REQUEST FOR BOARD ACTION

ITEM NO. 25

DATE OF MEETING: July 7, 2014

REQUESTED BY: Ed McCarthy, Planner II, Planning & Community Development

SHORT TITLE: Resolution to Approve a Special Use Permit (SUP) for the Construction and Operation of an Electrical Substation (NAICS 221119 Other Electric Power Generation).

BACKGROUND: Timothy J. Same, P.E. applicant, on behalf of Duke Energy Progress, Inc, owner, is requesting approval of a Special Use Permit (SUP) for the construction and operation of an Electrical Substation. The property is currently split zoned RA, Rural Agricultural and RP, Residential Performance District. Electrical Substations (NAICS 221119 Other Electric Power Generation) are permitted via SUP in the RA and RP zoning districts. The subject property is located at the northwest corner of US HWY 17 and Old Whitfield Rd (SR 1726) in Hampstead, NC and may be identified as Pender County PIN 4215-12-8272-0000.

SPECIFIC ACTION REQUESTED: To hold a public hearing and consider the approval of a Special Use Permit for an Electrical Substation.

PLANNING STAFF REPORT
Special Use Permit

SUMMARY:

Hearing Date: July 7, 2014
Applicant: Timothy J. Same, P.E.
Property Owner: Duke Energy Progress, Inc
Case Number: 11190

Land Use Proposed: The applicant is requesting the approval of a Special Use Permit (SUP) for the construction and operation of an Electrical Substation (NAICS 221119 Other Electric Power Generation).

Property Record Number and Location: The subject property is located at the corner of US HWY 17 and Old Whitfield Rd (SR 1726) in Hampstead, NC and may be identified as Pender County PIN 4215-12-8272-0000. There is one tract associated with this request totaling 20.81 acres.

Zoning District of Property: The property is currently split zoned RA, Rural Agricultural and RP, Residential Performance District. According to the Pender County Unified Development Ordinance §5.2.3 Table of Permitted Uses; Electrical Substations (NAICS 221119 Other Electric Power Generation) are permitted via SUP in the RA and RP zoning district(s).

PROJECT DESCRIPTION:

Timothy J. Same, P.E, applicant, on behalf of Duke Energy Progress, Inc, owner, is requesting approval of a Special Use Permit (SUP) for the operation and construction of an unmanned Electrical Substation (NAICS 221119). (Exhibit 1)

The substation's physical area (including the fenced area) will occupy approximately 2.10 acres of the subject parcel. According to the applicant's submitted materials, the facility will be maintained through periodic visits by company personnel, which will result in approximately one vehicle trip per day. (Exhibit 2).

A conceptual site plan has been submitted for the proposed project and is designated as (Exhibit 3). The site will be constructed in two phases:

Phase 1: Control building (432 sq. ft), V-Structure (2,800 sq. ft/25 feet tall), and one transformer (400 sq. ft/<20 feet w/poles connecting to power lines at 40 feet).

Phase 2 (Estimated at 15-20 years in the future): V-Structure (2,800 sq. ft/25 feet tall) and one transformer (400 sq. ft/<20 feet w/poles connecting to power lines at 40 feet).

The fence is proposed to be a 7 foot tall chain link fence with 1 foot of barbed wire along the top. One issue to consider is the establishment of C-Type Buffers along the road frontages of the proposed development, as opposed to the required D-Type buffers. The C-Type buffers are intended to provide greater vegetative coverage and screening for higher impact uses adjacent to lower impact uses.

There will be no requirement for on-site wastewater or potable water if there are no dedicated on site personnel. If this changes in the future, wastewater and potable water may be required.

According to the Pender County GIS, there appears to be jurisdictional wetlands located on the subject property. Any development located within the jurisdictional area may be subject to the permit regulations of Section 404 of the Clean Water Act.

Access to the site will be provided onto Old Whitfield Rd (SR 1726) and is subject to review and approval by the North Carolina Department of Transportation (NCDOT).

