



Douglas C. Miles, CZA
Planning Manager
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PLANNING COMMISSION

James A. Easter, Chairman
Joseph E. Simmons, Vice-Chairman
Alex W. Bresko, Jr.
R. Steven Brockwell
Floyd M. Brown
Imogene S. Elder
V. Clarence Joyner, Jr.

PLANNING COMMISSION

REGULAR MEETING

THURSDAY, APRIL 26, 2018

6:30 p.m.

- I. Call to Order
- II. Roll Call
- III. Invocation
- IV. Pledge of Allegiance to the U.S. Flag
- V. Approval of Meeting Minutes – March 22, 2018
- VI. Citizen Comments Period
- VII. Old Business: None
- VIII. New Business: Public Hearings

SPECIAL EXCEPTION SE-18-01 REQUEST OF FORT POWHATAN SOLAR LLC, PURSUANT TO § 90-53 (59) TO PERMIT A LARGE-SCALE SOLAR ENERGY FACILITY. THE COMPREHENSIVE PLAN CALLS FOR AGRICULTURAL USES. THE REQUEST IS LOCATED NEAR 17401 WARDS CREEK ROAD ON 2,602 +/- ACRES AND KNOWN AS TAX MAPS 280(0A)00-042-0, 180(0A)00-001-A, 170(0A)00-001-0, 170(0A)00-003-0, AND 170(0A)00-006-0 IN AN A-1, GENERAL AGRICULTURAL ZONING DISTRICT.

ORDINANCE AMENDMENT OA-18-01 ORDINANCE TO AMEND THE CODE OF THE COUNTY OF PRINCE GEORGE, VIRGINIA, 2005, AS AMENDED, BY AMENDING § 90-824, SITE PLAN REQUIRED, TO ADD REQUIREMENTS FOR NOTATIONS PERTINENT TO CHESAPEAKE BAY PRESERVATION AREAS AND THE RESOURCE PROTECTION AREA RELATIVE TO SITE PLANS.

ORDINANCE AMENDMENT OA-18-02 ORDINANCE TO AMEND THE CODE OF THE COUNTY OF PRINCE GEORGE, VIRGINIA, 2005, AS AMENDED, BY AMENDING § 90-673 PERTAINING TO PENALTIES FOR VIOLATIONS OF THE CHESAPEAKE BAY PROTECTION PRESERVATION AREAS.

ORDINANCE AMENDMENT OA-18-03 ORDINANCE TO AMEND THE CODE OF THE COUNTY OF PRINCE GEORGE, VIRGINIA, 2005, AS AMENDED, BY AMENDING § 70-512.2(C)(29),(31)&(32), SIZE AND INFORMATION REQUIRED ON A PRELIMINARY PLAT; § 70-514.4(C)(10)(C),(E)&(F), ENGINEERING PLAN SPECIFICATIONS AND § 70-516.2(B)(3)(T),(V)&(W), ELEMENTS OF FINAL PLATS, TO ADD REQUIREMENTS FOR NOTATIONS PERTINENT TO CHESAPEAKE BAY PRESERVATION AREAS AND THE RESOURCE PROTECTION AREAS RELATIVE TO SUBDIVISION PLATS.

IX. Communications

a. Actions of the Board of Zoning Appeals

b. Actions of the Board of Supervisors

c. General Comments to the Commission

X. Adjournment

The next regularly scheduled meeting will be **Thursday, May 24, 2018**

Planning Commission
County of Prince George, Virginia

March Meeting
March 22, 2018

I. CALL TO ORDER

Chairman Easter called to order the March 22, 2018 meeting of the Prince George County Planning Commission at 6:30 p.m. in the Board Room of the County Administration Building, 6602 Courts Drive, Prince George, Virginia.

II. ATTENDANCE

The following members responded to Roll Call:

Chairman James A. Easter - Present
Vice-Chairman Joseph E. Simmons - Present
Mrs. Imogene S. Elder – Present
Mr. R. Stephen Brockwell - Absent
Mr. V. Clarence Joyner, Jr. - Absent
Mr. Alex W. Bresko, Jr. - Present
Mr. Floyd M. Brown, Sr. - Present

Also present were: Douglas Miles, Planning Manager, Horace Wade, III, Planner, and Missy Greaves-Smith, Office Associate II.

III. INVOCATION

Mrs. Elder provided the Planning Commission's Invocation.

IV. PLEDGE OF ALLEGIANCE TO THE U. S. FLAG

Mr. Brown led in the Pledge of Allegiance to the United States Flag.

V. APPROVAL OF MINUTES February 22, 2018

Chairman Easter asked for the approval of the minutes for the February 22, 2018 meeting. A motion was made by Mr. Bresko and seconded by Mrs. Elder and the minutes were adopted as written. Roll was called on the motion.

Roll call vote on the motion:

In Favor: (5) Elder, Bresko, Brown, Easter, Simmons

Opposed: (0) Absent: (2) Brockwell, Joyner Abstain: (0)

VI. CITIZENS COMMENTS PERIOD

At 6:32 p.m. Chairman Easter opened the citizen comment period to anyone who wished to speak on any subject not on the agenda. He asked that persons limit their remarks to three (3) minutes. With no one coming forward, Chairman Easter closed the citizen comment period at 6:33 p.m.

VII. OLD BUSINESS

None

VIII. NEW BUSINESS

Public Hearing:

REZONING CASE RZ-18-01 Request of the County of Prince George to conditionally rezone the front portion of the subject property from R-A, Residential – Agricultural to the B-1, General Business Zoning District to permit certain land uses. The Comprehensive Plan indicates that the subject property is appropriate for public and semi-public uses. The subject property is located at 11023 Prince George Drive and it is known as part of Tax Map 450(0A)00-048-0.

Mr. Miles addressed the Planning Commission stating that the total acreage of the parcel being discussed is fourteen (14) acres; that includes the athletic field in the rear of the subject property. The front portion of the parcel is a little over five (5) acres, including the building and parking area which is the subject parcel area to be rezoned in this conditional rezoning case request from R-A to B-1 zoning.

The purpose of this request is to change the use of this building from a former school to an expanded community center. This could include in the future, such uses as a library, governmental offices, a farmer's market and related craft sales and Christmas tree sales to name a few permitted B-1, General Business uses.

Mr. Miles stated that County Staff does recommend conditional approval of this rezoning case to include the list of B-1 uses permitted by right and the list of uses permitted by the special exception as submitted with the application on March 1, 2018 that were prepared by County Staff who removed certain not suitable uses.

Vice Chairman Simmons asked Mr. Miles if there would be any legal concerns with this subject property being zoned R-A and B-1 as one (1) subject property.

Mr. Miles explained to him and the Planning Commission that this would not be a concern. Mr. Miles explained to the Commission that one of the reasons for the dual zoning of the property was so that the recreation department could continue to utilize the athletic fields at the rear of this property. As B-1 zoning does not allow for playgrounds or athletic fields and R-A will permit these County uses.

Chairman Easter opened the Public Hearing at 6:41 pm to anyone that wished to speak for or against the proposed rezoning case. With no one coming forward, he closed the public hearing at 6:42 pm and he returned the request to the Planning Commission.

Mr. Brown made a motion for the Planning Commission to recommend approval of the REZONING CASE RZ-18-01 based on the specific conditions indicated by staff and for this conditional rezoning case to be sent to the Board of Supervisors for approval. Mr. Bresko seconded his motion. Roll was called on the motion.

Roll call vote on the motion:

In Favor: (5) Elder, Bresko, Brown, Easter, Simmons

Opposed: (0) Absent: (2) Joyner, Brockwell Abstain: (0) Simmons

Mr. Miles proceeded and provided Commission members with communication updates.

IX: Communications:

Actions of the Board of Zoning Appeals: He stated the March 26th scheduled meeting of the BZA has been cancelled due to a lack of docket items.

