

**Village of Misenheimer  
Special Planning Board Meeting Minutes  
Community Building  
November 7, 2018**

**Board Members Present:** Lane Peeler, Vice-Chairman  
Regina Simmons  
Jon Byers  
Jamie Hammill  
Jason Shrader– Alternate

**Staff:** Anita Blair, Administrator  
Erik McGinnis, Police Chief

**Visitors:** Mac McCarley, Village Legal Counsel  
Katherine Ross, Orion Legal Counsel  
Brian Lemoine – Land Agent - Orion  
Peter Moritzburke – Dev Consult- Orion  
Ed Schoener – Consultant for Orion  
John & Mandy Pickler – Land Owner  
Gus Schad – Land Owner

**Board Members Absent:** Jeff Watson, Chairman

Mike Riemann, Paul Key, Sharon Bard, Judy Dry Hammill, Jim Huneycutt, Todd Schad, Donnie Day, Betty Hill, Ginger Hill, Mike & Teresa Misenheimer, Mike Wangler, Lanny Secrest, Linda Peeler, Doris Redding Peeler, Walter W. Ward, II, Whitney Ward

**1. Call to Order:** Lane Peeler called the meeting to order at 6:00 pm.

**2. Introduction of Staff and Visitors:** Board members, staff and visitors were welcomed.

**3. Oath to be Given (if Appointee Present):** Regina Simmons took the Planning Board Oath of Office. Her term will expire June 30, 2021.

**4. Orion Special Use Permit Application:**

Mac McCarley recapped the purpose of the meeting and the expected order of the meeting.

Orion Applicant Presentation:

Katherine Ross reported that the Gus Schad easement agreement with Orion was left out of the application package. She will forward to the Village Office immediately. She presented new maps noting an increased setback on Glenmore Road to 75'. The rear setback was mislabeled as 10' and per the Village ordinance they will be 40'. This project consists of 3 parcels in the County and 3 in Misenheimer.

Peter Moritzburke handed out presentations for the Planning Board Members that consisted of an overview of the Solar Project, the property owners involved, maps, and six findings of fact. He reviewed the new site plan buffers.

Orion is currently working with DOT and the railroad to determine if the power lines will be underground or overhead as they crossover from the Gus Schad property in the County to the Village. Once the power crosses over, the lines will be underground.

Jamie Hammill asked what the appearance of the overhead lines would be if they were overhead? Peter Moritzburke stated it would look like normal overhead distribution, most likely with wooden power poles.

The non-buildable area in the middle of the Pickler property is an old cemetery.

Jason Shrader, Planning Board Alternate arrived at 6:20 pm and was seated with the Planning Board.

Findings of Fact:

Setbacks: 75' on Glenmore Road (in County)  
50' on front lot line

200' on Wesley Chapel Road/east side lot line

40' on rear lot line

Collection lines underground, to the extent possible

SEPGS modules not exceed 25' when oriented at maximum tilt (this is a tracking system-tilting east to west)

A 6-foot fence will be installed around the SEPGS

Lighting will be installed in compliance with Article 8

Inverter noise will not exceed 40 dBA, measured at property line (to be tested annually)

Vegetative Buffer-the entire perimeter of the SEPGS will be screened from the adjoining property by a 10' buffer

Lane Peeler asked if they were still going to put a buffer around the fence in addition to the vegetative buffer? Orion is not proposing that at this time. There will be proposed new landscaping and existing vegetation as per the ordinance.

Jamie Hamill asked if the fence will be inside the buffer? Yes, the order will be the solar generating system, fence, setback, and vegetative buffer.

Per Katherine Ross, existing mature trees and vegetation will be left in place. These areas are represented by the pink line on the map.

Rich Kirkland, a NC certified/MAI engaged by Orion will give expert testimony at the Council meeting stating that property values will not be negatively impacted.

Jamie Hammill asked if they had any findings in respect to the property values tonight? Kathrine Ross stated the findings would be presented at the Council meeting.

Regina Simmons asked about the impact on and displacement of wildlife? Peter Moritzburke stated that there would be impacts. At the start of construction, a fence will be placed around the solar farm which would result in a denser population of deer in the surrounding areas.

Jamie Hammill asked for Orion to define and connect the "rural residential education enclave" as presented in Finding of Fact #6. Katherine Ross stated because of the visual nature of that area and the vegetative buffer, it fits into the agricultural environment. Peter Moritzburke commented that Pfeiffer University is here, technology is established and it enhances the image of the University to promote renewable energy.

Jon Byers asked at what point around the perimeter will this be visible? Peter Moritzburke reviewed the buffers and stated that it was more than requested. Katherine pointed out that they are not fronting Lions Club Road. The proposed buffer is not where it is not road frontage and exceeded where it is road frontage.

