



**EDENTON-CHOWAN  
INSPECTIONS AND PLANNING DEPARTMENT**  
P.O. Box 1030, Edenton, NC 27932  
305 West Freemason Street, Edenton, NC 27932  
PHONE 252-482-5618 FAX 252-482-5697



**Chowan County Planning Board  
March 22, 2016  
Chowan County Public Safety Center  
305 West Freemason Street  
7:00 pm**

Chairman Marvin Hare called the meeting to order. He asked Planner Elizabeth Bryant to call the roll. Jim Leggett, Marvin Hare, Jim Robison, Linda Peterson, William Monds and Bobby Winborne were present. Wayne Parrish arrived late.

Mr. Hare asked for any changes to the agenda.

Mr. Robison asked that the discussion of the August 18, 2015 Special Use Permit approval process be added to the agenda. He stated that the approval process was unlawful.

Mr. Hare stated that the election of a vice-chair also needed to be added to the agenda.

Mr. Hare asked if there were any changes that needed to be made to the minutes of the January 19, 2016 meeting. There being none the minutes were approved as submitted.

Mr. Hare opened the floor to public comment.

Bob Kirby spoke regarding the August 18, 2016 Special Use Permit approval. Due to the length of his comments, the other citizens that had signed up to speak donated their time to Mr. Kirby. (written comments attached and included in March 22, 2016 meeting file)

Mr. Hare closed the floor to public comment.

Mr. Hare noted the first item of new business, **2008 Edenton-Chowan Land Use Plan Presentations.**

Ms. Bryant introduced Charlan Owens, District Planner with the Division of Coastal Management (CAMA).

Ms. Owens presented a PowerPoint explaining the CAMA Land Use Planning Program. (attached and included in the March 22, 2016 meeting file)

Mr. Leggett asked what permits the CAMA office was working on for Chowan County at this time.

Ms. Owens stated that she did not have any major permits for Chowan County at this time and that the last one she had was for the dye plant property.

Mr. Leggett asked if Ms. Owens had any minor permits that she was working on for Chowan County.

Ms. Owens stated that the minor permits were handled through Holly Colombo in the Building Inspections office.

Ms. Peterson asked if CAMA ever contacted counties with areas of concern or if they relied on the counties to come to CAMA to request grant monies or projects.

Ms. Owens stated that CAMA didn't typically go out to local governments but that the local governments usually approached them with applications or requests.

Ms. Peterson asked if the Public Access Grant required matching funds.

Ms. Owens stated that was correct. She stated that Chowan County was a tier one community and that was a 10% match.

Mr. Robison asked for clarification on the 75-30 foot distance requirement from the water.

Ms. Owens stated that there was a 75 foot setback along the primary waterways. She stated that for inland waterways the 75 foot setback was reduced to a 30 foot buffer.

Mr. Robison asked how CAMA worked with other state agencies. He related an experience he had with dredging in the Country Club Drive area. He stated that he had obtained a CAMA permit and the person who was in charge of it came down and inspected it. He stated that in the meantime the Department of Transportation was replacing some culverts on Country Club Drive and they apparently did not obtain a CAMA permit and there was some confusion among the two agencies.

Ms. Owens stated that DOT actually funded a position within the CAMA District Office that specifically deals with NCDOT projects. She stated that in the case Mr. Robison was referring to she was unsure how that did not get routed through the CAMA office.

Audience member Patti Kersey asked why the permit issued for Riversound did not allow the property owners to mitigate the shoreline. She stated that there was no bulk heading or shoreline improvement allowed. She stated that she had asked Lynn Mathis with CAMA about that and her comment was that when that wording was put in the Riversound CAMA permit they (CAMA) thought that was a good thing because the land would not be changed. Ms. Kersey stated that without some sort of mitigation you would lose your property.

Ms. Owens stated that she thought that Ms. Kersey was referring to shoreline stabilization. She stated that she did not know the answers to Ms. Kersey's questions but that she knew that CAMA sometimes advocated for a "living" shoreline which involved plantings and was more environmentally friendly.

Ms. Peterson asked if there was a specified time frame for a project with a CAMA permit.

Ms. Owens stated that the time frame varied between different types of permits. She stated that there were permit extension opportunities in certain situations.

Mr. Hare asked if the rising sea levels were on CAMA's radar.

Ms. Owens stated that CAMA has been involved in a sea level rise study and that could be viewed on their website. She stated that the state legislature had some definitive things that they wanted done as far as sea level rise.

Ms. Bryant thanked Ms. Owens for her presentation and the opportunity for Chowan County to apply for grant funds for a Land Use Plan update. She then presented a PowerPoint detailing how the Land Use Plan was used in the review of applications to be heard by the Planning Board. (attached and included in the March 22, 2016 meeting file)

Ms. Bryant pointed out some information included in the current Land Use Plan that may need updating such as goals and population data.

Ms. Owens agreed that the population data and economic information should be addressed in the update.

Ms. Peterson asked when a decision would be made as far as granting the money for the update.

Ms. Owens stated that she thought that it was mid-April.

Mr. Hare asked for any more new business. (there was none)

Mr. Hare asked for any old business.

Mr. Hare stated that the Board needed to elect a vice-chair. He stated that at the last Planning Board meeting Mr. Winborne was nominated and seconded. He stated that the vote had been tabled until this meeting because Mr. Winborne was not present at the previous meeting when he was nominated.

Mr. Winborne declined the nomination and nominated Ms. Peterson. Mr. Leggett seconded Mr. Winborne's nomination. The motion carried 6-1 with Mr. Robison opposing the nomination.

Mr. Hare stated that the next item of business would be the discussion of the compliance and approval of the O2EMC Special Use Permit from August 2015.

Mr. Robison presented a memo that he had composed and sent to County Manager Kevin Howard regarding the Special Use Permit. (attached and included in the March 22, 2016 meeting file)

Ms. Peterson stated that the memo had some very strong statements in it. She asked why the Planning Board was not provided with copies of the memo in advance of the meeting so that they could be prepared to make comments on it.

Mr. Robison stated that Ms. Peterson should ask Mr. Howard that question because the memo was sent to him.

Mr. Robison stated that the Planning Board had nothing to do with it. He stated that it was a legal document that says that the Planning Board did not do its job and did not follow the legal obligations that it was supposed to do.

Ms. Peterson asked Mr. Robison what he was asking for.

Mr. Robison stated that he was asking that the Planning Board nullify the permit that was issued illegally and that the application be reheard.

Ms. Bryant stated that Mr. Robison sent the memo last week and that it was not forwarded to the Planning Board at that time because it was addressed to the County Manager and copied to her (Ms. Bryant) and that they wanted to be able to answer Mr. Robison's questions directly. She stated that they had consulted with the County Attorney for an opinion. She stated that she had responded back to Mr. Robison regarding the statute of limitations and the appeal period. She stated that there was not a procedure for an appeal period set up in the Ordinance for an application that was approved. She stated that the attorney had let them know that the appeal process for an approval of a special use permit goes through superior court and that it has a 30 day statute of limitations from the filing of the permit. She stated that when she responded to Mr. Robison about that he did not write back or indicate that he wanted to bring it to the Planning Board at this time. She stated that it was her intention to talk about it by giving the Board the letter from the attorney and to bring to light if Mr. Robison had any more questions that could be resolved at the Board level.

