



County of Prince George, Virginia

"A global community where families thrive and businesses prosper"

Memorandum

To: Percy C. Ashcraft, County Administrator
From: Horace Wade III, CFM, Planner
Date: October 24, 2018
Subject: **SE-18-04 Tree Time Adventures Special Exception Request**

On July 26, 2018, Tree Time Adventures Inc., submitted a Special Exception application and \$700 fee to permit the use of recreation structures and outdoor recreation uses per § 90-103(22) of the Prince George County Zoning Ordinance at 6000 Scott Memorial Park Road, also known as Tax Map 240(0A)00-011-0. The applicant intends to use the County-owned park site for a commercial outdoor adventure and fitness park to include obstacles located in the tree canopy with zip lines, jungle bridges, tightropes, moving platforms, crab walks and tarzan ropes. The applicant also intends to create trails for walking, jogging, and biking throughout the 130 acres of unused property.

On Thursday, August 9, 2018, the applicant held a community awareness meeting to discuss plans for the proposed adventure park with adjacent property owners. Discussion of the proposed project led from the positive contributions for the community to the community's concern for transportation, parking, adjacent property owner privacy, noise and the proximity of the course relative to the entire park property. Overall, the community appeared to be receptive to a regional adventure park being located at Scott Park.

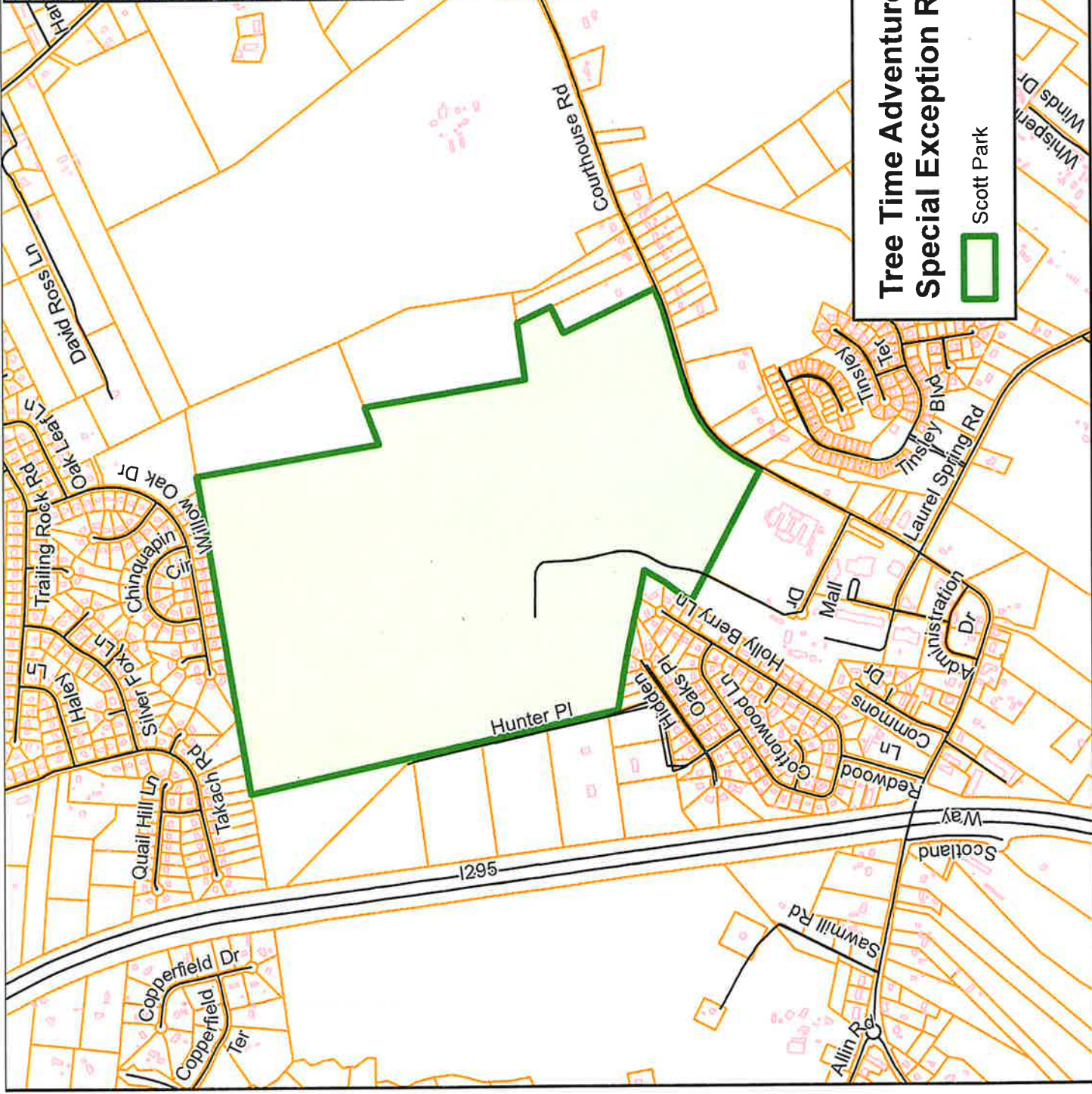
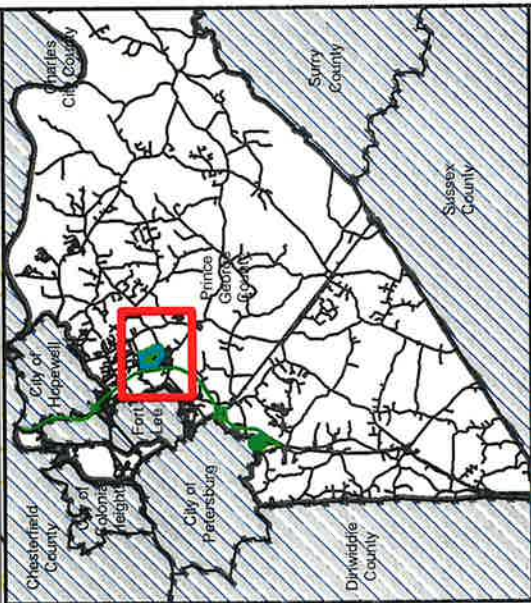
