

**Quasi-Judicial  
Public Hearing for a  
Special Use Permit  
for a Solar Farm  
Located at 5840  
Buffalo Road,  
Selma, N.C. by Red  
Toad 5840 Buffalo  
Road, LLC/  
Reynaldo  
Rodriguez, and  
Roberts & Wellons  
(Owners):**

Planning Director Julie Maybee stated that this was a quasi-judicial public hearing to receive citizen comments regarding a special use permit for a potential solar farm located at 5840 Buffalo Road, Selma, N.C. by Red Toad 5840 Buffalo Road LLC/Reynaldo Rodriguez and Roberts & Wellons, Inc.

Planning Director Julie Maybee stated that the property is located in the Town's extraterritorial jurisdiction (ETJ).

A motion was made by Mayor Pro-Tem Jackie Lacy and seconded by Councilmember William Overby to open the public hearing. Motion carried unanimously. 7:15 p.m.

Attorney Chip Hewett swore in Planning Director Julie Maybee, Attorney Kirkland Odom, Reynaldo Rodriguez, and Allen Wellons.

Planning Director Julie Maybee:

The protocol is as it has been for the previous special use permit presented to Council: staff presentation, applicant presentation, public comment for the request, against the request, other public comments, applicant rebuttal, staff recommendations, Board discussion, and Board decision.

This property is located at 5840 Buffalo Road. What they are proposing is place a solar farm on a portion of that tract. The entrance location has received preliminary approval by NCDOT. The site plan has been reviewed by staff as well. When you look at the surrounding land uses, it is located in an R-20 zoning district, and is surrounded by R-20 around the entire perimeter. You'll see an open field and wooded areas. The Future Land Use Plan designates this as a residential area. It is predominately low density residential development with limited commercial. This illustrates why the landscape buffer on the site plan, need to see exactly what is going to be in that buffer area. Whenever you can preserve existing trees, just need to maintain that 75% opacity. Having that information specified on the site plan is really helpful. It also, as far as adjacent property owners, gives them an idea of what to expect. On Buffalo Road, you really have a mix of residential development. It is manufactured homes; it is stick build homes, and double-wide homes and agricultural lands in this section on Buffalo Road. Since this property is in an R20 zoning district, when you have a solar farm, anything that is non-residential, the minimum lot size is an acre. I request that the staff report and staff presentation be incorporated into the record.

Attorney Chip Hewett:  
Proceed.

## **SPECIAL USE PERMIT REQUEST**

**SUP #4.2.15**

**TOWN COUNCIL SPECIAL MEETING – JUNE 11, 2015**

**PROPERTY  
OWNER:**

**ROBERTS & WELLONS, INC.**

**APPLICANT:**

**RED TOAD 5840 BUFFALO ROAD,  
LLC/REYNALDO RODRIGUEZ AND ROBERTS  
AND WELLONS, INC.**

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### **APPLICATION:**

Red Toad 5840 Buffalo Road, LLC/Reynaldo Rodrigues and property owner Roberts and Wellons, Inc. request a special use permit #SUP 4.2.15 to build a 1.99 MW solar farm at 5840 Buffalo Road. Selma NC. The approximate 50 acre parcel/site is located with the town's extra-territorial jurisdiction. It is zoned R-20. A special use permit is needed for a solar farm in this zoning district.

The application and supplemental information are attached for the Council's consideration.

### **PUBLIC HEARING PROVISIONS:**

Chapter 17, Article VI, Section 17-122 of Selma's Municipal Code states: "Prior to approving any special use permit, the Town Council shall conduct a quasi-judicial public hearing where sworn testimony and evidence may be offered by the applicant and any interested party ..."

On a related note, in accordance with ordinance provisions: (a) legal notices were sent to the applicant, owner, and adjoining property owners; (b) public hearing notices were published in the newspaper; and (c) the property was posted.

**BACKGROUND INFORMATION:**

The proposed special use permit site plan has been reviewed by the Fire Chief/applicable agency, Public Works Director, Electric Director, Planning Director and NC Department of Transportation.

**Surrounding Zoning:** Lands immediately to the north, south, east and west of the proposed site are zoned R-20.

**R-20 Zoning District:** The R-20 District is intended to encourage the continuance of agricultural activities as well as to insure that residential development of appropriate intensities that are consonant with the suitability of land, accessibility to major activity centers and transportation systems, and are compatible with the surrounding development, will occur at the appropriate density to provide a healthful environment.

**Dimensional Provisions** *(Also See Special Requirements for Solar Farms, Chapter 17, Article IV, Section 17-127 (7)).*

District	Area	Width	Min. Building/Parking Lot Setbacks Requirements			Height
			Front	Side	Rear	Maximum Building Height
R-20	43,560 Square Feet, Note 1,3	100' Note 2	25'	10' Note 4	25'	40' See Note 5

Note 1: Minimum lot size for newly platted lots measured at the front building setback for single family dwelling is 20,000 sq. ft. per subdivision provisions; and minimum of 1 acre for mobile homes and all other uses.

Note 2: Minimum Width of lot for newly platted lots measured at the front building setback.

Note 3: Comply watershed provisions, min. lot size 1 acre for manufactured homes

Note 4: Add 5' feet if corner lot.

Note 5: Add 25' in height as measured from the grade at the base of the structure to the apex of the structure.

**Existing Land Use:** Photographs/maps of the existing land use will be presented at the meeting.

**Transportation System:** The subject lands have frontage Buffalo Road. Since the road is part of the state highway system, site entrance/exits must be

approved/permitted by NCDOT. NC DOT has approved the location of the site access.

Photographs of the site, proposed parking, drives and pattern of internal traffic circulation to be presented at the meeting.

**Buffering** See application. As required by ordinance, solar farms shall be fully screened from adjoining properties and adjacent roads by an evergreen buffer capable of reaching a height of 10' within three (3) years of planting, with at last seventy five percent opacity at the time of planting.

**Utilities:** No employees will work on site after the installation is complete.

**Environmental:** The site is located within a protected water supply watershed; and must comply with applicable Selma Municipal Code provisions. Please refer to Exhibit #2.

**Future Land Use:** Future Land Use to be reviewed at the meeting.

**SPECIAL USE PERMIT & REQUIRED FINDINGS OF FACT:**

The Selma Town Council does not have unlimited discretion in deciding when to grant a special use permit. Chapter 17, Article VI, Section 17-122 of the Selma's Municipal Code states: "Prior to approving any special use permit, the Town Council shall conduct a quasi-judicial public hearing where sworn testimony and evidence may be offered by the applicant and any interested party..." Furthermore, "... no special use permit shall be recommended for approval by the Planning Board or approved by the Town Council without sufficient evidence presented to enable the Council to make written findings that each of the following (see 1 – 5 below) are fulfilled..."