Prior to the issuance of zoning approval and building permits; a Site Development Plan must be submitted and approved in accordance with the Pender County Unified Development Ordinance; a portion of that approval will require Section 8 Landscaping and Buffering. The site plan submitted with this application is considered conceptual and does not reflect any approvals or regulations in effect.

		Zoning Districts									
Use Type	Ref NAICS	RA	RP	RM	MH	PD	CB	OI	IT	GI	[illegible]
Sector 22: Utilities											
Other Electric Power Generation		S	S			S			P	P	

EVALUATION:

A. ***Public Notifications:*** Advertisements for the proposal have been placed in the *Pender-Topsail Post & Voice.* Adjacent property owners were notified by first class mail; as well as a sign advertising the public hearing was placed on the subject property.

B. ***Basis for Granting SUP:*** See attachment A for approval procedures (§3.12.3 of Unified Development Ordinance) and revocation procedures (§3.12.4 of Unified Development Ordinance).

C. ***Unified Development Ordinance Compliance:*** The property is currently zoned RP, Residential Performance, and Electrical Substations are permitted in the RP zoning district by Special Use Permit, as prescribed by the Pender County Unified Development Ordinance §5.2.3 Table of Permitted Uses.

D. ***2010 Comprehensive Land Use Plan Compliance:*** The subject development is located on a portion of the parcel designated as Mixed Use. The Mixed Use land use classification designates locations where a mixture of\ higher density/intensity uses is to be encouraged. Mixed Use areas should be characterized by physically and aesthetically unified developments containing a mixture of commercial, office, institutional, and high- and medium-density residential uses, arranged in a walkable, compact, pedestrian and transit friendly manner.

The SUP request may be supported by a policy within the *2010 Comprehensive Land Use Plan:*

RESOLUTION

NOW, THEREFORE BE IT RESOLVED by the Pender County Board of Commissioners that:

The Pender County Board of Commissioners (approved, modified, denied) a Special Use Permit (SUP) for the operation of an Electrical Substation as described herein, and the Chairman/County Manager is authorized to execute any/all documents necessary to implement this resolution.

AMENDMENTS:

MOVED_____ SECONDED_____

APPROVED_____ DENIED_____ UNANIMOUS

YEA VOTES: Williams ___ McCoy ___ Brown___ Tate ___ Ward ___

_____ 7/7//2014
J. David Williams, Jr., Chairman Date

_____ 7/7/2014
ATTEST Date

a. ***Policy 1A.1.5*** *– The County supports a pro-business/pro-growth attitude, balanced by a concern for preserving the natural assets and quality of life factors that make the area attractive to visitors and permanent residents alike.*

E. ***2010 Pender County Comprehensive Parks and Recreation Master Plan:*** The subject parcel is located along the recommended easement path for the Coastal Pender Greenway. Accordingly, "Use of the Progress Energy Company's easement is limited to uses that do not interfere with maintaining power lines, facilities, and rights-of-way. Detailed planning of the Coastal Pender Greenway will require cooperation with Progress Energy Company staff to ensure the project conforms to Progress Energy Company's Transmission Line Right-of-Way Use Guidelines.

According the 2010 Pender County Parks and Recreation Master Plan the proposed Coastal Pender County Greenway is located along the Progress Energy Power Line Easement located on the subject property. The Coastal Pender Greenway will provide a link between bicycle and pedestrian facilities in the City of Wilmington and New Hanover County and facilities planned in the Town of Surf City. Staff recommends at least a 30 foot easement dedication within the power line easement; which is consistent with other dedication along this greenway as outlined in the Pender County Unified Development Ordinance (UDO) §7.6.11.E.3.

Additionally, the Special Use Permit (SUP) request does not conflict with any goals and policies in the 2010 Pender County Comprehensive Land Use Plan.