Lane Peeler asked how many acres are you actually planning on having solar panels? They are still working on that per Peter Moritzburke. The maps show maximum. They will stick with contours of the site and avoid grading to the extent possible. The acres shown are maximum acreage.

Lane Peeler asked about Hazardous Materials in the Pickler Lease Sections 7.7 and 12.3 line 8 – He noted that Section 7.7 states that there will be no contamination and section 12.3 says there might be contamination. How will it be contaminated and what might contaminate it? Peter Moritzburke stated that there are not a lot of toxic materials that are used. The panels are made of polysilicon (essentially sand), inverters are electronic equipment, the tracking system is steel. There are electric motors and transformers. There are no plans to contaminate the site. Katherine Ross noted that the lease is designed to cover construction too. This would include petroleum products used during construction. They have to comply with all state and federal laws related to hazardous materials. Katherine Ross stated there are no hazardous materials present onsite during the operation.

Lane Peeler inquired about the length of panel life. Peter Moritzburke stated that every panel has a degradation grade. In terms of warranty by the manufacturer it can't exceed a certain degradation grade. At the end of the lease, likely to have panels still producing 80% of production. Panels can be recycled.

Panels will be washed periodically, typically 6 months to 1 year (as needed) with deionized water or tap water.

Plans are to put in place a 6' fence (per our ordinance) with 3 strands of barbed wire in both the County and Village. Barbed wire strands would be included if determined to be necessary and are approved for the building permit. The application did not state the addition of barbed wire.

Regina Simmons asked what happens at the end term of the lease? Where does it leave the land for the Village? The panels, equipment, and tracking system will be dismantled and removed. The piers will be removed or cut off below grade down to 36 inches. The site will probably be graded. Orion states that the land will be farmable. Katherine Ross noted that it will be the owner's discretion whether to leave the access roads or not.

Lane Peeler asked about tax revenue for the Village. What will it likely be? Would like details, not just a final number. Orion did not have an answer. Katherine Ross stated this was roughly a \$105 million capital investment with estimated taxes over the life of the project for both Stanly County and Misenheimer to be about \$2MM. She noted that the finding of fact does not speak to the taxes. They will be happy to provide the information, but it is not required. Katherine Ross stated that this would be a sizable tax increase that would also include rollback taxes. The Village Administrator disagreed about the rollback taxes per her conversation with the tax office. Orion will provide an estimate to the Village Administrator.

Jamie Hammill asked if Orion has ever exercised the right to reassign or sell rights to another party? Orion answered yes. Some projects will sell rights to the project, and some cases they retain the rights. What happens if a company down the road doesn't care as much as you did? The new lessee would be responsible to uphold the lease including the decommissioning.

Lane Peeler reported that the Village consists of 1.62 square miles. This equates to 1,036.8 acres. The Pickler property comprises 23% of the total acreage of the Village. Removing the institutional use properties (Pfeiffer and Graystone), the Pickler property is 34% of the total Village property. Vice-Chair Peeler wanted to make sure everyone knows that we are talking about a significant portion of land in the Village.

Regina Simmons restated Orion's win-win philosophy. Are there any plans for residents of Misenheimer? Peter Moritzburke stated benefits as supporting educational value, enhancing community value, and tax revenue. He stated that solar is a low cost source of electricity, more so than natural gas, coal or nuclear.

Lane Peeler asked the dimension of the panels? Peter Moritzburke stated that it depends on which panel is chosen. They are approximately 6'x3'. Are they imbedded in concrete? The plan is to have piers driven and not in concrete to the extent possible. Katherine Ross noted that they have to meet NC Building Code which has wind load requirements. What is the fire danger? Peter Moritzburke stated it is built to UL requirements. Fire danger is very low.

Lane Peeler asked how this would provide an educational opportunity as stated in the application? Peter Moritzburke stated that tours could be arranged. Katherine Ross noted conversations with Dr. Keith about environmental studies.

Jamie Hammill asked if they have ever considered or ever done something for the community to create a good partnership such as a playground or dog park to initiate good will? Peter Moritzburke stated they have offered additional buffering.

How many facilities do you have in NC? This is one of five projects in NC, none of which have been completed.

#### Questions/Comments from Citizens:

Mike Riemann stated in the contract with John Pickler, there is an option to buy the property. Since it may be cheaper to buy the property than to decommission it, do you have to decommission the property if you own it? Yes, it does have to be decommissioned. A decommissioning plan must be presented.

Mike Riemann asked: Who has the responsibility for decommissioning if there is a spin off? The decommissioning will remain with the project per Peter Moritzburke. If project is subdivided, the decommissioning requirement would remain with all subdivisions of the project.

