



**Prince Edward County Planning Commission
Meeting Minutes
March 14, 2022
7:00 pm**

Members Present: John “Jack” W. Peery, Jr., Vice Chairman Brad Fuller
 Preston L. Hunt Robert “Bobby” Jones
 Clifford Jack Leatherwood Whitfield M. Paige
 Teresa Sandlin Henry Womack

Absent: John Prengaman, Chair Cannon Watson

Staff Present: Robert Love, Planning/Zoning Director Douglas P. Stanley, County Administrator

Due to the COVID-19 Emergency, the Prince Edward County Board of Supervisors is operating pursuant to and in compliance with its “EMERGENCY CONTINUITY OF OPERATIONS ORDINANCE.” Effective August 1, 2021, the Board has re-opened meetings to in-person participation by the public; however, there could still be limited available seating. Citizens are strongly encouraged to participate in meetings through in-person participation, written comments, and/or remote participation by calling: **1-844-890-7777, Access Code: 390313** (*If busy, please call again.*) Additionally, citizens may view the Board meeting live in its entirety at the County’s YouTube Channel, the link to which is provided on the County’s website.

Public Participation and Public Hearing comments for Planning Commission meetings will be subject to the “Citizen Guide for Providing Input During Public Participation and Public Hearings For Prince Edward County Government Meetings” effective August 1, 2021.

Vice-Chairman Peery called the March 14, 2022 meeting to order at 7:00 p.m.

In Re: Approval of Minutes

Commissioner Hunt made a motion, seconded by Commissioner Paige, to approve the meeting minutes from February 15, 2022 as presented; the motion carried:

Aye: Brad Fuller Nay: (None)
 Preston Hunt
 Robert M. Jones
 Clifford Jack Leatherwood
 Whitfield M. Paige
 John “Jack” W. Peery, Jr.
 Teresa Sandlin
 Henry Womack

Absent: John Prengaman
 Cannon Watson

In Re: Public Hearing -Subdivision Ordinance Amendments

Vice-Chairman Peery announced this was the date and time scheduled to receive citizen input prior to considering an Ordinance Amendment to amend Appendix A – Subdivisions of the Prince Edward County Code, to provide for an

agricultural/forestal exception, further define a family subdivision, and allow the Board of Supervisors to set the fee schedule by resolution. Notice of this hearing was advertised according to law in the Wednesday, March 2, 2022 and Wednesday, March 9, 2022 editions of THE FARMVILLE HERALD, a newspaper published in the County of Prince Edward.

Mr. Love stated the Prince Edward County Subdivision Ordinance does not provide any agricultural exemption for perking a site for septic and drain field that is solely intended for Agricultural use. While the Comprehensive Plan encourages agriculture and forestry as an industry in the County, the Ordinance does not directly support the goals and objectives in order to preserve farmland for active farming activities as it pertains to large tract subdivisions. An exemption to perking a new lot meant for agricultural use not only reduces the cost to the owner but also the time it takes in order to obtain soil work and obtain Health Department approval prior to recordation. The suggested new language accomplishes this goal while preserving the intent of the Subdivision Ordinance.

At the February meeting, the Commission held a Public Hearing on the amended new language and description of development standards for consideration that will clearly allow for agricultural and forestal uses, more clearly define a Family Subdivision and other language to better clarify the standards in the Ordinance. After public comments were heard, it was decided that the matter be re-advertised with a revised lower threshold of 25 acres instead of the proposed 50-acre minimum.

