



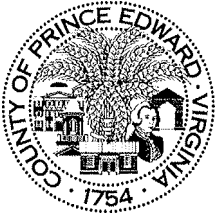
**PRINCE EDWARD COUNTY  
PLANNING COMMISSION  
November 19, 2019**

**A G E N D A**

- 7:00 p.m.
1. The Chairman will call the November 2019 meeting to order
  2. Approval of Minutes 1
  3. Review of Board of Supervisors Actions
  4. Review of Draft Solar Ordinance 5
  5. Old Business
  6. New Business

Next Meeting: December 17, 2019 at 7:00 p.m.

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County of Prince Edward  
Planning Commission  
Agenda Summary

Meeting Date: November 19, 2019  
Item No.: 2  
Department: Planning and Community Development  
Staff Contact: Wade Bartlett  
Issue: Approval of Meeting Minutes

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Summary:

Approval of Meeting Minutes - October 15, 2019

Attachments:  
Meeting Minutes

Recommendations:  
Approval

Motion \_\_\_\_\_  
Second \_\_\_\_\_  
Pregaman \_\_\_\_\_

Paige \_\_\_\_\_  
Sandlin \_\_\_\_\_  
Jenkins \_\_\_\_\_

Hunt \_\_\_\_\_  
Gilliam \_\_\_\_\_  
Leatherwood \_\_\_\_\_

Jones \_\_\_\_\_  
Watson \_\_\_\_\_  
Peery \_\_\_\_\_



He stated he used the Chesterfield Ordinance as the primary template but deleted some portions and/or added items from the other two counties.

Mr. Bartlett presented a draft zoning amendment as a first step in developing the proposed amendment. He said a section regarding wind generation activities should be discussed. Mr. Bartlett said a copy of this first draft of the proposed amendment was also sent to Mr. Plunkett for input from a solar company viewpoint.

Mr. Bartlett asked the Commission to review the document and presented several questions for consideration, such as the districts in which solar and wind farms would be permitted (A1, A2); determining boundaries of the villages of Rice, Pamplin, Prospect; and details regarding wind mills such as height, and potential disruptions to the neighbors. Discussion followed.

Chairman Prengaman said the Commission will have to define a time period during which the project must be completed and will have to determine how often the site will be inspected. Mr. Bartlett said any companies will have to complete an Erosion & Sediment Control Permit and meet Stormwater Management Program requirements, and would have to go through DEQ.

Discussion followed on wind farms. Mr. Bartlett said the best placement for wind farms is in mountain areas and along the coast.

Commissioner Leatherwood questioned taxation on these sites. Mr. Bartlett said they are covered by State Code; he said the State is looking at how to help incentivize but also allow some taxation.

Commissioner Hunt asked what this will do to the property value; Mr. Bartlett said it will likely increase the value of the property, but since there is not a lot of research, it is unknown how it will affect neighbors' property values. Discussion followed.

Mr. Bartlett then reported the Dollar General in Prospect is progressing; he stated Dollar General is about to close on the property for the store being built in Green Bay.

**In Re: Old Business**

(None)

**New Business**

(None)

Chairman Prengaman declared the meeting adjourned at 7:30 p.m.

**Next Meeting: November 19, 2019**

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**Meeting Date:** November 19, 2019  
**Item No.:** 4  
**Department:** Planning and Community Development  
**Staff Contact:** Wade Bartlett  
**Issue:** Amendment to the County's Zoning Ordinance

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**Summary:**

At the October 15, 2019 meeting of the Planning Commission, the Commission was presented a draft zoning ordinance amendment establishing a section to provide for and regulate the siting, installation, operation and decommissioning of alternative energy sources in Prince Edward County. That draft Ordinance is attached.

Mr. Davis Plunkett of Holocene Clean Energy has reviewed the draft ordinance and stated – *“We had the chance to review the draft you provided, it seems like a great framework and one I feel sure we can work within.”*

Utility Scale solar projects were the subject of considerable debate in regards to the state mandated tax exemption for these projects. There was also discussion concerning the impact on local land-use and decommissioning. It appears there may be proposed legislation that will amend the existing tax exemption status of these facilities; but the solar industry is pushing hard to maintain the existing exemptions and are trying to become exempt from local land-use regulations.