Actions of the Board of Supervisors: He stated during the March 13th Board Meeting there were several Budget related updates, the County Employee Break Room was to be scheduled to be named in honor of retired County Administrator and the original County Planner, John G. Kines, Jr. and that Dean Simmons was confirmed as Building Official.

Comments to the Planning Commission: The Fort Powhatan Solar LLC large-scale solar energy facility Special Exception application was submitted for the April 26th meeting.

X. ADJOURNMENT

A Motion was made by Mr. Bresko, seconded by Vice Chairman Simmons, to adjourn the meeting at 6:50 pm until Thursday, April 26, 2018 at 6:30 pm. Roll was called on the motion.

Roll call vote on the motion:

In Favor: (5) Bresko, Brown, Elder, Easter, Simmons

Opposed: (0) Absent: (2) Joyner, Brockwell Abstain: (0)

**PLANNING COMMISSION
SPECIAL EXCEPTION SUMMARY REPORT**

CASE NUMBER: SE-18-01

APPLICANT: Fort Powhatan Solar, LLC

LOCATION: Near 17401 Wards Creek Road, Disputanta, VA 23842

TAX MAPS: 280(0A)00-042-0, 170(0A)00-003-0, 170(0A)00-001-0, 170(0A)00-006-0, and 180(0A)00-001-A

REQUEST: Special Exception to permit a large-scale solar energy facility

EXISTING ZONING: A-1, General Agricultural Zoning District

EXISTING USE: Agricultural and rural residential uses

PROPOSED USE: Large-scale solar energy facility (150 MW)

PROPOSED ACREAGE: GIS: 2602 Acres and ASSESSORS: 3084.6 acres

UTILITIES: Not applicable for the solar energy facility

REAL ESTATE TAXES: Delinquent taxes are not owed to the County

MEETING INFORMATION:

Planning Commission: Thursday, April 26, 2018 at 6:30 p.m.

Staff recommends a 90 day deferral to the Planning Commission's July 26th meeting to allow staff time to consider the dedication of the historically significant fort site within the project area to Prince George County located on Tax Map 180(0A)00-001-A.

Staff received information concerning the proposed dedication one week prior to the April 26th scheduled public hearing. The deadline for the applicant to submit to Staff any new or revised information for the July 26th Planning Commission meeting will be on or before June 28, 2018.

ATTACHMENTS:

1. Special Exception Application
2. Staff Report and GIS Map of the surrounding properties

PRINCE GEORGE COUNTY, VIRGINIA
PLANNING COMMISSION STAFF REPORT
SPECIAL EXCEPTION SE-18-01 FORT POWHATAN SOLAR LLC
PUBLIC HEARING DATE: APRIL 26, 2018

Request:

A Special Exception request to permit a large-scale solar energy facility use in an A-1, General Agricultural Zoning District.

Case Summary:

The case applicant is proposing to build a 150 MW solar electric generating facility and will be constructed on 2,600 acres of land zoned A-1, General Agricultural. The solar panels will be mounted on a racking system secured by piles driven into the ground secured by a 6-foot security fence with 40-foot wide security access gates to allow access by operation and maintenance personnel to the site.

Comprehensive Plan:

The Prince George County Comprehensive Plan identifies this area as appropriate for agricultural uses and states that development occurring within this area of the County should be designed to incorporate significant open spaces and minimize environmental impacts on the County's land, air, and water resources.

Zoning Ordinance:

This Special Exception request is pursuant to Section 90-53(59) which allows for a large-scale solar facility with an special exception. A large-scale solar facility is defined as *"a photovoltaic system consisting for solar PV panels, modules, accessory structures and related equipment such as DC to AC inverters, wiring, electric transformers, control systems and storage areas that collect solar energy and convert it into electricity using ten acres or more."*

Existing Use and Surrounding Zoning:

The subject property is zoned A-1, General Agricultural and it contains agricultural fields. The properties to the north, south and west are zoned A-1 and contain single family dwellings and/or are vacant along Nobles Road, Wards Creek Road, and Fort Powhatan Road.

Historical Significance:

This site has historical significance as it was once the site of Fort Powhatan. The fort was established in the 1808 timeframe and located on a strategic bend along the James River as a supply depot. The site was not attacked by the British during the War of 1812 and it was abandoned around 1830. It was later occupied and refortified early in the Civil War to prevent Union Army advances on Richmond. General Grant also used the fort to supply troops. It was once again abandoned after the Civil War. Recently, LIDAR data has revealed the shape and location of the Fort Powhatan within the 2,600 acre site which encompasses approximately 10

acres within the project area and it is located along the James River on Tax Map 180(0A)00-001-A.

Fort Powhatan Solar LLC has suggested the dedication of the fort site to Prince George County. Staff requires additional time to consider details for the dedication of the fort to the County and will recommend to the Planning Commission after conducting the public hearing to defer this case for 90 days at the Commission's request..

Community Development – Planning Division:

This proposed project will not utilize water or sewer utilities in the solar electric generation process and will be in compliance with the County's Noise Ordinance with minimal noise on site. There will be no additional burden to the County's infrastructure including roads, schools, police, fire and rescue squad calls for service. The proposed land use will add to the County's tax base but requires little to no public services to operate in Prince George County. The solar facility will operate year round generating electricity during the daylight hours only. Electric inverters which convert the DC current produced by the solar panels over to AC current which is sent to the Dominion Energy or other utility company distribution lines connected to the site and onward out into the utility grid.

The proposed project is adjacent to several single-family rural residential and agricultural properties along Wards Creek Road and Fort Powhatan Road. Staff suggests a minimum fifty (50) feet buffer requirement along the boundaries of the property and adjacent to the roads that are not internal to the project to provide screening from solar panels (Condition 8).

This proposed solar energy project is located within the Chesapeake Bay Preservation Area. The site contains perennial streams and ponds with approximately 287 acres of wetlands and contains a mile of frontage along the James River. Projects within the Chesapeake Bay Preservation Area must observe vegetative buffers adjacent to the Resource Protection Areas as prescribed in the Zoning Ordinance and strictly adhere to the County's Erosion and Sediment Control Ordinance. In addition, the project must comply with other agencies, to include those under the Virginia Secretary of Natural Resources.

This solar energy project will result in the creation of clean, non-polluting electricity. In addition, the project may even provide a draw for the type of industries that have corporate commitments to procure power from clean energy sources. Dominion Energy has a program by which they can sell power from a project like this directly to those customers.

Community Development – Inspections Division:

The 2012 Virginia Uniform Statewide Building Code (USBC) and 2012 Virginia Statewide Fire Prevention Code would be applicable to this proposed project. The solar equipment and related wiring would be exempt from permitting if the installer is a publicly regulated utility company and they own the equipment and wiring. Any structures supporting the equipment (except poles or towers installed by the utility company) would require permits. Permits would also be required for any electric service to the property or structures. Permits would be required to be obtained from Prince George County for this use for any items that are not exempted under the USBC.

Prince George County Real Estate Assessment:

The entire 3,064.63 acres is proposed to be leased for a solar energy facility. The approval and subsequent construction for this development will have the following real property tax impacts:

1. The rollback will be triggered upon a change in use. Based on the plan presented, the following summarizes a full rollback. If a portion of the property remains in a qualifying use, a partial rollback would be calculated on the acreage that is developed or ceases to be utilized as a qualifying use. If the entire 3,064.63 acres were to change use, the roll-back tax is estimated to be \$238,516.06. An accurate estimate of the roll-back tax charge would be difficult to accurately calculate until the final site plan is approved.

A roll-back is the recapture of deferred value and taxes that benefit the property owner when a parcel qualifies for the land use program. The Code of Virginia requires the County to calculate roll-back taxes for the current year plus the five previous tax years when a parcel in the Land Use program converts to a non-qualifying use.