Ms. Peterson stated that she felt like she needed to go on record and state that if there are concerns like this that the Board needed to be made aware.

Mr. Leggett asked if the County Manager had responded to Mr. Robison.

Mr. Robison stated that he had not responded.

Mr. Howard stated it was the County Attorney's responsibility to address legal issues.

Mr. Robison stated that the County Attorney did respond with the explanation of the 30 day appeals process. He stated that what he was addressing was the fact that the procedure was illegal. He stated that the Planning Board did not follow the procedures that were required under the Ordinance.

Ms. Bryant stated that her recollection was that everyone was sworn that was giving testimony that evening and that each finding of fact was voted on and then there was an overall vote approving the special use permit. Ms. Bryant stated that there were no other legal provisions that she knew of that were missing from the hearing.

Mr. Robison stated that the Planning Board did not bring up each of the findings of fact including "will not materially endanger the public health or safety".

Ms. Bryant stated that Mr. Robison was mistaken and that the findings of fact were voted on.

Mr. Robison stated that the findings of fact were never brought up or voted on.

Ms. Bryant stated that the audio tapes from the meeting were available in the Planning Office if any member of the Board or public citizen would like to listen to them if they feel an error has been made.

Ms. Peterson asked if the County Attorney would be issuing an opinion on the matter.

Ms. Bryant stated that the attorney had made an opinion and that it was that the 30 day appeal period had expired. She stated that there would not be a revocation of the permit.

Ms. Peterson asked if the Board should expect any further response from the County Manager.

Ms. Bryant stated that Mr. Howard would have to speak to that.

Mr. Howard stated that he would compose a report detailing the issue and bring it to the Planning Board for their information.

Ms. Peterson asked for an update on the solar project.

Ms. Bryant stated that she had been playing phone tag with the O2EMC representative but that she had heard from the Town Manager that the company had contacted the town about tying into the Town's electric grid system. She stated that she was still working on getting an exact update as far as the status of the project.

Ms. Peterson stated that her question with the project had to do with the wetland determination.

Ms. Bryant stated that may be what the holdup is and why she has not heard back from the developer.

Mr. Hare asked for any more business. There being none, the meeting was adjourned.

March 22, 2016

Comments Made During the Public Comment Period of the Chowan County, NC  
Planning Board Meeting

By Robert M. Kirby, PE, Citizen of Chowan County

Good Evening:

I am speaking tonight on behalf of myself and several concerned Citizens of Chowan County on the subject of an improper action taken by this Planning Board at its August 18, 2015 meeting with respect to Case Number CC-CUB-15-01: A Special Use Permit Application submitted by O2 emc, LLC, to develop a 20-megawatt solar farm on property located at 740 Yeopim Road. (PIN 7824-00-56-3711). Coincidentally, this issue also appears under Item 6 – Old Business on this evening’s Planning Board Agenda, although I have no idea as to the context of this Agenda Item.

First, a bit of background is in order. I am not an attorney. My profession is that of engineering both by degree and by licensure. However I am not here to practice my profession. I am here because as a citizen I am concerned about the perceived lack of attention to detail exhibited by this Board in the performance of its lawful and appointed duties.

Whereas citizens, such as myself, are only afforded the opportunity to speak during the Public Comment Period, and since there is no amplification of the precise subject matter associated with the Old Business referenced above contained within any of the Public documents available for either the Chowan County Planning Board or the Chowan County Commissioners upcoming Agenda, my remarks may ultimately be overcome by ensuing events and Board Business this evening, and if such is the case, then I apologize for taking your time. That being said, I am nevertheless compelled to have the official record and minutes of this meeting reflect the concerns of a number of citizens with respect to this Board and its obligation as outlined Under Article I of the Zoning Code of Chowan County, North Carolina.

The Statement of General Zoning Objectives is very clearly outlined in the Zoning Ordinance. Ultimately the County Manager, Planning Department and this Board are charged by the Chowan County Commissioners, and by extension, the Citizens of Chowan County, with creating future conditions essential to public health, safety, and the general welfare. As such, the Zoning Ordinance has been carefully crafted to ensure that any proposed development will adhere closely to a strict set of standards and that a series of tests to confirm compliance will be carefully and precisely administered by the Planning Department and the Planning Board prior to the issuance of a Special Use Permit.

In the case at hand, O2 emc applied for a permit to develop a 20 megawatt solar farm in Chowan County. Please allow me to digress here briefly to state that the use of the term "farm" with respect to any large scale industrial type electrical generating facility whether it derives its energy from solar, wind, or even conventional fossil fuels does a disservice to the citizens. It's time to strip the perhaps more palatable term "farm" and replace it with "industrial electrical generating facility". In this 2016 election year, I believe we all have grown weary of the political Orwellian Doublespeak.

Moving on, Section 8.108 of the Zoning Ordinance requires that approval for development and construction of such a solar industrial electrical generating facility be subject to the issuance of a Special Use Permit. Section 8.108 further goes on to outline specific requirements of Setback, Height, Visibility, Application Requirements, and Installation and Design. Sections 3.10 through 3.12 of the Zoning Ordinance outline very specific procedures which must be followed by either the Planning Board (in the case of a Special Use Permit) or by the County Commissioners (in the case of a Conditional Use Permit). In the case of a Special Use Permit, such as for the case at hand, the following of these procedures falls specifically upon the Planning Board.

Again, at this point, I will digress for the benefit of those in attendance who may not grasp the power and responsibility which has been delegated to this Planning Board. The State of North Carolina has generated a series of Laws referred to as General Statutes. These laws are enacted by our Bi-Cameral Legislature (our State

Delegates and State Senators) in Raleigh and then signed into Law by the Governor of the State. Article 18 of these General Statutes specifically addresses Planning and Regulation of Development. The Chowan County Zoning Ordinance was adopted by the Chowan County Commissioners in strict accordance with the provisions of Article 18 of the North Carolina General Statutes. Enforcement and application of the Zoning Ordinance and the provisions contained within the Ordinance is not something to be considered “optional”. The Zoning Ordinance is the Law.

The procedures for obtaining a Special Use Permit as outlined in Sections 3.10 through 3.12 are MANDATED by the Ordinance. We are now at the crux of the matter of my comments. Article 3.12 of the Ordinance is entitled “Evidentiary Hearing Requirements and Procedures for Special Use and Conditional Use Permit Applications.” I will emphasize the use of the word, “Requirements”. Moving on, Paragraph A under Section 3.12 states the following,

No special use or conditional use permit shall be approved until an evidentiary hearing has been held by the permit-issuing board in accordance with the provisions of this Section. The purpose of the evidentiary hearing is to gather facts, not to solicit citizen opinion. Consequently, the hearing procedures differ from those of the typical public hearing. In an evidentiary hearing, testimony may be provided only by sworn witnesses, strict rules of evidence apply, and written findings of fact are required.

