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AGENDA

Planning Commission
County of Prince George, Virginia
Business Meeting: Thursday, November 18, 2021
County Administration Bldg. Boardroom, Third Floor
6602 Courts Drive, Prince George, Virginia

Business Meeting

6:30 p.m.

This meeting is being held electronically in accord with Virginia Code Section 15.2-1413. The meeting is accessible by:

If you would like to participate in the meeting via Zoom –

<https://zoom.us/j/5053851421?pwd=V2pjSHFneFRUUE2bjNqQnR3emZoUT09>

Meeting ID: 505 385 1421

Password: 200726

One tap mobile

+19294362866,,5053851421#,,1#,200726# US (New York)

+13017158592,,5053851421#,,1#,200726# US (Germantown)

Dial by your location

+1 929 436 2866 US (New York)

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+1 312 626 6799 US (Chicago)

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During the public comment period you may raise your hand using the Zoom controls on your screen or press *9 on your phone. Visit the Zoom Help Center for more information. If you would like to view the meeting in real time use this link:

https://www.princegeorgecountyva.gov/live_stream/

Public comments may be made in person during any meeting. You may also submit any public comments on our website at

https://www.princegeorgecountyva.gov/departments/board_of_supervisors/public_comment_form.php.

Any public comments received via Zoom, in person or by the website form up until the public comment section is closed by the Chairman of the Planning Commission on November 18, 2021 shall be entered into the meeting minutes.

CALL TO ORDER - Chairman Brown

Roll Call - Clerk

INVOCATION

PLEDGE OF ALLEGIANCE TO THE U.S. FLAG

PUBLIC COMMENTS - Chairman Brown

ADOPTION OF AGENDA [1] Chairman Brown

ORDER OF BUSINESS - Chairman Brown

- A-1. Approval of Meeting Minutes – October 28, 2021 [2]
- A-2. SUBDIVISION WAIVER SW-21-01: Request of Timothy and Taira Cibula for a minor subdivision exception as set out in § 82-31 and § 82-351 and authorized under § 70-208, to permit a minor subdivision creating one additional lot of no less than five acres without connecting to public water and sewer systems, from a parcel located in the Prince George Planning Area and within a R-A zoning district, and with the remainder tract meeting applicable zoning requirements. The subject property is known as tax map 150(0A)00-031-0 and is located at 11201 Merchants Hope Road.
[3] **Tim Graves, Planner**
- A-3. Final Draft Battery Storage Ordinance Amendment Discussion Item [4] **Julie Walton**

COMMUNICATIONS [5] Tim Graves, Planner

- A. Actions of the Board of Zoning Appeals
- B. Actions of the Board of Supervisors
- C. Upcoming Cases

ADJOURNMENT - Chairman Brown

DRAFT MINUTES
Planning Commission
County of Prince George, Virginia

October 28, 2021

County Administration Building, Board Room, Third Floor
6602 Courts Drive, Prince George, Virginia 23875

This meeting was held electronically in accord with Virginia Code Section 15.2-1413. The meeting was accessible by:

Zoom: <https://zoom.us/j/5053851421?pwd=V2pjSHFneFRLUUE2bjNqQnR3emZoUT09>

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MEETING CONVENED. The Regular Meeting of the Prince George County Planning Commission was called to order at 6:30 p.m. on Thursday, October 28, 2021 in the Board Room, County Administration Building, 6602 Courts Drive, Prince George, Virginia by Mr. Floyd Brown, Sr., Chairman.

ATTENDANCE. The following members responded to Roll Call:

Mr. Simmons	Present
Mrs. Elder	Present (via phone from 10409 Old Stage Road)
Mr. Bresko	Present
Mr. Joyner	Present
Mr. Easter	Present
Mr. Brown	Present
Mr. Brockwell	Absent

Also present: Julie C. Walton, Director, Dan Whitten, County Attorney, Cliff Young, Director of IT, Andre Greene, Planner II, Tim Graves, Planner I and Missy Greaves-Smith, Administrative Support Specialist II

INVOCATION. Mr. Joyner provided the Invocation.

PLEDGE OF ALLEGIANCE TO THE FLAG. Mr. Bresko led in the Pledge of Allegiance to the United States flag.

PUBLIC COMMENT PERIOD. At 6:32 p.m., Mr. Brown opened the Public Comment Period to anyone who wished to come forward to speak to the Commissioners on only topics that were not on the agenda. Citizens were asked to limit their comments to three (3) minutes.

With no one present or on Zoom indicating they wished to speak, the Public Comment Period was closed at 6:33 p.m.

VOTE TO AMEND THE MEETING AGENDA. Due to the applicant's withdrawal of Ordinance Amendment OA-21-01, Mr. Brown requested a motion to amend the meeting Agenda. Mrs. Elder made a motion to amend the October 28, 2021 meeting Agenda and Mr. Joyner seconded the motion.

Roll Call:

In favor: (6) Simmons, Brown, Elder, Joyner, Bresko, Easter

Opposed: (0)

Absent: (1) Brockwell

ADOPTION OF THE AMENDED MEETING AGENDA. Mr. Brown asked the Commissioners for a motion to approve the amended meeting Agenda for the October 28, 2021 Planning Commission. Mr. Bresko made a motion to approve the amended meeting Agenda and Mr. Easter seconded the motion.

Roll Call:

In favor: (6) Simmons, Brown, Elder, Joyner, Bresko, Easter

Opposed: (0)

Absent: (1) Brockwell

OLD BUSINESS.

A-1. APPROVAL OF THE MEETING MINUTES. Mr. Brown asked the Commissioners to review the August 26, 2021 Minutes of the Planning Commission for approval. Mr. Joyner made a motion to approve the August 26, 2021 Minutes as presented and Mr. Bresko seconded the motion.

Roll Call:

In favor: (6) Simmons, Brown, Joyner, Bresko, Easter, Elder

Abstain: (0)

Absent: (1) Brockwell

NEW BUSINESS.

P-1. REZONING CASE RZ-21-04: Request of Dwight Nelson Cunningham to rezone 6.8 acres from M-1, Limited Industrial to M-2, General Industrial. The subject parcel is

located on the west side of Chudoba Parkway where it begins to parallel Interstate 295 and is identified as Tax Map 340(19)00-001-0. The Comprehensive Plan indicates the property is suitable for industrial uses.

Mr. Graves presented to the Commissioners an aerial view slide for directional reference. He shared a slide illustrating the different zonings of the surrounding properties near the location on Chudoba Parkway.

Mr. Graves gave a brief overview stating the following:

The Property's Zoning History:

- The property was rezoned to M-2 in 2000 to permit contractor sales and assembly.
- The conditions provided that if the property was not used for the planned purpose, it would revert to an M-1 designation.
- The zoning later reverted to M-1 in accordance with the conditions.

The Applicant's Goals & Request:

- Relocate automobile restoration business from Chesterfield County
- Future speculative building construction for industrial park uses
- Rezone 6.8 acres from M-1 to M-2

The Planning & Zoning & Review Team Comments:

- Proposed land use:
 - Sec. 90-492(2): "Automobile assembling, painting, upholstering, repairing, rebuilding, reconditioning, body and fender work, truck repairing or overhauling, tire retreading or recapping."
- Future uses as permitted under M-2 zoning district
- All development to be reviewed during Site Plan review process
- Appears compatible with surrounding zoning and uses (vacant, industrial park)
- Future Land Use Map: Industrial
- Traffic impact should be accommodated with existing infrastructure, or with improvements required by VDOT during Site Plan review
- Consider conditions for:
 - Vegetated buffer yards per conceptual plan
 - Prohibit exterior storage (unless completely screened) per conceptual plan
 - Restrict access to F342 (road on north/west side of property) per VDOT comments
- VDOT
 - Chapter 527 Traffic Impact Analysis not required
 - Right and left turn lanes will be required if warranted at the site connection to SR 730 or F342.
 - VDOT is recommending that the applicant consider removing the proposed connection to F342. VDOT would support an entrance that would be access controlled for emergency services or that does not provide primary access to the site.

- Economic Development
 - Enterprise zone incentives apply. (NOTE: Rezoning fee was waived based on estimated capital investment > \$250k)

Recommended Conditions:

1. Retain or establish vegetated buffer yards at the southwest corner of the property and along Chudoba Parkway, in conformance with the conceptual plan included with the application, and in conformance with any additional applicable design standards in the Zoning Ordinance.
2. Development of the property is limited to permitted uses within structures, in conformance with the conceptual plan submitted with the application. Exterior storage is prohibited unless completely screened from view of parking areas, adjoining properties and roads by fences or walls attached to buildings.
3. Entrance via F342 is restricted to emergency services and non-commercial vehicles.