2. The entire parcel will no longer qualify for the Land Use Program and will be valued at Fair Market Value. For the current tax year, the Market Value is \$6,339,300 and the Use Value (Taxable Value) is \$1,976,600. A change in use will increase the taxable value \$4,362,700. The FY2019 Real Estate Tax Rate has not been adopted, however, utilizing the FY2018 rate of \$0.86, the annual increase in real estate taxes is estimated to be \$37,519.22. The potential annual tax impact is summarized below:

FY2019 ASSESSMENT				
Martin Ent.	Current	After	Change	% Change
Land (MV)	\$6,262,700	\$6,262,700	\$6,262,700	N/A
Land (Use Val)	\$1,900,000	\$0	(\$1,900,000)	
<u>Improvements</u>	<u>\$76,600</u>	<u>\$76,600</u>	<u>\$0</u>	
Taxable Value	\$1,976,600	\$6,339,300	\$4,362,700	221%
Taxes (@\$0.86)	\$16,998.76	\$54,517.98	\$37,519.22	221%

3. Real Estate Taxes, and therefore any Roll-back taxes, are attached to the land not directly to the property owner or lessee. Rollback taxes will be assessed and billed to the owner of record at the time the rollback is generated. It is the responsibility of the property owner to negotiate the payment of roll-back taxes with the land lessee.

Virginia Department of Transportation:

The submitted application did not include any information as to the number of employees that would be accessing the facility or other information that could be used to approximate the average daily trips that would be generated by the facility. Accordingly, VDOT cannot determine the type of entrances or locations that will be proposed with the final facility. Determination of the type of entrances will be made during the site plan review process when additional information is available. All entrances will be required to meet VDOT standards including sight distance and geometric requirements.

The proposed project will potentially impact several VDOT maintained roadways during construction. These include SR 614, Nobles Road, SR 615, Wards Creek Road, and SR 656 Fort Powhatan Road. It is recommended that the County consider requiring the development of a Construction Traffic Management Plan and mitigation measures similar to what has been

required by the County for other Special Exception permits granted for other solar energy development projects.

It is anticipated that the applicant will want to cross VDOT maintained roadways to provide utility interconnections between the proposed pods of solar panels. VDOT has specific regulations concerning the crossing of VDOT roadways with utilities. It is likely that the applicant will have to be registered with the SCC as a utility company and enroll in the "Miss Utility" program as well in order to cross VDOT roadways (Condition 9).

Recommendation:

Staff recommends a ninety (90) day deferral by the Planning Commission after closing the public hearing on the proposed, large-scale solar energy facility land use. Staff has proposed recommended conditions to ensure that this use complies with all Federal, State and County Code requirements and Staff needs to prepare additional conditions with staff members and other agencies based upon the proposed dedication of Fort Powhatan to Prince George County:

1. This Special Exception is granted for a large-scale solar energy facility use to Fort Powhatan Solar LLC or any successors as owner/operator of the solar energy facility located on Tax Maps 280(0A)00-042-0, 180(0A)00-001-A, 170(0A)00-001-0, 170(0A)00-003-0, and 170(0A)00-006-0. This Special Exception may be transferred provided that Condition 11 is met relative to the proper surety.
2. All site activity required for the construction, expansion and the operation of the solar energy facility shall be limited to the following days and times: All pile driving shall be limited to the hours from sunrise to sunset Monday through Saturday. No Sunday pile driving shall occur during site construction, expansion or operation of the facility. All other normal on-site construction activity may be permitted Monday through Sunday in accordance with the provisions of the County Noise Ordinance, as amended from time to time, and as enforced by the Prince George County Police Department.
3. All construction roads and construction areas shall remain dust-free by the use of a water truck or other approved method to keep sediment on the premises and not be of a general nuisance to the adjoining property owners during site construction and/or site expansion for a solar energy facility.
4. The applicant, owner or operator of the solar energy facility shall install a security fence a minimum of six (6) feet in height around the perimeter of the solar energy facility and it shall be approved as part of the site plan submitted for the development of the property.
5. Prior to construction of the site, a parking and staging plan shall be submitted to the County subject to approval submitted for various stages of the initial construction process. All subsequent construction processes shall also adhere to submitting a parking and staging plan.
6. Site construction lighting shall be minimized and shall be directed downward and away from residential uses. Post construction lighting shall be limited to security lighting only as approved by any federal, state or county agency for the appropriate lighting needed.
7. The applicant, owner or operator shall coordinate directly with the Director of Fire, EMS and Emergency Management to provide solar energy materials, educational information and/or training to the respective personnel responding to the solar energy facility project in regards to how to safely respond to any emergencies that may occur on the premises.

8. A minimum fifty (50) foot setback shall be maintained from all roads and all adjacent properties, either occupied or unoccupied. The required site landscaping and screening materials will be reviewed at the time of site plan review to properly meet the screening requirements for the solar energy facility use.
9. A Construction Traffic Management Plan and mitigation measures shall be developed by the applicant, owner or operator and shall be submitted to the Virginia Department of Transportation (VDOT) and Prince George County for review and approval. The Plan shall address traffic control measures, pre-and post-construction road evaluation and any necessary repairs to the public roads that are required as a result of any damage from the solar energy facility construction and/or expansion. All VDOT permits will be received and be approved by VDOT prior to site construction occurring on the premises.
10. A decommissioning plan shall be developed by the applicant, owner or operator prior to the approval of a site plan or any building permits being issued for a solar energy facility. If the solar energy facility is inactive completely or substantially discontinuing the delivery of electricity to an electrical grid for a continuous twenty-four (24) month period it shall be considered abandoned. The applicant, owner or operator shall provide notice to the Planning Division in writing once the property becomes inactive as a solar energy facility use. The decommissioning of the site shall commence within six (6) months of receipt of such notice from the applicant, owner or operator by Prince George County. This shall be known as the "Decommissioning Plan" under Zoning Ordinance Section 90-16 (ii) (e) which shall include the following: (1) anticipated life of the solar energy facility project; (2) the estimated cost of the decommissioning in the future as expressed in current dollars; (3) how said estimate was determined; (4) the manner in which the project will be decommissioned and (5) the name and physical address of the person or entity responsible for the decommissioning plan and a performance bond for the life of the use.
11. Unless the large-scale solar energy facility project is owned by a public utility within the Commonwealth of Virginia, the net costs of decommissioning shall be secured by an adequate surety in a form agreed to by the County Attorney, including but not limited to a letter of credit, cash or a guarantee by an investment grade entity, posted within thirty (30) days of the project receiving its occupancy permit or equivalent from Prince George County to operate the use. If an adequate surety is required, the cost estimates of the decommissioning shall be updated at least every five (5) years by the applicant, owner or operator and provided to the County. If the solar energy facility is sold to an entity that is not a public utility, the Special Exception shall not transfer to the purchaser until such time as adequate surety is provided for the solar energy facility. At its option, the County may require that a surety amount be increased based upon the net cost of decommissioning the use as approved by the County Attorney.
12. This Special Exception shall become null and void if the use of a large-scale solar energy facility is abandoned for a period of twenty-four (24) consecutive months.
13. This Special Exception may be revoked by Prince George County or by its designated agent for failure by the applicant, owner or operator to comply with any of the listed conditions or any provision of federal, state or local regulations.