The minutes of the Planning Board from August 18, 2015 contain no documentation to support that the required evidentiary hearing in this matter was conducted. No written findings of fact have been published. Further, as outlined in Section 3.12.I, The Planning Board has an obligation to verify and conclude based on information submitted at the hearing that the development will not materially endanger the public health or safety, will not substantially injure the value of adjoining property, will be in harmony with the area where the development is located, and will be in general conformity with the land use plan. Because the required evidentiary hearing in this matter was not conducted, the

Planning Board has failed the County Commissioners and the Citizens of Chowan County by not ensuring that these most fundamental planning precepts have been met.

Fast forward to today, and because the requirements for granting a Special Use Permit were not followed by the Planning Board, I submit that the County has issued an invalid Permit for this Facility. The remedy for such an action would be for the County to immediately revoke the Permit issued under Case Number CC-CUB-15-01: A Special Use Permit Application submitted by O2 emc, LLC, to develop a 20-megawatt solar farm on property located at 740 Yeopim Road. (PIN 7824-00-56-3711).

An attorney might make an argument that the owners of this development will have Common Law Vested Rights, however in order to show these vested rights, the owner must obtain a valid governmental approval. The approval in this case did not follow the Lawful Ordinance and therefore would be determined to be invalid, and that invalidity would render any argument of Vested Rights from the development owners as moot.

As I was preparing my notes for this evening, I came across another troubling fact. In July, 2015 I downloaded the entire Chowan County Zoning Ordinance. The topic of wind development was in the news, a petition was being circulated, and I wanted a "hard copy" of the Ordinance. During my earlier research, I noted that Paragraph 8.108.D.2 makes reference to buffers being as outlined in Section 8.107(3). Yesterday, I downloaded this same applicable part of the Ordinance and note that the above captioned paragraph has been changed and now makes reference to buffers being as outlined in Section 8.108(C) – not Section 8.107(3). I checked with on-line documents, minutes, and several other citizens and I can find no evidence to support this change to the Ordinance. It is my understanding that under North Carolina General Statute, only the County Commissioners can make changes to the Ordinance. Again, I can find no evidence of the Commissioners taking such action.

The bottom line here is this. It is Spring in Chowan County. That means it's time to plant cotton. The Herring are running. It also means that as promised, the

gentlemen from Charlottesville will be here soon with their very aggressive plans and proposals to forever change the landscape of our peaceful and bucolic paradise. It is incumbent on this Board as well as our County Commissioners to very carefully dot their "I's" and cross their "T's" as they consider the pros and cons of any proposed development in this County. The citizens of Chowan County expect and deserve nothing less. Spring is also a harbinger of baseball. Batting practice is over. You, my friends, are now in the big leagues.

**CAMA LAND USE PLANNING PROGRAM**

Overview

Chowan County Planning Board  
March 22, 2016

*Department of Environmental Quality*



Division of Coastal Management's

**MISSION**

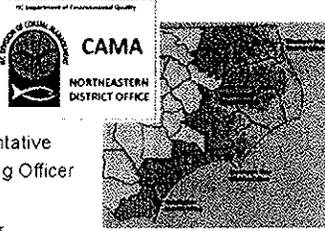
Protect, conserve and manage North Carolina's coastal resources through an integrated program of planning, permitting, education and research.

*Department of Environmental Quality*



Division of Coastal Management's

**Elizabeth City District Office**



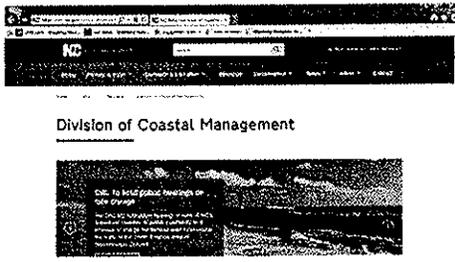
- ⦿ Permitting
  - ⦿ Field Representative
  - ⦿ Local Permitting Officer
- ⦿ Planning
  - ⦿ District Planner

*Department of Environmental Quality*



Division of Coastal Management's

**Website**



*Department of Environmental Quality*



Division of Coastal Management's

**Planning Program Overview**

*Department of Environmental Quality*



Planning Program Overview

**Coastal Area Management Act (CAMA) of 1974**

- ⦿ Cooperative State-Local Program
  - ⦿ Local initiative for planning
  - ⦿ State supportive standard-setting and review
  - ⦿ Enforcement a concurrent joint responsibility
- ⦿ Land Use Plans
  - ⦿ County Plan Required
  - ⦿ Two-Tier Approach
    - AECs / Non-AECs

*Department of Environmental Quality*



Planning Program Overview

## Land Use Planning Rules (15A NCAC 07B .0700 / .0800)

- Land Use Planning Requirements
  - Elements of the Plan
  - Management Topics
- Plan Review and CRC Certification
  - State Review and Comment
  - Public Hearing and Local Adoption
  - Certification of the Plan
- Implementation Reporting

*Department of Environmental Quality* 

Planning Program Overview

## Management Topics

- Public Access
- Land Use Compatibility
- Infrastructure Carrying Capacity
- Natural Hazard Areas
- Water Quality

*Department of Environmental Quality* 

Planning Program Overview

## Use of the Certified Plan

- Permit Consistency Determinations
  - Case-by-Case Decisions
  - No Variance Process
  - Enforceable Policy
- Administration Options
  - Division Administration
  - Joint Administration (NEW)
  - Local Administration (NEW)

*Department of Environmental Quality* 

Planning Program Overview

## Grant Programs

- Planning and Management Grants  
(15A NCAC 07L)
- Public Beach and Coastal Waterfront Access Grants  
(15A NCAC 07M .300)

*Department of Environmental Quality* 

Division of Coastal Management's

## Questions and Comments

*Department of Environmental Quality* 

**CHOWAN COUNTY/TOWN OF EDENTON  
NORTH CAROLINA**

**CORE LAND USE PLAN**

Adopted by the Chowan County Board of  
Commissioners: June 23, 2008

Adopted by the Edenton Town Council: June 23, 2008

Certified by the Coastal Resources Commission:  
July 24, 2008

Prepared by



**THE WOOTEN COMPANY**

CONSULTING ENGINEERS AND ARCHITECTS

The preparation of this report was financed in part through a grant provided by the North Carolina Coastal Management Program through funds provided by the Coastal Zone Management Act of 1972, as amended, which is administered by the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration.