Mr. Graves stated that staff recommended approval subject to the recommended conditions, on the basis of the following:

- Compatible with current and future surrounding uses and zoning
- No negative feedback from community
- Conditions recommended by Staff were agreed to by the applicant

Dean Hawkins addressed the Commission, representing the applicant. He is the Landscape Architect Designer for this project. Mr. Hawkins thanked Mrs. Walton and staff for all their hard work and stated they have agreed to the Staff Report and conditions without exception.

Mr. Simmons asked Mr. Hawkins which of the five buildings is going to be constructed first for the restoration of automobiles. Mr. Hawkins noted that Building D is planned to be built first. He also stated that the main infrastructure would need to be done prior to the construction.

Mr. Simmons requested clarity on the entrance marked for “emergency entrance only”. He asked, as that property is developed, whose responsibility is it going to be to make sure that entrance does not become a second main entrance? Mr. Hawkins stated that they would put up a locked gate that the fire department would have no problem getting through if needed.

At 6:54 p.m., Mr. Brown opened the Public Hearing to anyone who wished to speak for or against RZ-21-04. Citizens were asked to limit their comments to three (3) minutes.

With no one coming forward and no one on Zoom that indicated they wished to speak, the Public Hearing closed at 6:55 p.m.

With no additional questions or comments from the Commissioners, Mr. Brown asked for a motion.

Mr. Bresko made a motion to forward request RZ-21-04 to the Board of Supervisors with the Planning Commission's recommendation for approval, subject to the recommended conditions in the Staff Report. This motion was seconded by Mr. Simmons.

Roll Call:

In favor: (6) Simmons, Brown, Elder, Joyner, Bresko, Easter

Opposed: (0)

Absent: (1) Brockwell

- P-2. SPECIAL EXCEPTION CASE SE-21-06: Request of Jaime Pennington pursuant to Prince George County Zoning Ordinance Section 90-243 (6) to permit a home occupation in an accessory building in a R-2, Limited Residential District, for the purpose of conducting a therapeutic massage business in an existing accessory building. The subject property is approximately 4.13 acres in size, located at 7106 Courthouse Road, and is identified as Tax Map 240(05)00-00B-0. The Comprehensive Plan indicates the property is suitable for Village Center uses.

Mr. Greene presented to the Commissioners an aerial view slide for directional reference. He shared a slide illustrating the different zonings of the surrounding properties near the location on Courthouse Road.

Mr. Greene shared the applicant, Jaime Pennington's background history with the Commissioners.

Background History:

- Prince George County native
- Educated, licensed and certified as a massage therapist
- Massages intended to assist pain management for medical conditions, improve recovery post surgery, speed up muscle recover for athletes, etc.
- Operated a therapeutic massage practice in Chesterfield since 2007

The Applicant's Goals & Request:

- Use an existing accessory building with electricity to receive clients
- Clients by appointment only, with appointment times from 10 a.m. to 6 p.m.
- 3-4 clients per day
- No employees
- Off-street parking available with turnaround
- No signage
- Special Exception for Home Occupation within an accessory building, pursuant to Section 90-243 (6)

Recommended Conditions:

Highlights:

1. Special Exception for this applicant within the existing accessory building which will be modified to accommodate a bathroom as required per building code.
2. Customer visits limited to the hours of 9:30 a.m. to 8:00 p.m. M-F
3. Maximum of 4 clients per day
4. Off-street parking and turnaround provided
5. No signage, no employees
6. All applicable permits including building permit to be provided

Mr. Greene stated that staff recommended approval subject to the recommended conditions, on the basis of the following:

- Request appears compatible with current and future surrounding uses
- No negative feedback from community
- Conditions recommended

Mrs. Walton explained to Mr. Simmons that in the Zoning Ordinance there are several categories for home base businesses. There is a category for running a business in your house such as a home office. There is also a category for a “Cottage Industry Home Occupation” in a detached building. This is not a common request. However, we have had a few applications in the past few months. This trend could be because office buildings are closing and more people are working from home. These cases are required to be reviewed by the Planning Commission and the Board of Supervisors to assure the request is a good fit for the surrounding neighbors and the community.

The applicant, Jaime Pennington addressed the Commissioners and spoke to her character and professionalism. She stated she has been licensed by the Virginia Board of Nursing as a Massage Therapist since 2007. She would like to have her business at her home in Prince George.

At 7:12 p.m., Mr. Brown opened the Public Hearing to anyone who wished to speak for or against RZ-21-04. Citizens were asked to limit their comments to three (3) minutes.

Tara Pennington, of 4713 Prince George Drive, spoke to Jaime Pennington’s reputation and professionalism as a massage therapist. She stated she was in favor of the Commissioners approving the special exception request for Jaime Pennington.

With no one else on Zoom or in person indicating, they wished to speak, the Public Hearing closed at 7:13 p.m.

With no additional questions or comments from the Commissioners, Mr. Brown asked for a motion.

Mr. Simmons made a motion to forward request SE-21-06 to the Board of Supervisors with the Planning Commission’s recommendation for approval, subject to the recommended conditions in the Staff Report. This motion was then seconded by Mr. Bresko.

Roll Call:

In favor: (6) Simmons, Brown, Elder, Joyner, Bresko, Easter
Opposed: (0)
Absent: (1) Brockwell

REPORTS.

Battery Storage Facilities – Julie Walton, Director

Ms. Julie Walton, Deputy County Administrator and Director of Community Development, introduced to the Commissioners a presentation on battery storage facilities. She stated that this type of facility is not addressed in Prince George County's Zoning Ordinance as a "stand alone" use. They have received a request to add the use and definition to the Code. Staff has developed a Draft Ordinance for consideration defining the Use, Application as Special Exception, Zoning Districts, etc. They recommend an internal policy for guidance on application reviews and standard conditions for Special Exception requests. Ms. Walton showed the Commissioners a couple of examples of battery storage facilities and explained that regulations established the requirements for 3,100 MW of energy storage in Virginia by 2035, the most among states in the nation. Energy storage is valued for its rapid response – most battery storage technologies can begin discharging power to the grid very quickly, while fossil fuel sources tend to take longer to ramp up. This rapid response is important for ensuring stability of the grid when unexpected increases in demand occur or temporary outages. Battery Storage facilities should have proximity to an electrical substation or transmission line. Other things to consider are the size of the facility ("footprint") and size of lot/property where located (acreage), the distance to adjoining properties and structures, hazard protections, a provider agreement in place with an Energy company, and facility screening and security. Facilities should be sited to avoid wetlands, floodplains, and environmental concerns. Also addressed in the draft ordinance is fire and explosion risk mitigation and developing a water containment plan as a component of a Battery Fire Action Plan. Ms. Walton went over the substation locations in the County where potentially these facilities may be located. She is looking for feedback from the Planning Commission and the Board on the Draft Ordinance, set public hearings for Ordinance consideration, and determine if a Policy is needed, or include Special Exception conditions in the Ordinance.

Mr. Joyner asked if the fire departments would be involved in the training and do they already have the type of equipment needed for this type of fire. Mrs. Walton explained that the County does have some foam systems and the type of fire extinguishing agent needed for containment depends on the type of batteries installed. She wants to ensure that our policy would include a good fire mitigation plan by an applicant or even proffers as needed. Safety is a huge concern for staff, she explained.

Mr. Simmons inquired about any noise associated with the battery storage facilities. Mrs. Walton explained that there is some humming noise involved. The draft ordinance is recommending a minimum of five (5) acres for these facilities to allow for separation from adjoining properties.

Mr. Bresko asked: How close does the battery storage facility need to be to the power source? Mrs. Walton explained that battery storage facilities need to be rather close to the main power sources. Virginia and the Federal Governments have put in requirements to the power companies to begin this process. The County is trying to get ahead of the curve to get ordinances and policies in place.

Mr. Easter asked if there are any localities around us that already have battery storage facilities operating that we can study. Old Dominion Electric Cooperative is currently looking into three (3) pilot programs right now. Mrs. Walton stated she would look into Old Dominion Electric Cooperative's projects to get specific locations.

Private Roads Draft Ordinance – Tim Graves, Planner I

Mr. Graves introduced to the Commissioners a presentation on amending the Private Road Ordinance.

He stated the following goals:

- View examples of existing roads
- Review the history of changes to private road requirements
- Review the current challenges
- Consider example situations
- Review the current standards
- Review the draft ordinance amendment
- Review reasons why standards are important
- Decide next steps

Abbreviated History of Private Roads Requirements:

Prior to December 2007:

- Private roads not permitted
- Family Divisions permitted on access easements

Beginning December 2007:

- Private roads allowed for up to 3 lots in A-1 and R-A districts, if built to VDOT standards, except they could be gravel
- Family divisions allowed to be accessed by a private easement, or a shared easement if they couldn't secure a new private one

Beginning Jan 2009:

- Reference VDOT Subdivision Street Design Guide
- Family Divisions allowed on minimum 10' wide easement
- Access management standards added

Beginning 2013:

- Family Divisions to be held to same access standards as other divisions in R-A and A-1

Summary of Private Road Requirements in the Ordinance Today:

- All new lots in the County are required to front on state-maintained roads, EXCEPT THAT private roads are permitted to serve up to 3 lots in R-A and A-1 zoning districts.

