) 2. Side: 15' 3. Corner side: 20'  (UDO § 5.030-B)	There are no minimum buffering requirements for the RA-200 zoning district.  (UDO § 55.070-D)	There are no decommissioning requirements in the Development Ordinance.	None
Lincoln County	Conditional Use in: R-R (Rural Residential), R-T (Transitional Residential), B-G (General Business), B-C (Corporate Business), I-L (Industrial-Light), and I-G (Industrial General)	All structures and security fencing shall be set back a minimum of 50 feet from property lines and road right-of-ways.  (UDO § 4.3.7(A))	Where a site abuts a public road or property with a residential use, the following screening shall be provided unless a modification is approved by the Board of Commissioners: two parallel rows of evergreen trees or shrubs, a minimum of five feet in height at planting,	F. A decommissioning plan signed by the party responsible for decommissioning and the landowner shall be submitted with the permit application and shall be recorded with the Register of Deeds prior to final electrical inspection. The plan shall include the following information:	Height: No panel structures shall be greater than 20 feet in height.  A map analysis showing a radius of five nautical miles from the center of

County		Setbacks	Buffering	Decommissioning	Other Standards of Interest
	(UDO § 2.2)		<p>arranged in a staggered manner a maximum of 10 feet apart in each row, with the rows a maximum of 10 feet apart.</p> <p>(UDO § 4.3.7(B))</p>	<p>defined conditions upon which decommissioning will be initiated, the anticipated manner in which the solar farm project will be decommissioned and the site restored, a timetable for completion of decommissioning, description of any agreement with the landowner regarding decommissioning, the party responsible for decommissioning, and plans for updating the decommissioning plan.</p> <p>G. A solar farm that ceases to produce energy on a continuous basis for 12 months shall be considered abandoned and the property owner and other responsible party shall be required to decommission the facility and restore the site to its prior condition within 12 months from the time that the facility is deemed to be abandoned, unless substantial evidence is presented to the Director of the intent to maintain and reinstate the operation of the facility.</p> <p>H. In the event the property owner and/or responsible party fail to timely decommission the solar farm facility as required above, Lincoln County and the Director shall be entitled to take all measures allowed by this UDO and the</p>	<p>the project with any airport operations in the area highlighted shall be submitted with the conditional use permit application. If a Federal Aviation Administration (FAA) regulated airport is located within the radius, all required information shall be submitted to the FAA for review. Proof of delivery of notification and date of delivery shall be submitted with the permit application.</p> <p>(UDO §4.3.7)</p>

County		Setbacks	Buffering	Decommissioning	Other Standards of Interest
				<p>North Carolina General Statutes, including, but not limited to, the right to levy penalties as provided in §11.2.1, the right to obtain a permanent injunction ordering the removal of such solar farm facility, and the right to obtain a court order permitting Lincoln County to remove such solar farm facility.</p> <p>(UDO § 4.3.7(F)-(H))</p>	
Catawba County	Permitted-by-right in Light Industrial and General Industrial, permitted in Rural Conservation and Residential R-80 upon rezoning to conditional zoning district in accordance with Sec. 44-328.	<p>All structures and security fencing must meet a 100-foot front setback measured from the edge of the rights-of-way and 50-foot side and rear setbacks.</p> <p>(UDO § 44-633(a))</p>	<p>(b) A landscape buffer/screen along all exterior sides of the security fence must consist of:</p> <p>(1) On-site mature vegetation exists at a minimum height of 10 feet and depth of 75 feet between the security fence and adjacent property including rights of-way; or</p> <p>(2) A single row of evergreens in combination with mature vegetation, installed at a height of 5 feet achieving opaqueness and a minimum height of 10 feet in 5 years; or</p> <p>(3) A double row of off-set evergreens absent mature vegetation, installed at a</p>	<p>(m) Removal of solar farm equipment and site restoration:</p> <p>(1) The application must include decommissioning plans that describe the anticipated life of the solar farm, the estimated decommissioning costs in current dollars, the method for ensuring that funds will be available for decommissioning and restoration, and the anticipated manner in which the solar farm project will be decommissioned and the site restored.</p> <p>(2) Following a continuous 6-month period in which no electricity is generated, the permit holder will have 6 months to complete decommissioning of the solar farm. Decommissioning includes removal of</p>	<p>All solar panels must be constructed to minimize glare or reflection onto adjacent properties and adjacent roadways and must not interfere with traffic or create a safety hazard.</p> <p>(e) The applicant must secure all necessary approvals and/or permits from NCDOT for the access points for project entrances prior to issuance of a Zoning Authorization Permit.</p>