The existing state-mandated exemption for Machinery & Tool Tax are:

100% exemption for:

20 MW or less (interconnection request filed on or before December 31, 2018)

20 MW or less that serve public or private colleges. And

5 MW or less (interconnection request filed on or after January 1, 2019)

80% exemption for:

Projects greater than 20 MW (interconnection request filed before July 1, 2018)

Greater than 20 MW and less than 150 MW (interconnection request filed after July 1, 2018)

Local Option for 150 MW and above

Exemption for 20 – 150 MW sunsets January 1, 2024

Projects greater than 25MW are taxed at the Real Estate rate which is much less than M&T

**Attachments:**

Draft amendment to Zoning Ordinance - Alternative Energy Generation Facility

**Recommendations:**

Review the draft amendment and be prepared to discuss at the November 19, 2019 meeting of the Planning Commission



## ARTICLE V.II. ALTERNATIVE ENERGY FACILITIES

### Sec. 53-153 – Purpose and intent.

The intent of this ordinance is to provide for and regulate the siting, installation, operation and decommissioning of alternative energy, or “green energy,” sources in Prince Edward County in a manner that promotes safe, effective and efficient use of such facilities while protecting the safety and welfare of the community. The intent is to encourage alternative energy sources while limiting negative impacts on natural resources, including pollinator and wildlife habitats, and existing agricultural, forestal, residential, commercial, industrial, historical and recreational uses of property or the future development of property in the County. This ordinance is to provide guidance on how “green energy” may be implemented/utilized in this community. This article does not supersede or nullify any provision of local, state, or federal law that applies to alternative energy generation facilities.

### Sec. 53-154 – 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:

*Applicant.* The person or entity who submits an application to the county for a zoning permit or special use permit, as the case may be, to site, develop, construct, install, and operate an alternative generation facility under this article.

*Facility owner.* The person or entity that owns all or a portion of the alternative energy facility, whether or not it owns the site on which the facility is located.

*Integrated PV.* Photovoltaics incorporated into building materials, such as shingles.

*Large scale energy facility.* An alternative energy facility that has a maximum power of not more than 999 kW. Large energy systems are generally used to reduce onsite consumption of utility power for commercial and industrial applications.

*Operator.* The person or entity responsible for the overall operation and management of the solar energy facility, if different than the facility owner.

*Photovoltaic or PV.* Materials and devices that absorb sunlight and convert it directly into electricity.

*Previously disturbed.* Any area of a site that has undergone mechanical land-forming, construction, or demolition activities within the past 50 years.

*Project area.* The area within a site used for the construction and operation of the energy facility.

*Rated capacity.* The maximum capacity of a solar energy facility based on the sum total of each photovoltaic system’s nameplate capacity or wind generation turbine.

*Residential scale energy facility.* A facility that (1) utilizes generation equipment that is mounted on or over a building, grassy area or other previously disturbed area, and (2) has a rated capacity of 10kw or less.

*Site.* The property containing an energy facility.

*Site owner.* The person or entity that owns all or a portion of the site, if different than the facility owner.

*Small scale energy facility.* An energy facility that: (1) has a project area of one acre or less; (2) has a rated capacity of 200 kw or less; (3) is mounted on or over a building, parking lot, or other previously disturbed area; (4) is normally used to reduce onsite consumption of energy for small scale operations such as small agricultural or commercial operations.

*Utility scale energy facility.* An energy facility which has a rated capacity of one megawatt (1 MW) or greater. Utility Scale Energy Systems are generally used to provide electricity to a utility provider.

#### Sec. 53-155 – Applicability; permitting.

The requirements set forth in this article shall govern the siting, development, construction, installation, operation, and decommissioning of alternative energy facilities in the county. A special use permit is required for each such facility proposed to be constructed, installed, or operated in the county except for residential scaled facility. A zoning permit is required for each residential scale energy facility proposed to be constructed, installed, or operated in the county. Use regulations for specific zoning classifications will state if alternative energy facilities are permitted in a particular zoning district as a matter of right or require a special use permit.