**“Using the Land Use Plan (LUP) in Decision Making”**

A Presentation to the Chowan County Planning Board &  
Chowan County Board of Commissioners

March 22, 2016

## STAFF REPORT

To: Chowan County Planning Board  
Date: August 18, 2015  
Case: CC-SUP-15-01  
Prepared By: Elizabeth Bryant, County Planner

### GENERAL INFORMATION

Applicant: O2 emc, LLC  
PO Box 1395  
Cornelius, NC 28031  
(901) 378-3482

Property Owner: Debra & Timothy Phelps  
1523 West Queen Street  
Edenton, NC 27932  
(252) 331-3034

Subject Properties: 177.7 Acres at 740 Yeopim Road  
Requested Action: Special Use Permit to develop a 20 megawatt Solar Farm  
Tax PIN #: (7824-00-56-3711)

Existing Zoning: A-1, Agricultural  
Existing Land Use: "Agricultural" (Woodland)

#### Surrounding Land Use & Zoning:

North- Agricultural; A-1, Agricultural (Existing Single-Family Homes  
Farmland/Woodland)

South- Agricultural; A-1 (Farmland/Woodland)

East- Agricultural; A-1, Agricultural (Farmland/Woodland)

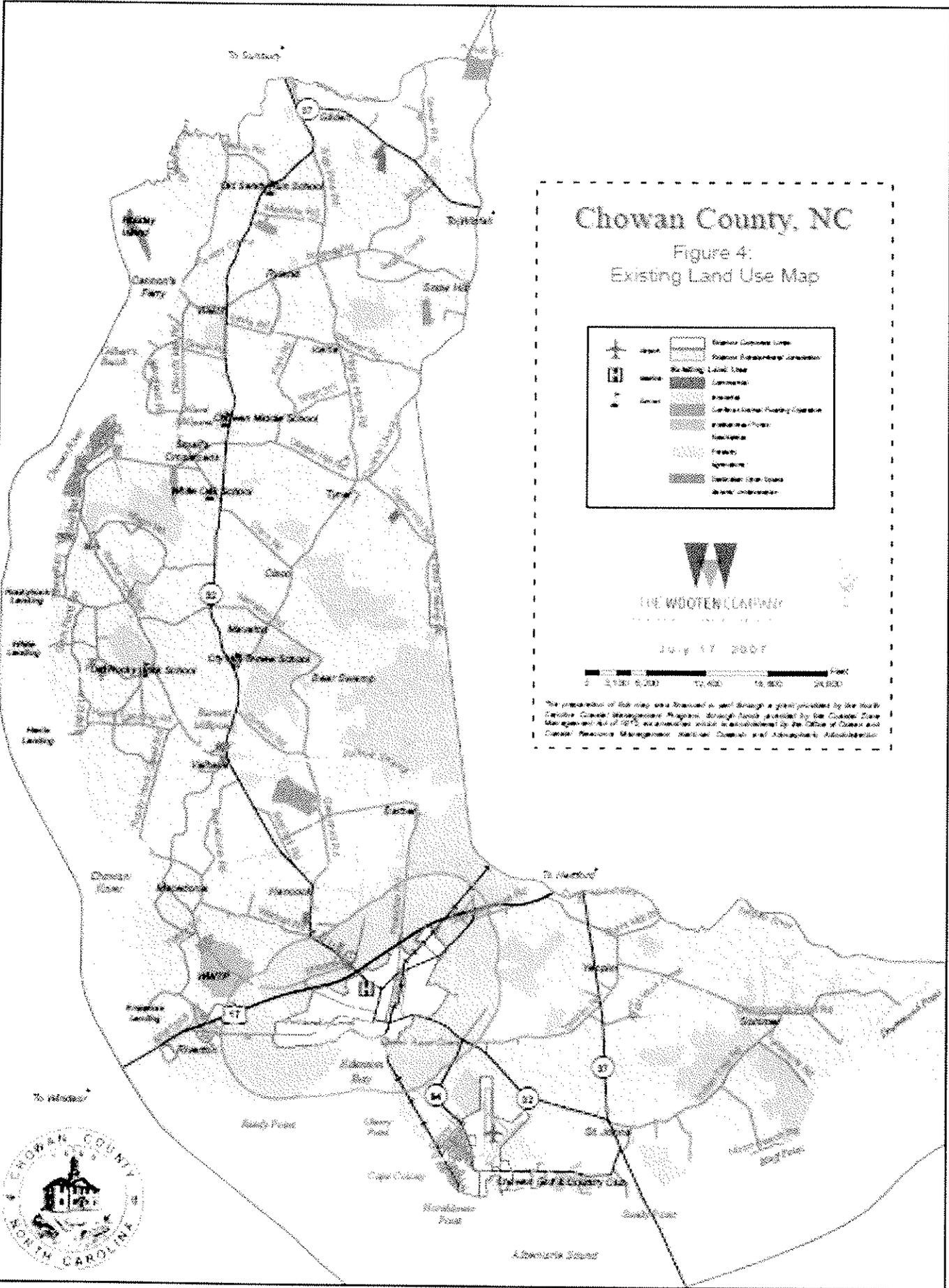
West- Agricultural; A-1 (Existing Single-Family Homes, Farmland/Woodland)

#### Land Use Plan Major Goals & Objectives:

- Balance growth and development and conservation/preservation of natural resources.
- Promote land use and public infrastructure development that is compatible with land suitability as well as capabilities to provide requisite public services.
- Promote land uses and land development compatible with the functional purposes of Areas of Environmental Concern.
- Promote diversified economic development.

#### Future Land Use Classification: *RESIDENTIAL AGRICULTURAL*

- The Residential Agricultural classification is intended to delineate lands where the predominant land use is scattered, low density (less than one dwelling unit per acre) residences dispersed among farm land and open spaces.



# Chowan County, NC

Figure 4:  
Existing Land Use Map




THE WOOTEN COMPANY

July 17, 2007



The preparation of this map was financed in part through a grant provided by the North Carolina Coastal Management Program through funds awarded by the Coastal Zone Management Act of 1972, as amended, under a sub-agreement by the Office of Coastal and Coastal Resource Management, National Coastal and Atmospheric Administration.



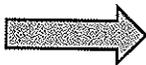
**Residential.** The areas south and southwest of the airport present the highest densities of residential development such as the Cape Colony and Country Club developments. There is also a large residential neighborhood, Arrowhead Beach, in the northwestern portion of the county along the Chowan River. Elsewhere, developed lands are comprised primarily of widely scattered residential subdivisions and clusters of low density residential development at crossroad communities like Yeopim, Vahalla, Cisco, St. Johns and along the Chowan River and Albemarle Sound waterfronts. Low density residences are also scattered along the major corridors that transverse the county. Multiple acre tracts containing a single dwelling unit are often classified as 'residential' thereby distorting somewhat the residential patterns illustrated in Figure 4. Existing low density residential development ranges from 1 dwelling unit per five acres to 1 dwelling unit per acre. Existing medium to high density residential development consists primarily of detached single-family residences in the Cape Colony and Arrowhead Beach developments. These developments generally average approximately 8 to 10 units per acre. There are no large concentrations of multifamily residences within the county's planning jurisdiction. A few small, scattered multifamily developments with densities approaching 6-8 units per acre are located along the Highway 32 north corridor. Building heights in most residential developments are restricted to 35 feet.