County		Setbacks	Buffering	Decommissioning	Other Standards of Interest
			<p>height of 5 feet achieving opaqueness and a minimum height of 10 feet in 5 years; or</p> <p>(4) A berm combined with evergreen vegetation installed at a height of 5 feet achieving opaqueness and a minimum height of 10 feet in 5 years.</p> <p>(c) Where visibility of the solar farm is increased due to topography, the landscape buffer/screen must be planted on-site in an area that lessens the view of the solar farm. Where visibility of the solar farm is decreased due to topography, the landscape buffer/screen may be reduced. Both shall be determined by the Planning Director.</p> <p>(UDO § 44-633(b)-(c))</p>	<p>solar panels, buildings, cabling, electrical components, and any other associated facilities below grade as described in the approved decommissioning plan.</p> <p>(3) Prior to the issuance of a Zoning Compliance Certificate, the applicant must provide the County with a performance guarantee as provided in Subsection (5) below. For the first 10 years of the solar facility's life, the amount of the guarantee shall be 1.25 times the estimated decommissioning cost minus 50% the salvageable value, or \$75,000.00, whichever is greater. Estimates for decommissioning the site and salvage value shall be determined by a North Carolina licensed engineer or a licensed contractor. It is the responsibility of the applicant to provide the County with the certified cost estimate.</p> <p>(4) An updated decommissioning plan providing decommissioning costs and salvageable values is required at the 10-year mark and every 5 years thereafter. A new performance guarantee in the amount of 1.25 times the</p>	<p>(f) All construction parking must be located outside of the rights-of-way.</p> <p>(g) Erosion control measures must be installed at construction entrances in order to minimize off-site soil damage. Existing grass must be maintained in perpetuity sufficient to prevent erosion.</p> <p>(h) The applicant must provide written authorization from the local utility company acknowledging and approving connection to the utility company's grid.</p> <p>(i) A warning sign concerning voltage must be placed at the main gate to include the name of the solar farm operator and a local phone number for the solar farm operator in case of an emergency.</p>

County		Setbacks	Buffering	Decommissioning	Other Standards of Interest
				<p>updated decommissioning cost minus 50% of the salvageable value, or \$75,000.00, whichever is greater is required.</p> <p>(5) The following types of performance guarantees are permitted:</p> <p>a. A surety or performance bond that renews automatically, includes a minimum 60-day notice to the County prior to cancellation, is approved by the Planning Director, and is from a company on the U.S. Department of Treasury’s Listing of Certified Companies. A bond certificate must be submitted to the Planning Department each year verifying the bond has been properly renewed.</p> <p>b. A certified check deposited with the county finance director, as escrow agent, who will deposit the check in an interest-bearing account of the County, with all interest accruing to the applicant. Funds deposited with the county finance director will be returned when the solar farm is decommissioned and any necessary site restoration is completed.</p>	<p>(j) Power transmission lines must be located underground to the extent practical.</p> <p>(k) A security fence equipped with a gate and a locking mechanism must be installed at a minimum height of eight feet along all exterior sides of the solar farm. Landscape buffer/screens, ground cover, security fences, gates, and warning signs must be maintained in good condition until the solar farm is dismantled and removed from the site.</p> <p>(l) The Zoning Authorization Permit is subject to revocation if the Planning Department is not notified when the solar farm company holding the permit sells or otherwise transfers its interest to another entity or individual.</p>