1. All applicable specific conditions pertaining to the proposed use have been or will be satisfied;
2. Access roads or entrance and exit drives are or will be sufficient in size and properly located to ensure automotive and pedestrian safety and convenience, traffic flow, and control and access in case of fire or other emergency;
3. All necessary public and private facilities and services will be adequate to handle the proposed use;
4. The location and arrangement of the use on the site, screening, buffering, landscaping, and pedestrian ways will not impair the integrity or character of adjoining properties and the general area and minimize adverse impacts to public health, safety, and general welfare.
5. The use or development conforms to general plans for the physical development of the Town's planning jurisdiction as embodied in this chapter, the Town's land use plan, or other development policies as adopted by the Town Council.

*Note: The Town Council may attach reasonable conditions to the request for approval as will ensure compliance with applicable regulations. A special use permit or modification of a special use permit shall run with the land covered by the permit or modification. No building or other subsequent permit or approval shall be issued for any development on the property except in accordance with the terms of the special use permit.*

**STAFF RECOMMENDATIONS:**

Based on the comments received from other departments/agencies and information presented on the behalf of the applicant (verbal and written) addressing the findings of fact, as of this writing, staff recommends approval of the special use permit contingent upon: (a) the receipt of more detailed plan on what is going to be planted in the buffer area; (b) buffer being maintained; (c) grass/weeds on site not to exceed to ten (10) inches; and (d) driveway permit being obtained from the NC Department of Transportation.

**PLANNING BOARD RECOMMENDATION:**

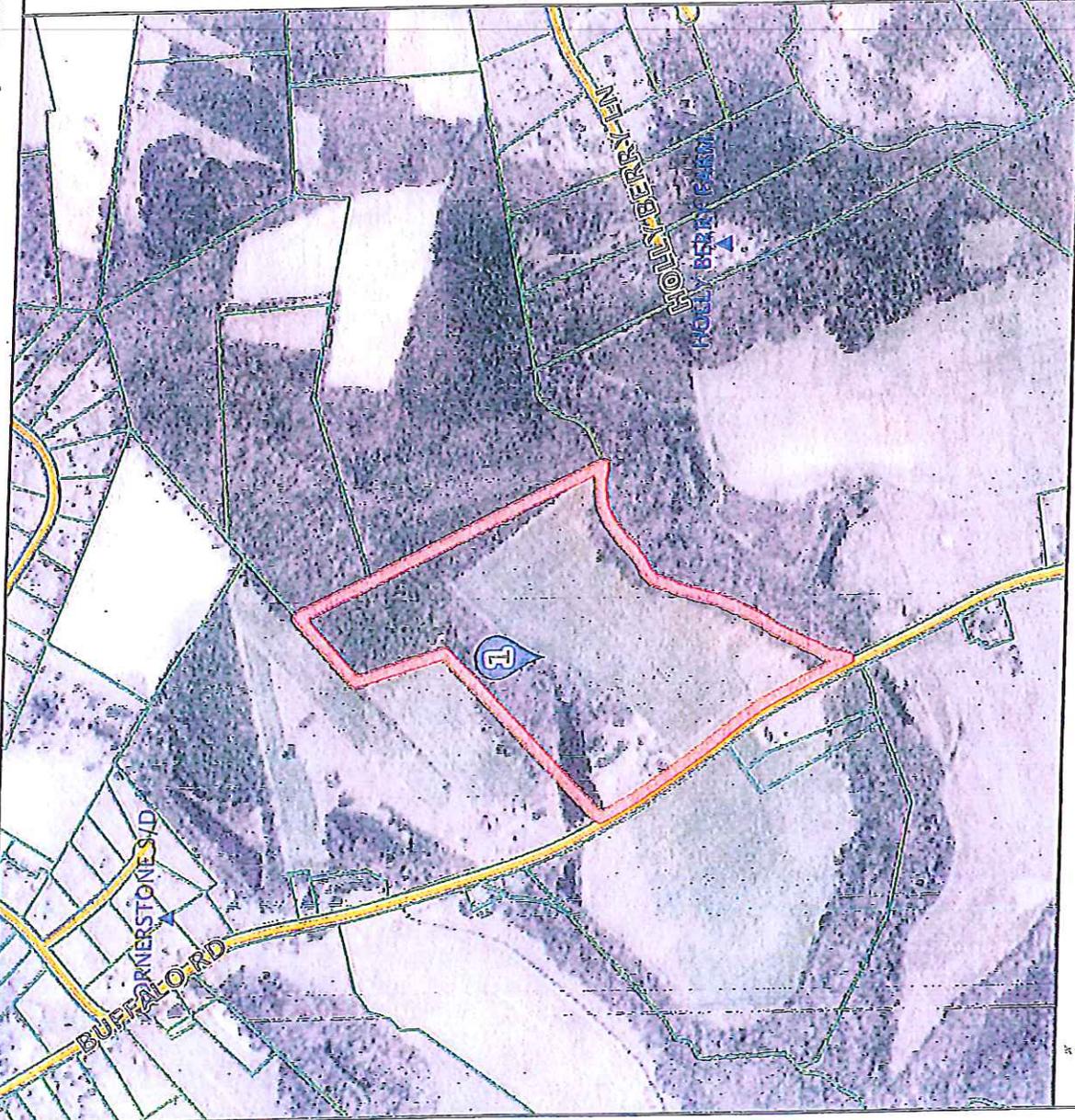
On April 27, 2015, the Planning Board recommended to adopt the [applicant's] findings of fact, as its own; and recommended approval of the special use permit contingent upon driveway permit being obtained [from NC Department of Transportation] and the detail around the perimeter of the landscape buffer be included on the site plan. (An excerpt of the applicable section of the April 27, 2015 minutes is included as Exhibit #2.)

**Requested Town Council Action:**

Staff respectfully requests that Town Council conduct a public hearing (quasi-judicial) on the special use permit request. That the findings of fact be made (see Planning Board's recommended findings and Exhibit #2); and that Council conditionally approve the request. (A draft motion will be presented at the meeting.)

\*\*\* DISCLAIMER \*\*\*

Johnston County assumes no legal responsibility for the information represented here.