**Commercial.** The overwhelming majority of commercially-used land is located along the US 17 and NC 32 corridors heading out of Edenton. These commercial corridor areas contain retail, personal and business services, and office uses. A very small amount of commercial uses are located at various crossroad communities. Commercial lots typically average about 2 acres in size. Building heights in commercial areas are generally not restricted but most commercial development does not exceed 35 feet in height.

**Institutional Public.** There are very few institutional uses in the Chowan County planning jurisdiction, consisting mostly of churches, cemeteries, private recreational facilities, governmental buildings and facilities, and public schools. The Town of Edenton wastewater treatment plant site on Macedonia Road and the Chowan Golf and Country Club are the largest single institutional/public uses within the county's planning jurisdiction. Institutional and public lot sizes range from one acre to several acres, depending upon the intensity of the specific use. Most public and institutional uses do not exceed 35 feet in height.

**Industrial.** The majority of industrial land located outside of Edenton is in the vicinity of the airport and south of Chowan Beach near the Chowan River. A few small industrial operations are scattered throughout rural Chowan County. Industrial lot sizes typically average approximately about 20 acres in size. Building heights in industrial areas are generally not restricted but most industrial development does not exceed 50 feet in height. There are no water-dependent industrial land uses within the county's planning jurisdiction.

**Agricultural.** Chowan County consists of several thousand of acres of land being for agriculture activities. Agriculturally-used land comprises almost 60 percent of the entire county planning jurisdictional area. Low density residential uses are also permitted in areas classified as agricultural.



## STAFF REPORT

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Date: August 18, 2015  
Case: CC-SUP-15-01  
Prepared By: Elizabeth Bryant, County Planner

### GENERAL INFORMATION

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#### **Land Use Plan Major Goals & Objectives:**

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- Promote land use and public infrastructure development that is compatible with land suitability as well as capabilities to provide requisite public services.
- Promote land uses and land development compatible with the functional purposes of Areas of Environmental Concern.
- Promote diversified economic development.

- The Residential Agricultural classification is intended to delineate lands where the predominant land use is scattered, low density (less than one dwelling unit per acre) residences dispersed among farm land and open spaces.

The formulation of land use and development goals is based upon each community's evaluation of its identified concerns and aspirations (Section II) and the needs and opportunities identified in the analysis of existing and emerging conditions (Section III). These land use plan goals were formulated after a review and analysis of the goals and objectives contained in the 1998 Edenton/Chowan CAMA Land Use Plans (see Appendix B), and the Coastal Resource Commission (CRC) management goals, planning objectives, and land use plan requirements (see Appendix H for a summary). Delineation of goals is a foundation upon which policy statements can be built.

#### 4.1.1 Chowan County and the Town of Edenton Goals

The following table summarizes the land use and development goals, organized by CRC land use plan management topic, that have been formulated by Chowan County and the Town of Edenton.

<b>Table 45: Land Use and Development Goals</b>	
<b>Chowan County and Edenton Land Use and Development Goals</b>	
<b>Management Topic</b>	
<b>Public Water Access</b>	Provide adequate opportunities for public access to coastal waters
<b>Land Use Compatibility</b>	Balance growth and development and conservation/preservation of natural resources
	Promote land use and public infrastructure development that is compatible with land suitability as well as capabilities to provide requisite public services
<b>Infrastructure Carrying Capacity</b>	Promote land use and land development compatible with the functional purposes of Areas of Environmental Concern
	Promote land use and public infrastructure development that is compatible with land suitability as well as capabilities to provide requisite public services
<b>Natural Hazard Areas</b>	Conserve and maintain natural hazard areas
<b>Water Quality</b>	Maintain and enhance the water quality of coastal waters
<b>Areas of Local Concern</b>	Preserve historic and cultural resources
	Provide a variety of housing opportunities
	Promote diversified economic development
	Preserve the waterfront vistas

## 4.2 Land Use and Development Policies

The formulation of land use and development policies is based upon a review and analysis of policy statements contained in the 1998 Chowan/Edenton CAMA Land Use Plan (see Appendix A for a summary of policies from that plan); an evaluation of identified concerns and aspirations (Section II) and the needs and opportunities identified in the analysis of existing and emerging conditions (Section III); input from the Joint Land Use Plan Committee, local planning boards, and elected officials; and input obtained through citizen participation efforts including public informational meetings, public forums, and Joint Land Use Plan Committee meetings.

#### 4.2.1 Town of Edenton/Chowan County Policy Statements

The following table summarizes the land use and development policies that have been formulated by the Town of Edenton and Chowan County. Where a particular policy statement is applicable to only one jurisdiction, it is so stated. If



**Land Use Plan Major Goals & Objectives:**

- Balance growth and development and conservation/preservation of natural resources.
- Promote land use and public infrastructure development that is compatible with land suitability as well as capabilities to provide requisite public services.
- Promote land uses and land development compatible with the functional purposes of Areas of Environmental Concern.
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**Future Land Use Classification: *RESIDENTIAL AGRICULTURAL***

- The Residential Agricultural classification is intended to delineate lands where the predominant land use is scattered, low density (less than one dwelling unit per acre) residences dispersed among farm land and open spaces.
- The Residential Agricultural classification along with the underlying A-1 (Agricultural) zoning district allows commercial uses typically associated with rural areas.
- Some of the projected needs for commercial uses in Chowan County will be accommodated in the Residential Agricultural classification.
- Public and Institutional uses such as churches, county parks, schools, golf courses and utilities are also appropriate for the Residential Agricultural classification.
- The Residential Agricultural district reflects the diverse nature of land uses within predominantly rural areas and, therefore, permits a wide array of land uses.
- The Residential Agricultural district is specifically established for the following purposes:
  - To encourage the continued use of land for agricultural, forestry, and open space purposes;
  - To encourage small-scale commercial uses that primarily provide goods and services to residents of surrounding rural areas;
  - To encourage those industries which are agricultural-related; and
  - To discourage any use which, because of its character, would create premature or extraordinary public infrastructure and service demands.

**Zoning History:** Zoned A-1, Agricultural concurrent with initial County-wide zoning, October 2006.

#### 4.3.1 Chowan County Future Land Use Map

The Future Land Use Map for the County's planning jurisdiction encompasses all of Chowan County outside of the Town of Edenton corporate limits and extraterritorial planning jurisdiction. The Chowan County Future Land Use Map (see Figure 8) classifications include the following categories and subcategories:

- Residential Agricultural
- Conservation/Open Space
- Low Density Residential
- Medium/High Density Residential
- Commercial
- Industrial

Generally, growth and development is expected to occur in the areas classified as Medium/High Density Residential, Commercial, and Industrial. Areas classified as Residential Agriculture and Conservation/Open Space are not projected to accommodate significant growth and development. The type and intensity of projected development varies within each future land use map classification. The Future Land Use Map classifications are considered part of the Land Use Plan's policy.