- Each lot must have road frontage of effectively 120 feet, or 50 feet on a cul-de-sac. The Subdivision Agent may exempt the cul-de-sac.
- The required road frontage must be used for access via a driveway.
- A driveway is not defined, but it is effectively an on-site roadway serving only one lot.
- A private road is something that provides the required road frontage to an abutting lot, including a road that serves only one lot. We understand the intent may not be for an easement serving any one lot to be treated like a road.
- A shared entrance becomes a private road after a common-sense distance, i.e. 50 feet.
- The developer must construct or bond the road prior to final plat approval. Otherwise, the lot would not have the required road frontage, and the road may never be constructed by the developer.
- The VDOT Standards referenced by the Ordinance are for a two-lane subdivision street with a width of at least 18', not including engineered shoulders and ditches.
- The County's access management standards currently require private roads for lots fronting on collector and arterial (high traffic) roads.
- The County does not enforce private agreements, but can enforce required development standards (at the time of subdivision or initial construction).

Summary of the Draft Ordinance Amendment:

Clarifications:

- The draft ordinance consists primarily of clarifications for existing requirements
- Standards have been detailed in a list on page 6 of the draft
- New definitions for: Driveway, Public road, Private road, Access easement
 - Example: Driveway: A privately owned and maintained thoroughfare that provides access from a street or road to a parking space, garage, dwelling, or other structure on the single lot or parcel that the driveway serves. A driveway is distinct from a street or road.

Proposed Changes:

- Establish driveway standards (10 feet wide gravel)
- Allow a driveway standard whenever there is only one lot served by an easement, or when roads platted prior to 2013 have not yet been constructed
- Require road maintenance agreements
- Change applicable VDOT standard to be based on traffic volume (= change from 18' width to 15')
- The agent can exempt 1 or 2 lots from the 3-lot limit if they only share the road entrance (first 50')
- Defer to VDOT to regulate access management (shared entrances, spacing between entrances, etc.)

Mr. Graves explained the options for the "Next Steps".

- A. Seek community input on the draft ordinance amendment and send to Planning Commission for consideration
 - This option would primarily clarify the existing requirements. (+ Any tweaks)
 - Staff recommends this option at this time.
- B. Draft an alternate amendment to prohibit private roads, except for Family Divisions (Max 3 lots, include standards for Family Division roads and roads not yet built)
 - This option would eliminate most private road/easement issues for future development.
 - Staff recommends working toward this option within 3-5 years or to consider during the next Comprehensive Plan update.
- C. Draft an alternative amendment to eliminate private road standards except for 3-lot limit
 - Cons: Number of private roads, emergency and delivery vehicle access issues, property owner conflicts could all proliferate further. The Rural Conservation Area would continue to be a focus for housing construction.
 - Pros: Staff time dedicated to enforcing standards would be reduced, as would development costs.
 - Staff would recommend only considering this after first adopting the currently proposed clarifications.
- D. Do nothing
 - This option would not solve any of the current issues. Staff opposes this option.

PLANNER'S COMMUNICATION TO THE COMMISSION. Mr. Graves presented to the Commissioners the following updates:

- 1. Actions of the Board of Zoning Appeals (BZA)
 - a. October and November BZA meetings have been cancelled due to no cases
- 2. Actions of the Board of Supervisors (BOS)
 - a. September 29th BOS approved RZ-21-02 Mueller Builders LLC
- 3. Upcoming cases to the Planning Commission
 - a. Subdivision Waiver – November 18th

ADJOURNMENT. At 8:15 p.m., Mr. Brown asked the Commissioners if they had any additional questions. If not, he would entertain a motion to adjourn. Mr. Simmons made a motion to adjourn and Mr. Bresko seconded the motion. Roll was called on the motion.

In favor: (6) Simmons, Brown, Elder, Joyner, Bresko, Easter

Opposed: (0)

Absent: (1) Brockwell

SUBDIVISION WAIVER REQUEST -- SW-21-01
PLANNING COMMISSION STAFF REPORT – NOVEMBER 18, 2021

RESUME

APPLICANTS:

Timothy & Taira Cibula

PROPERTY OWNER:

Timothy & Taira Cibula

REQUEST:

Minor Subdivision Exception for a single-lot division within the Prince George Planning Area without connecting to public water and sewer systems.

STAFF REPORT CONTENTS / ATTACHMENTS:

1. Resume
2. Sample Motions
3. Draft Resolution for Planning Commission Approval
4. Staff Report
5. Copy of Application with applicant statements
6. Copy of Subdivision Plat submitted with application S-21-26
7. Summary of Relevant County Code Sections
8. APO letter, map, and list

Sample Motions

Sample APPROVAL Motion:

“I move to adopt resolution R-21-01 as presented and approve the minor subdivision request identified as SW-21-01.”

Sample MODIFICATION Motion:

“I move to adopt resolution R-21-01 as modified and approve the minor subdivision request identified as SW-21-01.”

Sample Motion to POSTPONE:

“I move to POSTPONE request SW-21-01 until _____ to allow time for _____.”
(DATE) (ACTION/EVENT)

Planning Commission
County of Prince George, Virginia

Resolution

At a regular meeting of the Planning Commission of the County of Prince George, held in the Boardroom, Third Floor, County Administration Building, 6602 Courts Drive, Prince George, Virginia this 18th day of November, 2021:

Present:

Floyd M. Brown, Chair
V. Clarence Joyner, Jr., Vice-Chair
Alex Bresko, Jr.
Roy Stephen Brockwell
James A. Easter
Imogene S. Elder
Joseph E. Simmons

Vote:

A-2

On motion of ____ ____, seconded by ____ ____, which carried by a vote of ____ to ____, the following Resolution was adopted:

RESOLUTION: Approval of SUBDIVISION WAIVER REQUEST SW-21-01 - Request of Timothy and Taira Cibula for a minor subdivision exception as set out in § 82-31 and § 82-351 and authorized under § 70-208, to permit a minor subdivision creating one additional lot of no less than five acres without connecting to public water and sewer systems, from a parcel located in the Prince George Planning Area and within a R-A zoning district, and with the remainder tract meeting applicable zoning requirements. The subject property is known as tax map 150(0A)00-031-0 and is located at 11201 Merchants Hope Road.

WHEREAS, Subdivision Ordinance Section 70-768(a) of the Code of Prince George County requires that public water and sewage systems are to be provided and built in accordance with the county's water and wastewater utility ordinances; and

WHEREAS, Sections 82-75 and 82-395 of the County's Utilities Ordinance require that when any development is proposed to be located within the Prince George Planning Area, the developer shall design and construct at their expense public water and wastewater systems to serve their development and expand as necessary improvements and extend the county facilities to serve their property; and

WHEREAS, Sections 82-31 and 82-351 of the Utilities Ordinance defines the term "development", which states that the term "development" shall not include a minor subdivision creating one additional lot of no less than five acres from parcels in the Prince George Planning Area within R-A and A-1 districts existing as of September 1, 2011 provided that such division is authorized under section 70-208 and any remainder tract meets applicable zoning requirements; and

WHEREAS, the Comprehensive Plan for Prince George County designates the Prince George Planning Area (PGPA) as the planned growth area for dense, suburban type development and states

that it will be necessary to have water and wastewater infrastructure installed in the PGPA to provide for the anticipated commercial, industrial and residential growth; and

WHEREAS, the existing public water system and the existing public sewer system are located approximately 4 miles and 2.5 miles, respectively, away from the proposed subdivision, and would require a new pump station and connection to the public force main; and

WHEREAS, Section 70-208 of the Subdivision Ordinance authorizes the Planning Commission to approve a minor subdivision exception as set out in section 82-31 and section 82-351; and

WHEREAS, the Commission finds that in the case of this request,

1. Strict adherence to the normal subdivision requirements would result in substantial hardship or injustice upon the applicant; and
2. There is no prejudice to the health and safety of the surrounding citizens; and
3. The remainder tract meets applicable zoning requirements; and

WHEREAS, adjacent property owners were mailed a notice of this request by U.S. Mail and provided opportunity to comment on this request; and

WHEREAS, if the applicant does not accept the Planning Commission's decision or the approved conditions for the request, then they may make appeal to the Prince George County Board of Supervisors.