Due to concerns of the community relative to owner privacy and noise, a buffer width of at least 100 feet from the boundary of the park property line to any improvements for the course would be appropriate. Additionally, limiting the hours of operation and construction should be considered. Staff noted in the staff report that the County's Comprehensive Plan identified this area as appropriate for village center uses. Village Center uses are the areas within the Prince George Planning Area that are suitable for a mixture of both residential and small scale commercial uses.

On Thursday, August 23, 2018, a Public Hearing at the Planning Commission meeting was held for the Special Exception request, and three adjacent property owners spoke. The Planning Commission recommended Approval 6-0 for the Special Exception request based on staff's recommended conditions.

On Tuesday, September 25, 2018, a Public Hearing was held with the Board of Supervisors for the Special Exception request, and eight (8) people spoke and three (3) of them were adjacent property owners. The Board agreed to table the request after closing the Public Hearing to Tuesday, October 9, 2018.

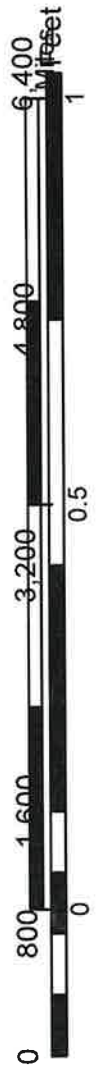
On Tuesday, October 9, 2018, the Special Exception request appeared on the Board of Supervisor's agenda under Tabled Items. The Board moved to table the matter to Tuesday, October 23, 2018.

On Tuesday, October 23, 2018, the Special Exception request appeared on the Board of Supervisor's agenda under Tabled Items. There was also a review of the Lease Agreement of the County property for the proposed land use. The Board moved to table the matter to Wednesday, November 14, 2018.