#### Sec. 53-156 – Applications, procedures and requirements for residential and small-scale energy facilities.

For proposed residential and small-scale energy facilities, the applicant shall submit a project narrative and site plan that comply with subsections (a) and (b) in Section 53-157. The signage, noise, and lighting requirements in Section 53-156 shall apply to all residential and small-scale energy facilities. The fencing requirement and the height restriction in Section 53-156 shall apply to all ground-mounted residential and small-scale energy facilities. The setback, vegetative buffering, and pollinator habitats requirements in Section 53-158 shall apply to all residential and small-scale energy facilities in the A-1 district. Small scale energy facilities are required to have a decommissioning plan and security that comply with Subsection (d) of Section 53-157. The zoning administrator may require additional information from the applicant to determine whether the facility meets these requirements and qualifies as a matter of right as a small-scale energy facility.

#### Sec. 53-157 – Applications and procedures for large and utility scale energy facilities.

In addition to materials required for a special use permit application, applications for large and utility scale energy facilities shall, unless otherwise provided herein, include the following information:

- a) *Project narrative.* A narrative identifying the applicant, facility owner, site owner, and operator, if known at the time of the application, and describing the proposed energy facility, including an overview of the project and its location; the size of the site and the project area; the current use of the site; the estimated time for construction and proposed date for commencement of operations; the planned maximum-rated capacity of the facility; the approximate number, representative types and expected footprint of the equipment to be constructed, including without limitation photovoltaic panels; towers for wind powered generation equipment; any ancillary facilities, if applicable; and how and where the electricity generated at the facility will be transmitted, including the location of the proposed electric grid interconnection.
- b) *Site plan.* The site plan shall include the following information:
- 1) Property lines, minimum required setback lines under this article, and any proposed setback lines that exceed the minimum requirements.
  - 2) Existing and proposed buildings and structures, including preliminary location(s) of the proposed equipment.
  - 3) Existing and proposed access roads, permanent entrances, temporary construction entrances, drives, turnout locations, and parking, including written confirmation from the Virginia Department of Transportation (“VDOT”) that all entrances satisfy applicable VDOT requirements; provided, however, these requirements shall not exceed VDOT requirements for other types of projects in the underlying zoning district.
  - 4) Proposed locations and maximum heights of substations, electrical cabling from the generation systems to the substations, panels, ancillary equipment and facilities, buildings, and structures (including those within any applicable setbacks).
  - 5) Fencing as required under this article and other methods of ensuring public safety.
  - 6) Areas where the vegetative buffering required in this article will be installed and maintained and areas where pollinator-friendly and wildlife-friendly native plants, shrubs, trees, grasses, forbs, and wildflowers required in this article will be installed and maintained.
  - 7) Existing wetlands, woodlands and areas containing substantial woods or vegetation.
  - 8) Identification of recently cultivated lands and predominant soil types (based on publicly available data) of those lands.
  - 9) Additional information may be required, as determined by the zoning administrator, such as a scaled elevation view and other supporting drawings, photographs of the proposed site, photo or other realistic simulations or modeling of the proposed energy project from potentially sensitive locations as deemed necessary by the zoning administrator to assess the visual impact of the project, aerial image or map of the site, and additional information that may be necessary for a technical review of the proposal. The planning commission or board of supervisors may require other relevant information deemed to be necessary to evaluate the application.
- c) *Documentation of right to use property for the proposed facility.* Documentation shall include proof of control over the proposed site or possession of the right to use the proposed site in the manner requested. The applicant may redact sensitive financial or confidential information.
- d) *Decommissioning plan; security.*
- 1) The applicant shall provide a detailed decommissioning plan that provides procedures and requirements for removal of all parts of the energy generation facility and its various structures at the end of the useful life of the facility or if it is deemed abandoned pursuant to Section 53-160. The plan shall include the anticipated life of the facility, the estimated overall

cost of decommissioning the facility in current dollars, the methodology for determining such estimate, and the manner in which the project will be decommissioned. The decommissioning plan and the estimated decommissioning cost will be updated upon the request of the zoning administrator, provided the update shall be no more frequently than once every five years and no less frequently than once every ten years.