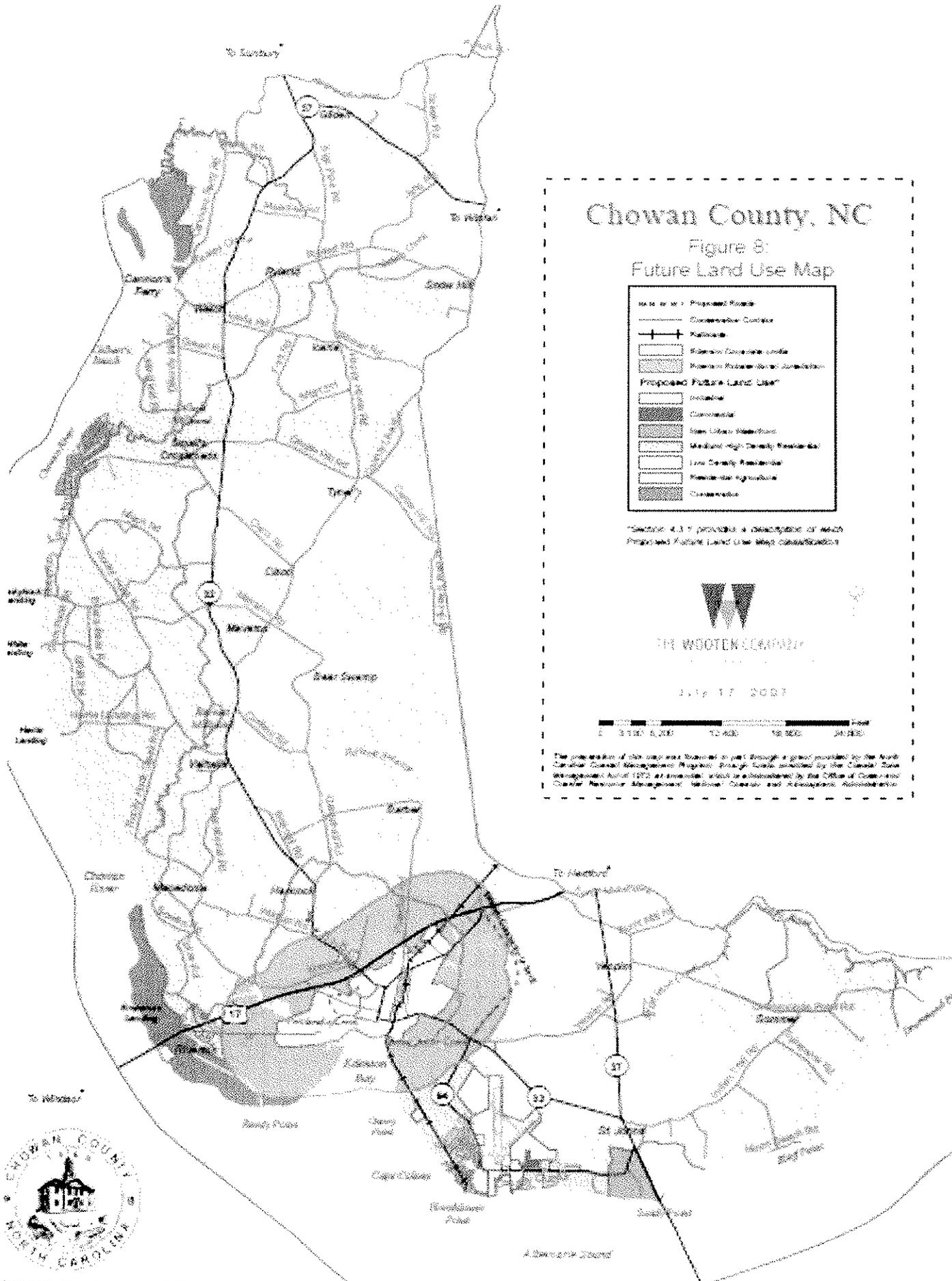
##### **A. Residential Agricultural Classification**

Areas classified as Residential Agricultural are primarily located north and east of the Town of Edenton. Residential Agricultural-classified land is estimated to encompass approximately 142 square miles (91,344 acres) or about 91.6 percent of the total County land area.

The Residential Agricultural classification is intended to delineate lands where the predominant land use is scattered, low density (less than one dwelling unit per acre) residences dispersed among farm land and open spaces. Support public and institutional land uses are also located within this land use classification. The overall residential density within this classification is generally less than 1 dwelling unit per acre. Long-term, those portions of the Residential Agricultural-classified areas that are primarily residential in nature are projected to have average densities of approximately 1 dwelling unit per 5 acres. Such areas include lands immediately adjacent to major road corridors and properties located at crossroad communities. The predominantly agricultural areas, i.e., those lands not immediately adjacent to major road corridors and at crossroad communities, within this classification are projected to have residential densities that average approximately 1 dwelling unit per 20 acres.

The Residential Agricultural Classification is compatible with the A-1 (Agriculture) District of the Chowan Zoning Ordinance. The minimum lot size for most land uses in the A-1 District is 40,000 square feet. Higher residential densities may be permitted on a case-by-case basis in Traditional Neighborhood Developments—up to 4 dwelling units per acre in A-1 zoning districts. Such TNDs are expected to locate primarily on the periphery of the Town of Edenton planning jurisdiction and in waterfront areas. Lot coverage is not restricted and building heights are limited to 35 feet. Scattered single-





# Chowan County, NC

Figure 8:  
Future Land Use Map

	Proposed Road
	Conservation Corridor
	Parkway
	Minimum Conservation Corridor
	Minimum Conservation Corridor
<b>Proposed Future Land Use</b>	
	vacant
	Commercial
	Open Urban Medium-Density
	Medium-High Density Residential
	Low Density Residential
	Residential Agriculture
	Conservation

\*Section 4.3.7 provides a description of each Proposed Future Land Use Map classification.



THE WOOTEN COMPANY

July 17, 2007



The preparation of this map was financed in part through a grant provided by the North Carolina Coastal Management Program. Project funds provided by the Coastal Zone Management Act (CZMA) are administered by the Office of Coastal and Estuarine Resource Management, National Oceanic and Atmospheric Administration.



- The Residential Agricultural classification along with the underlying A-1 (Agricultural) zoning district allows commercial uses typically associated with rural areas.
- Some of the projected needs for commercial uses in Chowan County will be accommodated in the Residential Agricultural classification.
- Public and Institutional uses such as churches, county parks, schools, golf courses and utilities are also appropriate for the Residential Agricultural classification.
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  - To encourage the continued use of land for agricultural, forestry, and open space purposes;
  - To encourage small-scale commercial uses that primarily provide goods and services to residents of surrounding rural areas;
  - To encourage those industries which are agricultural-related; and
  - To discourage any use which, because of its character, would create premature or extraordinary public infrastructure and service demands.

**Zoning History:** Zoned A-1, Agricultural concurrent with initial County-wide zoning, October 2006.

**Applicable Regulations:** Chowan County Development Codes, Zoning Ordinance, Article III, Permits and Procedures and Article VIII, Development Standards, Section 8.108, Solar Farm.