County		Setbacks	Buffering	Decommissioning	Other Standards of Interest
				<p>c. A no-contest irrevocable bank letter of credit from a banking corporation licensed to do business in the State of North Carolina. The terms of the letter must include the absolute right of the County finance director to withdraw funds from the bank upon certification by the County manager that the terms and conditions of the performance guarantee have been breached. The letter of credit must be valid up to 12 months from the date the performance guarantee was approved.</p> <p>(6) The full amount of the bond, certified check, or letter of credit must remain in full force and effect until the solar farm is decommissioned and any necessary site restoration is completed.</p> <p>(7) The land owner or tenant must notify the County when the site is abandoned.</p> <p>(UDO § 44-633(m))</p>	(UDO § 44-633(d)-(k))

9.04-29     Solar Farms - Solar farms are permitted in districts as designated in the Table of Permitted Uses, subject to the following requirements: *(Amended 10-16-17)*

- a. Structures shall not exceed twenty-five (25) feet in height, as measured from grade at the base of the structure to its highest point;
- b. All structures and security fencing shall meet the following setbacks:

- 1. 150' front property line setback;

- 2. 50' side and rear property line setback;

- 3. 150' setback from adjacent residential property lines or residential zoning districts;

- 4. 100' minimum setback from adjacent water bodies, wetlands, or any other additional setback required by the Army Corps of Engineers or CAMA;

- 5. ½ mile setback from Highway 17, Future I-87 and Halstead Boulevard Extended. *(Amended 11-19-18)*

- c. All exterior sides of the security fence shall be screened with a landscape buffer that meets one of the following criteria:

- 1. Existing on-site mature vegetation at a minimum height of ten (10) feet and depth of fifty (50) feet remains between the security fence and adjacent property including rights-of-way; or

- 2. A single row of evergreens in combination with mature vegetation, installed at a height of five (5) feet achieving opaqueness and a minimum height of ten (10) feet in five years; or

- 3. A double row of off-set evergreens absent existing mature vegetation, installed at a height of five (5) feet achieving opaqueness and a minimum height of ten (10) feet in five years; or

- 4. A berm combined with evergreen vegetation installed at a height of five (5) feet achieving opaqueness and a minimum height of ten (10) feet in five years.

- d. Solar farms shall be developed in accordance with an approved site plan that includes the following information:

- 1. The location of the solar farm facility (including the arrangement of any existing or proposed buildings, structures, or panels);



2. The distance from any proposed solar farm facility or structure to the surrounding property lines;
  3. Any existing or proposed signs, fencing, lighting, construction and permanent parking areas, driveways, landscaping, vegetative screening or required buffers. All parking must be located outside of the state right-of-way;
  4. Horizontal and vertical (elevation) to-scale drawings with dimensions of proposed solar collector structures.
- e. Solar energy components must have a UL listing and must be designed with anti-reflective coating(s).
  - f. Landscape buffers, ground cover, security fences, gates, and signage must be maintained in good condition until the solar farm is dismantled and removed from the site. Grass, weeds, and other ground cover must not exceed 12 inches in height at any time.
  - g. An engineered drainage plan meeting the minimum requirements of the Pasquotank County Stormwater Design Manual shall be required with the submittal of the Conditional Use Permit application. Solar farms are required to be constructed according to their approved drainage plan.
  - h. **Decommissioning:**
    1. A decommissioning plan shall be required as part of the Conditional Use Permit application. This plan shall be prepared by a third party engineer and must be signed off by the party responsible for decommissioning and all landowners of property included in the project. The following items are required to be addressed or included in the decommissioning plan:
      - a. A description of any agreement (e.g. lease) with all landowners regarding decommissioning;
      - b. The identification of the party currently responsible for decommissioning;
      - c. The type of panels and material specifications being utilized at the site;
      - d. All costs for the removal of solar panels, buildings, cabling, electrical components, roads, fencing, and any other associated facilities down to 36 inches below grade;