APPLICATION FOR SPECIAL EXCEPTION - CONDITIONAL USE PERMIT

Department of Community Development and Code Compliance
6602 Courts Drive
Prince George, VA 23875
Planning Division (804) 722-8678
www.princegeorgecountyva.gov

OFFICE USE ONLY

APPLICATION #:

SE-18-01

DATE SUBMITTED:

MAR 16 2018

BY: ZONING ORDINANCE

SECTION:

(PLEASE FILL-IN ALL BLANKS)

LEGAL OWNER(S) OF PROPERTY REQUESTED FOR PERMIT:

Martin Enterprises, L.P. C/O Phillip Dean

ADDRESS:

2301 Wadebridge Rd

CITY:

Midlothian

STATE:

VA

ZIP CODE:

23113

PHONE NUMBER:

804-647-4304

E-MAIL ADDRESS:

pwdean2@comcast.net

TAX MAP OF SUBJECT PARCEL: 280(0A)00-042-0, 180(0A)00-001-A, 170(0A)00-001-0, 170(0A)00-003-0 and 170(0A)00-006-0

RECORDED IN THE CIRCUIT COURT CLERK'S OFFICE: Please see the attached document

DEED BOOK _____ PAGE _____ Date _____ DEED RESTRICTIONS:

ACREAGE:

Please see the attached document

PARTIAL PARCEL:

☐ YES

☒ NO

SUBDIVISION:

N/A

PRESENT USE:

Agricultural

ZONING CLASSIFICATION

LAND USE CLASSIFICATION:

PRESENT ZONING:

A-1, General Agricultural

AGENT OR REPRESENTATIVE OF PROPERTY OWNER(S), IF ANY (SPECIFY INTEREST): Kenny Habul

NAME: Fort Powhatan Solar, LLC (the Project Developer, SunEnergy1, LLC an affiliate of Fort Powhatan Solar, LLC holds an option to purchase the property from Martin Enterprises L.P)

ADDRESS:

192 Raceway Drive

CITY:

Monroeville

STATE:

NC

ZIP CODE:

28117

PHONE NUMBER:

704-662-0375

E-MAIL:

project.development@sunenergy1.com

PROVIDE A GENERAL DESCRIPTION OF THE PROJECT: (ATTACH A SEPARATE LETTER IF NECESSARY)

Fort Powhatan Solar, LLC (the Applicant) is proposing to construct a solar facility at the subject parcels above. The facility will be a ground-mounted solar photovoltaic facility utilizing a single-axis tracking system. The panels will be mounted on a racking system secured by piles driven into the ground. The entire solar facility will be enclosed by a security fence.

The panels will not generate any noise, have no emission nor odor. The facility will not require lighting after construction and are remotely monitored on a 24-hour basis.

There will be no additional burden to Prince George County infrastructure including the roadway system, water services, sewer services, schools nor fire/police.

The applicant has entered into an option to purchase with the current property owner, Martin Enterprises Limited Partnership.

AFFIDAVIT

A. The undersigned (1) Property Owner or (7) duly authorized agent or representative certifies that this petition and the foregoing answers, statement, and other information herewith submitted are in all respect true and correct to the best of their knowledge and belief.

SIGNED: _____

DATE: 2/26/18

MAILING ADDRESS: 192 Raceway Drive

CITY/STATE/ZIP: Mooresville, NC 28117

PHONE NUMBER: 704-662-0375

E-MAIL ADDRESS: project.development@sunenergy1.com

STATE BELOW THE NAME, ADDRESS, AND PHONE NUMBER OF PERSON(S) TO BE CONTACTED REGARDING THIS APPLICATION IF OTHER THAN ABOVE PERSON(S):

NAME: Linda Nwadike

MAILING ADDRESS: 192 Raceway Drive

CITY/STATE/ZIP: Mooresville/NC/28117

PHONE NUMBER: 704-662-0375 ext 104

E-MAIL ADDRESS: Linda.Nwadike@sunenergy1.com

STATE OF ~~VIRGINIA~~ North Carolina

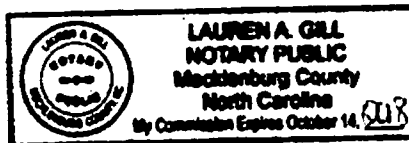
COUNTY OF: PRINCE-GEORGE Tredegg

Subscribed and sworn before me this 26th day of February, 2018.

Lauren A. Gill

Notary Public

My Commission expires: October 14, 2018



AFFIDAVIT



FORT POWHATAN SOLAR, LLC

PROPOSED SOLAR PROJECT NARRATIVE

Fort Powhatan Solar, LLC (the "Applicant and Facility Owner") whose is an affiliate of SunEnergy1, LLC the developer and operator is proposing to build a 150 MW (AC) renewable energy generating facility within Prince George County. The facility will be constructed on approximately 3,000 acres of land zoned A-1, General Agricultural. The Fort Powhatan Solar site is located approximately at the intersection of Fort Powhatan Road and Wards Creek Road.

The 150 MW AC project will be a ground-mounted solar photovoltaic facility utilizing a single-axis tracking system. There will be a 6-foot security fence that will enclose the solar farm and 40-foot wide security access gates to allow access by operation and maintenance personal to the site.

The panels do not generate any noise, have no emissions, no odor, no lighting and are remotely monitored on a 24-hour basis. The panels will be mounted on a racking system secured by piles driven into the ground. Geotechnical evaluations will determine the depth of the poles and all work will be in accordance with Virginia Codes and certified by Virginia engineers. The structural design will be designed to withstand local hurricane requirements.

The applicant, Fort Powhatan Solar, LLC will comply with all local building codes, Prince George County regulations, Commonwealth of Virginia Permit by Rule requirements, storm-water and erosion control standards, and Federal Energy Regulatory Commission regulations to ensure a safe and viable development for Prince George County and its residents. The Applicant will follow all Prince George County zoning requirements in regards to setbacks, buffering & height restrictions.

Fort Powhatan Solar, LLC has entered into an Option to Purchase with the below property owner and will own 100% of the generating facility built on the site. The site is comprised of the parcels identified below:

Owner	Parcel #	Owner Address
Martin Enterprises Limited Partnership Phillip W. Dean	280(OA)00-042-0	2301 Wadebridge Rd Midlothian, VA 23113
	170(OA)00-003-0	
	170(OA)00-001-0	
	170(OA)00-006-0	
	180(OA)00-001-A	

Application for Special Exception – Conditional Use Permit

Fort Powhatan Solar, LLC

Recorded in the Circuit Court Clerk's Office:

Tax Number: 280(OA)00-042-0 (894 AC)

1. Deed Book: 228
2. Page: 585
3. Date: 12/23/79
4. Deed restrictions: Nothing recited that is of record. Blanket statement in the deed states, "This property is conveyed subject to existing easements and restrictions".

Tax Number: 180(OA)00-001-A (10 AC)

1. Deed Book: 228
2. Page: 585
3. Date: 12/23/76
4. Deed restrictions: Nothing recited that is of record. Blanket statement in the deed states, "This property is conveyed subject to existing easements and restrictions".

Tax Number: 170(OA)00-001-0 (2,132.985)

1. Deed Book: 228
2. Page: 585
3. Date: 12/23/76
4. Deed restrictions: Nothing recited that is of record. Blanket statement in the deed states, "This property is conveyed subject to existing easements and restrictions".

Tax Number: 170(OA)00-003-0 (37.64)

1. Deed Book: 228
2. Page: 585
3. Date: 12/23/76
4. Deed restrictions: Nothing recited that is of record. Blanket statement in the deed states, "This property is conveyed subject to existing easements and restrictions".

Tax Number: 170(OA)00-006-0 (10 AC)

1. Deed Book: 228
2. Page: 585
3. Date: 12/23/76
4. Deed restrictions: Nothing recited that is of record. Blanket statement in the deed states, "This property is conveyed subject to existing easements and restrictions".