NOW THEREFORE, BE IT RESOLVED that the Planning Commission of the County of Prince George, after careful consideration, hereby approves this subdivision waiver request of Timothy and Taira Cibula for a minor subdivision of no less than 5 acres to be divided from parcel 150(0A)00-031-0 without the requirement to connect the newly divided parcel to public water and sewer systems, and subject to the following conditions:

1. Private water and septic are permitted, with Virginia Department of Health approval, on the newly divided parcel to serve permitted uses.
2. Any further development will require connection to the public utilities in accordance with the County Code.
3. Should public utilities be extended in the future, the newly divided parcel will be required to connect to the public utilities at that time and pay all associated connection fees, in accordance with applicable County Code requirements.
4. The subdivision plat that may be approved with this waiver shall meet all other applicable requirements as approved by the Subdivision Agent.

A Copy Teste:

Floyd M. Brown, Sr.
Chair, Prince George County Planning Commission



PLANNING COMMISSION STAFF REPORT

Public Meeting – November 18, 2021

SW-21-01 – Subdivision Waiver: Minor Subdivision Exception

Applicant: Timothy and Taira Cibula

Case Manager: Tim Graves - (804)722-8678

I. Request Summary

The applicants would like to subdivide a 30-acre parcel from a 240.5-acre parcel, leaving a 210.5-acre remainder parcel. The County Code requires that the divided parcels be connected to public water and sewer systems since the division is considered “development” within the Prince George Planning Area.

The applicants are requesting a waiver of this requirement. This waiver request is known as a “minor subdivision exception” as authorized under Section 70-208 of the Subdivision Ordinance. This request requires consideration and approval by the Planning Commission.

II. Property

Address: TBD

Tax Map: 150(0A)00-031-0

Site Size:

240.5 acres (30-ac division proposed)

Legal Owner:

Timothy and Taira Cibula

Zoning District: R-A and R-2

Current Use: Agriculture

Comp Plan Land Use: Residential

Planning Area: Prince George Planning Area

Previous Zoning Cases: None

III. Meeting Information

Planning Commission Meeting: November 18, 2021 (NOTE: Not a public hearing)

Board of Supervisors Meeting: TBD only if the Planning Commission decision is appealed

IV. Background and Planning & Zoning Division Comments

1. The applicants submitted a subdivision application identified as S-21-26 on 9-17-21 showing a division of 30 acres from 240.5 acres, leaving a remainder tract of 210.5 acres.
2. The County’s ordinances require that the subdivided parcels be connected to public water and sewer systems at the developer’s (subdivider’s) expense. The trail of ordinance requirements is as follows:
 - a. Subdivision Ordinance Section 70-768(a) requires that public water and sewage systems are to be provided and built in accordance with the county's water and wastewater utility ordinances.
 - b. Sections 82-75 and 82-395 of the county’s Utilities Ordinance require that when any development is proposed to be located within the Prince George Planning Area, the developer shall design and construct at their expense public water and wastewater systems to serve their development and expand as necessary improvements and extend the county facilities to serve his property.
 - c. Sections 82-31 and 82-351 of the Utilities Ordinance defines the term “development”. Part of the definition states that the term "development" shall not include a minor subdivision creating one additional lot of no less than five acres from parcels in the Prince George Planning Area within R-A and A-1 districts existing as of September 1, 2011 provided that such division is authorized under section 70-208 and any remainder tract meets applicable zoning requirements.

- d. Section 70-208 of the Subdivision Ordinance authorizes the Planning Commission to approve a minor subdivision exception set out in section 82-31 and section 82-351.
3. The Comprehensive Plan for Prince George County designates the Prince George Planning Area as the planned growth area for dense, suburban type development and states that it will be necessary to have water and wastewater infrastructure installed in the PGPA to provide for the anticipated commercial, industrial and residential growth.
4. Per the comments from the Utilities Director, the existing public water system and the existing public sewer system are located approximately 4 miles and 2.5 miles, respectively, away from the proposed subdivision.
5. The applicants are requesting the exception authorized under Section 70-208 so that they can subdivide one parcel of land from a larger parcel, on which they intend to build a new single-family dwelling connected to a private well and a private septic system, and not the public water and sewer systems as described in the ordinance requirements.
6. The applicants provided additional details to support their request in their application materials.
7. The lots on the submitted plat meet the general requirements of the zoning ordinance and the plat will need to be revised to meet applicable subdivision ordinance and zoning ordinance requirements.
8. If the subdivision waiver request is approved by the Planning Commission, the plat will also need to contain appropriate notation referencing the waiver and addressing the requirements that apply to future divisions of the property.
9. The submitted plat is titled "Cibula Family Division". A copy is provided with this Staff Report. Since this is not a legal family division transfer, the plat will be retitled prior to approval by the Subdivision Agent.

V. Supplemental Staff Review Comments

Utilities Department - Frank Haltom, Director of Engineering and Utilities

1. The existing public water is approximately 4 miles from the subject subdivision. The existing public sewer is approximately 2.5 miles from the subject subdivision and would require a new pump station and connection to the public force main.
2. Please note, should the waiver be approved, any further development of the parcel would require connection to the public utilities.
3. Should public utilities be extended in the future, the new parcel will be required to connect to the public utilities at that time and pay all associated connection fees.
4. The utility department has no objections to the approval of the waiver request with the conditions listed above.

VI. Public Notice and Community Feedback

- Staff notified adjacent property owners by U.S. Mail sent November 4, 2021.
- The applicant reviewed a copy of this report prior to the Planning Commission hearing date.
- No comments from the community were received prior to finalizing this report.

VII. Staff Recommendation

Given that this request is for an exception to the standard ordinance requirements, and is therefore similar to a variance request to the Board of Zoning Appeals, Staff is not providing a recommendation on approval or disapproval. If the Commission wishes to approve this request, it is required to find that the request meets the criteria provided for in the ordinance (copied below and in the draft resolution). Staff has prepared a draft resolution for the Commission to use if it deems this request worthy of approval.

Criteria for this type of request:

- A. Strict adherence to the normal subdivision requirements would result in substantial hardship or injustice upon the applicant.
- B. There is no prejudice to the health and safety of the surrounding citizens.
- C. The remainder tract meets applicable zoning requirements.

VIII. Recommended Conditions

Staff has recommended the below conditions to accompany this Subdivision Waiver request based on comments from the Utilities Director and the other applicable requirements in the Subdivision Ordinance. The Applicant has reviewed and supports these conditions.

- 1. Private water and septic are permitted, with Virginia Department of Health approval, on the newly divided parcel to serve permitted uses.
- 2. Any further development will require connection to the public utilities in accordance with the County Code.
- 3. Should public utilities be extended in the future, the newly divided parcel will be required to connect to the public utilities at that time and pay all associated connection fees, in accordance with applicable County Code requirements.
- 4. The subdivision plat that may be approved with this waiver shall meet all other applicable requirements as approved by the Subdivision Agent.



SUBDIVISION WAIVER REQUEST

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

OFFICE USE ONLY

APPLICATION #:

SW-21-01

DATE SUBMITTED:

RECEIVED
SEP 22 2021
BY: [Signature]

PLEASE FILL IN ALL BLANKS BELOW

REQUEST

TYPE OF WAIVER REQUESTED: (As authorized by Section 70-208 – Check one)

☒ Minor subdivision exception Section 82-31 / 82-351

☐ Chapter 70 Article VII Standard (provide code reference): _____

ATTACHMENTS: (Check all that apply)

☒ APPLICANT STATEMENT (REQUEST DETAILS)*

Attach additional document(s) to provide details about your request. At a minimum, describe your goals and describe why the situation is unusual or why a strict adherence to the general regulations in this ordinance would result in substantial injustice or hardship, per Section 70-208. - Also see email

☒ PLAT REVIEW APPLICATION* (Application #: 5-21-26)

☐ APPLICABLE LEGAL DOCUMENTS OR AFFIDAVITS FROM DIRECTLY AFFECTED PARCEL OWNERS

For requests involving private roads or if otherwise applicable, attach document(s) such as a letter, deed of easement, draft road maintenance agreement, etc. that indicate agreement or acceptance from directly affected property owners.

☐ OTHER: _____ * Required

REQUEST TAX PARCELS: (List all parcel numbers for the request property)

150 (0A) 00-031-0

OWNER

NAME(S):

Timothy Cibula and Tarra Cibula

MAILING ADDRESS: (Incl. City, State, Zip)

1113 Collingwood Drive North Prince George, VA 23860

E-MAIL:

BVFD4264@yahoo.com

PHONE:

804-892-6506

APPLICANT

NAME(S): (If different than owner)

Same AS above ↑

RELATION TO OWNER:

↑

MAILING ADDRESS: (Incl. City, State, Zip)

↑

E-MAIL:

↑

PHONE:

↑

OFFICE USE ONLY (Completed at the time of accepting application)

COMMENTS:

See attached email for more information.