**Tree Time Adventure
Special Exception Request**

 Scott Park



**LEASE AGREEMENT FOR A PORTION OF SCOTT PARK
BETWEEN THE COUNTY OF PRINCE GEORGE, VIRGINIA
AND TREE TIME ADVENTURES INC.**

THIS LEASE AGREEMENT ("Lease") made this _____ day of **November**, 2018, by and between the **COUNTY OF PRINCE GEORGE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (hereinafter referred to as "County") located at 6602 Courts Drive, Prince George, Virginia 23875, and **TREE TIME ADVENTURES INC.**, (hereinafter referred to as "TTA"), a Virginia subchapter S Corporation,

WHEREAS, the County is the fee simple owner of a 130 +/- acre tract of land located at Scott Park which is currently wooded and undeveloped and which is more particularly described on a map attached as Attachment A; and

WHEREAS, TTA desires to construct improvements within such site and to use the property for a commercial venture providing eco-tourism, tree adventures, outdoor adventures and other related activities to the public for a fee.

WITNESSETH:

NOW THEREFORE, for and in consideration of the mutual covenants and promises contained herein, the County hereby leases to TTA for its use the following described premises located at Scott Park with the terms and conditions contained herein upon which TTA agrees to comply with all such terms and conditions:

An approximately 130-acre portion of the Scott Park area as defined in Attachment A. The 130 acres shall include but not be limited to use for the Tree Time Adventure project (paid admission), nature and fitness trails (free admission), disc golf (free admission / disc rental or sale by TTA), special events (paid admission), and other business ventures that align with the outdoor environment. Nature and fitness trails and disc golf course shall remain admission free except when

special events and/or tournament play has been scheduled. TTA may close all or a portion of said area when safety could negatively impact visitors (i.e. construction, trail maintenance and expansion, and tree trimming).

1. Term: The term of this lease shall be from December, 1, 2018 to December 31, 2023, with two additional five-year automatically renewing terms upon compliance by TTA with all contract terms. County may terminate this Lease; provided that notice of such termination is given in writing no less than 120 days prior to the Termination Date or expiration of any renewal term.

2. Use: The County grants to TTA the right to use, repair, improve and maintain the leased premises for commercial recreational uses in accordance with the terms of this Lease Agreement. Such use shall be exclusive for TTA's use of trees and air space along zip line routes. The County also grants to TTA the right to use the existing County parking area, for overflow situations and the access road at Scott Park in common with other County uses. During the term of the lease, the County will continue to have access to the leased premises at all times for inspection and other County purposes. The County will provide unrestricted access to leased property by TTA, its employees, agents, contractors and customers. TTA accepts the property "as is" and warrants that it has done a diligent inspection of the property and is aware of the condition of all structures and natural features and any environmental or safety issues that may require remediation. TTA shall have use of the area shown in Attachment A.

3. Improvements: Within 12 months of the approval of a Special Exception, TTA shall construct at its sole expense: (1) an all-weather access road to VDOT standards equivalent to or better than the existing access road to Scott Park; and (2) a new parking area constructed to the standards required by the approved site plan and equal to or better than the existing parking area. TTA shall also construct or install an administrative structure at the entrance to the adventure activities as approved by the County within such time period. TTA may install a prefab or modular structure, as approved by the County and compliant with building codes for its administrative uses.

TTA shall connect with an electric power source at its expense using underground transmission lines. TTA shall construct and install all equipment and improvements necessary to engage in a business offering tree-top adventures, canopy and aerial adventure activities, junior adventures, ground course to include military-type fitness trails, family fun runs, special event runs and charity runs; tightropes, jungle bridges, moving platforms, crab walks, tarzan ropes, nets and zip lines of a quality approved by the County and consistent with national "best practices" for such equipment. All work shall be performed in a good and workmanlike manner, shall be of the highest quality and shall be "fit for its intended purpose." The County must approve a "phasing" schedule for any construction to be completed after the initial 12 months. TTA shall not erect, place or install any signs without first obtaining advance approval from the County and any required permits.