Mr. Love stated there seems to be some confusion about this proposed ordinance amendment. He said this would provide an exemption from the current language from the County's Subdivision Ordinance, which states: "All plats, before being submitted, shall first be approved by the Resident Highway Engineer and the Local Health Official." Mr. Love said this a plat that is surveyed for a new lot that will come off a larger tract. In Prince Edward County, a subdivision is defined by the creation of a new lot from its parent tract, this is when a new lot is created. Mr. Love said that the way the Code is written now, any new lot coming to the County office to be created and given a new tax map number, whether it is bought, sold, or gifted, would be perked. However, under the amendment being considered, any tract of land that is 25 acres or more, that is intended for agriculture or forestal use, could be exempt from the perk [test]. Mr. Love said the other thing that this proposed amendment would do is more clearly define what a family subdivision is and align that with State Code; he said there is also a fee in the Code of \$175 for a plat review. The Board does have a fee schedule that they adopt from time to time; this would change the language that would has the monetary number of \$175 amended to "a fee schedule as adopted by the Board of Supervisors from time to time by resolution."

Mr. Love said this [amendment] would provide an exemption for a farmer or forester, so they would not have to perk a new lot that is subdivided off of another tract of land. It does not affect anything currently platted, taxed, or "on the books." He said existing lots can still be bought and sold at will, without having to go to the Zoning Office; an attorney would be needed to prepare the deed, which gets recorded in the Clerk's Office. He said this [amendment] is specifically for the subdivision of land and the creation of a new tract.

Commissioner Womack asked that if [a parcel] is for forestry, does it not have to be perked.

Mr. Love said that currently, under the current ordinance, regardless of use, a new tract of land does [have to be perked], but if this [proposed amendment] would pass and the Board adopts this, if it is agricultural or forestal, it could utilize this exemption to not have to have a perk [test] on Day One. The only time it would have to be perked would be if someone wanted to build a house.

Vice-Chairman Peery opened the public hearing.

Jesse Yeatts, Lockett District, asked if he had two acres beside his existing lot, off another parcel, would he have to perk it. Mr. Yeatts clarified this being a stand-alone lot, protecting his [existing] lot.

Mr. Love said if you are creating a stand-alone lot, the answer is yes. He said that if the new lot is being added to the existing lot, then no as that is considered a boundary adjustment and would have a parcel hook. He said the [existing] acreage would increase [by] that acreage amount, and that would not be perk tested. He said this only would affect a new, stand-alone lot.

Mr. Yeatts then asked if he would buy an existing tract of land adjoining his, regardless of size, would that be the same thing.

Mr. Love said that if you put a parcel hook on it and increase your acreage, and don't have a stand-alone lot, then it would not have to be perk tested.

Mr. Yeatts said that the 110 [acre lot he purchased] was perked.

Mr. Love said that the 110-acre lot was not being added to Mr. Yeatt's tract of land to increase the total acreage.

Mr. Yeatts stated that it was; Mr. Love said that was not indicated on the plat, and did not have a new parcel boundary with the parcel addition in the way it was presented with the survey and was a stand-alone lot.

Mr. Yeatts asked if the only time [a lot must be perked] is when you want to build a house, and all of this is on the books.

Mr. Love said that you have to perk is if you create a stand-alone, new tract of land that is not being added to an adjoining acreage. That is the only way to get around a perk [test] today: if you are dissolving that acreage into your acreage and increasing your own and the neighboring tract has to touch that. That is a boundary adjustment.

Mr. Yeatts asked why it wasn't worded that way. Mr. Love said boundary adjustments are treated differently under the Code of Virginia. Boundary adjustments are allowed; subdivision is different when you're creating a new stand-alone lot that has never existed before. Right now, it has to be perked, it has to have VDOT look at it from an entrance standpoint, and those are the two criteria. Boundary adjustments do not have to have to be perked.

Mr. Yeatts asked why there is an acreage on [the amendment]. Mr. Love said most localities have a minimum acreage.

Mr. Yeatts asked why are we [Prince Edward County] doing it and setting it at 25 acres. He said if it's going to be built on, the first thing that has to be done is to get the State for zoning for access, and second thing is to get a perk test.

Mr. Douglas Stanley, County Administrator, interjected and asked if the other speakers could have a chance to voice their concerns, and then he would try to address some of the questions.