**Result 1**

id: 14L08016  
Tag: 14L08016  
Tax Unique Id: 4192346  
NCPin: 260600-75-5128  
Mapsheet No: 2606  
Owner Name 1: ROBERTS & WELLONS  
Owner Name 2:  
Mail Address 1: P O BOX 299  
Mail Address 2:  
Mail Address 3: SMITHFIELD, NC 27577-0000  
Site Address 1: 5840 BUFFALO RD  
Site Address 2: SELMA, NC 27576-  
Book: 00561  
Page: 0113  
Market Value: 253410  
Assessed Acreage: 50  
Calc. Acreage: 40.47  
Sales Price: 0  
Sale Date: 1958-01-01

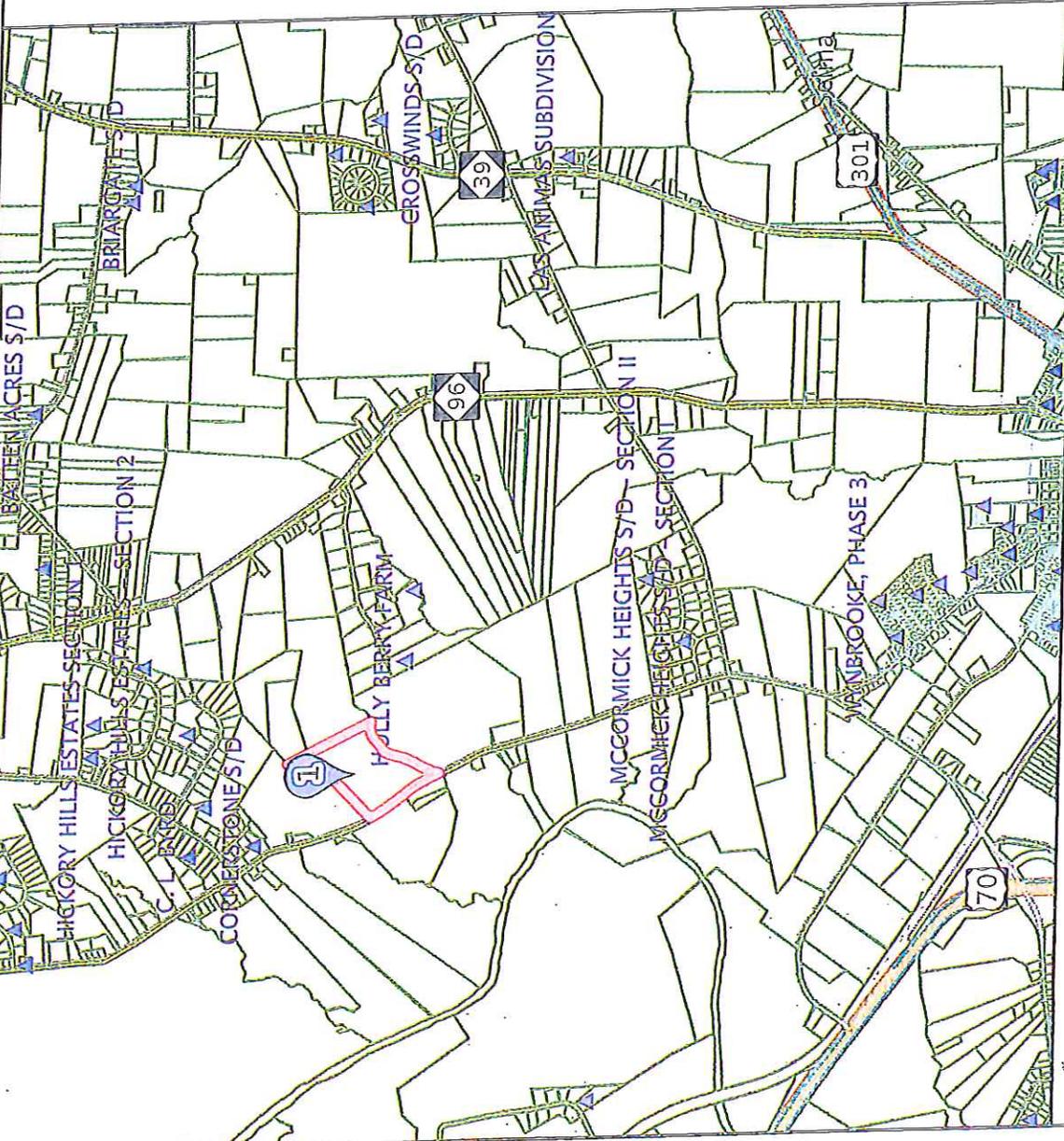
Scale: 1:9495 - 1 in. = 791.22 feet

(The scale is only accurate when printed landscape on a 8 1/2 x 11 size sheet with no page scaling.)



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Result 1

id: 14L08016  
 Tag: 14L08016  
 Tax Unique Id: 4192346  
 NCPin: 260600-75-5128  
 Mapsheet No: 2606  
 Owner Name 1: ROBERTS & WELLONS  
 Owner Name 2:  
 Mail Address 1: P O BOX 299  
 Mail Address 2:  
 Mail Address 3: SMITHFIELD, NC 27577-0000  
 Site Address 1: 5840 BUFFALO RD  
 Site Address 2: SELMA, NC 27576-  
 Book: 00561  
 Page: 0113  
 Market Value: 253410  
 Assessed Acreage: 50  
 Calc. Acreage: 40.47  
 Sales Price: 0  
 Sale Date: 1958-01-01

Scale: 1:35205 - 1 in. = 2933.78 feet

(The scale is only accurate when printed landscape on a 8 1/2 x 11 size sheet with no page scaling.)

TOWN MANAGER  
Jon Barlow

TOWN CLERK  
Claudia P. Greenfield

TOWN ATTORNEY  
Alan B. "Chip" Hewitt

MAYOR  
Ceryl L. Oliver

COUNCIL MEMBERS  
Jacqueline J. Lney  
Eric W. Sellers  
Tommy Holmes  
William E. Overby

# Town of Selma

## Special Use Permit Application

### 1. General Information (Please Type or Print)

Property Owner: Roberts and Wellons  
Address: 141 East Market St. City: Smithfield State: NC Zip: 27577  
Telephone Number: 919-934-0553 Fax Number: 919-934-4613

Applicant/Contact: Red Toad 5840 Buffalo Road, LLC/ Reynaldo Rodriguez  
Address: 215 New Gate Loop City: Lake Mary State: FL Zip: 32746  
Telephone Number: 407-620-6206 Fax Number: \_\_\_\_\_

### 2. Property Information:

Property Address (if known): 5840 Buffalo Rd., Selma, NC 27576  
Johnston Co. Tax Map: \_\_\_\_\_ Lot: \_\_\_\_\_ Zoning District: R-20  
Site Access Off Road: Buffalo Rd. Lot Acreage: 50  
Status of Lot: Existing: currently vacant Proposed: solar farm