- e. All costs associated with the grading and re-seeding of disturbed earth from the project.
2. Prior to the issuance of the building permit, the decommissioning plan shall be recorded by the applicant in the Pasquotank County Registry of Deeds.
3. The decommissioning plan and estimated cost of removal shall be updated every 5 years or upon change of ownership of either the property or the project's owner. Any changes or updates to the plan shall be recorded in the County's Registry of Deeds.
4. The owner of the solar farm shall provide a bond, cash escrow, or irrevocable letter of credit in favor of the County in an amount equal to one and a quarter times the estimated decommissioning cost. Should the solar farm owner elect to use a letter of credit, it shall be issued by a federally chartered bank with a branch office in northeastern North Carolina in favor of Pasquotank County. The institution issuing the guarantee shall provide to the county a notice no less than 90 days in advance of any renewal, cancellation, termination, or expiration of the guarantee. The bond or letter of credit shall remain in full force and effect until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the Conditional Use Permit.
5. Solar farms shall have 12 months to complete decommissioning of the facility if no electricity is generated for a continuous period of 12 months. For purposes of this section, this 12 month period shall not include delay resulting from force majeure.
6. The decommissioning bond shall be drawn and paid for an amount equal to the estimated removal costs of the solar facility in the event the responsible party fails to decommission the solar facility pursuant to the requirements of this section and the Conditional Use Permit.



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## Cleveland County

NORTH CAROLINA

February 25, 2019

Dear Cleveland County Planning Board,

The Cleveland County Agricultural (Ag) Advisory Board met on December 13<sup>th</sup>, 2018 and January 31<sup>st</sup>, 2019 and discussed concerns regarding solar farms and local agriculture. The Ag Advisory Board also examined the current solar ordinance and discussed potential changes to strengthen the ordinance. The Ag Advisory Board recommends the following changes to the solar ordinance for your consideration:

- Increase the impact fee for the permitting process
- Implement a larger setback from property lines and roads for solar farms
- Require a setback specifically for the transformer station to help with buzzing and noise pollution
- Limit the maximum size of a solar farm
- Require owners or operators maintain liability insurance in case of arcing, power surges, fires, etc.
- Require an emergency action plan be submitted with the county and local fire department detailing important phone numbers and procedures in case of an emergency
- Require solar developers pay a decommissioning surety bond to protect future landowners or the county from having to pay for removal of obsolete solar farms
- Require better screening hedges around solar farms
- Require a wildflower mix be included in sod between panels to increase aesthetic value and benefit agricultural pollinators
- Require solar developers submit their Erosion Control and Sedimentation Plan to the county and that county staff can inspect construction site and alert NCDEQ to any lapses in sedimentation control
- Restrict solar farms to areas zoned light industrial or heavy industrial

Thank you for considering these ideas. Please let us know if you have any questions.

Sincerely,

Myron Edwards

Chairman

Cleveland County Agricultural Advisory Board

# COUNTY OF CLEVELAND, NORTH CAROLINA

## AGENDA ITEM SUMMARY

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### Case 18-12 Carports and Garages Text Amendment

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**Department:**

**Agenda Title:** Case 18-12: Garages and Carports Text Amendment

**Agenda Summary:**

**Proposed Action:**

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#### ATTACHMENTS:

File Name	Description
<input type="checkbox"/> 18-12_Staff_Report_Text_Amendment_Section_12-138_Garages_and_Carports.pdf	Staff Report
<input type="checkbox"/> Section_12-138_Accessory_building_update_draft_for_garages_and_carports_for_case_18-12_January_15_2019.pdf	Proposed Text Amendment
<input type="checkbox"/> Location_Allowance_for_Garages_and_Carports.pdf	Illustration

## STAFF REPORT

To: The Cleveland County Board of Commissioners      Date: February 14, 2019  
From: Chris Martin, Senior Planner  
Via: Henry Earle, Planner  
Subject: Case 18-12

Summary Statement: The Cleveland County Board of Commissioners has given the Planning board ninety (90) days to review and make recommendations to the Cleveland County Unified Development Code (Code) regarding Detached Garages and Carports and the placement location of those on property.