Katherine Ross stated: Solar equipment first year with County and Village will supposedly generate \$140,000. This will be business personal property and will depreciate over 15 years with a 4% decline.

Per Mike Riemann, we are hoping to get sewer, sidewalks, and trails through the Village. You clearly don't know whether transmission lines will go over or under. Would any of these things present a problem going through the easement you have? No, it's up to future discussion, to the extent they would not interfere with their collection system.

How deep are transmission lines? Deep enough so that they will not interfere with farming activities at the end of the life.

Paul Key asked if the 200' setback is from the road right of way or the back of the property? The 200' setback is along Wesley Chapel Road. The setback is twenty-five feet from the back side of the property line of the parcels in the northeast corner of the project. This could change, but will not get closer than proposed.

Will solar panels change the ambient temperature of Misenheimer? No. Panels are reflective to an extent. They are more of a frosted surface so they are not as reflective as glass. They do not increase significant heat.

What about the attraction of lightening? They will have to conform to lightening requirements. This will be significantly a lower elevation than the cell tower.

What is a 40 db noise level in relation to the Village? 40 db is equivalent to a quiet office or light rainfall. 40db will not go beyond the property line. They are required to test for noise levels. Typically, the noise emitting equipment are the transformers, substation and inverters which are more toward the middle of the array. They are placed within the facility. About 100 yds from the inverter is where the 40 db line will be.

Will there be a hum all of the time? Not at night.

Mike Wangler asked if there are any harmful liquid in the panels? No, they are solid. Primarily glass and plastic with aluminum siding.

What kind of impact radius? Direct hit from hail, wind, tree? There will not be any trees on site. There will be some trees around the cemetery but will keep at safe distance.

What is the access for northern side for construction? No construction access point at the northern end.

Are there a certain number of hours per day, or will they work all night during construction? How long will construction be? Construction will last 6-9 months. During the building process they will have to conform to the town ordinance for the working hours, noise ordinance, probably daylight hours. What about maintenance after the project is done? Not noisy, weed cutters and panel washing, nothing at night time.

Linda Peeler asked to show where the 80 megawatts are going into the grid? Southwest portion of Mr. Pickler's property. How close is it to Matton's Grove Road? At least ½ mile or more per John Pickler. Is it in line with the creek? No per John Pickler. The station is back in the center. Per John Pickler it is as far as you can get on the Pickler property. The mine is cut out.

How far are panels going to be off the road from Wesley Chapel? Katherine Ross answered that 200 feet is the setback.

Linda Peeler: Did you employ and present to the Village a forester's study to talk about what happens when the leaves fall off of the trees? Did you talk about the percentage of evergreens and hardwoods and a maintenance plan assuring

the Village that to whomever you sell this to that they will maintain this? Did you present a maintenance report for the next 50 years in the event of a tornado or hurricane? Peter Moritzburke stated there were not required to present a forestry or maintenance report on the existing vegetative buffer. Does that mean you are only going to do what you are required to do or as an act of good faith present something to Misenheimer? Peter Moritzburke stated he did not know how to answer the question. He commented that the 200' vegetative buffer it is dense.

Whitney Ward stated that the trees planted at the small solar farm near her are only as tall as her children.

Walter Ward asked: Are the trees going to be every thirty feet? Are they going to be slow growing?

Katherine Ross stated that if the buffer naturally went away they would be obligated to plant a buffer; however, she could not answer specific questions about the type of buffer. With the plan being approved, they get credit for not cutting it down, they can't cut it down. They would not plant mature trees because that would not be reasonable. Orion would base their landscape plan on our ordinance. Peter Moritzburke stated the trees would be staggered.

Linda Peeler asked: Does the landscape plan come from a forester or an engineer? Katherine Ross answered engineer.

Have you attached any scientific studies about health benefits or lack thereof or damage to residents around the properties with pace makers, etc.? Peter Moritzburke answered that there are solar panels on hospital roofs and near hospitals. Katherine Ross stated she has a document available on the health and safety impacts.

Donnie Day, a former Planning Board and Board of Adjustment Member cautioned the Planning Board to take this decision very seriously. He stated this is not a place for a solar farm given the way the Village was designed. He asked to consider what legacy would be left? Waste comes in many forms. Glass is a catastrophic mess to clean up if vandalism or an act of nature occurred. Where does the responsibility lie? How long does it take in a court system to get a result? The only thing protecting us is the land owner and our zoning. He reiterated to take this very seriously, it cannot be undone.