Mr. Yeatts said what we have is fine and not sure why the County is trying to change it now. He said he bought land in the past and everything worked out fine. He perked it and built a house, and if it doesn't perk, he can't build a house. He said he bought a certain amount of acreage to do it, to justify something, he didn't see where we need it. He said, "First thing we always have to do is perk, if we can't perk, we can't build." He asked why we can't continue to go along with that instead of zoning it at 25 or 10 or 15, it isn't necessary. He asked it be brought back to perking the land that we're trying to build on, perk the site we need to build on.

Jimmy Garnett said he would like to clarify what it written in the existing Code. He said "the term development shall not be construed to include any tract of land which will be principally devoted to agriculture production." He said it looks as though that exemption is already in the Code, for farming and farming of trees. He said if that is in there, that's all the protection needed. Mr. Garnett suggested leaving it as it is until the problem is better understood. He said he bought land in different counties and never had to go through this.

Patrick Murphy stated he is a beef-cattle farmer and proud tree farmer. He stated agricultural production seems to be at the root of one of the questions; he said that he is employed with the Virginia Department of Forestry for the past 22 years. He said trees are a renewable resource and run a longer rotation than corn; corn runs roughly 120-140 days to maturity and they are harvested. He said loblolly pine trees runs roughly 16-35 years to maturity and then is harvested. He said forestry is alive and well in Prince Edward County; roughly 1,900 – 2,000 acres of trees per year are harvested in Prince Edward County and reforestation rate is 1,354 acres annually over the last 12 years. He said in reference to the Subdivision Ordinance, and regarding acreage less than 25 acres being perked - the number of tracts he works on in the course of a year ranges between 130 – 300 tracts per year, and the number of tracts 25-acres or less is probably greater than 50%. He said trees are grown on the vast number of these tracts as well as agricultural

production, and parcelization of larger tracts under the size of 25 acres is extremely evident here in Prince Edward County. He said taking the time and expense to perk land less than 25-acres in size for tree production and/or agricultural production is a waste of time and the taxpayer's dollars. Mr. Murphy then expressed his concerns regarding the poor record-keeping in the Commissioner of Revenues office, citing an issue with a property under contract. He then stated if the Ordinance is poor, by definition under Forestry being under Agricultural Production, that needs to have attention prior to going forward with any type of ordinance. He said he is against perking anything for agriculture or forestry production less than 25-acres in size which places more burden on the taxpayer.

Mr. Stanley reviewed some of the questions presented; he said the County requires drain field site approval and a VDOT entrance on smaller lots because those lots get sold. There is no guarantee, unless someone puts a covenant across the parcel or a permanent easement, that it will stay in that piece. He said in the more than 25 years he has worked in local government, he has seen a lot of 20-acre lots that did not perk. Mr. Stanley said he must politely disagree with the last speaker, regarding Ag and Forestry, and read from the Code of Virginia [3.2-303]:

Agriculture and Forest District – Agricultural products, Definition in the Code of Virginia: crops, livestock, and livestock products, including field crops, fruits, vegetables, horticultural specialties, cattle, sheep, hogs, goats, horses, poultry, fur-bearing animals, milk, eggs, ... and furs.

Mr. Stanley said Forestal production definition states “Production for commercial purposes of forestal products including the process or retail sales, by the producer, of forestal products which are produced on the parcel or in the district. Forestal products includes, but is not limited to, saw timber, pulpwood, posts, firewood, Christmas trees and other tree and wood products for sale or for farm use.”

Mr. Stanley said these definitions were put in the Code in 1977 to protect those in forestry and agriculture to limit impact of growth and development and to protect those uses.

Mr. Stanley said the ordinance currently requires a plat; he said we agree that it is impractical to require a farmer that wants to buy and create a separate parcel from having to go through the perking process. What the Commission is trying to do is create an exemption under the Code for those that want to get into forestry and agriculture uses. He said someone could create a five-acre lot, but it must be perked because if you sell it later, the person buying it will know there is an available perk site on which to build a house. He said if all the requirements are waived, such as for a VDOT entrance and perk site, that is when you have issues. When the safety standards are in and these lots are sold and developed, they will meet the standards of both the Highway Department and the Health Department.