Review: At the February 5, 2019 Regular Agenda Meeting the Board of Commissioners formally requested that the Planning Board evaluate Section 12-138 of the Code with the intention of creating standards that would allow the placement of detached garages and carports within the front and/or side front of yards where primary structures exist. The code currently states that all accessory structures, like detached garages and carports, must be located in the rear or side yard of any parcel with a principal dwelling.

Commissioners asked that the Planning Board create recommendations for the Board to evaluate within ninety (90) days, which would be by Tuesday, May 7, 2019.

Pros:

- Allows for greater flexibility of placement for garages/carports on residential lots
- Addresses a common question asked of the zoning department

Cons:

- As written, the amendment requires a two (2) acre minimum and a 150 foot setback, eliminating some properties from consideration.

Fiscal Impact:

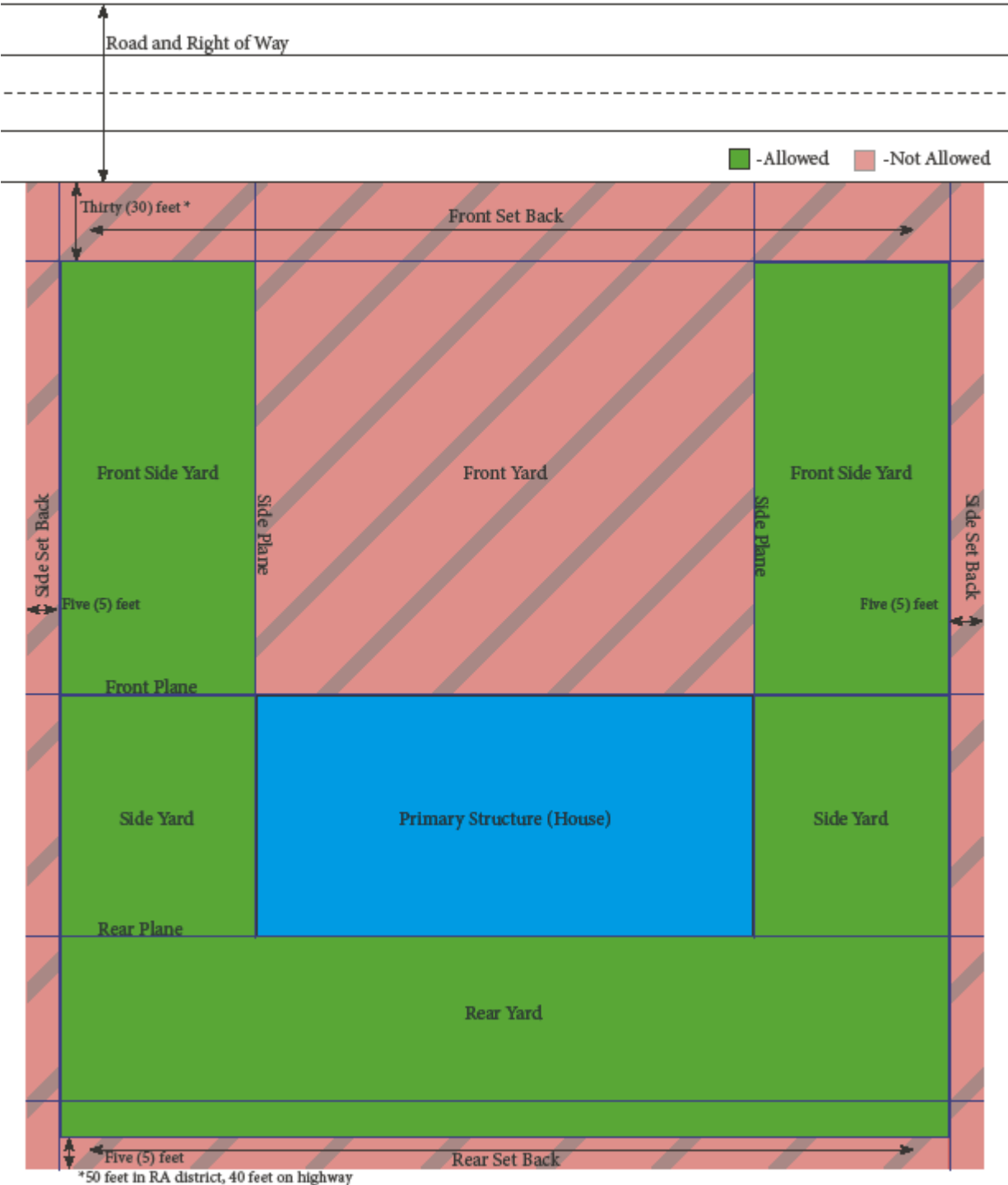
- None

## **Proposed Text Amendment Allowing Garages/Carports within the Front-Side Yard of Residential Lots**

### **Sec. 12-138. - Location of accessory buildings on residential lots.**

- (a) On any residential lot, accessory buildings and structures shall not be located in any front yard required for principal buildings, shall not cover more than thirty (30) percent of any rear yard required for the principal building, and shall be at least twenty (20) feet from any building used for human habitation on adjoining lots. [Exceptions to this rule include garages and carports, which are allowed within the front side yard of any principal dwelling, under the following conditions:](#)
  - 1. [Garages and carports may be no larger than 50% of the square footage of the principle building.](#)
  - 2. [The garage or carport may be placed no more than fifty \(50\) feet in front of the front plane of the principal dwelling.](#)