- 2) Prior to operation, the applicant must provide security in the amount of the estimated cost of the decommissioning. Options for security include a cash escrow, a performance surety bond, a certified check, an irrevocable letter of credit, or other security acceptable to the county in an amount equal to the estimated decommissioning cost developed and updated in accordance with the decommissioning plan acceptable to the county. The security must remain valid until the decommissioning obligations have been met. The security may be adjusted up or down by the county if the estimated cost of decommissioning the facility changes. The security must be renewed or replaced if necessary to account for any changes in the total estimated overall decommissioning cost in accordance with the periodic updated estimates required by the decommissioning plan. Obtaining and maintaining the requisite security will be a mandatory condition of the special use permit. The security shall be in favor of the county and shall be obtained and delivered to the county before any construction commences.
  - 3) The decommissioning plan, cost estimates, and all updates of those plans and estimates shall be sealed by a professional engineer.
- e) *Liability insurance.* The applicant shall propose a reasonable amount of liability insurance that the applicant deems adequate to cover operations at the large and utility scale energy facility prior to the issuance of a building permit. Obtaining and maintaining the requisite liability insurance will be a mandatory condition of the special use permit.
  - f) *Landscaping and screening plan.* The applicant must submit a landscaping and screening plan that addresses the vegetative buffering required in this article, including the use of existing and newly installed vegetation to screen the facility. The plan also must address the use of pollinator-friendly and wildlife-friendly native plants, shrubs, trees, grasses, forbs and wildflowers in the project area and in the setbacks and vegetative buffering as required in this article.
  - g) *Erosion and sediment control plan.* An erosion and sediment control plan must be approved prior to any land disturbing activity.
  - h) *Stormwater management plan.* A stormwater management plan must be approved by prior to any land disturbing activity exceeding one acre.
  - i) *Virginia Cultural Resource Information System report.* A report by the Virginia Department of Historic Resources Virginia Cultural Resource Information System must be submitted to identify historical, architectural, archeological, or other cultural resources on or near the proposed facility.
  - j) *Additional information.* If deemed relevant to the consideration of a special use permit application or the conditions to be included in any special use permit, the zoning administrator, planning commission or board of supervisors may require the applicant to submit any of the following information, either as part of the special use permit application or as a condition of any special use permit:

- 1) As a condition of the special use permit, the applicant will be required to submit a construction plan, including a proposed construction schedule and hours of operation, before obtaining a building permit.
  - 2) The identification and location of any existing large or utility scale energy facilities and any known proposed large or utility scale energy facilities within a five-mile radius of the proposed site.
  - 3) A report of impact on adjacent property values prepared by a qualified third-party, such as a licensed real estate appraiser.
  - 4) An economic impact analysis prepared by a qualified third-party that reports any expected change in the value of the subject property, expected employment during the construction of the facility, any expected impact on the county's tax revenues, the estimated costs to the county associated with the facility in the form of additional services, and the information on any our economic benefits or burdens from the facility that may be requested by the zoning administrator.
  - 5) A copy of the cultural resources review conducted in conjunction with the state department of historic resources for the permit by rule process shall be submitted by the applicant prior to the issuance of a building permit. This report shall be in addition to the report required in subsection (j)(1) and shall further identify historical, architectural, archeological, or other cultural resources on or near the proposed facility.
  - 6) A report on the potential impacts on wildlife and wildlife habitats at the site and within a two-mile radius of the proposed facility using information provided by the state department of game and inland fisheries or a report prepared by a qualified third-party.
  - 7) A report on potential impacts on pollinators and pollinator habitats at the site, including but not necessarily limited to the submission of a completed site pollinator habitat assessment form as required by the zoning administrator.
  - 8) A glint and glare study that demonstrates either that the panels will be sited, designed, and installed to eliminate glint and glare effects on roadway users, nearby residences, commercial areas, and other sensitive viewing locations, or that the applicant will use all reasonably available mitigation techniques to reduce glint and glare to the lowest achievable levels. The study will assess and quantify potential glint and glare effects and address the potential health, safety, and visual impacts associated with glint and glare. Any such assessment must be conducted by qualified individuals using appropriate and commonly accepted software and procedures.
- k) *Review fees.* The county may retain qualified third-parties to review portions of a permit application that are outside the county's areas of expertise and do not have adequate state and federal review. Any out-of-pocket costs incurred by the county for such review by qualified third-parties shall be paid by applicant. The third-party reviewers and their estimated costs will be submitted to applicant for approval before the costs incurred. The county may, in the alternative, accept such review by qualified third-parties selected, retained and paid by the applicant.
- l) *Community meeting.* A public meeting shall be held prior to the public hearing with the planning commission to give the community an opportunity to hear from the applicant and ask questions regarding the proposed facility. The meeting shall adhere to the following:
- 1) The applicant shall inform the zoning administrator and adjacent property owners in writing of the date, time and location of the meeting, at least seven but no more than 14 days, in advance of the meeting date;