SPECIFIC LIMITED POWER OF ATTORNEY

MARTIN ENTERPRISES, L.P., a Virginia limited partnership ("Principal"), whose principal office address is 2301 Wadebridge Road, Midlothian, VA 23113, by and through **PHILLIP W. DEAN** and **J. HARVIE MARTIN, III**, its sole General Partners, does hereby grant a limited and specific power of attorney to, and by this specific power of attorney does hereby make, constitute, and appoint, **Kenny Habul, Bradley Fite, Linda Nwadike, and Kelly Hoyt**, all duly authorized representatives of: (i) **FORT POWHATAN SOLAR, LLC**, a Virginia limited liability company, whose principal office address is 192 Raceway Drive, Mooresville, NC 28117, Telephone No. (704) 662-0375, and (ii) **SUNENERGY1, LLC**, a North Carolina limited liability company, whose principal office address is 192 Raceway Drive, Mooresville, NC 28117, Telephone No. (704) 662-0375; as its true and lawful Attorneys-in-Fact, any of whom may act, in its place and stead for the limited purpose of applying for a special exception-conditional use permit and site plan approval process through the Planning and Zoning Department of Prince George County, Virginia; to allow for the operation of a utility scale solar photovoltaic system (the "Project"), on Tax Parcel(s) 280(OA)00-042-0, 170(OA)00-003-0, 170(OA)00-001-0, 170(OA)00-006-0 & 180(OA)00-001-A (the "Land"), in the aforesaid County by Fort Powhatan Solar, LLC.

This power of attorney is effective upon execution. This power of attorney may be revoked by Principal at any time, and shall automatically be revoked upon the earlier of: (a) final action or withdrawal of the application to which this form applies; (b) purchase of the Land by SunEnergy1, LLC or its related affiliate; or (c) on December 31, 2019; *however*, any person relying on this power of attorney shall have full rights to accept and rely upon the authority of the attorneys-in-fact until actual notice of revocation.

SIGNATURES AND ACKNOWLEDGEMENTS ON FOLLOWING PAGE

PRINCIPAL: MARTIN ENTERPRISES, L.P.

Dated: 3-11-2018

Phillip W Dean (SEAL)
By: PHILLIP W. DEAN
Title: General Partner

Dated: 3-7-2018

J Harvie Martin III (SEAL)
By: J. HARVIE MARTIN, III,
Title: General Partner

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Chesterfield to-wit:

The foregoing instrument was personally signed and acknowledged by PHILLIP W. DEAN, General Partner of Martin Enterprises, L P., before me this 11th day of March, 2018.

Notary Registration No.: 1157400; My commission expires: 2/30/19

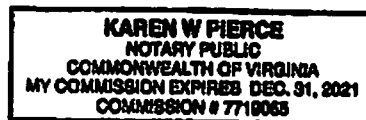
Helen McCallum
Notary Public
Print Name: Helen McCallum

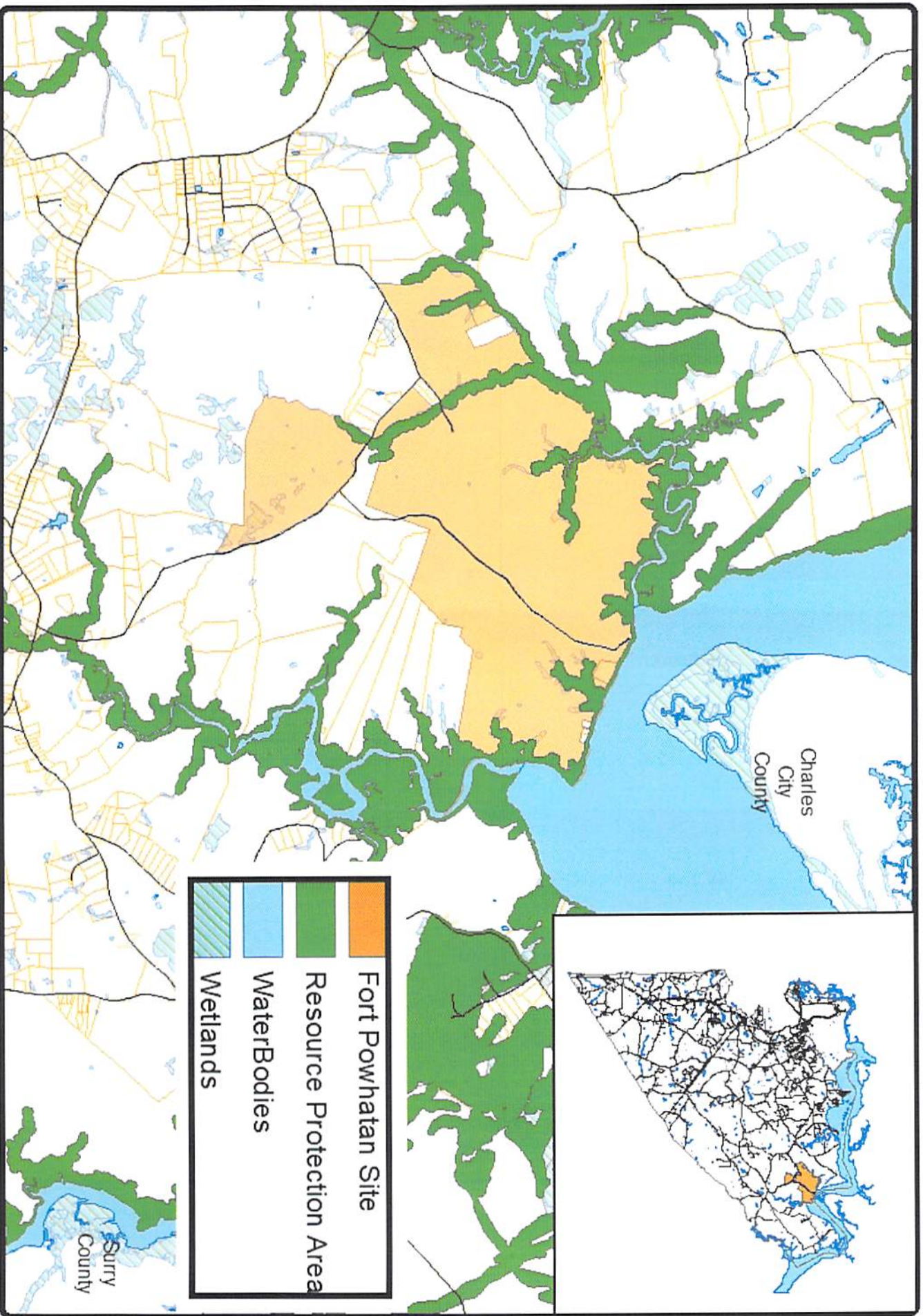
COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Stafford to-wit:

The foregoing instrument was personally signed and acknowledged by J. HARVIE MARTIN, III, General Partner of Martin Enterprises, L P., before me this 7 day of March, 2018.

Notary Registration No.: #7719065; My commission expires: 12-31-2021

Karen W Pierce
Notary Public
Print Name: KAREN W PIERCE





Issue Analysis Form

Date: April 26, 2018

Item: Chesapeake Bay Ordinance Amendments

Lead Department: Community Development

Contact Persons: Douglas Miles, Planning Manager and Horace Wade, Planner



Description and Current Status

Staff recommends amending the Zoning Ordinance and Subdivision Ordinance to comply with the Chesapeake Bay Preservation Program. The Virginia Department of Environmental Quality (DEQ) conducted a compliance review with the Prince George County on our existing Chesapeake Bay Preservation Program. As a result of the compliance visit DEQ staff identified three (3) sections of the Prince George County Code: Zoning Ordinance and Subdivision Ordinance that would require an ordinance amendment by Prince George County to be in compliance with the Code of Virginia.

Note: We have added a Chesapeake Bay Protection Ordinance section for potential Violations and how the Ordinance will be enforced with penalties.

In the process, DEQ Staff has asked for updated language to be added into the Subdivision and Zoning Ordinance Amendments to complete DEQ compliance.

Government Path

Does this require IDA action?

☐ Yes ☒ No

Does this require BZA action?

☐ Yes ☒ No

Does this require Planning Commission action?