4. Maintenance: TTA shall maintain the leased premises including all structures and improvements in good condition and cleanliness; shall perform necessary repairs and shall prune and maintain trees. TTA will also maintain, at its expense, all of the leased premises during the term of this lease in a manner that protects any future use of the leased premises for general government use and in accordance with safety and maintenance standards set by the County. Security and garbage collection at the leased area will be the responsibility of TTA. TTA will provide on-site restrooms at its expense as required by the State Health Department or the Building Official.

5. Hours of Operation: TTA may be open for business 7 days a week from dawn to dusk. TTA shall not serve alcohol on-site during regular business hours. Upon advance approval by the County, TTA may serve alcohol for private special events, upon compliance with ABC special event requirements. The County noise ordinance will be adhered to at all times by TTA.

6. Safety Standards: TTA shall comply with all recommended safety standards for commercial adventure parks as recommended by ANSI/PRCA 1.0-3-2014 American National Safety Standards and as amended from time to time. TTA shall at all times of operation have a minimum of 2 employees on-site, trained and qualified, to assist in safely operating and supervising the activities of customers or such additional employees as recommended by applicable safety standards. TTA warrants that it will employ a sufficient number of legal workers with skills to suitably perform the work. TTA shall promptly notify the County of any damage, accidents or personal injuries arising out of

this lease or within the leased area. TTA shall follow all County and State annual inspection regulations for this project. All equipment such as harnesses and clips for its customers' use shall be purchased new and shall be of a quality consistent with standards used by ANSI/PRCA 1.0-3-2014 American National Safety Standards for Canopy Zip Lines and Aerial Adventure Parks.

Customers shall be limited by size and age in accordance with normal commercial standards for this type of activity. TTA shall require its employees to complete safety and inspection logs in accordance with normal commercial standards for this type of activity.

7. Compliance with Site Plan Submissions and Approval: TTA shall submit a detailed site plan for use of the leased property and shall comply with all requirements set forth in the site plan. The County must be notified in advance of any plan to clear trees, vegetation or timber from the leased area. The County must approve in advance the cutting of trees with a diameter greater than 10 inches when measured at 4 feet above ground level. When clearing for foot trails and exercise paths throughout the area every reasonable effort should be made to preserve mature timber.
8. Concessions: TTA may sell related merchandise, equipment and food items on the leased property approved by the Virginia Department of Health and the Virginia Department of Agriculture and Consumer Services.
9. Permits: In advance of performing any work, TTA shall obtain, at its expense, all applicable permits, approvals or other governmental authorizations. TTA shall promptly file for any necessary Special Exception approvals and the lease shall be contingent on obtaining an appropriate Special Exception within 6 months of the signing of the lease.

10. Deadline for Completion: TTA shall open for business no later than 12 months from the date of this Contract. Time is of the essence in completing any of the obligations contained in this lease.

11. Rent:

a. TTA shall pay no rent during the first twelve months of this Lease Agreement in consideration of performing its obligations to construct improvements to Scott Park required by this lease. In subsequent years, TTA shall pay the County 6% of gross receipts generated at Scott Park annually in quarterly payments.

b. TTA shall also pay all taxes, assessments or other charges in connection with its use of the leased premises.

c. Utilities shall be at the sole expense of TTA.

12. Passes and Discounts: TTA shall annually provide 50 free passes to the County's Parks and Recreation Department for use by Prince George County students and County special needs children.