- 2) The date, time and location of the meeting shall be advertised in a newspaper of record in the county by the applicant, at least seven but no more than 14 days, in advance of the meeting date;
  - 3) The meeting shall be held within the county, at a location open to the general public with adequate parking and seating facilities that will accommodate persons with disabilities;
  - 4) The meeting shall give members of the public the opportunity to review application materials, ask questions of the applicant and provide feedback; and
  - 5) The applicant shall provide to the zoning administrator with a summary of any input received from members of the public at the meeting.
- m) *Exemptions.* The zoning administrator may exempt applications for facilities smaller than four acres with a rated capacity equal to or less than two megawatt (MW) from some of the requirements of this section; provided, however, the zoning administrator may not exempt applications from any of the requirements concerning buffering and density.
- n) *Post-application documentation and approvals.* All documentation required to be submitted to and approvals required from the county after the issuance of the permit shall, unless otherwise stated in the conditions attached to the special use permit, be submitted or obtained no later than the date of any application for a building permit for the facility. The failure or refusal to submit required documentation or obtain required approvals following the issuance of a special use permit shall result in the suspension of the special use permit and the denial of the building permit.

Sec. 53-158 – Location, appearance, and operational requirements.

The following requirements apply to large and utility scale energy facilities:

- a) *Visual impacts.* The applicant shall demonstrate through project siting and proposed mitigation, if necessary, that the project minimizes impacts on viewsheds, including from residential areas and areas of scenic, historical, cultural, archaeological, and recreational significance. The facility shall utilize only panels that employ anti-glare technology, anti-reflective coatings, and other available mitigation techniques, all that meet or exceed industry standards, to reduce glint and glare. The applicant shall provide written certification from a qualified expert acceptable to the county that the facility's panels incorporate and utilize anti-glare technology and anti-reflective coatings and reduce glint and glare to levels that meet or exceed industry standards.
- b) *Signage.* All signage on the site shall comply with the county sign ordinance, as adopted and from time to time amended. Appropriate warning signage and a 911 address sign shall be posted in a clearly visible manner. Warning signage must identify the owner and include a 24-hour emergency contact phone number.
- c) *Noise.* Noise levels from the facility at the property line shall not exceed 50 dB.
- d) *Setbacks.* The project area shall be set back a distance of at least 75 feet from all public rights-of-way and main buildings on adjoining parcels, and a distance of at least 50 feet from adjacent property lines. Exceptions may be made for adjoining parcels that are owned by the applicant.

Increased setbacks up to 100 feet and additional buffering may be included in the conditions for a particular permit. Energy facilities also shall meet all setback requirements for primary structures for the zoning district in which the facility is located in addition to the requirements set forth above. Access, erosion and stormwater structures, and interconnection to the electrical grid may be made through setback areas provided that such are generally perpendicular to the property line.