IDENTIFY & LIST OTHER PARCELS AFFECTED:

N/A

OWNER AFFIDAVITS (Attach multiple sheets if necessary)

REQUEST PROPERTY OWNER(S) / AGENT STATEMENT

The undersigned Property Owner(s) or 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.

OWNER / AGENT NAME:

Timothy P Cibula

OWNER / AGENT NAME :

Taira Cibula

SIGNATURE:

Timothy P Cibula

SIGNATURE:

Taira Cibula

DATE: 9-22-21

DATE: 9-22-21

NOTARIZATION:

STATE OF VIRGINIA

COUNTY OF: Prince George

Subscribed and sworn before me this 22nd day of September, 20 21.

Laura Greaves-Smith
Notary Public

My Commission expires: April 30, 2025



AFFIDAVIT

Tim Graves

From: Timmy Cibula <bvfd4264@yahoo.com>
Sent: Wednesday, September 22, 2021 12:26 PM
To: Tim Graves
Cc: Missy Greaves-Smith; Brooke Brand
Subject: Re: Need clarification regarding your waiver request

Hi Tim, I am responding back to your specific questions regarding our requested waiver for water and sewer, please find my answers below each copied question.

- Why do you want to subdivide a new lot off from the farm?

We need to be able to maintain our live stock , crops and personal belonging on our property without having our dwelling in another location requiring travel dally that interferes with our work scheduled making maintenance non feasible at certain hours of the day/ night. Also, due to financial purposed addresses on the next question.

- Why can't you can't you build a house on the existing farm lot as it stands today?

We are not in a financial position to be able to afford to pay off our farm nor for a home in full. We operate and own a Farming business which requires collateral for our operating loan. Our collateral for operation is our farm. We do not want our home dwelling included as collateral for our business. If it is connected to the same lot we do not have any protection for our home if any unfortunate circumstances should arise.

- Why can't you or why do you not want to extend a public water and sewer utility lines to serve the proposed subdivided property?

Per PG Utilities Department, there is not water or sewer provided in the area of our farm.

- How far away is the nearest public water line that you would have to connect to? (contact the utilities department)

Per PG Utilities Department , there is not water or sewer near by to consider. No referencing location was available to be provided.

- How far away is the nearest public sewer line that you would have to connect to? (contact the utilities department)

Per PG Utilities Department , there is not water or sewer near by to consider. No referencing location was available to be provided.

Hope these answers clarify our request.

Thank you,

Taira and Timothy Cibula

Sent from Yahoo Mail for iPhone

9/17/21

Dear County of Prince George,

I am writing this letter per requirements for our subdivision waiver request. I do not understand all of the technical terms and codes that are in place for development or zoning, so please forgive me for addressing my request in such vague language.

Simply put, my husband and I have desired to live on our farm since before the day it was officially purchased. I remember the first day I went to see the farm and what a huge mess of overgrown weeds, vines, and junk it was. There were trees growing through buildings, fences barely visible covered in vines, and piles of junk taller than some of the fallen over barns. Even then I remember standing with my husband and talking about the visions we had for the place. We talked about what it must have looked like years ago and how much work it needed, but what potential it had and what a beautiful home it would one day make.

For the last two years we have worked endlessly, before sun-up until many late hours of the night tending to bring our farm back to life. The place that was overgrown with junk, vine and weeds is far from our vision, but is also so far from where it was. Few things happen overnight. We are aware of the upkeep and work we still have cut out for us.

We currently are unable to live on our farm, as there is not existing livable space currently. We have discussed nearly every option possible to allow us to live on our property, however we have run into road blocks every where we turn. To be able to live on our property will require us to take out loans any route we go. For security and financial purposes, it would only be wise than we have a lot divided from the main farm acres. We want our house on our property so that we can raise our children at the place we have been working so hard to make a home. Traveling daily to the property to care for our livestock, tend to our gardens and crops becomes very inconvenient. Much of our farm equipment is stored on our property, we would also like to be able to live where our belongings are. Although, we are grateful to already be residents of Prince George County, having our home on the property we own would be ideal for many reasons. Also, our land remains in our children's current school district which is great.



We intend to begin establishing our home on our property in Prince George as soon as the lot we have requested be broken off is completed. I understand that there are proper steps that doing such requires, however, we want to have this process simple and fast as possible. There should be no reason any exceptions needed, can't be. We have followed and completed every step we have been advised of thus far. Life is short and we don't want to waste any more time than we must. We have worked so hard for this and are so excited to be able to some day finally reap the rewards.

Thank you for your time and consideration,

The Cibula Family,

Taira Cibula & Timmy Cibula

804-971-8794

SUMMARY OF RELEVANT COUNTY CODE SECTIONS FOR A SUBDIVISION WAIVER REQUEST

CHAPTER 70 – SUBDIVISIONS – Article II. - Administration

Sec. 70-208. Waivers authorized.

- (a) In cases of unusual situations or where strict adherence to the general regulations in this ordinance would result in substantial injustice or hardship, the commission may waive standards contained in article VII of this ordinance and approve the minor subdivision exception set out in section 82-31 and section 82-351, under the terms, procedures, and conditions established in this ordinance. No waiver shall be granted which is illegal or which would prejudice the health and safety of citizens of the county.

Sec. 70-208.2. Waiver process.

- (a) Each request for a waiver from the terms of this ordinance shall be made in writing by the subdivider, stating specifically the provision from which the waiver is requested, and the grounds therefore. Where possible, the subdivider should submit a request for a waiver with the preliminary plat submission. All waiver requests shall be accompanied by such plats, drawings, and engineering documents required by the agent to allow the commission to understand and act on the waiver.

Sec. 70-208.4. Authority to grant waiver.

- (a) The commission shall review, then approve or disapprove any request for a waiver.

Sec. 70-208.6. Time period for consideration of waiver request; notice.

- (a) The commission shall take action on a request for a waiver within 60 days after the application is forwarded to the commission. At least ten days prior to final action, the commission shall give written notice by regular mail or by delivery to landowners adjoining the plat involved in the request.

Sec. 70-208.8. Action on waiver request.

- (a) The commission shall grant or deny each request in writing, stating the reasons therefore. The action of the commission shall be final. As to each waiver, the commission shall preserve and record the application and the basis for the waiver or denial of the waiver.

CHAPTER 70 – SUBDIVISIONS – Article VII. – Requirements for Designs Standards and Public Improvements

Sec. 70-768. Public water and sanitary systems required.

- (a) Public water and sewage systems are to be provided and built in accordance with the county's water and wastewater utility ordinances.
- (b) In those instances where private water and sewage systems are permitted by the county's water and wastewater utility ordinance, the subdivision agent shall not approve any subdivision where sanitary sewers and public water supplies are not provided unless the agent shall receive in writing from the health officer a statement to the effect that the area contained in the subdivision is satisfactory for the installation of septic tanks and private wells, and that they will not, so far as can be determined, create hazards to public health.

CHAPTER 82 – UTILITIES – Article II. – Water Service

Sec. 82-31. Definitions.

Development means any industrial or commercial use which will have a water consumption or a wastewater flow equal to or greater than 15 equivalent dwelling units (EDUs) or any residential subdivision, being proposed on any tract of land under single ownership or unified control. The term "development" shall not include subdivisions approved under chapters 70 and 90 for development under residential estates zoning prior to July 1, 1988. The term "development" shall also not include any property previously zoned for residential development having a density greater than that permitted by the residential estates zoning classification, provided that:

- (1) Application for rezoning to residential estates had been submitted prior to July 1, 1988;
- (2) Such application is approved by the board of supervisors and the property rezoned to residential estates;
- (3) A tentative subdivision plat depicting development consistent with the residential estates zoning classification had been filed prior to July 1, 1988;
- (4) The plat is approved and recorded in accordance with chapter 70; and
- (5) The property is developed in accordance with residential estates zoning classification.

The term "development" shall also include subdivisions in the A-1 general agricultural zoning district regardless of size if they are located within the county planning area as adopted in the comprehensive plan in 1986. The term "development" shall not include subdivisions in the A-1 general agricultural zoning district involving lots five acres or larger in size or five acres or larger in size in the R-A residential-agricultural district in the rural conservation district. The term "development" shall not include a minor subdivision creating one additional lot of no less than five acres from parcels in the Prince George Planning Area within R-A and A-1 districts existing as of September 1, 2011 provided that such division is authorized under section 70-208 and any remainder tract meets applicable zoning requirements. The term "development" shall not include subdivisions created under the family division provisions of the subdivision ordinance [chapter 70].