### SPECIAL INFORMATION

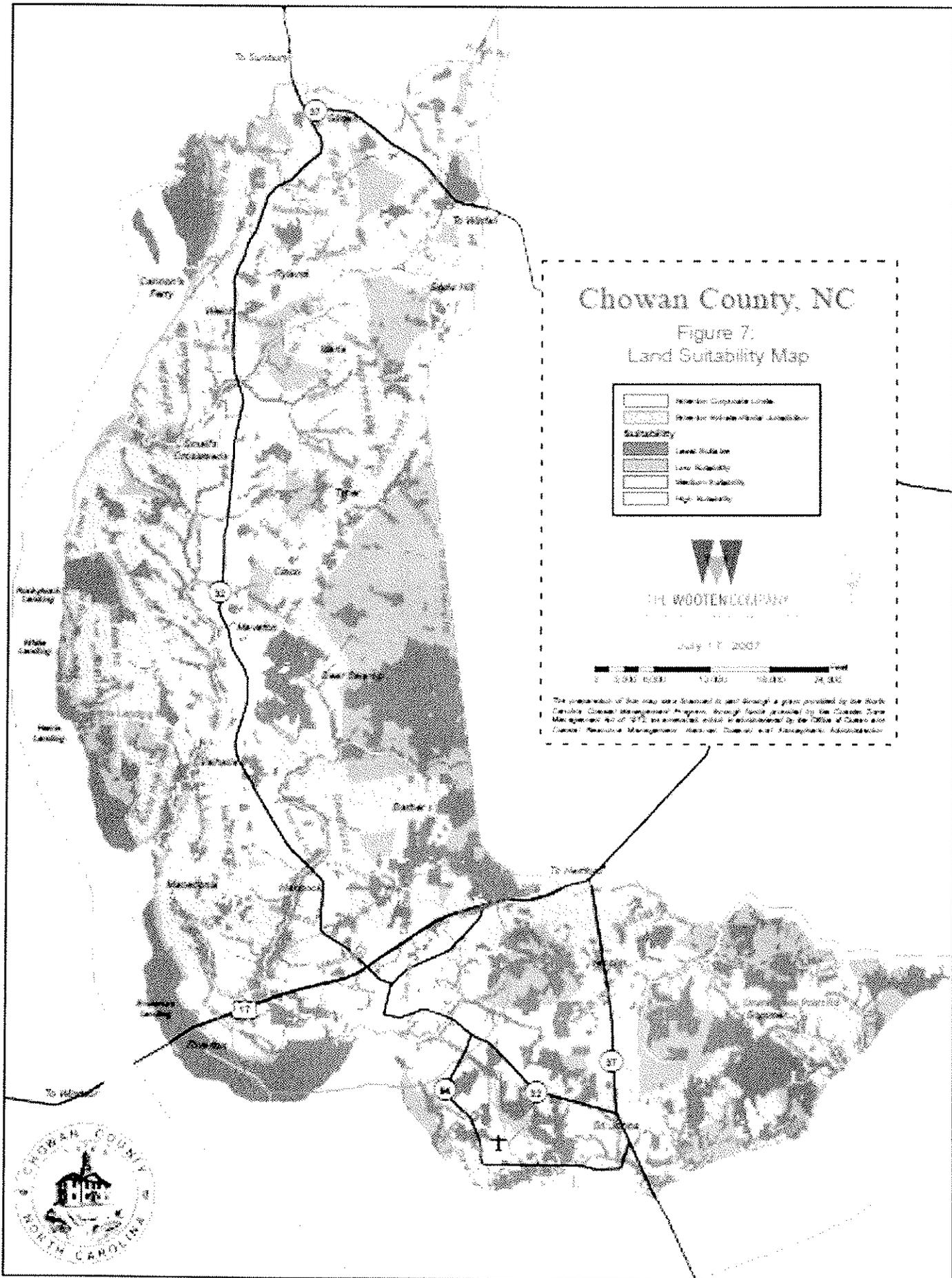
**Public Utilities:** County water is available.  
**Public Services:** The property is located within Chowan County's general jurisdiction; County protection services are available.  
**Transportation:** The subject property has frontage on Yeopim Road.  
**Physical Characteristics:** Farmland/Woodland

### ANALYSIS

The request is for a Special Use Permit to develop a 20-megawatt Solar Farm on the 177.7 acres located at 740 Yeopim Road. The Chowan County Zoning Ordinance defines a solar farm as "an area of land designated use for the sole purpose of deploying photovoltaic power and generating electric energy."

Staff has determined that the application from O2 emc meets the requirements of the Chowan County Zoning Ordinance detailed in Section 8.108 of Article VIII, Development Standards.

In granting a Special Use Permit, reasonable requirements may be attached to the permit in addition to this specified below that will ensure the development in its proposed location: 1) Will not *materially* endanger the public health or safety; 2) Will not substantially injure the value of



# Chowan County, NC

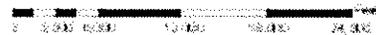
Figure 7:  
Land Suitability Map

	Historic Corporate Limits
	Historic Military/Naval Installations
<b>Suitability</b>	
	Low Suitability
	Low-Medium Suitability
	Medium Suitability
	High Suitability



THE WOOTEN COMPANY

July 17, 2007



The preparation of this map was financed in part through a grant provided by the North Carolina Coastal Management Program. Special thanks provided to the Coastal Zone Management Act of 1972 for financial support in development by the Office of Coastal and Estuarine Resource Management, Division of Coastal and Estuarine Administration.



The Land Suitability Map produced through this modeling process classifies land as High Suitability, Medium Suitability, Low Suitability, and Least Suitable. In general, the areas with the highest suitability for development are within the Town of Edenton urban area and in areas where public water and/or sewer services are available. Lower suitability ratings are found in areas subject to flooding, wetlands areas, and areas without public utilities. Figure 7, Land Suitability Map graphically illustrates the suitability ratings.

**Table 43:  
Land Area within Land Suitability Classifications**

Suitability Rating	Town of Edenton Jurisdiction		Chowan County Jurisdiction	
	Acres	Percent	Acres	Percent
High Suitability	5,086	47%	8,179	8%
Medium Suitability	2,302	21%	47,142	47%
Low Suitability	443	4%	16,516	17%
Least Suitable	3,071	28%	27,767	28%
Totals	10,901	100%	99,604	100%

Source: The Moore Company, 2007  
Note: Acreage excludes water features

A comparison of Figure 4, Existing Land Use Map with the Land Suitability Map reveals that a considerable number of vacant/under-utilized tracts are located within the areas with the higher suitability ratings. Large amounts of acreage currently used for agricultural and/or forestry purposes are also located within the high and medium suitability-classified areas.