Does this require Board of Supervisors action?

Yes a Board Public Hearing on May 22, 2018

☒ Yes ☐ No

Fiscal Impact Statement

N/A There will be no fiscal impact to Prince George County other than the required public hearing notices within the Petersburg Progress-Index newspaper for notice.

Prince George County Impact

The proposed Chesapeake Bay Protection Ordinance Violations section will allow for Prince George County to have the proper enforcement language and potential fees in place should there be future violations and to promote DEQ grants to avoid violations.

Site Plan

Ordinance Amendments

Board of Supervisors
County of Prince George, Virginia

Ordinance

At a regular meeting of the Board of Supervisors of the County of Prince George held in the Boardroom, Third Floor, County Administration Building, 6602 Courts Drive, Prince George, Virginia this 22nd day of May 2018:

Present:

Alan R. Carmichael, Chairman
Donald R. Hunter, Vice Chairman
Floyd M. Brown, Jr
Marlene J. Waymack
T.J. Webb

Vote:

On motion of _____, seconded by _____, which carried a vote _____, the following Ordinance was adopted in order to further public necessity, convenience, general welfare and good zoning practice:

ORDINANCE TO AMEND THE CODE OF THE
COUNTY OF PRINCE GEORGE, VIRGINIA, 2005, AS
AMENDED, CHAPTER 90 "ZONING", BY AMENDING
§ § 90-824, SITE PLAN REQUIRED.

BE IT ORDAINED by the Board of Supervisors of Prince George County:

(1) That § 90-824 of The Code Of The County Of Prince George, Virginia, 2005, as amended, are amended and re-codified to read as follows:

CHAPTER 90 ZONING

...

Sec. 90-824 Site Plan Required

- (a) A site plan shall be required for all structures which contain more than four residential units or are for other than agricultural purposes. No building permit

shall be issued to erect or to alter any building until a site plan is approved under the provisions of this article.

(b) Site plans shall be prepared by a licensed architect, landscape architect, engineer, or land surveyor; signed, sealed and dated and shall include but not be limited to:

1. Name and location of the proposed development
2. The boundary of the entire tract showing distances and bearings
3. The name and address of the property owner and/or developer of the site, if different than the owner and the name and address of the person or firm preparing the site plan.
4. Area and present zoning of the site proposed for development
5. Adjacent and abutting properties with information on ownership, zoning and current use.
6. Location of the lot or parcel by vicinity map. Site plans shall also contain a north arrow, original date, revision dates and graphical scale.
7. The names and locations of existing and proposed public or private streets, alleys and easements on or adjacent to the site. The center lines or boundary of adjacent rights-of-way shall be known.
8. The exact location of buildings or structures existing on or proposed for the site, including their setbacks from property lines, and the distance between buildings or structures.
9. The existing topography of the parcel prior to grading and the proposed finished contours of the site with a maximum of two foot contour intervals.
10. Property lines of the parcel(s) proposed for development, including the distances and bearings of these lines. If only a portion of a parcel is proposed for development, a limit of development line shall also be shown.
11. The tax parcel number(s) of parcels proposed for development depicted on the site plan.
12. The name of adjacent property owners and owners of any property on which any utility or drainage easement may be required in conjunction with the development. Tax parcel numbers for each of these properties shall also be provided.
13. The nature of the land use(s) proposed for the site
14. The location, type, and size of site access points such as driveways, curb openings, and crossovers. Sight distances at these access points shall be provided. If existing median cuts will serve the site they shall be shown. If new median cuts are proposed, their location shall also be shown.
15. All proffers accepted pursuant to Section 90-622 shall be shown on the plan.

16. Off-street parking areas and parking spaces including handicapped spaces, loading spaces, and walkways indicating type of surfacing, size, angle of stalls, width of aisles, and a specific schedule showing the number of spaces provided and the number required by this ordinance.
17. The number of stories, floor area, building height, and elevations of each building proposed. If more than one land use is proposed, the floor area of each land use shall be provided. Floor area shall be calculated on the basis of parking required for the use(s).
18. For residential developments, the type of dwelling unit shall be stated along with the number of units proposed. Where necessary for determining the number of required parking spaces, the number of bedrooms in each unit shall also be provided.
19. The location of proposed or required fire lanes and signs.
20. Detailed utility plans and calculations shall be submitted for sites for which public water or sewer will be provided or for sites on which existing utilities will be modified. The County Engineer shall have the authority to set the standards for such plans.
21. An erosion and sedimentation control plan and detail sheet shall be submitted for site developments involving the grading disturbance of greater than 2500 square feet of area or 1,000 cubic yards of material.
22. A detailed storm water management plan and calculations shall be submitted. The County Engineer shall determine the requirements for such plans.
23. The location of existing and proposed freestanding signs on the parcel.
24. The location and type of proposed exterior site lighting, including height of poles and type of fixtures.
25. The location of any 100-year floodplain and floodway on the site and the relationship of buildings and structures to the floodplain and floodway.
26. The location of required or proposed buffer yards, screening, fencing, and site landscaping and irrigation. The type and size of the plant materials and screening to be used shall be provided. In addition, the relationship of these materials to physical site improvements and easements shall be provided.
27. Chesapeake Bay Preservation Areas
28. Notation of requirement of pump-out of on-site sewage treatment systems in Chesapeake Bay Preservation Areas every five years.
29. Notation of requirement for 100% reserve drainfield site for on-site sewage treatment systems in Chesapeake Bay Preservation Areas.
30. Notation of requirement for retention of an undisturbed and vegetated 100-foot wide buffer area in the Resource Protection Area.
- 29.31. Notation of the permissibility of only water dependent facilities or redevelopment in the Resource Protection Area.

30-32. Prince George Planning Area or Rural Conservation Area.

- (c) The county shall review and provide comments for any site plan that is submitted for review within 60 days of the filing of the plan with the county. Approval of a final site plan pursuant to the provisions of this article shall expire five years from the date of approval in accordance with Code of Virginia, § 15.2-2261, as amended, unless a building permit and/or a zoning permit has been obtained for the development. No building or zoning permit shall be issued by any county official for any building, structure or use depicted on a required site plan, until such time as the site plan is approved by the county.
1. Minor Site Plan Approval Process: Site Land Disturbance or a Building Addition of 2,500 – 10,000 square feet which meets the following qualifications:
- a. No public water or public sewer mainline extensions are required for the proposed use.
 - b. No significant site draining improvements and uses existing on site retention structures.
 - c. No significant site access or any internal site circulation changes or road improvements.
 - d. No subdivision and conveyance of a portion of the property is needed for the expansion
 - e. No change of use of the building is permitted. Only interior and/or exterior renovations.

Chesapeake Bay
Ordinance Amendments

Board of Supervisors
County of Prince George, Virginia

Ordinance

At a regular meeting of the Board of Supervisors of the County of Prince George held in the Boardroom, Third Floor, County Administration Building, 6602 Courts Drive, Prince George, Virginia this 22nd day of May 2018:

Present:

Vote:

Alan R. Carmichael, Chairman

Donald R. Hunter, Vice Chairman

Floyd M. Brown, Jr.

Marlene J. Waymack

T. J. Webb

On motion of _____, seconded by _____, which carried a vote _____, the following Ordinance was adopted in order to further public necessity, convenience, general welfare and good zoning practice:

ORDINANCE TO AMEND THE CODE OF THE COUNTY OF PRINCE GEORGE, VIRGINIA, 2005, AS AMENDED, CHAPTER 90 "ZONING", BY AMENDING § § 90-673 VIOLATIONS.

BE IT ORDAINED by the Board of Supervisors of Prince George County:

(1) That §90-673 of The Code Of The County Of Prince George, Virginia, 2005, as amended, are amended and re-codified to read as follows:

CHAPTER 90 ZONING

...