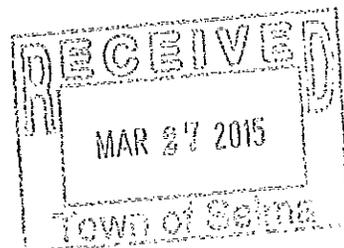
### 3. Utilities (Existing or Proposed - Check All That Apply):

Public Sewer: (a) \_\_\_\_\_ Existing, (b) \_\_\_\_\_ Proposed  
Public Water: (a) \_\_\_\_\_ Existing, (b) \_\_\_\_\_ Proposed  
Well: (a) \_\_\_\_\_ Existing, (b) \_\_\_\_\_ Proposed  
Septic: (a) \_\_\_\_\_ Existing, (b) \_\_\_\_\_ Proposed (Note: Supply copy of applicable permit)

4. Building Floor Area (sq. ft.) \_\_\_\_\_ Max. Bldg./Structure Height: \_\_\_\_\_ ft.  
Bldg./Structure Sprinkled? \_\_\_\_\_ Yes, \_\_\_\_\_  
Comments or Other Infrastructure Needs: \_\_\_\_\_

### 5. Describe Nature of Request (Type of Building, Use, Hours of Operation, etc.):

Proposed use is a 1.99 MW solar farm. The system is arranged in 199 structures of two rows of 20 modules, with a total of 40 modules per structure. The strings are distributed among 18 combiner boxes which feed into 500/1000 KVA AC inverters.



Special Use Permit Application

6. Submittal Information:

The items listed below are needed to verify compliance with the Town's ordinance provisions and must accompany the special use permit application:

A. A copy of the most recent deed to the property for which the permit is requested. A copy can be obtained from the Johnston County Register of Deeds Office located in the Johnston County Courthouse.

B. A copy of the property survey plat.

C. A site plan (20 copies) prepared/drawn to scale (min. 1"=50' unless otherwise specified by the Zoning Administrator) by either a N.C. Licensed Professional Surveyor, Engineer or Architect depicting the following:

1. Vicinity map, property boundaries, total area of parcel (sq. ft. and acreage), names of adjoining property owners, north arrow, and scale.
2. Names of adjoining streets, location of rights-of-way(s) and easements.
3. Existing and proposed structures (including additions) existing & proposed parking areas, parking spaces (including handicapped parking spaces) drive/sidewalk location(s), existing & proposed exterior site lighting.
4. If the site is located in a protected watershed, please state the applicable square footage/percentage of all existing/proposed impervious surfaces and acreage of area to be left natural state.
5. If applicable, location of 100 year flood plain.
6. If applicable, location of all wetlands, perennial streams and surface drainage areas, retention ponds, existing and proposed topography [min. 10' contour], and buffer areas.
7. If applicable, existing or proposed dumpster location(s) and screening.
8. If applicable, location/type of any required landscape buffer either existing or proposed.
9. Note on site plan all that apply: Height/# stories of existing/proposed buildings/structures, proposed land use (i.e., restaurant, warehouse, etc.), zoning of adjacent tracts.
10. If applicable, any existing utility lines (water, sewer, electric, gas, etc.)
11. Location of existing and proposed fire hydrant(s) and standpipes, existing or proposed fire lane.
12. Location/Type of Traffic Control Devices Adjacent to Site
13. Supplemental standard requirements (where applicable) – see attached exhibit(s):  
SEE EXHIBIT # 1 - 2014/2015 ZONING ORDINANCE SECTION 17-12.7(c)(6)

D. Other: \_\_\_\_\_

E. Fee: \_\_\_\_\_

### Special Use Permit Application

#### 7. Special Use Permit:

The Selma Town Council does not have unlimited discretion in deciding where to grant a special use permit. Article VI, Section 17-122 of the Selma's Municipal Code states "Prior to approving any special use permit, the Town Council shall conduct a quasi-judicial public hearing where sworn testimony and evidence may be offered by the applicant and any interested party..." Moreover, "no special use permit shall be recommended for approval by the Planning Board or approved by the Town Council without sufficient evidence presented to enable the Council to make written findings that each of the following (see 1 – 5 below) are fulfilled..."

*Please note: Under each indicate the facts you, the applicant, intend to show and statements that you intend to make to convince the Town Council that it can properly reach the required findings of fact listed below (attach additional sheets if needed):*

1. All applicable specific conditions pertaining to the proposed use have been or will be satisfied;

All local, state and federal conditions/regulations have been or will be fully satisfied.

2. Access roads or entrance and exit drives are or will be sufficient in size and properly located to ensure automotive and pedestrian safety and convenience, traffic flow, and control and access in case of fire or other emergency;

Access roads will conform to all applicable regulations to ensure minimum impact on traffic conditions and easy emergency inbound and outbound traffic.

3. All necessary public and private facilities and services will be adequate to handle the proposed use;

All necessary public and private facilities and services will comply with all applicable regulations to appropriately handle the needs of a solar farm facility.

4. The location and arrangement of the use on the site, screening, buffering, landscaping, and pedestrian ways will not impair the integrity or character of adjoining properties and the general area and minimize adverse impacts to public health, safety, and general welfare.

Landscape will be regularly maintained and facility will not impair the integrity of adjacent properties. Proposed use is compatible with the area's mostly agricultural zoning, as it preserves green space from more aggressive forms of development. Land can be returned to its original use with no need for ecological cleaning once the lease is up. Facility will pose no risk to public health, safety and general welfare.

### Special Use Permit Application

- 5. The use or development conforms to general plans for the physical development of the Town's planning jurisdiction as embodied in this chapter, the Town's land use plan, or other development policies as adopted by the Town Council.  
Proposed use is permitted and regulated by Town's ordinances and it isn't at odds with its land use plan.

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*Note: The Town Council may attach reasonable conditions to the request for approval as will ensure compliance with applicable regulations. A special use permit or modification of a special use permit shall run with the land covered by the permit or modification. No building or other subsequent permit or approval shall be issued for any development on the property except in accordance with the terms of the special use permit.*

### 8. Signatures and Acknowledgment:

The undersigned hereby certify that the application material is complete and accurate.

FURTHERMORE, the undersign hereby authorizes the Town of Selma's Zoning Administrator or designated representatives to enter upon the above referenced property for the purpose of inspecting and determining/verifying compliance with the Town's ordinance provisions.

