

**Shelby County Plan Commission
Meeting Minutes
Tuesday
September 24, 2024**

Members Present:

Terry Smith
Kevin Carson
David Lawson
Jeff Powell
Charity Mohr
Jason Abel
Megan Hart

Members Absent:

Mike McCain

Staff Present:

Desiree Calderella – Planning Director
Jason Clark – Plan Commission Attorney

Call to Order and Roll Call:

Terry Smith called the September 24, 2024, meeting to order at 7:00 pm in Room 208 A at the Court House Annex.

Approval of Minutes:

Jason Abel made a motion to approve the minutes from August 27, 2024. Charity Mohr seconded the motion. The minutes were approved 7-0.

Old Business:

None.

New Business:

RZ 24-08 – COMMERCIAL SOLAR ENERGY SYSTEMS (CSES) UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT: Applies to unincorporated Shelby County.

Desiree Calderella provided a summary of the solar ordinance amendments and

amendment process as indicated in the meeting materials.

The Board opened the hearing for public comment.

Blake Newkirk, resident of Bengal, expressed support for the ordinance amendments. However, she indicated that the County already has the Special Exception process in place for approval of solar facilities and therefore does not need to create an overlay district. She emphasized the need to protect the residents of Shelby County.

Jared Wren, Senior Manager of Development and Stakeholder Engagement with Hecate Energy, emphasized his company's commitment to communication, transparency, and good faith, and emphasized company's ties to the community over the past three years. He emphasized the need to diversify energy recourses and the economic benefits of developing renewable energy projects. He expressed concern about the methodology used to implement the ordinance amendments.

Mark Sway, with Hecate Energy, explained that the proposed 500-foot setback from the road does not reflect industry standards which average between 100 and 250 feet, that the setback would result in the need for the company to acquire more project acreage, and that the setback would result in land unusable for farming or for solar development. He explained that the 660-foot setback also does not reflect industry standards. He explained that landscaping berms would negatively affect drainage.

Rachael Barlow, who lives at 2688 S 625 W, expressed support for the ordinance amendments. She expressed concern about the impact of solar development on well water and suggested adding baseline well testing to the ordinance. She asked for clarification on the proposed solar overlay district. She indicated that anyone with a conflict of interest should recuse themselves from voting on the ordinance.

Zonda Stead, resident of Bengal, provided an example from her personal experience to demonstrate the need for large setbacks.

Sherry Clark, who lives on CR 300 E, indicated that she opposes the proposed Hecate solar farm but indicated that the amendments to the solar ordinance will help to address a few of her concerns.

Kyle Barlow, resident of Bengal and member of the Solar Ordinance Committee, indicated that development of solar farms should not occur in agricultural zoning districts, expressed concern about maintenance of solar facilities, indicated that he does not support use of herbicide on solar farms, and indicated that he agrees with imposing a 660-foot setback from the property line.

James Ramsey, a Shelby County resident, indicated that he supports the amendments to the solar ordinance.

The Board closed the public comment portion of the hearing.

Kevin Carson suggested adding a provision to the ordinance limiting the total project area of each solar facility because the County does not know if the current solar project under development will prove successful.

Desiree Calderella expressed concern with establishing an arbitrary number by which to limit the size of solar projects. She explained that the Board would need to have a rational for choosing a specific number.

Megan Hart and Charity Mohr indicated that the Comprehensive Plan supports preservation of farmland and therefore provides rational for limiting the size of solar projects.

Jason Clark explained that the Board may have a policy rational for preserving farmland, however, establishing an arbitrary number by which to limit the size of solar projects could result in an indefensible takings case.

Kevin Carson indicated that implementing a maximum project size requirement would provide a mechanism for preserving farmland.

Jason Abel explained that changing the approval process by establishing a solar facility zoning overlay district would serve as a mechanism to preserve farmland because the Plan Commission must consider the Comprehensive Plan when making decisions on rezonings.

Jason Clark provided legal guidance on the County's ability to approve or deny development proposals.

Charity Mohr expressed concern with allowing solar projects without knowing the long-term impacts of solar projects.

Kevin Carson expressed concern with misuse of agricultural land by development of solar farms.

The Board discussed the procedural process of establishing a solar facility overlay district for a proposed solar project.

Terry Smith asked why the ordinance requires wooden fence posts.

Desiree Calderella explained that wood fence posts would blend in with rural areas.

Terry Smith asked about the practical feasibility of planting evergreen trees no more than 5-feet apart as required by the ordinance amendment.

Jeff Powell also expressed concern with the practical feasibility of the proposed landscaping requirements.

Desiree Calderella suggested replacing the landscaping requirement with landscape Buffer D in the Unified Development Ordinance or reaching out to Mathies Landscaping for suggestions on a feasible landscape buffer.