F. Existing Land Use in Area: The proposed development tract is 20.81 acres in size and is surrounded by mostly single family residential development. To the southwest, the property is bordered by the Senior Citizens of Pender County, to the Northeast by Eastern Outfitters and by mostly vacant tracts and the Hilltop Grocery to the East.

G. ***Site Access Conditions:*** Access to the site will be provided onto Old Whitfield Rd (SR 1726) and is subject to review and approval by the North Carolina Department of Transportation (NCDOT).

H. ***Conditions To Consider In Issuing the Special Use Permit For This Project:***

1. The project shall comply with all requirements of the Pender County Unified Developed Ordinance
2. Any violations of the conditions of this permit, confirmed by the Zoning Administrator shall result in this permit becoming void, if not corrected within 30 days of receipt of the notice of violation.
3. Unless approved otherwise as a condition of the permit, a Special Use Permit shall expire and become void if a final zoning permit has not been issued for the project within 24 months after the notice of approval has been served to the applicant.
4. The applicant shall meet all other local, state and federal regulations.
5. The obligations imposed by this permit will be the responsibility of the property owner and operator and shall continue in affect for the duration of this permit.
6. The applicant shall install C-Type buffers along all adjacent roadways within the development.
7. The applicant shall dedicate an easement to include sufficient space for a potential trailhead, greenway path and gravel parking for future Coastal Pender Greenway dedication.

Attachment A

3.12.3 Procedures for Reviewing Applications

A. The special uses, as specified in the various districts, may be established only after review and approval by the Board of Commissioners.
B. The Board of County Commissioners, acting in a quasi-judicial manner and setting, shall hear evidence from the applicant and any interested members of the public.
C. The Board of Commissioners shall hold a public hearing on the application for a Special Use Permit within sixty (60) days after the completed application is filed.
D. The Administrator shall cause notice of the hearing to be published once a week for two successive calendar weeks. The notice shall be published for the first time not less than ten (10) nor more than twenty-five (25) days before the date fixed for the hearing.
E. All Special Use Permit applications must be presented to the Administrator for a determination of completeness.
F. An appeal from a completeness determination may be made to the Board of Adjustment within twenty (20) days of the determination.
G. The Board of Commissioners shall approve, modify, or deny the application for a Special Use Permit. In approving a Special Use Permit, the Board of Commissioners, with due regard to the nature and state of all adjacent structures and uses in the district within same is located, shall make written findings that the following are fulfilled:
    1. The use requested is listed among the special uses in the district for which application is made, or is similar in character to those listed in that district;
    2. The requested use will not impair the integrity or character of the surrounding or adjoining districts, nor adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property;
    3. The proposed use shall not constitute a nuisance or hazard;
    4. The requested use will be in conformity with the Pender County Land Use Plan and other official plans or policies adopted by the Board of County Commissioners;
    5. Adequate utilities, access roads, drainage, sanitation or other necessary facilities have been or are being provided;
    6. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize the traffic congestion in the public roads;
    7. That the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located; and
    8. The proposed use shall not adversely affect surrounding uses and shall be placed on a lot of sufficient size to satisfy the space requirements of said use.

3.12.4 General Provisions Concerning Special Use Permits

B. Revocation - In any case where the Special Use Permit or the conditions of a Special Use Permit have not been or are not being complied with, the Administrator may initiate a notice of violation for the provisions of this ordinance and the conditions of the Special Use Permit not in compliance or the Administrator, may initiate notice of a public hearing to consider revocation of the permit by the Board of Commissioners or both actions may be initiated. Procedures for notice of such hearing shall be the same as procedures for consideration of an initial application for a Special Use Permit and the permittee shall be notified.