  
Applicant's Signature

3/25/15  
Date

  
Property Owner's or  
Authorized Agent's Signature

3/24/15  
Date

\_\_\_\_\_ County, North Carolina

I certify that the following person(s) personally appeared before me this day, acknowledging to me that he or she signed the foregoing document: \_\_\_\_\_

Date: \_\_\_\_\_

Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Signature

DEVELOPMENT REGULATIONS

§ 17-127



- (2) A change from the use the approved special use permit shall constitute a modification;
- (3) An increase of fifteen (15) percent or more of the building area the approved special use permit shall constitute a modification, unless the proposed addition is less than two thousand five hundred (2,500) square feet of floor area; or
- (4) Substantial changes in the amount of parking spaces, changes in vehicular access, or in location of the principal structure(s) the approved special use permit shall constitute a modification.

(c) [Application for modification.] If the proposed changes are determined to be a modification, the planning director shall require the filing of an application for approval of the modification. The application form(s) and the application for a modification shall be reviewed in accord with the procedures set out in section 17-122 above. (Ord. of 4-13-04, § 1(6.5))

Sec. 17-126. Violation of terms of conditions.

Non-compliance with permit conditions. If after receiving a notice of violation for violation of the terms or conditions of a special use permit, the owner fails to correct such violations within a reasonable time, then the special use permit may, after a hearing, be revoked by the council. The council shall revoke such permit on all or part of a development if it finds that there has been a violation that: was intentional; or continued for an unreasonable time after the owner had notice thereof; or was substantially inconsistent with the purposes of the district and continued for any time after the owner had notice thereof and the opportunity to cure. All of the other remedies of this chapter for a zoning violation shall apply to a violation of the terms of a special use permit. Civil and/or criminal penalties may accrue pending the correction of a violation of a special use permit, notwithstanding the fact that the owner may correct the violation within a reasonable time for purposes of the revocation provisions of this paragraph.  
(Ord. of 4-13-04, § 1(6.6))

Sec. 17-127. Special uses,

(a) Special uses may be established in accord with the procedures and general requirements set forth in sections 17-121 through 17-126 above.

(b) Except where more restrictive standards are required below, special uses shall comply with the intensity regulations established in Article IV for the zoning district in which such use is located and the use group to which such use belongs, and with the design standards established in Article VIII.

(c) In addition to the general determinations required in section 17-123 and the above requirements, the following specific supplemental standards shall be applicable for the designated use.

- (1) Boarding/rooming house.

*Boarding or rooming house:* A building or group of buildings containing a combination three (3) or more lodging units or rooms intended primarily for rental or lease with or without board. Such rooms or rooming units may be designed, occupied, or intended to for occupancy as separate living quarters with sleeping, but not necessarily cooking and sanitary facilities provided therein. A boarding or rooming house shall include a single-family or two-family dwelling, a mobile home, manufactured home or other structure if used in a manner described in the applicable definitions sections so as to constitute a boarding or rooming house. A boarding or rooming house shall include a building or group of buildings intended for occupancy by or occupied by more than four (4) unrelated individuals.

All boarding or rooming houses shall meet the following standards:

- a. A minimum of two hundred fifty (250) square feet of floor area shall be provided for each resident.
- b. A minimum of one (1) off-street parking space shall be provided for each one (1) room or unit of lodging.

SEE PAGE 1087-1088

5/24/17 4: /

SELMA MUNICIPAL CODE

§ 17-127

c. The boarding or rooming house shall meet the following exterior appearance standards:

1. All exteriors shall be in good condition. If painted, or stained, the exterior paint shall be in good condition, not peeling;
2. All windows and doors shall be intact and in working condition;
3. Permanent steps shall be in place and meet North Carolina Building Code;
4. All repairs made to the exterior shall be made to be consistent with the "Original intent or integrity" of the boarding house or mobile home was built. (For example, if repairs are made to the siding, materials close to, or consistent with, the original shall be used).
5. The yard or lot shall be landscaped to be in harmony and character with surrounding properties and the neighborhood in general.

Note—Exempted from the special use permit requirements is a facility qualified for a license by the State of North Carolina for the provision of resident services of seven (7) or less individuals of whom one (1) or more are unrelated and who are handicapped, aged, disabled, or who are a runaway, disturbed or emotionally deprived children and who are undergoing rehabilitation or extended care and who are provided services to meet their needs. Included in this are group homes for all ages, half-way houses, boarding homes for children and convalescent and nursing homes.

(2) *Group care facility and adult day care facility.*

a. *Location requirements.*

1. The zoning lot on which a group care facility or an adult day care facility is located shall have access onto an arterial or collector street in any residential zoning district.

2. The zoning lot on which a group care facility or an adult day care facility is proposed shall not be located within five hundred (500) feet of a zoning lot containing another group <sup>care</sup> facility or an adult day care facility.

b. *Application requirements.* The following information shall be submitted as part of the application:

1. A description of the type of persons to be cared for and the nature of the care to be provided;
2. Plans for proposed structural alterations to existing structures or new construction, including a complete description of the nature and extent of these alterations or new construction.

c. *Standards of evaluation.* The following standards shall be used in evaluating an application:

1. The proposed use in not within five hundred (500) feet of another existing group care facility or an adult day care facility;
2. Structural alterations will be of a nature so as to preserve the residential character of the building or that new construction will be in harmony with the immediate area; and
3. If a state license or permit is required to operate such a facility, the standards necessary to qualify for such a permit have been met.

Note—A copy of such a letter from the state indicating this approval or preliminary approval should accompany the application.

(3) *Junkyards, salvage operations and vehicle storage-auction lots.*

Note—See Article II of this chapter for definition of a junkyard, salvage operations and vehicle storage-auction facilities.

DEVELOPMENT REGULATIONS

§ 17-127

a. *Application requirements.* The following information shall be submitted with the application:

1. Detailed plans and specifications for site screening proposed;
2. Description of all the operational activities and types of activities or uses that will be conducted on the property; and
3. Indicate on the site plan the extent of the area to be used for storage of junked or wrecked motor vehicles.

b. *Standards of evaluation.* The following specific standards shall be used in evaluating an application:

1. The site area containing the location of junked, wrecked vehicles, or vehicles stored, shall be adequately screened from adjacent properties and any public-rights-of-way by a solid wall or fence a minimum of eight (8) feet in height, or higher as determined by the site's topography.
2. No materials or vehicles shall be stored closer than one hundred (100) feet to a public right-of-way or fifty (50) feet from any interior property line;
3. The site shall be landscaped according to the landscape requirements set out in section 17-180. This landscaping is in addition to the above fence or wall requirement.  
*Note*—Existing vegetation can be used to meet some or all of the required landscaping.
4. The site is of an adequate size so as to protect adjacent properties from adverse effects of the junk/salvage and/or vehicle storage facility.