Mr. Love said what Mr. Garnett read was a definition of development, and not [referring to] the proposed exemption to our ordinance. He said the ordinance specifies, under the Planning standards, “all plats, before being submitted, shall first be approved by a Resident Highway Engineer and a Local Health Official.” Today, any new tract of land being created, whether it's 1.5 [acres] which is the minimum in the A-1, all the way up to 100 or 1,000 acres, if you take a 2,000-acre tract and split it into two pieces and make a brand new 1,000-acre tract, you would have to perk it. But if this exemption were passed, anything larger than 25 [acres] that is going to be agricultural or forestal use, would not have to perk. Today, everything gets perked that is a brand new lot. Mr. Love said you can buy and sell an existing tract of land every day, all day and you never have to go to the Zoning office. This is specifically for the act of subdivision, when a new lot is created, and is not for a lot that is already being taxed and is “on the books.”

Mr. Murphy said that with land use trends and prices in Prince Edward County, the tract sizes are getting smaller and the price per acre is getting larger due to influxes of people coming to the picturesque countryside. He said when the County Comprehensive Plan was last drafted, that was the biggest draw to Prince Edward County. Many agriculturalists choose to buy parcels of land, whether they are adjacent or free-standing, and may be subdivided but because of the escalating cost of raw land, price per acre, whether in trees or open land, a large number of the tracts will be smaller than 24.99 acres. He asked the Commission to revisit the tract size and reduce the size to something more advantageous to smaller landowners and have it perked under five acres or at ten acres. He said there are many parcels being sold between 10-25 acres; many of these are for agriculture and forestry production. He said if the Commission votes on this issue, he asks that they vote “no.”

There being no one further wishing to speak, Vice-Chairman Peery closed the public hearing.

Commissioner Sandlin stated there still seems to be confusion that someone buying a 20-acre parcel that is already deeded and has a tax map number, that they will have to have it perked, which is not the case. She said this is if someone is selling a portion of their land, not a parcel that is in existence already.

Commissioner Jones said that the minimum lot size in Prince Edward County is four acres. He suggested amending the lot size to four acres.

Commissioner Fuller questioned what prompted this potential action. Mr. Yeatts said he purchased an adjoining parcel from an existing farm; he got a survey of it and took it to Mr. Love's office, who told him he couldn't record it until it was perked. Mr. Yeatts said he told Mr. Love that he intended to plant trees on it, and Mr. Love told him it had to perk.

Commissioner Fuller said if it had been a boundary adjustment, it would not have needed a perk [test].

Mr. Love said that is correct but it was not presented as a boundary adjustment, and was created as a subdivided, brand new stand-alone lot. Mr. Love said his issue is closed; it has been perked and it has been recorded, and it exists. He said [for a lot to be designated] a boundary adjustment, it must be notated on the plat, what is coming off of the adjoining tract is shown and the acreage that is being added, with the current acreage of your own land, and then a new total. He presented an example. Mr. Love said it was surveyed as a stand-alone 100-acre tract of land, not to be dissolved into a larger or different tract of land, which constituted a subdivision.

Mr. Murphy questioned that, as an example, if Mr. Yeatts would purchase 24 acres next to his existing property, and he wanted it to be a stand-alone tract, it would have to be perked, and if he wanted to make a boundary adjustment, it would not [need perked]. Mr. Love said those [examples] are correct.

Commissioner Sandlin said what is being decided now is that, if this amendment had been in place with the 25-acre exemption, he would not have had to have it perked. She said the Commission is trying to help for the future.

Vice-Chairman Peery said at the last Planning Commission meeting, it was set at 50 acres and that after discussion, 25 acres would be better; he added that Commissioner Jones suggested four or five acres.