Sec. 82-75. Development within the Prince George Planning Area.

- (a) When any development is proposed to be located within the Prince George Planning Area, as shown in the most recently adopted comprehensive plan, the developer shall design and construct at his expense a public water distribution system to serve his development and shall design and construct at his expense water system improvements to expand as necessary and extend the county facilities to his property. Groundwater source systems will not be allowed to be extended for residential

subdivisions within the county planning area unless plans for the extension of such system were received and reviewed by the utility department prior to the adoption of the County Code on May 2005. Upon completion and approval of the system by the county, it shall be conveyed to the county.

CHAPTER 82 – UTILITIES – Article III. – Wastewater Service

Sec. 82-351. Definitions.

Development means any industrial or commercial use which will have a water consumption or a wastewater flow equal to or greater than 15 equivalent dwelling units (EDUs) or any residential subdivision, being proposed on any tract of land under single ownership or unified control. The term "development" shall not include subdivisions approved under chapters 70 and 90 for development under residential estates zoning prior to July 1, 1988. The term "development" shall also not include any property previously zoned for residential development having a density greater than that permitted by the residential estates zoning classification, provided that:

- (1) Application for rezoning to residential estates had been submitted prior to July 1, 1988;
- (2) Such application is approved by the board of supervisors and the property rezoned to residential estates;
- (3) A tentative subdivision plat depicting development consistent with the residential estates zoning classification had been filed prior to July 1, 1988;
- (4) The plat is approved and recorded in accordance with chapter 70, subdivisions; and
- (5) The property is developed in accordance with the residential estates zoning classification.

The term "development" shall also include subdivisions in the A-1 general agricultural zoning district regardless of size if they are located within the county planning area as adopted in the comprehensive plan in 1986. The term "development" shall not include subdivisions in the A-1 general agricultural zoning district involving lots five acres or larger in size or five acres or larger in size in the R-A residential-agricultural district in the rural conservation district. The term "development" shall not include a minor subdivision creating one additional lot of no less than five acres from parcels in the Prince George Planning Area within R-A and A-1 districts existing as of September 1, 2011 provided that such division is authorized under section 70-208 and any remainder tract meets applicable zoning requirements. The term "development" shall not include subdivisions created under the family division provisions of the subdivision ordinance [chapter 70].

Sec. 82-395. Development within the Prince George Planning Area.

- (a) When any development is proposed to be located within the Prince George Planning Area, as shown in the most recently adopted comprehensive plan, the developer shall design and construct at his expense a public wastewater collection system to serve his development and shall design and construct at his expense a sewer system to extend and expand as necessary improvements to expand as necessary and extend the county facilities to serve his property. Upon completion and approval of the system by the county, it shall be conveyed to the county. Stand-alone or independent wastewater treatment facilities will not be allowed to be constructed within the Prince George Planning Area to meet the requirements of this section.



County of Prince George, Virginia
"A global community where families thrive and businesses prosper"

November 4, 2021

PLANNING COMMISSION MEETING NOTICE

Dear owner, agent or occupant of each parcel that is abutting, immediately across the street or road, or within close proximity of the property affected:

This is notification that the Prince George County Planning Commission will hold a meeting on **Thursday, November 18, 2021 beginning at 6:30 pm** in the Board Room, located on the third floor of the County Administration Building, 6602 Courts Drive, Prince George, Virginia. During the meeting, the Commission will consider the following request that involves the Prince George County Subdivision Ordinance:

SUBDIVISION WAIVER SW-21-01: Request of Timothy and Taira Cibula for a minor subdivision exception as set out in § 82-31 and § 82-351 and authorized under § 70-208, to permit a minor subdivision creating one additional lot of no less than five acres without connecting to public water and sewer systems, from a parcel located in the Prince George Planning Area and within a R-A zoning district, and with the remainder tract meeting applicable zoning requirements. The subject property is known as tax map 150(0A)00-031-0 and is located at 11201 Merchants Hope Road.

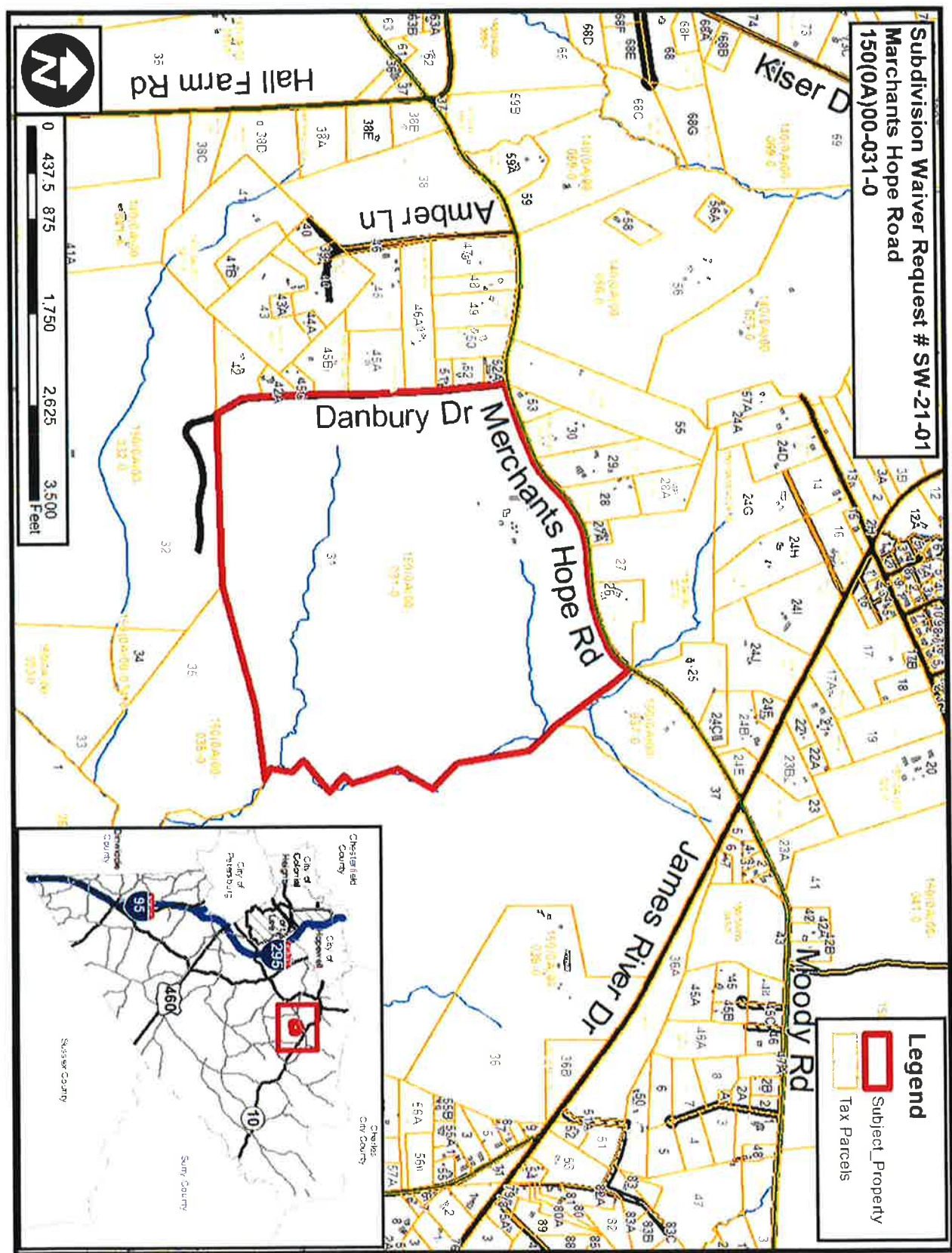
This notification is being sent to you because your property adjoins the subject property. We have included a GIS Map showing the general location of the request. This letter is for informational purposes and there is no obligation for you to respond back to the County. If you would like, you may attend the meeting, which will be held in the Board Room, third floor, County Administration Building, 6602 Courts Drive, Prince George, Virginia 23875. A copy of the related material may be reviewed or obtained at the Community Development and Code Compliance Department in the County Administration Building between 8:30 a.m.-5:00 p.m., Monday–Friday. All interested persons are invited to participate in the public comment section of the meeting in person or electronically by Zoom. A live video stream will be available via Swagit at https://www.princegeorgecountyva.gov/live_stream/.

Public comments can be submitted prior to 5:00 p.m. on November 18, 2021. Public Comment submittal forms and information on accessing this meeting electronically are available at <https://www.princegeorgecountyva.gov>. You may also contact Planning and Zoning Division at (804)722-8678 or by e-mail at planning@princegeorgecountyva.gov with any questions prior to the scheduled meeting.

Sincerely,

A handwritten signature in blue ink that reads "Tim Graves".