  - 3. [The garage or carport shall comply with principal building setbacks from the street right-of-way, subject to Section 12-173.](#)
  - 4. [Only one \(1\) garage or carport may be placed in the front side yard per parcel.](#)
- (b) Accessory buildings designed or used for human habitation as may be permitted by this chapter shall be located no closer to the principal building than thirty (30) feet and shall meet the side yard requirements for the district in which located.
- (c) A double garage, one-half (½) of which would be located on each of two (2) lots, shall be permitted in any residential district, provided a written request signed by both parties is submitted with the building permit application.
- (d) On any lot or tract in the RA district, accessory buildings and structures shall be at least twenty (20) feet from any building used for human habitation on adjoining lots.
- (e) Outdoor swimming pools shall be protected by a fence or equal enclosure, a minimum of four (4) feet in height, equipped with a self-locking and positive self-latching gate provided with hardware for permanent locking. This enclosure is intended to protect against potential drowning by restricting access to swimming pools.
- (f) See also section 12-174, accessory building setback requirements.

Location for Detached Garages and/or Carports  
Per Section 12-138 of the Cleveland County Unified Development Code



**Sec. 12-174. - Accessory building setback requirements.**

Accessory buildings in the R, RM, and RR districts shall meet a setback requirement of at least five (5) feet. Accessory buildings located in the RA district shall meet a setback requirement of at least ten (10) feet. These structures shall not be located in any front ~~or side~~ yard and shall not cover more than thirty (30) percent of the rear yard.