13. Insurance:

a. TTA shall maintain comprehensive liability insurance insuring against all risks arising out of its business activities using the leased premises and will name the County, its agents and employees, as additional insureds, in a form and with an insured amount as indicated below by the County with minimum coverages as follows:

(i) Comprehensive General Liability insurance

General Aggregate - \$1,000,000

Occurrence Based Deductible allowed - \$1,000

Coverage and Limits

Premises and operations - \$1,000,000
Products and completed operations -
\$1,000,000
Independent contractors - \$1,000,000
Contractual — Leases - \$1,000,000
Explosion, collapse, underground hazards -
\$1,000,000
Personal injury and advertising injury -
\$1,000,000
Real Property and Personal Property Damage -
\$500,000 Contractual Indemnity — Hold
Harmless - \$1,000,000
Fire Damage (any one fire) - \$50,000 Medical
Expenses (any one person) - \$50,000
Automobile Liability
Combined Single Limit - \$1,000,000
Includes owned, hired and non-owned motor
vehicles
Excess Umbrella Liability — \$1,000,000

(ii) Worker's Compensation Coverage required by the Virginia Law

b. TTA and County shall mutually indemnify, defend and hold harmless one another and its agents and employees from any demands, claims, costs or expenses which are made or incurred as a result of said relationship or mutually occupied property.

c. TTA shall require all participants and guardians to sign appropriate releases and assumption of risk waivers in forms approved by the County either written or electronic.

14. No Third-Party Beneficiary: This Agreement is entered into solely for the benefit of TTA and County. No third party shall be deemed a beneficiary of this Agreement.
15. Assignment: This lease or any portion of the lease may not be assigned by TTA to any person or entity for any reason.
16. Termination: The County may terminate this lease with 120-days' notice to TTA for any failure to comply with the material terms of this lease where TTA's failure continues for 10 days after written notice from the county. Upon termination, TTA shall perform required "de-installation" procedures to remove all equipment and restore the property to as similar condition as existed before the property was leased as is reasonably practical. If the lease is terminated by the County within the first five-year term, the County shall refund to TTA 50% of the cost of constructing the access road and parking area.
17. No County Representations: The County makes no warranty or representation, express or implied, in respect to the leased premises or any part thereof, either as to its fitness for use, design or condition for any particular use or purpose or otherwise, or as to quality or the material or workmanship therein, latent or patent, it being agreed that all such risks are to be borne by TTA.
18. Venue: Any legal action arising out of this contract shall be filed by either party only in the Circuit Court of Prince George County, Virginia.
19. Designated Contact: TTA designates John Bogue, President as its manager and recipient of notices for the Prince George TTA business and the County designates Keith Rotzoll as the County contact for any matters related to the activities permitted by this lease.

20. Notices: Notices shall be sent to the following addresses or other address in respect to the parties as that party may, from time to time, designate in writing:

County: Keith Rotzoll, Director of Parks and Recreation
Prince George County, VA
11100 Old Stage Road
Prince George, VA 23875

TTA: Tree Time Adventures Inc.
2482 Miry Run Road
Sutherland, Virginia 23885

21. Severability: If any provision of this lease is determined to be invalid or illegal by a court or administrative agency or body, that provision shall be severed from the lease and shall not affect the remainder or any other provision of this lease.

(REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK)

IN WITNESS WHEREOF, the _____ and County have each executed this Agreement by officials authorized to legally bind each party.

COUNTY OF PRINCE GEORGE, VIRGINIA, a political subdivision of the Commonwealth of Virginia (Lessor)

By _____

Title

APPROVED AS TO FORM:

Steven L. Micas, County Attorney

STATE OF VIRGINIA,
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this ____ day of November, 2018, by _____, on behalf of the COUNTY OF PRINCE GEORGE, VIRGINIA.

My commission expires:

Registration Number:

Notary Public

TREE TIME ADVENTURES, INC., a Virginia
subchapter S corporation

By _____

Title

COMMONWEALTH OF VIRGINIA,

CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this _____ day of November _____ by
_____, _____ on behalf of Tree Time Adventures,

Inc., a Virginia subchapter S corporation.

My commission expires:

Registration Number:

Notary Public

LEASE AGREEMENT FOR A PORTION OF SCOTT PARK
BETWEEN THE COUNTY OF PRINCE GEORGE, VIRGINIA
AND TREE TIME ADVENTURES INC.

ATTACHMENT A