- e) *Fencing.* The project area shall be enclosed by security fencing not less than six feet in height and equipped with an appropriate anti-climbing device such as strands of barbed wire on top of the fence. The height and/or location of the fence may be altered in the conditions for a particular permit. Fencing must be installed on the interior of the vegetative buffer required in this section so that it is screened from the ground level view of adjacent property owners. The fencing shall be maintained at all time while the facility is in operation.
- f) *Vegetative buffer.* A vegetative buffer sufficient to mitigate the visual impact of the facility is required. The buffer shall consist of a landscaped strip at least 15 feet wide, shall be located within the setbacks required under subsection (d), and shall run around the entire perimeter of the property. The buffer shall consist of existing vegetation and, if deemed necessary for the issuance of a special use permit, an installed landscaped strip consisting of multiple rows of staggered trees and other vegetation. This buffer should be made up of plant materials at least three feet tall at the time of planting and that are reasonably expected to grow to a minimum height of eight feet within three years. The planning commission or board of supervisors may require increased setbacks and additional or taller vegetative buffering in situations where the height of structures or the topography affects the visual impact of the facility. Noninvasive plant species and pollinator-friendly and wildlife-friendly native plants, shrubs, trees, grasses, forbs and wildflowers must be used in the vegetative buffer. Fencing must be installed on the interior of the buffer. A recommendation that the screening and/or buffer creation requirement be waived or altered may be made by the planning commission when the applicant proposes to use existing wetlands or woodlands, as long as the wetlands or woodlands are permanently protected for use as a buffer. Existing trees and vegetation may be maintained within such buffer areas except where dead, diseased or as necessary for development or to promote healthy growth, and such trees and vegetation may supplement or satisfy landscaping requirements as applicable. If existing trees and vegetation are disturbed, new plantings shall be provided for the buffer. The buffer shall be maintained for the life of the facility.
- g) *Pollinator habitats.* The project area will be seeded with appropriate pollinator-friendly native plants, shrubs, trees, grasses, forbs and wildflowers. The project area will be seeded promptly following completion of construction in such a manner as to reduce invasive weed growth and sediment in the project area. The owners and operator also are required to install pollinator-friendly native plants, shrubs, trees, grasses, forbs and wildflowers in the setbacks and vegetative buffering.
- h) *Height.* Ground-mounted solar energy generation facilities shall not exceed a height of 20 feet, which shall be measured from the highest natural grade below each solar panel. This limit shall not apply to utility poles and the interconnection to the overhead electric utility grid. Roof mounted systems shall not exceed the maximum height requirements for the applicable zoning district by more than four feet.

- i) *Lighting.* Lighting shall be limited to the minimum reasonably necessary for security purposes and shall be designed to minimize off-site effects. Lighting on the site shall comply with any dark skies ordinance the board of supervisors may adopt or, from time to time, amend.
- j) *Density; location.* Large and utility scale energy facilities shall not be located within one mile of an airport unless the applicant submits, as part of its application, written certification from the Federal Aviation Administration that the location of the facility poses no hazard for, and will not interfere with, airport operations. No large or utility scale generation facility shall be located within one mile of the villages of Rice, Green Bay, Prospect or the Towns of Farmville and Pamplin. In addition, no more than two and one-half percent of the land in a five-mile radius of the project area of any existing large or utility scale energy facility shall be approved for use as the project area for a new large or utility scale energy facility.
- k) *Utility Connection.* No large or utility scale generation system shall be installed until evidence has been provided to the County that the owner has been approved by the appropriate electrical provider to interconnect.
- l) *Repair of facility.* Solar panels and windmill equipment shall be repaired or replaced when in visible disrepair. Such repairs include the restoration of non-reflective finish per manufacturer specifications.
- m) *Entry and inspection.* The owners and/or operator will allow designated county officials access to the facility for inspection purposes, provided such inspectors will be subject to the owners' and/or operator's safety requirements and protocols while within the facility.

Sec. 53-159 – Additional considerations for conditions.