(4) *Landfills.*

a. *Application requirements.* The following information shall be submitted as part of the application:

1. Typical topographical cross-sections showing the extent of overburden, extent of fill and water table elevation, based on mean sea level datum;
2. Location of proposed handling and storage areas for overburden, by-products and fill materials;
3. Proposed fencing, screening and gate locations, parking, service and other areas;
4. Any areas proposed for ponding;
5. Access roads and driveways, as well as on-site roads/driveways, with indication of surface treatment to limit dust. Sight distance shall be shown for all road/driveway intersections with public roads;

b. *Operations plan.* An operations plan shall be submitted to include:

1. The date of commencement of operations and their expected duration;
2. Proposed hours and days of operation;
3. A complete description of operation, including source of materials, method of compaction, type of sealing proposed to be used, types and number of equipment to be used;
4. Any phasing schedule of operations and relationship among phases; and
5. Operating practices to be followed to ensure compliance with regulations of this chapter.

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SELMA MUNICIPAL CODE

§ 17-127

c. *Rehabilitation plan.* A rehabilitation plan which shall include the following:

1. A statement of planned future use of the site, including detailed methods of accomplishment;
2. A map, to the same scale as the site plan, showing final proposed topography, landscaping, and ground cover proposed and any drainage or other structures proposed;
3. A phasing plan of rehabilitation, related to the operations plan, showing how the rehabilitation will relate to the fill operation(s) and the expected date of final completion.

d. *Operational performance standards.* All operations associated with the landfill operation shall conform to the following performance standards:

1. Direct illumination resulting from the operation shall not fall upon any land not covered by the permit;
2. Equivalent sound levels at the boundaries of the site shall not exceed the following standards:
  - i. Between 7:00 a.m. and 7:00 p.m. sixty-eight (68) dBA;
  - ii. Between 7:00 p.m. and 7:00 a.m. fifty-eight (58) dBA; and
3. Vibration levels shall not exceed a maximum peak particle velocity of steady state -1.0 inches/second, and an impact -2.0 inches/second.

*Note*—The maximum particle velocity shall be the maximum displacement sums of three mutually perpendicular components, recorded simultaneously, multiplied by the frequency in cycles per second.

For purposes of this subsection, steady-state vibrations are vibrations which are continuous,

or vibrations in discrete impulses more frequently than sixty (60) per minute. Discrete impulses which do not exceed sixty (60) per minute shall be considered impact vibrations.

e. *Other standards of operation.*

1. All roads to be used in excess of one (1) year within the fill site shall be surfaced with a dust free material. Dust free materials can be, but not limited to, soil cement, bituminous concrete or Portland cement concrete.
2. Where the proposed fill shall take place within three hundred (300) feet of a dwelling, or other structure used or occupied by persons, a security fence of at least six (6) feet in height shall be installed.
3. The operations plan and the rehabilitation plan shall be coordinated so that the amount of disturbed land is kept to the absolute minimum consonant with good practices and so that rehabilitation proceeds in concert with filling.

(5) *Taverns, bars, clubs and similar establishments.*

*Note*—Taverns, bars and similar establishments are only allowed in the Interstate Highway Interchange Zoning District with an approved special use permit.

a. *[Definition.]* For the purpose of this section, *taverns, bars, clubs and similar establishments* mean those facilities that disburse and/or sell alcoholic beverages and are not primarily a restaurant operation serving liquid refreshments, alcoholic or non-alcoholic, meals, snack and sandwich type meals.

b. *Location and use requirements.*

1. The minimum distance from the establishment from any residen-

tial zoning district or residential property, churches and schools shall be a minimum of three hundred (300) feet.

2. All required parking shall be on the same property as the establishment.
3. Based on the specifics of the application and location of the establishment the town council may impose such requirements as days and time of operation, specific landscape buffer requirements and noise limitations levels that would be compatible with surrounding areas.
4. Upon approval of a special use permit, the applicant has six (6) months to acquire an alcoholic beverage permit from the state.

(6) *Terminal facilities for bulk gasoline or other liquid storage and disbursing facilities.*

- a. *[Included uses.]* For the purpose of this subsection, the above uses [terminal facilities for bulk gasoline or other liquid storage and disbursing facilities] shall include wholesale storage of gasoline or any bulk terminal plants and distribution facility for any high explosive or highly inflammable liquids.
- b. *Use requirements.*
  1. Any such facility shall be enclosed with a security fence of adequate height and structure that would reasonable prohibit access to the site by the general public. All security gates and/or gate houses shall be set back a minimum of fifty (50) feet from the public right-of-way line.
  2. All structures housing the storage of bulk liquid materials shall be set back from any property line a minimum of two hundred fifty (250) feet.

3. Revisions to the above setback requirements can be made by the town council upon a finding that the proposed materials structures meet or exceed state and/or federal requirements and that public safety will not be greatly compromised by the reduction in the setback.
4. An emergency operations plan shall be developed and be on file at the Selma and Johnston County Emergency Management Offices.



(7) *Solar farms.*

- a. *Definition.* For purposes of this section, a solar farm means a solar collection system that generates electricity from sunlight to a wholesale electricity market through a regional transmission organization and an inter-connection with the local utility power grid and/or for direct distribution to more than one (1) property or consumer as a commercial venture. Solar farms shall consist of a minimum of three (3) individual photovoltaic modules (solar panels), which are an assembly of solar cells to generate electricity. Solar facilities constructed only for the production of electricity dedicated to another facility collocated the same site, or a solar facility which is clearly a subordinate accessory land use, shall not be subject to the special use permit requirements.
- b. *Setbacks.* Solar farms and their appurtenant components shall conform to the principal building setbacks of the underlying zoning district which they are located.
- c. *Height requirements.* Individual modules/panels shall be a maximum of 25 feet in height as measured from the grade at the base of the structure to the apex of the structure.