ARTICLE XIVA. - CHESAPEAKE BAY PROTECTION

Sec. 90-661. - Findings of fact.

- (a) The Chesapeake Bay and its tributaries are one of the most important and productive estuarine systems in the world, providing economic and social benefits to the citizens of the county and the commonwealth. The health of the bay is vital to maintaining the county's economy and the welfare of its citizens.
- (b) The Chesapeake Bay waters have been degraded significantly by many sources of pollution, including nonpoint source pollution from land uses and development. Existing high quality waters are worthy of protection from degradation to guard against further pollution. Certain lands that are proximate to the shoreline have intrinsic water quality value due to the ecological and biological processes they perform. Other lands have severe development constraints from flooding, erosion, and soil limitations. Protected from disturbance, they offer significant ecological benefits by providing water quality maintenance and pollution control as well as flood and shoreline erosion control. These lands together, designated by the county as Chesapeake Bay Preservation Areas (hereinafter "CBPAs"), need to be protected from destruction and damage in order to protect the quality of water in the bay and consequently the quality of life in the county and the commonwealth.

(Ord. of 8-10-2004, § 17-531)

Sec. 90-662. - Purpose and intent.

- (a) This article is enacted to implement the requirements of Code of Virginia, § 10.1-2100 et seq., the Chesapeake Bay Preservation Act, and amends The Code of the County of Prince George, Virginia. The intent of the board of supervisors and the purpose of the overlay district is to:
 - (1) Protect existing high quality state waters;
 - (2) Restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life which might reasonably be expected to inhabit them;
 - (3) Safeguard the clear waters of the commonwealth from pollution;
 - (4) Prevent any increase in pollution; and
 - (5) Promote water resource conservation in order to provide for the health, safety, and welfare of the present and future citizens of the county.

- (b) This district shall be in addition to and shall overlay all other zoning districts where they are applied so that any parcel of land lying in the Chesapeake Bay Preservation Area Overlay District shall also lie in one or more of the other zoning districts provided for by this chapter. Unless otherwise stated in these regulations, the review and approval procedures provided for in sections 90-821—90-824 shall be followed in reviewing and approving development and uses governed by this article.
- (c) This article is enacted under the authority of Code of Virginia, § 10.1-2100 et seq. (the Chesapeake Bay Preservation Act) and Code of Virginia, § 15.2-2283. Code of Virginia, § 15.2-2283, states that zoning ordinances may "also include reasonable provisions, not inconsistent with applicable state water quality standards, to protect surface water and groundwater as defined in Code of Virginia § 62.1-255."

(Ord. of 8-10-2004, § 17-532)

Sec. 90-663. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agricultural lands means those lands that are currently (i.e., natural or native vegetation has been removed) used and managed primarily for the commercial sale of crops and livestock and consist of a minimum of five acres.

Best management practices (BMPs) means a practice, or combination of practices, that are determined by a state or designated area wide planning agency to be the most effective, practical means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

Buffer area means an area of natural or established vegetation managed to protect other components of a resource protection area and state waters from significant degradation due to land disturbances.

Chesapeake Bay Preservation Area means any land designated by the board of supervisors pursuant to part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, 9 VAC 10-20-et seq., and Code of Virginia, § 10.1-2107. A Chesapeake Bay Preservation Area shall consist of a resource protection area and a resource management area.

Construction footprint means the area of all impervious surface, including but not limited to buildings, roads and drives, parking areas, sidewalks and the area necessary for construction of such improvements.

Development means the construction or substantial alteration of residential, commercial, industrial, institutional, recreational, transportation, or utility facilities or structures.

Diameter at breast height (DBH) means the diameter of a tree measured outside the bark at a point 4.5 feet above the ground.

Drip-line means a vertical projection to the ground surface from the furthest lateral extent of a tree's leaf canopy.

Floodplain means all lands that would be inundated by floodwater as a result of a storm event of a 100-year return interval.

Highly erodible soils means soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The erodibility index for soils is defined as the product of the formula $RKLS/T$, where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

Highly permeable soil means soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups "rapid" and "very rapid") as found in the "National Soil Survey Handbook" of November 1996 in the "Field Office Technical Guide" of the U. S. Department Of Agriculture Natural Resources Conservation Service.

Impervious cover means a surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to: roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

Intensely Developed Area (IDA) means a portion of a resource protection area or resource management area designated by the board of supervisors where little of the natural environment remains and where development is currently concentrated.

Land disturbance means any activity upon land which causes, contributes to, or results in the removal or covering of the vegetation upon such land, including, but not limited to, clearing, grading, filling, dredging, or excavating. This term shall not include minor activities such as home gardening, planting of trees and shrubs, and home maintenance.

Lot coverage means the impervious area of any lot or parcel including, but not limited to buildings, drives, parking areas, sidewalks, patios, decks, etc.

Nonpoint source pollution means pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agricultural and urban land development and use.

Nontidal wetlands means those wetlands other than tidal wetlands that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency pursuant to Section 404 of the federal Clean Water Act, in 33 CFR 328.3b, as now or hereafter amended.

Noxious weeds means weeds that are difficult to control effectively, such as Johnson grass, kudzu, and multiflora rose.

Plan of development means the process for site plan or subdivision plat review to ensure compliance with Code of Virginia, § 10.1-2109 and this article, prior to any clearing and grading of a site and the issuance of a building permit.

Public road means a publicly owned road designed and constructed in accordance with water quality protection criteria at least as stringent as requirements applicable to the state department of transportation, including regulations promulgated pursuant to the Erosion and Sediment

Control Law (Code of Virginia, § 10.1-603.1 et seq.). This definition includes those roads where the state department of transportation exercises direct supervision over the design or construction activities, or both, and cases where roads are constructed and maintained, or both, by the county in accordance with the standards of the county.

Redevelopment means the process of developing land that is or has been previously developed.

Resource management area (RMA) means that component of the Chesapeake Bay Preservation Area that is not classified as the resource protection area. RMAs include land types that, if improperly used or developed, have the potential for causing significant water quality degradation or for diminishing the functional value of the resource protection area.

Resource protection area (RPA) means that component of the Chesapeake Bay Preservation Area comprised of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters.

Silvicultural activities means forest management activities, including but not limited to the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation that are conducted in accordance with the silvicultural best management practices developed and enforced by the state forester pursuant to Code of Virginia, § 10.1-1105, and are located on property defined as real estate devoted to forest use under Code of Virginia, § 58.1-3230.

Substantial alteration means expansion or modification of a building or development that would result in a disturbance of land exceeding an area of 2,500 square feet in the resource management area only.

Tidal shore or shore means land contiguous to a tidal body of water between the mean low water level and the mean high water level.

Tidal wetlands means vegetated and nonvegetated wetlands as defined in Code of Virginia, § 28.2-1300.

Water-dependent facility means a development of land that cannot exist outside of the resource protection area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to (i) ports; (ii) the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers; (iii) marinas and other boat docking structures; (iv) beaches and other public water-oriented recreation areas; and (v) fisheries or other marine resources facilities.

Wetlands means tidal and nontidal wetlands.

(Ord. of 8-10-2004, § 17-533)

Cross reference— Definitions generally, § 1-2.

Sec. 90-664. - Areas of applicability.

- (a) The Chesapeake Bay Preservation Area (CBPA) Overlay District shall apply to all lands identified as a CBPA as designated by the county and as shown on the Official Preservation Area District Map prepared as a part of the county's Chesapeake Bay Preservation Area

Program. The CBPA Map together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this article.