Walter Ward asked if the whole facility would be lighted? Yes, the whole facility. It will conform to our ordinance. Wouldn't expect to be taller than street lights per Peter Moritzburke. Erik McGinnis, zoning officer, noted that the lighting ordinance is fairly restrictive. Walter Ward stated that he does not want to see a Walmart parking lot.

Walter Ward asked about traffic flow during construction? Peter Moritzburke noted there is an access road on Wesley Chapel to get into the facility and pointed out two others on the map.

Whitney Ward stated it took a year for the small solar farm near her house to be built. What can you do to stay on schedule? Peter Moritzburke stated they are driven to meet the deadline because it costs money if they miss a Duke Energy deadline. Stretching out construction is expensive.

Walter Ward asked about decommissioning, who is responsible? Peter Moritzburke stated that the project owner is responsible for cleanup. What if you go bankrupt, is there an escrow account to protect us? Peter Moritzburke stated there would not be an escrow account but there will be a financial commitment required for decommissioning.

Walter Ward asked if there was any monitoring for fire? Yes, there will be an alarm system. They are working with the fire marshal conforming to code.

Walter Ward: How does it affects property values? Per Peter Moritzburke, Orion has a report done by a certified appraiser. The preliminary findings are there are no impacts on neighboring property values.

Walter Ward: Are you subcontracting locals or strictly Orion's crew? It probably will not be Orion's people doing this. They look to source that service from local suppliers.

Walter Ward: Where are the solar panels made? They are made all over world. The majority are made in China, along with Taiwan, Malaysia, Philippines, and India. They will source the highest quality and lowest cost.

Walter Ward: Asked Lane Peeler what the plans were for the tax money that the Village gets? Mac MacCarley answered that it was not a zoning related question and advised Planning Board not to answer. He did not want to put into the record things that did not belong.

Asked if there was any benefit of electricity to the Village? Some of the electricity will technically stay because it will be interconnecting locally to Duke's grid. Solar is among the cheapest sources of electricity available so it can have a downward impact on utility rates. Will we still be paying the standard rate? Peter Moritzburke said that was a question for the utilities commission.

Whitney Ward asked about extending the lease at the end of the term ? The initial lease period is 30 years with two possible ten year renewals. They will most likely extend only if Duke Energy is still buying the power.

Lane Peeler inquired about the SEPGS section of the ordinance that states the facility shall supply proof of adequate liability insurance to the zoning administrator on an annual basis. Per Katherine Ross – it is required and they would. They could not operate without doing this. Lane Peeler asked if they could add that statement to the application for the next meeting? Katherine Ross stated they could amend the application and add this statement.

Lane Peeler pointed out additional items in Zoning Ordinance 5.34 that were not addressed in the Special Use Permit (SUP) Application. Katherine Ross stated that only the technical requirements were listed in the SUP application; however, they will comply with all of them even though each one is not specifically stated in the SUP application. Mac MacCarley agreed.

Sharon Bard with Pfeiffer University spoke on behalf of Pfeiffer University. This is an opportunity for the students to see from ground to finish especially for the environmental studies students.

John Pickler stated he will be a good neighbor. He will not do anything he would not want in his back yard. He has had 11 solar companies approach. Orion was the most professional and best deal. If you need more buffering, I will do best to make it happen. He stated this will provide electricity for 35,000 homes. Will do his best to help community with projects.

Katherine Ross in closing asked for a recommendation of approval to the Council. She encouraged to look at the ordinance in making the decision and recapped the evidence of findings for a SUP.

Discussion of Recommendations by Board Members:

Mac McCarley gave a brief summary of the role of the Planning Board. The roles were: 1) Determine if the application is complete. Does it have all of the information required by the zoning ordinance to determine the rest of the issues in the ordinance? 2) Does it meet the zoning standards in section 11.4(F) which applies to all SUP's? 3) Does it meet specific standards of zoning ordinance section 5.34 SEPGS? 4) State law and local ordinance allow Council to put conditions on the SUP if they believe this brings application into compliance? Are there any considerations that the Board wants Council to consider? 5) The Planning Board needs to make a recommendation to Council a) approve as submitted, b) approve with changes or conditions, or c) denying with stated reasons why.

After approximately 30 minutes of discussion, Regina Simmons moved to recommend approval of the application with the following conditions. To be compatible with adjoining uses: 1) the applicant should provide a forestry plan that will create a continuous year round visual buffer to the project, and 2) the applicant should be required to increase the setback in the northern corner to at least 50 ft and consider requiring all setbacks shown as 25 ft on the plans submitted at the Planning Board meeting be increased to 50 ft. The motion was approved by a 5/0 vote.

**11. Adjournment:** The Planning Board meeting was adjourned at 8:41pm.

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Chairman or Vice Chairman

Date

Anita E. Blair, Administrator/Clerk

Date