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- d. *Site plan.* A site plan, drawn and stamped by a North Carolina licensed surveyor or engineer, shall be submitted showing the following:
1. The location and dimensions of all proposed areas for the placement of solar panels, screening/fencing and related improvements;
  2. Any preexisting structures on the same lot, and principal structures on other properties that would affect the placement of solar panels;
  3. Parking and access areas;
  4. Location of any proposed solar access easements;
  5. Location where wiring is brought together for inter-connection to system components and/or the local utility power grid, and location of disconnect switch;
  6. Any proposed new structures; and
  7. Any other relevant elements as requested by the planning staff.
- e. *Other requirements.*
1. Development of a farm will be subject to other overlay district regulations including watershed impervious surface limits.
  2. Solar farms shall be fully screened from adjoining properties and adjacent roads by an evergreen buffer capable of reaching a height of 10 feet within three (3) years of planting, with at least seventy-five (75) percent opacity at the time of planting.
  3. All outdoor lighting shall be shielded to direct light and glare onto the system's premises and may be of sufficient intensity to ensure security.
  4. Any electrical wiring used in the system shall be underground (trenched) except where wiring is brought together for inter-connection to system components and/or the local utility power grid.
  5. Solar panels shall be mounted onto a pole, rack or suitable foundation, in accordance with manufacturer specifications, in order to ensure the safe operation and stability of the system. The mounting structure (fixed or tracking capable) shall be comprised of materials approved by the manufacturer, which are able to fully support the system components and withstand adverse weather conditions.
  6. Multiple mounting structures shall be spaced apart at the distance recommended by the manufacturer to ensure safety and maximum efficiency.
  7. No ground-mounted large solar energy systems shall be affixed to a block wall or fence.
  8. With the exception of the manufacturer's, or installer's identification signs, appropriate warning signs, and owner identification sign, all other signs shall be prohibited. Not more than one (1) manufacturer label bonded to or painted upon the solar energy system shall be permitted.
  9. It is the responsibility of the owner to remove all obsolete or unused systems within twelve (12) months of cessation of operations.
  10. The planning director shall be provided copies of any lease agreement, solar access easement, and plan for removal of system/equipment. If the sys-

tem is to be interconnected to the local utility power grid, a copy of the conditional approval from the local utility must also be provided before a special use permit will be granted.

- 11. The farm and components shall meet all requirements of the North Carolina State Building Code.
- 12. The farm and components shall comply with the current edition of the National Electrical Code, UL listed, and be designed with an anti-reflective coating.
- 13. The electrical disconnect switch shall be clearly identified and unobstructed, and shall be noted clearly on the site plan.
- 14. The owner or future owner of a property onto which a solar farm is installed assumes all risk associated with diminished performance of said system caused by any present or future adjacent structure or landscaping that may interfere with the system's ability to produce power at its rated capacity, regardless of when that adjacent structure or landscaping is constructed or installed.
- 15. Inverter noise shall not exceed 40dBA, measured at the property line.

Other conditions, including, but not limited to, buffering and noise controls that provide adequate protection for adjacent residential properties as may be deemed reasonable and appropriate for the type of system, may be added by the town council.

(Ord. of 4-13-04, § 1(6.7); Ord. of 9-11-12(7), § 1)

Secs. 17-128—17-150. Reserved.

ARTICLE VII. PERMITS AND SITE PLAN APPROVALS

Sec. 17-151. Zoning-land use permit required.

Except as otherwise specifically provided in this chapter, it shall be unlawful to begin any excavation, removal of soil, clearing of a site, or placing any fill on lands contemplated for development, or begin any construction, moving, alteration, or renovation, except for ordinary repairs of any building or other structure, including accessory structures and signs, until the planning director has issued for such action a zoning or land use permit, certifying that such development complies with the applicable provisions of this chapter.

(Ord. of 4-13-04, § 1(7.1))

Sec. 17-152. Site plan review required.

(a) Site plan review and approval by the planning director shall be required prior to the issuance of a zoning or land use permit or building permit for any development, except those developments, in the opinion of the planning director, that do not significantly affect vehicular circulation patterns, drainage, relationship of buildings to each other, or landscaping, provided such existing site elements comply with the applicable provisions of this chapter.

(b) In addition to the requirements of this chapter, submitted site plans must include a detailed landscape and parking design which is determined by the planning director to be in conformance with all applicable regulations and compatible with surrounding development.

(c) Landscape and parking improvements shall be installed as indicated on the site plan and completed prior to the issuance of a final certificate of occupancy.

(Ord. of 4-13-04, § 1(7.2); Ord. of 3-10-09(3), § 1; Ord. of 11-13-12, § 1)

Sec. 17-153. Procedures.

(a) Application submittal requirements.

- (1) The planning director shall prescribe the form(s) on which applications are made.

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The planning director shall prescribe any other material that may be reasonably be required to determine compliance with this chapter, with sufficient copies for necessary referrals and records.

(2) No application shall be accepted by the planning director unless it complies with such submittal requirements.

*(Handwritten star)* (3) Where a building permit, stormwater management permit, sign permit, or other permits are required, applications for such permits may be made coincidentally with the application for a zoning or land use permit.

(b) *Action on the application.*

(1) On receipt of a completed and accepted application, the planning director shall cause an analysis to be made by qualified representatives of the town and such other agencies or officials as appear appropriate in the circumstances of the application. The analysis will determine compliance with applicable provisions of this chapter and any applicable conditions to assure compliance with town development policies and plans.

(2) The town council, or planning director, as appropriate, may impose such reasonable conditions on an approval as will ensure compliance with applicable regulations.

(c) *Performance and maintenance guarantees.*

(1) Conditions attached to an approval of a zoning or land use permit may include requiring the applicant to provide performance guarantees and/or maintenance guarantees deemed necessary to ensure compliance with the requirements of this chapter; or the providing of performance guarantees in lieu of actual completion of required improvements prior to the use or occupancy of the development authorized by the land use permit.

(2) Such performance guarantees and/or maintenance guarantees shall be satisfactory as to their form and manner of execution, and as to the sufficiency of their amount

in securing the satisfactory construction, installation, or maintenance of the required improvements.

(3) The condition requiring or permitting a performance guarantee shall specify a reasonable time period within which required improvements must be completed. Such time period shall be incorporated in the performance guarantee.

(4) No performance guarantee shall be released until certification of the satisfactory completion of all required improvements covered by such performance guarantee has been submitted to and approved by the planning director.

(5) If the required improvements covered by the performance guarantee are not completed in accord with the terms of the performance guarantee, the obligator shall be liable thereon to the town for the reasonable cost of the improvements not completed and the town may, either prior to or after the receipt of the proceeds thereof, complete such improvements.

(Ord. of 4-13-04, § 1(7.3))

Secs. 17-154—17-170. Reserved.

ARTICLE VIII. DESIGN STANDARDS

Sec. 17-171. Intent.

It is the intent of this article to provide general performance standards to ensure that development within the town planning jurisdiction will be designed, arranged, and constructed in a safe, orderly, and visually harmonious manner, and will reflect the basic character of the development site and its immediate surroundings as well as the nature of the proposed uses of the site.