Tim Graves
Planner



P.O. Box 68 – 6602 Courts Drive, Prince George, VA 23875

Phone: 804.722.8659 - Fax: 804.722.0702

www.princegeorgecountyva.gov

RAYNOR JAMES F & SHELBY J
4048 DANBURY DR
NORTH PRINCE GEORGE, VA 23860

HARTMAN RICHARD F & TAMMY J
4040 DANBURY DR
NORTH PRINCE GEORGE, VA 23860

KINGERY FRANK R & BETH D
PO BOX 1054
HOPEWELL, VA 23860

CLACK DONALD A & ELLEN W
3950 DANBURY DR
NORTH PRINCE GEORGE, VA 23860

GALDERISE THOMAS J & GRETCHEN C
3712 AMBER LN
NORTH PRINCE GEORGE, VA 23860

MILLER JAMES E III & CYNTHIA S
3706 DANBURY DR
NORTH PRINCE GEORGE, VA 23860

COGHILL ANDREW & ELLEN E
3700 DANBURY DR
NORTH PRINCE GEORGE, VA 23860

OWENS JOHNNIE K JR
11001 MERCHANTS HOPE RD
NORTH PRINCE GEORGE, VA 23860

TILMON DOROTHY A
11020 MERCHANTS HOPE RD
NORTH PRINCE GEORGE, VA 23860

EDWARDS DOUGLAS L
2011 GRANT ST
HOPEWELL, VA 23860

CROWDER DOLLY B
11606 MERCHANTS HOPE RD
N PRINCE GEORGE, VA 23860

MERCHANTS HOPE CHURCH
11500 MERCHANTS HOPE RD
NORTH PRINCE GEORGE, VA 23860

MARANATHA LTD
11302 MERCHANTS HOPE RD
NORTH PRINCE GEORGE, VA 23860

COKER LANCE
11206 MERCHANTS HOPE RD
NORTH PRINCE GEORGE, VA 23860

BEAVER DAVID R & SHARON P
11200 MERCHANTS HOPE RD
NORTH PRINCE GEORGE, VA 23860

WARD LEWIS RUSSELL JR
11108 MERCHANTS HOPE RD
NORTH PRINCE GEORGE, VA 23860

WILLIAMS GEORGE ROBERT
2680 KISER DR
NORTH PRINCE GEORGE, VA 23860

CIBULA TIMOTHY P & TAIRA B
1113 COLLINGWOOD DR
NORTH PRINCE GEORGE, VA 23860

LEE KAREN M
16407 TEMPLETON RD
DISPUTANTA, VA 23842

GREEN ANN M
PO BOX 661
HOPEWELL, VA 23860

WEBBER LADONNA C
4000 DANBURY DR
NORTH PRINCE GEORGE, VA 23860

HENDRICKS KENNETH L & CAROL A
11302 MERCHANTS HOPE RD
NORTH PRINCE GEORGE, VA 23860



ORDINANCE TO AMEND "THE CODE OF THE COUNTY OF
PRINCE GEORGE, VIRGINIA", 2005, AS AMENDED, BY
ADDING § < > BATTERY ENERGY STORAGE SYSTEM LAW

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

- (1) *That The Code of the County of Prince George, Virginia, 2005, as amended, is amended by adding § < >, as follows:*

CHAPTER < >

Sec. < >

1. Authority

This Battery Energy Storage System Ordinance is adopted pursuant to the Code of Virginia, § 15.2-2280, of the Commonwealth of Virginia, which authorizes the County of Prince George to adopt zoning provisions that advance and protect the health, safety and welfare of the community.

2. State of Purpose

This Battery Energy Storage System Ordinance is adopted to advance and protect the public health, safety, welfare, and quality of life of the County of Prince George by creating regulations for the installation and use of battery energy storage systems, with the following objectives:

- A. To provide a regulatory scheme for the designation of properties suitable for the location, construction and operation of battery energy storage systems;
- B. To ensure compatible land uses in the vicinity of the areas affected by battery energy storage systems;
- C. To mitigate the impacts of battery energy storage systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources; and
- D. To create synergy between battery energy storage system development and the surrounding community.

3. Definitions

As used in this Chapter, the following terms shall have the meanings indicated:

ANSI: American National Standards Institute

BATTERY(IES): A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this law, batteries utilized in consumer products are excluded from these requirements.

BATTERY ENERGY STORAGE MANAGEMENT SYSTEM: An electronic system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected.

BATTERY ENERGY STORAGE SYSTEM: One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1 or Tier 2 Battery Energy Storage System as follows:

- A. Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 600kWh and, if in a room or enclosed area, consist of only a single energy storage system technology.
- B. Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 600kWh or are comprised of more than one storage battery technology in a room or enclosed area.

CELL: The basic electrochemical unit, characterized by an anode and cathode, used to receive, store, and deliver electrical energy.

COMMISSIONING: A Systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.

DEDICATED-USE BUILDING: A building that is built for the primary intention of housing battery energy storage system equipment, is classified as Group F-1 occupancy as defined in the latest adopted editions of the Virginia Uniform Statewide Building Code (“USBC”) and the International Building Code, and complies with the following:

- 1) The building’s only use is battery energy storage, energy generation, and other electrical grid-related operations.
- 2) No other occupancy types are permitted in the building.
- 3) Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.
- 4) Administrative and support personnel are permitted in areas within the buildings that do not contain battery energy storage system, provided the following:
 - a) The areas do not occupy more than 10 percent of the building area of the story in which they are located.
 - b) A means of egress is provided from the administrative and support use areas to the public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy system equipment.

ENERGY CODE: The Virginia USBC Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

FIRE CODE: The fire code sections of the USBC and the Virginia Statewide Fire Prevention Code, as currently in effect and as hereafter amended from time to time.

NATIONALLY RECOGNIZED TESTING LABORATORY (NRTL): A U.S. Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

NEC: National Electric Code.

NFPA: National Fire Protection Association.

NON-DEDICATED-USE BUILDING: All buildings that contain a battery energy storage system and do not comply with the dedicated-use building requirements.

NON-PARTICIPATING PROPERTY: Any property that is not a participating property.

NON-PARTICIPATING RESIDENCE: Any residence located on non-participating property.

OCCUPIED COMMUNITY BUILDING: Any building in Occupancy Group A, B, E, I, R, as defined in the USBC and/or the International Building Code, including but not limited to schools, colleges, daycare facilities, hospitals, correctional facilities, public libraries, theaters, stadiums, apartments, hotels, and houses of worship.

PARTICIPATING PROPERTY: A battery energy storage system host property or any real property that is the subject of an agreement that provides for the payment of monetary compensation to the landowner from the battery energy storage system owner (or affiliate) regardless of whether any part of a battery energy storage system is constructed on the property.

UNIFORM CODE: The Virginia Uniform Statewide Building Code adopted pursuant to § 36-98 of the Code of Virginia, as currently in effect and as hereafter amended from time to time.

4. Applicability

- A. The requirements of this Ordinance shall apply to all battery energy storage systems permitted, installed, or modified in the County of Prince George after the effective date of this Ordinance, excluding general maintenance and repair.
- B. Battery energy storage systems constructed or installed prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance.
- C. Modifications to, retrofits or replacements of an existing battery energy storage system that increase the total battery energy storage system designed discharge duration or power rating shall be subject to this Ordinance.

5. General Requirements

- A. All battery energy storage system installations shall comply with site plan requirements in accordance with Section 90-824.
- C. All battery energy storage systems, all Dedicated Use Buildings, and all other buildings or structures that (1) contain or are otherwise associated with a battery energy storage system and (2) subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the Code of the County of Prince George.

6. Permitting Requirements for Tier 1 Battery Energy Storage Systems

Tier 1 Battery Energy Storage Systems shall be permitted in all zoning districts, subject to the Uniform Code and are exempt from separate site plan review.

7. Permitting Requirements for Tier 2 Battery Energy Storage Systems

Tier 2 Battery Energy Storage Systems are permitted through the issuance of a Special Exception by the Board of Supervisors within the M-1, M-2, M-3, A-1 and R-A zoning districts, and shall be subject to the Special Exception application process, the USBC, and the site plan application requirements set forth in this Section. All applications shall address at a minimum the following items:

- A. Utility Lines and Electrical Circuitry. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.
- B. Signage.
 - 1) The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including reach-back phone number.
 - 2) As required by the NEC, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
- C. Lighting. Lighting of the battery energy storage systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.
- D. Vegetation and tree-cutting. Areas within 20 feet on each side of Tier 2 Battery Energy Storage Systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be exempt provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.
- E. Noise. The average noise generated from the battery energy storage systems, components, and associated ancillary equipment at any time shall not exceed a noise level of 20 dBA as measured at the outside wall of any non-participating residence or occupied community building. Applicants may submit equipment and component manufacturers' noise ratings to demonstrate compliance. The applicant may be required to provide Operating Sound Pressure Level measurements from a reasonable number of sampled locations at the perimeter of the battery energy storage system to demonstrate compliance with this standard.
- F. Decommissioning.