To preserve and protect county view sheds and resources, to protect the health, safety and welfare of the community, and to otherwise advance the purpose and intent of this article, the following non-exhaustive list of additional criteria may be considered by the planning commission and the board of supervisors in addressing whether to recommend or grant a permit, and what conditions to impose on any permit for an energy generation facility:

- a) The topography of the site and the surrounding area.
- b) The proximity of the site to, observability from, and impact on urban and residential areas.
- c) The proximity of the site to other energy facilities and utility transmission lines.
- d) The proximity of the site, observability from and impact on areas of scenic significance and of historical, cultural and archaeological significance.
- e) The proximity of the site, observability from and impact on public rights of way to include all roads, recreational and state facilities.
- f) The preservation and protection of wildlife and pollinator habitats and corridors.
- g) The size of the site.
- h) The proposed use of available technology, coatings and other measures for mitigating adverse impacts of the facility.
- i) The preservation and protections of prime farmland and forestal land in the county, provided that:



1. "Prime farmland" shall have the meaning assigned to it by the Natural Resource Conservation Service of the United States Department of Agriculture.
2. If no more than ten percent of the site is prime farmland, this consideration will be waived.

The enumeration of these criteria shall not prohibit the planning commission or the board of supervisors from considering other factors deemed relevant to a specific special use permit applicant based on the details of the application. Nothing herein shall limit in any manner the nature and scope of reasonable conditions that may be recommended by the planning commission or imposed by the board of supervisors.

Sec. 53-160 – Unsafe or abandoned projects; decommissioning.

- a) If an energy facility has been determined to be unsafe by the County building official, the facility shall be required to be repaired by the facility owner, site owner, or operator to meet federal, state, and local safety standards, or to be removed by the owners or operator. The owners or operator must complete the repair or removal of the facility, as directed by the building official, within the time period allowed by the building official. If directed to do so by the building official, the owners or operator will remove the energy facility in compliance with the decommissioning plan established for the facility.
- b) If any energy generation facility is not operated for a continuous period of 12 months, the county may notify the facility owner by registered mail and provide 45 days for a response. In its response, the facility owner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If the county deems the timetable for corrective action unreasonable, it may notify the facility owner, and the facility owner shall ensure removal of the facility in compliance with the decommissioning plan established for the facility.
- c) At such time as an energy facility is scheduled to be abandoned or cease operation, the facility owner shall ensure the zoning administrator is notified in writing.
- d) Within 365 days of the date of abandonment or non-operation, whether as declared by the county under subsection (b) or as scheduled by the owners or operator under subsection (c), the facility owner shall ensure the physical removal of the energy facility in compliance with the decommissioning plan established for such facility. This period may be extended at the request of the owners upon approval of the board of supervisors.
- e) When the facility owner, site owner, operator or other responsible parties decommission an energy facility, he shall handle and dispose of the equipment and other facility components in conformance with federal, state and local requirements. All equipment both above and below ground must be removed as part of the decommissioning plan. This shall include but not be limited to above and below ground tanks, cables, fencing, debris, structures or equipment to include foundations and pads and the restoration of the land and related disturbed areas to a natural condition or other approved state.
- f) "Natural condition" shall mean the stabilization of soil to a depth of 3 feet and restoration of site vegetation and topography to pre-existing condition, provided that the exact method and final site restoration plan shall be subject to site plan review and approval giving, among other items, consideration to impact upon future site use, environmental and adjacent property impacts. The zoning administrator may approve a request by the landowner to allow internal paths, roads, travel ways, landscaping, pads or other items which will serve a future permitted site use to remain. Where applicable, if the zoning administrator determines the restoration plan

significantly deviates from the description and conditions approved by the Board such plan shall require amendment of conditions through the zoning process.

- g) If the facility owner, site owner, or operator fails to remove or repair any unsafe abandoned or non-operating energy facility after written notice, the county may pursue legal action to have the facility removed at the expense of the facility owner, site owner or operator, each of whom shall be jointly and severally liable for the expense of removing or repairing the facility. The county may call upon the decommissioning security to remove the facility.