(Ord. of 4-13-04, § 1(8.1))

Sec. 17-172. Applicability.

Except where otherwise specifically provided in this chapter, no land or structure shall be used or occupied, and no excavation, removal of soil, clearing a site or placing fill shall take place on land contemplated for development, and no struc-









Red Toad, LLC  
April 22, 2015  
Town of Selma, NC  
Ms. Julie Maybee  
Planning & Development Director  
100 N. Raiford Road  
Selma, NC 27576

Site: Red Toad 5840 Buffalo Road LLC

Dear Ms. Maybee:

Per your email request regarding the Town Council public hearing tentatively set for April 27, 2015 I have attached the clarifications below:

- What is the impervious surface area of the property? Two slabs of 20' by 10', 400 sq ft. Lease area? Approximately 15 acres.
- Will the existing dilapidated buildings be removed? Not applicable.
- Will there be any outdoor lighting? There will be no lighting.
- Will electrical wiring used in the system be underground (trenched) except where wiring is brought to system components and/or local utility power grid? Yes, all wire on site will be underground.
- How will solar panels be mounted? Who manufactures the ones that you will be installing? How tall will they be? The solar panels will be mounted on a metal racking system and facing south. The size or height of the racking system won't exceed 20 ft.
- Will need a copy of any lease agreement, solar access easement and plan for removal of system/equipment. Do have a conditionally approval from local utility to connect to the grid? Please find attached a copy of the preliminary lease agreement between Lessor and Lessee. We have submitted for interconnection approval to the utility, Duke Energy, for connection to the grid and are currently in the study process. We expect to have a response within the next 60 days. However, we will not move forward until we have utility approval. There are no solar access easement that we are aware of to date.
- What is the inverter noise level, measured at the property line? Less than 40 dBA at the property line.

- Will farm and components comply with all NC State Building Code Requirements? All electrical components on site will be compliant with NC State Building Code Requirements.
- Will the farm and components comply with the current edition of the National Electrical Code, UL listed, and designed with an anti-reflective coating? All electrical components on site will be UL listed and NEC compliant. The solar panels will have an anti-reflective coating.
- Will there be any solar easements? We do not anticipate any solar easements.
- Where will wiring be brought together for inter-connection to system components and/or local utility power grid; disconnect switch (? At meter?). The interconnection will be at utility pole next to the site entrance. The meter for the solar site will be provided by utility.

Please let me know if there are any additional information that you may need prior to the hearing. I look forward to being part of North Carolina's clean energy initiative.

Best Regards,



Reynaldo Rodríguez

CEO  
Red Toad, Inc.  
215 New Gate Loop  
Lake Mary FL, 32746  
P. 407-620-6206  
F. 407-517-4350

## Letter of Intent to Lease Land (Amendment)

We are pleased to submit this Amendment to the Letter of Intent to you in connection with the lease of certain land located at 5840 Buffalo Rd. Selma, NC 27576 owned by Roberts & Wellons

We are interested in installing an approximately 2 megawatt AC ("MW") solar energy system and we would insure and maintain such system with no cost or liability to you. The terms contained herein are not comprehensive and we expect that additional terms including insurance coverage, reasonable warranties and representations, will be incorporated into a formal ground lease agreement (the "Formal Agreement"). The basic terms are as follows.

1. Lessee: The Lessee shall be Red Toad 5840 Buffalo Road, LLC, which installs and operates photovoltaic ("PV") generating facilities
2. Lessor: The Lessors shall be Roberts & Wellons, see owners above
3. Premises: The premises which is the subject of this Letter of Intent is the 15 acres towards the rear of the property, as delineated in Exhibit 1, MCPIN:0000075-5128.
4. Use of Premises: The Lessor hereby acknowledges and agrees that the Lessee intends to install and operate a ground mount photovoltaic generating facility at the property. Lessor acknowledges and agrees Lessee will install an 8' perimeter fence around the lease area to secure the improvements and the Lessor will be able to utilize the remaining land not used by the Lessee's facility. Lessee shall notify Lessor of the specific area of the property that shall be utilized for placement of the solar system on or before December 30, 2014
5. Rent: During the term of the Lease, the Lessee shall pay to the Lessor annual rent in the amount of \$750 per utilized acre, with rent commencing at the start of construction on site. The rent shall be subject to a 1.5% escalator every 3 years. Any additional real estate taxes incurred that are solely related to the solar system shall be paid by Lessee. Any roll-back taxes shall be paid by Lessee capped at \$3,000.
6. Term: The term of this lease shall be for a period of fifteen (15) years beginning on the Operational Date of the solar system. Each such term may be extended, at the option of the Lessee, for up to three five year extension terms.
7. Condition Precedent: The obligation of the Lessee to enter into the Ground will be subject to the approval of the final agreement of project details between Lessee and Lessor, the Town, County of Johnston, owners being vested with marketable fee simple title sufficient to grant to Lessee the easements and leasehold rights described herein without encumbrance and approval by Duke Progress Energy, of the solar application and associated interconnection studies. Within thirty (30) business days from the Lessee's receipt of notification of application the Lessee and the Lessor shall work towards executing the Ground Lease and Easement Agreement.
8. Binding Obligation: It is intended that this Letter of Intent shall be subject to the condition

precedent set forth in Paragraph 7 above constitute a binding obligation between the Lessor and the Lessee. At such time as the condition precedent set forth in Paragraph 7 above has been satisfied, Lessor and Lessee shall complete the Ground Lease.

9. Confidentiality: All negotiations regarding the Ground Lease will be confidential and will not be disclosed to anyone other than respective advisors and internal staff of the parties. No press or other publicity release will be issued to the general public concerning the proposed Lease Agreement.

10. Exclusive Opportunity. Following the execution of this Letter of Intent, the Lessor will not offer the Premises for lease or sale to any other party until the time herein provided for the execution and/or settlement of the formal Ground Lease has expired.

11. Acceptance. If you are agreeable to the foregoing terms, please sign and return a duplicate copy of this Letter of Intent (which may be executed in counterparts, each of which shall be deemed an original) by no later than August 15, 2014. This LOI shall expire on August 15, 2015, unless otherwise extended and agreed upon by both parties in writing. The LOI may be further extended upon mutual agreement.

Sincerely,

AGREED AND ACCEPTED:

\_\_\_\_\_  
BY: [Signature]

Printed Name:

Date: 11/11/2014

\_\_\_\_\_  
BY: [Signature]

Printed Name: Raymundo Rodriguez

Date: 11/11/2014