Commissioner Jones said normal building lots are four or five acres; he said if you purchase a piece of land and don't make sure for yourself that it perks before you buy it, that is the buyer's fault.

Mr. Love said this [proposed amendment] is not for the purpose of buying and selling existing tracts of land; this is for when a new lot is created. He said the charge and duty of counties across Virginia is to certify that a new lot is perkable. He said that can be found in nearly every County Code, and every county that touches Prince Edward County. Mr. Love said that during research he and Mr. Stanley conducted, the average of an agriculture exemption is 50 acres, but at the last meeting, that was reduced to 25 [acres]. He said anything less than 25 acres could not be voted on tonight and it would need to be re-advertised; he asked for the Commission's ideal bona fide agricultural or forestal lot, that does not exist today and would be cut off a larger tract. Mr. Love said most counties have a larger standard than a normal building lot size; they are different uses. This would only affect a lot that will not be built on. He said this amendment would fix the issue so a landowner who does want to farm or have forestal land on a stand-alone lot would not have the added expense of a perk [test]. Currently there is no exception and everything must be perked if it's a new lot.

Commissioner Sandlin stated that during last month's meeting, several people stated that anything under 25 acres wouldn't make sense for timber, but is that a feasible acreage.

Vice-Chairman Peery asked what the consequences would be if the size was reduced to five acres. Mr. Love said five acres is typically a building lot; he said people don't normally forest or farm on five acres of land. Mr. Love said the threshold should not be so low that a developer of residential subdivisions uses that as a loophole and is why there is a standard set. He said if the threshold is at five acres, he cannot require it be perked, but a lot of 25 acres or more, and it is designated for agricultural and forestal use, they would not have to be perked.

Commissioner Womack asked if “agriculture” or “forestal” have to be stated in the deed; Mr. Love said yes, it must be stated on the plat that it is not a residential lot to be perked, and the statement goes on the deed as well.

Commissioner Sandlin asked about the surrounding counties; Mr. Love said the majority have theirs set at 50 acres, and that 25 acres is more lenient.

Mr. Yeatts said that this was never necessary in the past; he asked why. Mr. Love said no laws were changed since he became Subdivision Administrator and is going by what is on the books in Prince Edward County.

Commissioner Sandlin made a motion, seconded by Commissioner Paige, to recommend approval to the Board of Supervisors to amend Appendix A – Subdivision of the Prince Edward County Code, to provide for an agricultural/forestal exception with a minimum lot size of 25 acres, further define a family subdivision and allow the Board of Supervisors to set the fee schedule by resolution; the motion carried:

Aye:	Brad Fuller	Nay:	Henry Womack
	Preston Hunt		
	Robert M. Jones		
	Clifford Jack Leatherwood		
	Whitfield M. Paige		
	John “Jack” W. Peery, Jr.		
	Teresa Sandlin		
Absent:	John Prengaman		
	Cannon Watson		

Mr. Love stated the Board of Supervisors will hold a public hearing on this issue at their next regular meeting on Tuesday, April 12, 2022.

In Re: Review of Supervisors Actions

(None)

In Re: Old Business

Mr. Love stated that at last year’s March 9, 2021 Board of Supervisors meeting, the Hampden-Sydney College shooting range was approved. Per the conditions, a review of that site will be done to see a session in action. He said there has been one complaint from the Worthy family which Hampden-Sydney addressed with a comment letter. There are no violations; he said he will bring an updated report to the Planning Commission. The complaint was regarding the location of the shooting range and thought that there were shooters not associated with the College; Hampton-Sydney College responded that it was only staff and students on the site.

New Business

Mr. Love said a new community solar project on a 20-acre tract will be presented at next month’s meeting.

Mr. Love said Planning and Building Code offices have moved across the hall to the old Commonwealth Attorney’s suite. He invited them to come see the new offices.

Vice-Chairman Peery declared the meeting adjourned at 7:49 p.m.

Next Meeting: Monday, April 18, 2022 at 7:00 p.m.