Exhibit 1

APPLICATION FOR SPECIAL USE PERMIT

THIS SECTION FOR OFFICE USE			
Application No.		**Date**	
Application Fee	$458.10	**Receipt No.**	
Pre-Application Conference		**Hearing Date**	7/7/14

SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	**Timothy J. Same, P.E.**	**Owner's Name:**	Duke Energy Progress, Inc.
Applicant's Address:	**410 S. Wilmington St.**	**Owner's Address:**	Same
City, State, & Zip	**Raleigh, NC 27601**	**City, State, & Zip**	Same
Phone Number:	**919-546-7468**	**Phone Number:**	Same
Legal relationship of applicant to land owner: Same			

SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	4215-12-8272-0000	**Total property acreage:**	20.81
Zoning Classification:	**RA & RP**	**Acreage to be disturbed:**	4.31
Project Address :	U. S. Highway 17	**NAICS Code:**	221119
Description of Project Location:	Vacant land at southwest quadrant of US 17 and Old Whitfield Road		
Describe activities to be undertaken on project site:	Construction of an electrical substation and transmission line tap and continued Maintenance		

SECTION 3: SIGNATURES			
Applicant's Signature		**Date:**	5/9/14
Owner's Signature		**Date:**	5/9/14

NOTICE TO APPLICANT

1. Applicant must also submit the information described on the Special Use Checklist.
2. Applicant or agent authorized in writing must attend the public hearing.
3. Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Board of Commissioners or other authorized person agrees to table or delay the hearing.
4. Applicant may wish to review the required findings for approval of a Special Use Permit found on page 1 of this application
5. **Permit will become void after 12 months if a final zoning permit is not obtained, unless specifically requested at the time of public hearing.**

Office Use Only

☐ **General/** Fees: $300 +$10 per acre over 5 acres, Max. of $5,000 ☐ **Tower over 75 Feet/** Fees $500 ☐ **Minor Revisions /**Fees $100 ☐ **Mining** Fees $750	**Total Fee Calculation: $** **Application#:** **Date of Hearing:**

Attachments Included with Application: (Please include # of copies)

CD /other digital version	☐ Y ☐ N	Plan Sets	# of large	# of 11X17	Other documents/Reports	☐ Y ☐ N

Payment Method:	**Cash :** ☐ $	**Credit Card:** ☐ Master Card ☐ Visa	**Check:** ☐ Check # _____
Application received by:			Date: 5-23-14
Application completeness approved by:			Date: 5-23-14

Special Use Permit Checklist

- ☑ Signed Application Form (Both Applicant and Owner)
- ☑ Application fee
- ☑ Legible list of all property owners adjacent to the property upon which the use is to be located. The list shall include the mailing address & physical address of these property owners (The application will not be advertised for public hearing until the list is accurate & complete
- ☑ One business size envelope legibly addressed with first class postage for each of the adjacent property owners on the above list.
- ☑ Project Narrative--Written description of the project (max of 3 pages) including the following:
  - ☑ Location of the project and type of access to project site
  - ☑ Detailed description of the activities to be undertaken on the site, including hrs. of operation, # of employees, etc.
  - ☑ Description of all construction activities to be undertaken on the site
  - ☑ Describe type of utilities that will serve project and status of approval from applicable providers
  - ☑ List of all state and federal permits that will be required for the project
  - ☑ Applicant must specifically address the 8 written findings for Special Use Permit approval which are identified on page 1 of this application and in the Pender County Unified Development Ordinance (Section 3.12.3.G.). Describe any potential impacts the project will have on the community or adjacent properties such as traffic, noise, etc. and explain efforts to mitigate these impacts. The applicant may also wish to describe any positive benefits the project will provide for the community and/or neighbors of the project.
- ☑ Project Map(s)--Map or maps of the special use project site with boundaries of the project if less than the parcel boundaries. This map or maps shall be drawn to a readable scale. The scale shall be not more than 200' to the inch.