- (1) The resource protection areas shall consist of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may cause significant degradation to the quality of state waters. In their natural condition, these lands provide for the removal, reduction or assimilation of sediments, nutrients and potentially harmful or toxic substances in runoff entering the bay and its tributaries, and minimize the adverse effects of human activities on state waters and aquatic resources. The resource protection area includes:
 - a. Tidal wetlands;
 - b. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;
 - c. Tidal shores;
 - d. A vegetated buffer area not less than 100 feet in width located adjacent to and landward of the components listed in subsections (a) through (d) above, and along both sides of any water body with perennial flow.
- (2) Resource management areas shall include land types that, if improperly used or developed, have potential for causing significant water quality degradation or for diminishing the functional value of the resource protection area. The resource management area shall be provided contiguous to the entire inland boundary of the resource protection area, and shall consist of an area 150 feet in width, or an area composed of any of the following land categories, whichever is larger:
 - a. Floodplains;
 - b. Highly erodible soils, including steep slopes defined as those greater than 15 percent;
 - c. Highly permeable soils;
 - d. Nontidal wetlands not included in the resource protection area
- (b) The CBPA Overlay District Map shows only the general location of CBPAs and should be consulted by persons contemplating activities within the county prior to engaging in a regulated activity. The specific location of RPAs on a lot or parcel shall be delineated on each site or parcel as required under section 90-669 through the review and approval of the plan of development process or as required under section 90-671 through the review and approval of a water quality impact assessment.
- (c) Portions of resource protection areas and resource management areas designated by the county as intensely developed areas shall serve as redevelopment areas. Areas so designated shall comply with all erosion and sediment control requirements and the performance standards for redevelopment in section 90-667 (Performance standards).
- (d) If the boundaries of a Chesapeake Bay Preservation Area include only a portion of a lot, parcel, or development project, the entire lot, parcel, or development project shall comply

with the requirements of the overlay district. The division of property shall not constitute an exemption from this requirement.

(Ord. of 8-10-2004, § 17-534)

Sec. 90-665. - Conflict with other regulations.

In any case where the requirements of this article conflict with any other provisions of The Code of Prince George County, Virginia, or existing state and federal regulations, whichever imposes the more stringent restrictions shall apply.

(Ord. of 8-10-2004, § 17-535)

Sec. 90-666. - Site specific delineation of RPA limits.

- (a) Delineation by applicant. The site-specific boundaries of the resource protection area shall be determined by the applicant through the performance of an environmental site assessment, subject to approval by the planning director or his designee and in accordance with section 90-669 (Plan of development process) or section 90-668 (Water quality impact assessment). The Official Preservation Area District Map may be used as a guide to the general location of resource protection areas.
- (b) Delineation by planning director or his designee. The planning director or his designee, when requested by the applicant wishing to construct a single-family residence, may waive the requirement for an environmental site assessment and perform the delineation. The planning director or his designee may use hydrology, soils, plant species, and other data, and consult with other appropriate resources as needed to perform the delineation.
- (c) Where conflict arises over delineation. Where the applicant has provided a determination of the resource protection area, the boundaries of this district shall be as shown on the overlay district boundary map unless a field survey conducted by the U.S. Army Corps of Engineers, an applicable agency of the state or federal government, a licensed engineer, licensed soil scientist or other professional designated by the Virginia Department of Environmental Quality, finds such boundary to be in error. If the adjusted boundary delineation is contested by the applicant, the applicant may seek relief.

(Ord. of 8-10-2004, § 17-536)

Sec. 90-667. - Performance standards.

- (a) Purpose and intent. The performance standards establish the means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxics, and maximize rainwater infiltration. Natural ground cover, especially woody vegetation, is most effective in holding soil in place and preventing site erosion. Indigenous vegetation, with its adaptability to local conditions without the use of harmful fertilizers or pesticides, filters stormwater runoff. Keeping impervious cover to a minimum enhances rainwater infiltration and effectively reduces stormwater runoff potential.

The purpose and intent of these requirements is also to implement the following objectives: prevent a net increase in nonpoint source pollution from new development; achieve a ten-percent reduction in nonpoint source pollution from redevelopment; and achieve a 40-percent reduction in nonpoint source pollution from agricultural uses.

(b) General performance standards for development and redevelopment.

(1) Land disturbance shall be limited to the area necessary to provide for the proposed use or development.

- a. In accordance with an approved site plan, the limits of clearing or grading shall be strictly defined by the construction footprint. These limits shall be clearly shown on submitted plans and physically marked in the development site.
- b. Ingress and egress during construction shall be limited to one access point, unless otherwise approved by the planning director or his designee and authorized by an approved site plan.

(2) Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the proposed use or development permitted and in accordance with the Virginia Erosion and Sediment Control Handbook.

- a. Existing trees over six inches in diameter at breast height (DBH) shall be preserved outside the approved construction footprint. However, trees may be pruned or removed as necessary to provide for sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff. Diseased trees or trees weakened by age, storm, fire, or other injury may be removed, when approved by the planning director or his designee for the county. Other woody vegetation on site shall also be preserved outside the approved construction footprint.
- b. Site clearing for construction activities shall be allowed as approved by the planning director or his designee for the county through the plan of development review process.
- c. Prior to clearing, grading and/or filling, suitable protective barriers, like safety fencing, shall be erected five feet outside the drip-line of any around [sic] any tree or stand of trees to be preserved. Protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.

(3) Land development shall minimize impervious cover consistent with the proposed use or development.

- a. Pervious surfaces, such as grid and modular pavements, shall be used for any required parking area, alley or other low traffic driveway, unless otherwise approved by the planning director or his designee.
- b. Parking space size shall be 162 square feet. Parking space width shall be nine feet; parking space length shall be 18 feet. Two-way aisles shall be a minimum of 22 feet in width.

- (4) Notwithstanding any other provisions of this article pertaining thereto, any land disturbing activity exceeding 2,500 square feet, including construction of all single-family houses, shall comply with the requirements of the erosion and sediment control ordinance (section 38-31 et seq.).
- (5) All development and redevelopment within RMAs and RPAs that exceeds 2,500 square feet of land disturbance shall be subject to a plan of development process, including the approval of a site plan in accordance with the provisions of this chapter; or a subdivision plan in accordance with the subdivision ordinance (chapter 70); or a water quality impact assessment in accordance with section 90-668.
- (6) On-site sewage treatment systems in the Chesapeake Bay Preservation Area not requiring a Virginia Discharge Elimination System permit shall comply with the following:
 - a. Systems shall be pumped out at least once every five (5) years, unless the owner submits documentation every five (5) years, certified by an operator or on-site soil evaluator licensed or certified under Chapter 23(Section 54.1-2300 et seq) of Title 54.1 of the Code of Virginia as being qualified to operate, maintain or design on-site sewage systems, that the septic system has been inspected, is functioning properly, and the tank does not need to have the effluent pumped out of it. As an alternative to the mandatory pump-out or documentation, a plastic filter approved by the health department may be installed and maintained in the outflow pipe from the septic tank to filter solid material from the effluent.
 - b. A reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site shall be provided on each lot or parcel proposed for new construction. This reserve sewage disposal site requirement shall not apply to any lot or parcel recorded prior to October 1, 1989, if the lot or parcel is not sufficient in capacity to accommodate a reserve disposal site, as determined by the local health department.
 - c. Building or construction of any impervious surface shall be prohibited on the area of all sewage disposal sites until the development is served by the public sewer or an on-site sewage treatment system which operates under a permit issued by the state water control board.
- (7) For any use or development, stormwater runoff shall be controlled by the use of best management practices consistent with the water quality protection provisions of the Virginia Stormwater Management Regulations (4 VAC 3-20-10 et seq.) that achieve the following:
 - a. For development, the post-development nonpoint source pollution runoff load shall not exceed the pre-development load, based on the average total phosphorus loading of 0.45 pounds per acre per year.
 - b. For sites within intensely developed areas or other isolated redevelopment sites, the nonpoint source pollution load shall be reduced by at least ten percent. The planning director or his designee for the county may waive or modify this requirement for redevelopment sites that originally incorporated best management