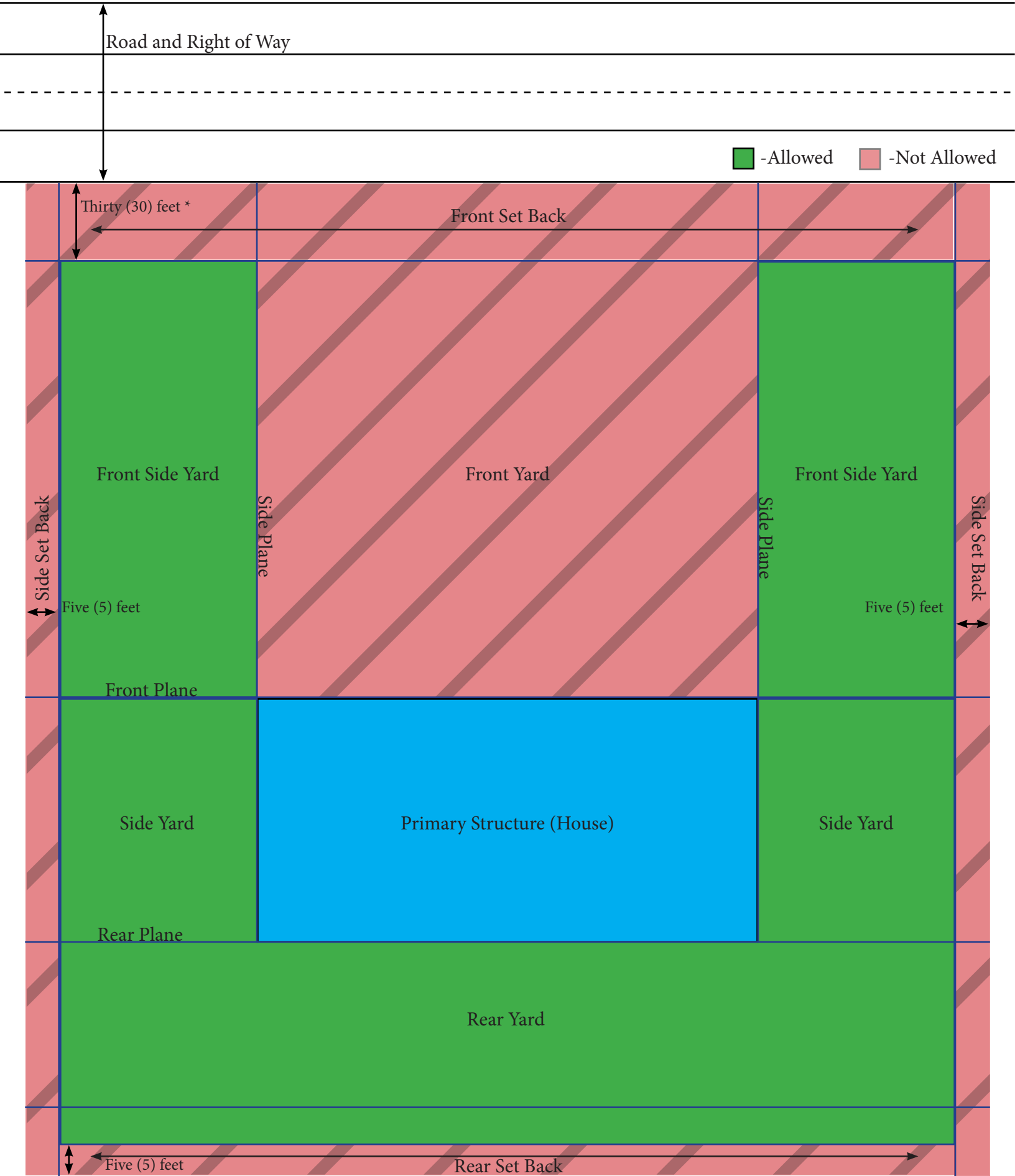
See also section 12-138, location of accessory buildings on residential lots.

**Sec. 12-21. - Definitions of basic terms.**

- *Carport*: a shelter for a car, or cars, consisting of a roof supported on posts.
- *Front Side Yard*: The area of a lot located between the front plane of a primary structure and the road right of way, while also being between either side plane of the primary structure and the corresponding side property line. See illustration in section 12-138.
- *Garage*: a building used primarily for parking or storing motor vehicles.



Location for Detached Garages and/or Carports  
Per Section 12-138 of the Cleveland County Unified Development Code



\*50 feet in RA district, 40 feet on highway