### **3.6 Review of Current Land Use Plan**

Subchapter 7B .0702(c)(6) requires that the preparation of the land use plan update include an evaluation of the community's success in implementing the policies and programs adopted in the current land use plan as well as the effectiveness of those policies in achieving the goals of the plan. The current Chowan County/Town of Edenton CAMA Land Use Plan was certified in March 1999. A summary of ordinance consistency, implementation actions taken, and overall effectiveness of current land use plan policies follows.

#### **A. Consistency of Existing Ordinances with the Current Land Use Plan Policies**

Chowan County land development ordinances include a zoning ordinance, subdivision ordinance, flood damage prevention ordinance, unsafe building ordinance, and a mobile home park ordinance. Ordinance revisions/adoptions that have been made to ensure consistency with the 1998 Plan policies include:

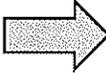
- Mobile home age restriction ordinance
- County-wide zoning
- Requirement for a drainage plan for major developments

The Town of Edenton has a unified development ordinance (UDO), which includes zoning, subdivision, flood damage prevention, and sign regulations. The Town considers their existing ordinances to generally be consistent with the 1998 Land Use Plan Policies. Ordinance revisions/adoptions and other

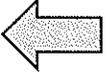


adjoining or abutting property; 3) Will be in harmony with the area in which it is located; and 4) Will be in conformity with the Land Use Plan or other plan officially adopted by the Board of Commissioners.

### RECOMMENDATION



The Future Land Use Map identifies this area as "Residential Agricultural," which is primarily intended to accommodate low density residential uses as well as associated public and institutional uses, low intensity commercial uses, and agricultural-related industrial uses. The request is an effort by the applicant to develop the property as a Solar Farm in compliance with the applicable regulations of the Chowan County Zoning Ordinance; therefore, staff recommends approval of the Special Use Permit application with the following conditions:



1. A buffer strip at least 25 feet in depth, and meeting the requirements of Section 16.04 of the Chowan County Zoning Ordinance, is required opposite the residentially developed areas along Yeopun Road and shall be noted on the site plan and drawn in detail in an accompanying landscape plan.
2. Elevation drawings that show the location of the proposed solar panel system on the property shall be submitted for review with the application for required building and zoning permits. These drawings should show both vertical and horizontal elevations and must be drawn to scale.
3. Design review by the Building Inspectors for compliance with the Building and Electrical Code Requirements of the International Building Code, as well as for requirements by this ordinance that all solar components have a UL listing and are designed with an anti-reflective coating shall be done prior to issuance of required building and zoning permits.
4. Prior to the issuance of any final approvals of the project by the Planning & Inspections Department, the developer shall submit an approved Soil & Erosion Control Permit from NCDENR and Albemarle SWCD as well as an approved Driveway Permit from NCDOT.
5. The developer shall provide a plan for the decommissioning of the subject solar farm and all related components, and shall confirm that the responsibility, both physical and financial, for the decommissioning of the subject solar farm lies with the owners of the project at the time of decommissioning.

## SECTION V: TOOLS FOR MANAGING DEVELOPMENT

This section of the Plan is organized in accordance with the requirements of Subchapter 7B .0702(e). Section V includes a description of the Town of Edenton and Chowan County land management tools and programs as well as the actions and strategies that each local government will use to implement the Joint Land Use Plan.

### **5.1 Guide for Land Use Decision-making**

The Joint Land Use Plan, as adopted by the elected officials of Edenton and Chowan County and as may be amended from time to time, will serve as the primary guide upon which to make land use policy decisions. Every land use policy decision, such as a rezoning request or approval of a conditional or special use permit, will be measured for consistency with the goals, policies, and recommendations of the Plan. The elected officials, Planning Boards, Boards of Zoning Adjustment, and local government staffs should utilize the Land Use Plan as the basic policy guide in the administration of the zoning ordinance, subdivision regulations, and other land development regulatory tools. Persons involved in the land development business as well as the general public can also utilize the Land Use Plan to guide private decisions regarding land use and land development.

The policy statements and recommendations of the Land Use Plan can also be of assistance to the elected officials in making long-range decisions regarding such matters as the provision of water and sewer services, thoroughfare planning, stormwater planning and management, implementation of economic development strategies, recreational facility planning, preparation of capital and operating budgets, and implementation of housing and community development programs.

It should be noted, however, that the Land Use Plan is one of a variety of guides in making a public policy decision. The Plan should be viewed as a tool to aid in decision making and not as the final decision.

### **5.2 Existing Land Use and Development Management Programs**

#### **5.2.1 Chowan County**

Chowan County's existing land development management program includes the following land regulatory ordinances and related plans:

- Joint Edenton/Chowan County CAMA Land Use Plan Update, Certified in March 1999
- Edenton/Chowan Greenway and Open Space Plan 2003
- Joint Edenton/Chowan Hazard Mitigation Plan 2005
- Edenton/Chowan Recreation and Parks Plan 2005
- Zoning Ordinance (including Subdivision and Flood Damage Prevention requirements)

The County's land development management program is administered primarily by the joint Edenton/Chowan Planning and Inspections Department which is responsible for administering land development regulations. The County's land development regulations are applicable to all land areas located outside of the planning and zoning jurisdiction of the Town of Edenton.

Fm: James Robison, member Chowan Planning Board

To: Kevin Howard, Chowan County Manager

Subj: O2 emc Permit for Solar Energy Generating facility on Yeopim Rd., Chowan County

Ref.: a. Chowan County/Town of Edenton Core Land Use Plan Section 4.3.1 A  
b. Chowan County Zoning Ordinance, Art. 3.12  
c. Minutes of Chowan County Planning Board meeting of 18 August 2015

1. Ref. a (p. 134) concerning residential agricultural classification states: "However, those intensive land uses, which could have an adverse impact on the rural nature, are not permitted or are only allowed on a special use permit basis following a formal review and approval process."
2. Ref. b states:
  1. Even if the permit-issuing board finds that the application complies with all other provisions of this ordinance, it may still deny the permit if it concludes, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:
    1. Will materially endanger the public health or safety, or
    2. Will substantially injure the value of joining or abutting property, or
    3. Will not be in harmony with the area in which it is to be located, or
    4. Will not be in general conformity with the land use plan or other plans and policies officially adopted by the Board of County Commissioners.

- J. The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this Ordinance remains at all times on the applicant.
3. Ref. c. does not indicate that any of the provisions listed in ref. b were specifically addressed and voted on. Witness to the effect that the development would not comply with those provisions were not heard. Furthermore, it is my contention that an industrial scale photo voltaic electrical generating facility is an intensive land use, has no relation to any agriculturally relate activity, would have an adverse impact on the rural nature of the area and would not be in compliance with any of the provisions of ref. b.
  4. Therefore, I contend that:
    - a. the permitting hearing was not conducted in compliance with the ordinance,
    - b. the permit should be revoked and,
    - c. the permitting hearing should be reheard during which the permit applicant should be required to demonstrate that the proposed facility would, more probably than not, not violate the provisions of ref. b.
  5. I request that this be added to the agenda for the 22 March Planning Board meeting.

Copy to: Mrs. Elizabeth Bryan, Chowan County Planner