Kevin Carson expressed concern that trees planted near the property line would hinder use of adjacent ground for crop production.

Desiree Calderella referenced a typo in section T 4 and explained that this requirement limits groundcover to 10-inches in height, and that the County Nuisance Ordinance includes this requirement for residential properties.

Terry Smith asked if pollinator friendly groundcover could grow under 10-inches.

Desiree Calderella explained that the ordinance allows other agronomic practices in place of pollinator friendly habitat in the case that pollinator friendly groundcover proves infeasible.

David Lawson indicated that drainage has become a major issue with the current solar project and asked how the ordinance would address drainage.

Desiree Calderella explained that the ordinance cross-references the Drainage Ordinance. She explained that the Drainage Board may consider amending the Drainage Ordinance to address drainage related to solar development.

Jeff Powell indicated that landscaping berms could cause drainage problems. The Board discussed the need for trees and a berm as a visual buffer.

Desiree Calderella suggested eliminating the berm and requiring a dense tree buffer.

Desiree Calderella explained that the setback requirement only serves to mitigate aesthetic impacts.

Megan Hart indicated that the setback requirement also serves to mitigate environmental impacts.

Desiree Calderella explained that IDEM, rather than the County, regulates environmental impacts and that IDEM has not imposed a setback requirement for solar projects.

Charity Mohr indicated that the setback requirement also serves to protect property values.

Desiree Calderella agreed that the setback requirement serves to protect property values by mitigating aesthetic impacts.

Desiree Calderella explained that imposing a large setback could result in a solar company acquiring more land to accommodate setback, which would increase the overall size of the project.

The Board discussed setbacks for other types of uses and noted that only CAFOs have a required setback exceeding the size of the proposed solar facility setback.

Desiree Calderella noted that other large setbacks imposed by the County also serve to mitigate noise and smell.

Charity Mohr explained that placement of industrial solar facilities within rural areas justifies a large setback due to the incompatibility of industrial development with rural areas. She indicated that this type of significant incompatibility typically does not exist in other areas of the County.

Jeff Powell made a motion to amend Section G. Specifically, to eliminate the landscaping berm and to direct the Planning Director to contact Mathies Landscaping to determine a viable tree buffer. The Board unanimously approved the motion.

Terry Smith asked for a motion to add a ban on use of herbicides. No motion was made.

Jeff Powell indicated that imposing a large setback could result in an increase in overall project area because the solar company would still need the same amount of acreage for placement of panels.

Charity Mohr and Megan Hart expressed concern that allowing nonparticipating property owners to waive the entire setback requirement from their property line indefinitely would negatively impact the future owners of a nonparticipating property.

Kevin Carson made a motion to amend Section D, specifically clarifying that nonparticipating property owners may not reduce the setback more than the required setback in the underlying zoning district. The Board unanimously approved the motion.

No motion was made to adjust the 500-foot setback from the centerline of the road or the 660-foot setback from nonparticipating property lines.

Kevin Carson indicated that he supports creating a solar facility zoning overlay district because a nine-member Plan Commission board, rather than a five-member BZA board,

would have oversight over a petition. Also, final approval by the County Commissioners would add a second layer of approval.

Desiree Calderella provided a summary of the process to establish an overlay district and answered questions posed by the Board.

Kevin Carson made a motion to eliminate the Special Exception approval process and to implement the Solar Facility Zoning Overlay District approval process, and to allow Desiree Calderella and Jason Clark to revise the proposed language establishing the district as needed. Jason Abel seconded the motion. The Board unanimously approved the motion.

The Board discussed restoration of drainage infrastructure as part of decommissioning.

Jeff Powell made a motion to amend Section U 1 a ii, specifically to add restoration of surface and subsurface drainage infrastructure. The Board unanimously approved the motion.

Charity Mohr indicated that limiting the total project acreage of each solar facility would preserve prime farm ground as recommended by the Comprehensive Plan and protect the agricultural character of the County.

Terry Smith argued that if the County limits the size of solar farms to protect prime farm ground, then the County would need to limit the size of all other non-agricultural uses.

Kevin Carson made a motion to limit the total project area of each solar facility to 500-acres. The motion died for lack of a second.

Charity Mohr asked if the County has means other than the ordinance amendment to protect the citizens of the County, such as extension of the moratorium.

Jason Abel explained that the Commissioners intended the moratorium to remain in place only while the County updates the solar ordinance.

Charity Mohr and Megan Hart requested more information before the next meeting regarding other County's standards on limiting the size of solar projects.

Discussion:

None.

Adjournment:

With no further business to come before the Board, Kevin Carson made a motion to adjourn. David Lawson seconded that motion. The meeting was adjourned.

Terry Smith
President

Date

Jason Abel
Secretary

Date