  The map shall display an accurate bar graph scale, date prepared, north arrow and the author of the map. This map(s) shall show the following:
  - ☑ Boundaries of the property upon which the special use will be located, the acreage in the property and project site, with a north arrow and bar graph.
  - ☑ Access from the site and/or project boundaries to the nearest publicly maintained road.
  - ☑ Location of any existing structures or uses on the property and within 50' of the property.
  - ☑ Location of the project boundaries if they do not coincide with the property boundaries.
  - ☑ Existing and proposed structures, other on-site improvements, and location of all activities associated with the use, location of well, septic tank, and/or other utilities.
  - ☑ Boundary of all clearing, grading, and/or land disturbing activities on the site and the calculated acreage of all land disturbing activities on the site.
  - ☑ Parking, loading areas, and access to the project (See Article 7, Pender County UDO)
  - ☑ Landscaping and buffering (See Article 8, Pender County UDO)
  - ☑ All signs to be located on the property (See Article 10, Pender County UDO)
  - ☑ Pedestrian walks, area lighting and flood lighting.
  - ☑ Existing natural features of the site including, wooded areas, tree lines, ponds, streams, other water bodies or ditches on or adjacent to the site, designated flood hazard areas & known or designated wetlands on the site.
  - ☑ Drainage plan and/or direction of flow of runoff from the project and site.
  - ☑ After review by the Planning and Community Development Department, additional information may be required to be submitted.
  - ☑ Two full size and twenty reduced size (max. 11'x17') copies of this map(s) shall be submitted.

RETURN COMPLETED APPLICATION TO:
Pender County Planning & Community Development
P.O. Box 1519
Burgaw, NC 28425

Print Form

Exhibit 2

PROJECT NARRATIVE

Duke Energy Progress, Inc. (formerly Carolina Power & Light Company d/b/a Progress Energy of the Carolinas, Inc.) is applying for a special use permit for the construction and operation of an electric substation on the northwest side of US 17 and the southwest side of Old Whitfield Road (across from the Sloop Point Road and the former Hilltop Restaurant) in Topsail Township. Duke Energy currently owns the property that is a portion of which is described herein.

GENERAL BACKGROUND INFORMATION

Duke Energy Progress presently needs an electric substation in the vicinity of Sloop Point Road near US 17. The increasing demand for electricity in the Topsail area will require an additional substation in the foreseeable future. At the moment, the supply of electricity in the Topsail area meets the demand. However, anticipated growth will cause that demand to be exceeded within the next five (5) years.

LOCATION AND ACCESS

The selected site for this project is located on the northwest side of US 17 at the southwest quadrant of the intersection of US 17 and Old Whitfield Road. Duke Energy Progress already owns this site, which was acquired approximately 2 years ago due to its proximity to the existing transmission line.

Access to the site is from US 17 and Old Whitfield Road. An existing Duke Energy 115KV transmission line crosses through the property in a northeast-southwest orientation.

Duke Energy Progress anticipates locating the substation adjacent to the transmission line on the easternmost corner of the project. The substation placement meets the Pender County setback and buffer requirements for a Non-Residential Use in a residentially zoned property. This location will minimize the distance needed to construct 115KV lines from the transmission line to the substation and minimize the amount of tree clearing and wetland disturbance. The distribution connections from the substation will be to existing distribution lines along US 17. Access will be from US 17 onto the Old Whitfield Road and then to the site.

DESCRIPTION OF ACTIVITIES

Once construction is completed, the substation will normally be unmanned. Thus, there will be no scheduled hours of operation involving personnel. Company personnel will make periodic visits for inspections and operation purposes. These visits will normally result in less than one vehicle round trip to the site per day. There will be no employees regularly assigned to the site.

CONSTRUCTION ACTIVITIES

During construction, Duke Energy and contract crews will develop the site. This work will include clearing, grading and drainage, landscaping, substation construction, and transmission and distribution line connections to the substation. The substation will be constructed in accordance with

Federal, State and local requirements. When completed, the substation will resemble the Duke Energy substation at Rocky Point.

UTILITIES

No special utilities will be required at the site. There will be no potable water or sewer needs at the site. Electricity will be provided by the substation. No trash collection will be needed.