1) Decommissioning Plan. The applicant shall submit a decommissioning plan to be implemented upon abandonment and/or in conjunction with removal from the facility. The decommissioning plan shall include:

- a. A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all battery energy storage system components, structures, equipment, security barriers, and transmission lines from the site;
- b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;
- c. The anticipated life of the battery energy storage system;
- d. The estimated decommissioning costs and how said estimate was determined;
- e. The method of ensuring that funds will be available for decommissioning and restoration;
- f. The method by which the decommissioning cost will be kept current;
- g. The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed; and
- h. A listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.

2) Decommissioning fund. The owner and/or operator of the energy storage system shall continuously maintain the fund or bond payable to the County of Prince George, in a form approved by the County of Prince George for the removal of the battery energy storage system, in an amount to be determined by the County of Prince George, for the period of the life of the facility. This fund may consist of a letter of credit from a State of New York licensed-financial institution. All costs of the financial security shall be borne by the applicant.

H. Site plan application. For a Tier 2 Battery Energy Storage System requiring a Special Exception / Special Use Permit, site plan approval shall be required. Any site plan application shall include the following information in addition to the items listed in Section 90-824:

- 1) Property lines and physical features, including roads, for the project site.
- 2) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
- 3) A three-line electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
- 4) A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that

are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.

- 5) Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the battery energy storage system. Such information of the final system installer shall be submitted prior to the issuance of building permit.
- 6) Name, address, phone number, and signature of the project Applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the battery energy storage system.
- 7) Zoning district designation for the parcel(s) of land comprising the project site.
- 8) Commissioning Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in the all applicable codes. Battery energy storage system commissioning shall be conducted by a Virginia Licensed Professional Engineer after the installation is complete but prior to final inspection and approval. A report describing the results of the system commissioning and including the results of the initial acceptance testing shall be provided prior to final inspection and approval and maintained at an approved on-site location.
- 9) Fire Safety Compliance Plan.
- 10) Operation and Maintenance Manual. Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information.
- 11) Erosion and sediment control and storm water management plans.
- 12) Emergency Operations Plan.
 - a. Procedures for safe shutdown, deenergizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
 - b. Procedures for inspection and testing of associated alarms, interlocks, and controls.
 - c. Procedures to be followed in response to notifications from the Battery Energy Storage Management System, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.
 - d. Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.
 - e. Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
 - f. Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.
 - g. Water containment plan.

- h. Other procedures as determined necessary by the County of Prince George to provide for the safety of occupants, neighboring properties, and emergency responders.
- i. Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.

I. Special Exception / Use Permit Standards.

- 1) Setbacks. Tier 2 Battery Energy Storage Systems shall comply with the setback requirements of the underlying zoning district for principal structures or 100 feet, whichever is greatest.
- 2) Lot size. Tier 2 Battery Energy Storage Systems shall have a minimum lot size of 5 acres and maximize buffer areas to adjoining properties regardless of lot topography. Facilities shall be sited to avoid wetlands, floodplains, and any other environmental concerns.
- 2) Height. Tier 2 Battery Energy Storage Systems shall comply with the building height limitations for principal structures of the underlying zoning district.
- 3) Fencing Requirements. Tier 2 Battery Energy Storage Systems, including all mechanical equipment, shall be enclosed by a 7-foot-high security type fence with a self-locking gate to prevent unauthorized access unless housed in a secure, dedicated-use building and not interfering with ventilation or exhaust ports.
- 4) Screening and Visibility. Tier 2 Battery Energy Storage Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area and not interfering with ventilation or exhaust ports.

- J. Ownership Changes. If the owner of the battery energy storage system changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the battery storage system shall notify the County Planning Division and County Attorney of such change in ownership or operator within 30 days of the ownership change. A new owner or operator must provide such notification to the County in writing. The special exception / special use permit and all other local approvals for the battery energy storage system would be void if a new owner or operator fails to provide written notification to the County in the required timeframe. Reinstatement of a void special use permit will be subject to the same review and approval process for new applications under this Ordinance.

- K. Copy of provider service agreement with energy/utility provider.

8. Safety

- A. System Certification. Battery energy storage systems and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for battery energy storage

systems and Equipment) or approved equivalent, with subcomponents meeting each of the following standards as applicable:

- 1) UL1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications),
- 2) UL 1642 (Standard for Lithium Batteries),
- 3) UL 1741 or UL 62109 (inverters and Power Converters),
- 4) Certified under the applicable electrical, building, and fire prevention codes as required.
- 5) Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 (or approved equivalent) and applicable codes, regulations and safety standards may be used to meet system certification requirements.

B. Site Access. Battery energy storage systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including access maintenance, repair, and snow removal at a level acceptable to the local fire department.

C. Battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.

9. Abandonment

The battery energy storage system shall be considered abandoned when it ceases to operate consistently for more than 24 months. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the County of Prince George may, as its discretion, enter the property and utilize the available bond and/or security for the removal of a Tier 2 Battery Energy Storage System and restoration of the site in accordance with the decommissioning plan.

10. Enforcement

Any violation of this Battery Energy Storage System shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the building, zoning, or land use regulations of the County of Prince George.

11. Severability

The invalidity of unenforceability of any section, subsection, paragraph sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

(2) *That the Ordinance shall be effective upon adoption.*

November 9 Meeting Recap

BOS Recognizes Eagle Scout Thomas Carden for Community and Humanitarian Activities

At its November 9 meeting, the Prince George County Board of Supervisors recognized and saluted Thomas Carden for his attainment of Eagle Scout. Thomas started his Eagle Project of the Ruritan Pavilion Flagpole Restoration/Rebuild at Scott Memorial Park in March 2020. He completed his project and held a rededication in June, 2021. Thomas' scouting career has spanned over ten years and throughout his scouting career, he has earned 50 Merit Badges with 16 of them Eagle. Thomas is an accomplished junior at Prince George High School and has received perfect attendance since kindergarten. He is a member of Boy Scouts Troop 900 out of Gregory Memorial Church in the Crater District of the Heart of Virginia Council, where he has served in the positions of Webmaster, Patrol Leader two times, Assistant Patrol Leader, Historian, Troop Guide, Assistant Senior Patrol Leader two times, and has been recently voted in as Senior Patrol Leader.

Other matters that came before the BOS at its meeting and work session:

- Received 2021 Election results.
- Received a report from the Regional Industrial Authority.
- Received an update on Public Safety projects.
- Received a report on Garage projects.
- Approved on consent an acceptance of §33.2-705 – segments of Scotland Way additions into Virginia Department of Transportation/ Secondary System of Roads Maintenance.
- Approved on consent the decommissioning of the Prince George County U.S. Census Complete Count Committee.
- Received a roads maintenance report from the Virginia Department of Transportation.
- Received a report on "RUOK" from the Senior Citizen Task Force.
- Received a report on the Exit 45 Strategic Plan.
- Unanimously authorized the advertisement of a public hearing on December 14 for an Ordinance to amend "The Code of the County of Prince George, Virginia," as amended, by amending §63-72(H) to require a road name for public and private right-of-way or

access easements accessing three or more properties or addressable structures.

- Unanimously authorized the advertisement of a public hearing on December 14 to lease a portion of the Central Wellness Center to American Legion Post 1703.
- Unanimously approved an award of contract in the amount of \$77,608.40 to Heaton's Lawn Maintenance for County grounds maintenance.
- Unanimously approved a budget amendment and appropriation to new Walton Elementary School project – General Fund, Fund Balance in the amount of \$776,308.85 and debt proceeds in the amount of \$4,092.15.
- Unanimously approved an appropriation in the amount of \$24,927.60 for the Dixie World Series proceeds to Tourism Fund.
- Unanimously approved an award of contract and appropriation from debt proceeds in the amount of \$108,572 for architectural and engineering services for the Circuit Courtroom renovation.
- Unanimously approved proposed revisions to the Prince George County Administrative Policy; Section 170.1 through 170.3, entitled *Expense Reports and Purchase Cards / Accounts*.
- Unanimously appointed Ms. Lillian Boyd and Mr. Yousef Jabri to the Industrial Development Authority.
- Unanimously appointed Ms. Deborah DeBiasi to the Crater Regional Building Code Appeals Board.
- Held a public hearing and unanimously approved a resolution authorizing the sale of County owned property located in River's Edge Subdivision on Buxton Street, Tax Map#: 15b-02-01-011-A.