ENVIRONMENTAL HEALTH

Since there is no need for potable well or septic tank at the site, no approval from the Pender County Environmental Health Department is required regarding these items. Any other approvals required by Environmental Health will be applied for and obtained after the special use permit is granted.

REQUIRED PERMITS

County, State and Federal permits required for this project may include the following:

1. Erosion control/Land Quality-North Carolina Department of Environment and Natural Resources (NCDENR).
2. Storm runoff-NCDENR.
3. Federal 404 Wetlands permit – United States Corps of Engineers.
4. State 401 Certification – NCDENR.
5. Driveway permit – NCDOT.
6. Building permit – Pender County.
7. Special Use permit – Pender County.
8. Zoning permit – Pender County.
9. Utility Installation Permit - NCDOT

APPROVAL STANDARDS

1. **The use requested is listed among the special uses in the district for which application is made, or is similar in character to those listed in that district: As shown in the Pender County UDO, Table of Permitted Uses on 5-3,** an electric substation is a use requiring a special use permit for RA & RP, the zoning district in which this property is located.

2. **The requested use will not impair the integrity or character of the surrounding or adjoining districts, nor adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property:** Duke Energy Progress does not anticipate that the proposed substation will have any significant adverse impact on the community or the adjacent properties. Traffic to and from the site will be minimal. The existing vegetation will be retained as much as feasible and supplemented as needed to meet the Pender County Landscape Buffer requirement and to help screen

the substation from the adjacent properties and US 17. Substation transformers generate a low humming sound. Fortunately, a listener's perception of the humming can be minimized by distance and the use of buffer vegetation. The nearest transformer will ultimately be built approximately be located 90' from Old Whitfield Road and 140' from US 17, and the existing vegetation will be retained and supplemented. The sound level from the proposed substation should not be objectionable at the property lines.

The substation fenced area and access will occupy about 2.10 acres or about 10% of the site and will be covered with gravel that the State considers impervious. The project will not generate harmful amounts of storm-water runoff. Duke Energy anticipates obtaining an NCDENR Division of Water Quality Storm-Water Certification utilizing the low density design criteria. Erosion and sedimentation control measures will be designed and constructed to minimize erosion and sediment runoff from the site or to sensitive natural features. Approval from the NCDENR Land Quality section will be obtained before any land disturbing activities are initiated.

No hazardous materials will be stored at the site. The substation will not produce any atmospheric emissions. The oil-insulated and cooled power transformer will have secondary containment. Thus, no pollution (air, water or ground) will be created by the substation.

3. **The proposed use shall not constitute a nuisance or hazard:** Duke Energy foresees no nuisance or hazard at all created by the construction or future operation of the substation.

4. **The requested use will be in conformity with the Pender County Land Use Plan and other official plans or policies adopted by the Board of County Commissioners:** The Pender County Planning Department confers that this use will be in conformity.

5. **Adequate utilities, access roads, drainage, sanitation or other necessary facilities have been or are being provided:** No utilities or sanitation facilities will be required. The access road and drainage will be provided.

6. **Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize the traffic congestion in the public roads:** Once construction is completed, traffic will be limited to periodic inspections of the substation. No traffic congestion should be created.

7. **The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located:** The Pender County Planning Department has confirmed compliance with this requirement.

8. **The proposed use shall not adversely affect surrounding uses and shall be placed on a lot of sufficient size to satisfy the space requirements of said use:** The substation is separated from a residential area on the northwest by a Duke Energy transmission line. Old Whitfield Road borders on the northeast. US 17 borders on the southeast. A commercial use is on the southwest side. The site is ample for the substation.

POSITIVE BENEFITS

The project will serve the present and future electric service to Pender County, particularly the Hampstead and Topsail area. The proposed substation and associated line connections will improve the supply, reliability and quality of Duke Energy's electric service. The addition of this substation will reduce restoration time from an electric outage in the area. In addition, load growth and seasonal peak loads will be handled more efficiently.

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