



**Prince Edward County Planning Commission  
Meeting Minutes  
March 21, 2023  
7:00 pm**

Members Present: Brad Fuller Llew W. Gilliam, Jr.  
Preston L. Hunt Clifford Jack Leatherwood  
Whitfield M. Paige John “Jack” W. Peery, Jr.  
John Prengaman Teresa Sandlin  
Rhett Weiss Henry Womack

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

The Prince Edward County Planning Commission strongly encourages citizens to participate in public 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 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” revised October 12, 2022.

Chairman Prengaman called the March 21, 2023 meeting to order at 7:00 p.m., established there was a quorum, and led the Pledge of Allegiance.

**In Re: Approval of Minutes**

Commissioner Peery made a motion, seconded by Commissioner Paige, to approve the meeting minutes from February 21, 2023 as presented; the motion carried:

Aye: Brad Fuller Naye: (None)  
Llew W. Gilliam, Jr.  
Preston Hunt  
Clifford Jack Leatherwood  
Whitfield M. Paige  
John “Jack” W. Peery, Jr.  
John Prengaman  
Teresa Sandlin  
Rhett Weiss  
Henry Womack

**In Re: Public Hearing – Special Use Permit, Tim Boehmer, Storage Shed Manufacturing & Retail Facility**

Chairman Prengaman announced this was the date and time scheduled to receive citizen input prior to considering a request from Tim Boehmer for a Special Use Permit to construct and operate a storage shed manufacturing and retail

facility on Tax Map Parcel 018-A-32, at 5865 Prince Edward Highway, Prospect, Virginia. Notice of this hearing was advertised according to law in the Wednesday, March 8, 2023 and Wednesday, March 15, 2023 editions of THE FARMVILLE HERALD, a newspaper published in the County of Prince Edward.

Mr. Love stated the County has received an application request from Tim Boehmer for a Special Use Permit to construct and operate a storage shed manufacturing and retail facility on Tax Map Parcel 018-A-32, at 5865 Prince Edward Highway, Prospect, Virginia, which is zoned A-1, Agricultural Conservation.

The purpose of the Special Use is to allow for the location of a storage shed manufacturing and retail facility. The applicant stated that all operations related to the construction and painting of sheds will take place in the new 100' x 100' building. The applicant is proposing a 40 square foot pole sign and a 64 square foot building sign. Both sign types are allowed in the Zoning District per Section 3-104.5 (3) which specifies "Storefront signs not exceeding four feet in height and 16 feet in width, not more than one per business operation" and Section 3-104.5(5) which specifies "Pole signs not exceeding 40 square feet placed with the bottom no more than six feet from the ground, not more than one per business operation." However, it has been the practice in recent Special Use Permit applications to limit site signage to a monument type. Section 3-104.5 (2) provides for "Monument signs not exceeding four feet in height and 24 square feet in size, not more than one per business operation." Please note that the sign drawings most recently provided by the applicant depict signage significantly smaller than what is shown on the actual site plan itself and is well within signage regulations.

Mr. Love stated that the applicant has amended the signs to a 48-60 by 96-120 wall sign, and the other is a 24 by 24 double-sided road sign, which is a little smaller than what the site plan showed. He said VDOT has reviewed this and stated the entrances can be reused for this use.

Commissioner Weiss questioned if the signs will be standalone and lighted; he also asked if the entrances can be used. Mr. Love stated we need clarification from the applicant on total sign height of the circle [-shaped] sign. Some discussion followed.

Commissioner Paige asked if the business will be operating from 6:00 a.m. until 6:00 p.m., six days a week, as the 6:00 a.m. start may infringe on the "quiet hours" in the morning. Mr. Love stated the hours of operations are listed in the Potential Conditions; this can be amended.

Timothy Boehmer stated he has made application to operate his business at the old Noah's Ark location and use the building as storage. He said the road sign will be a circle sign on a pole and is smaller than the existing [sign] and will conform to County regulations. He said the sign on the building will be dimly-lit. He said there is the possibility of 20-30 local employees. Mr. Boehmer said construction will be a 100' x 100' building, there will need to be some leveling of the ground; he said the old building will have an uplift and will complement both the old and new.

Commission Fuller asked if how many units are expected to be placed in the showroom at one time. Mr. Boehmer said there will be a retail side and a manufacturing side; he said the existing layout works perfectly and they will not change the land as the property is ideal for the site plan. He added sales will be out front with approximately 15-20 units, and the majority of the staging will be in the back.

Chairman Pregelman opened the public hearing.

Chairman Pregelman stated 6:00 a.m. is early and asked if Mr. Boehmer would be comfortable opening at 7:00 a.m.; Mr. Boehmer said that is fine.

Commissioner Womack asked if all construction will be done inside the 100 x 100 square foot building; Mr. Boehmer answered in the affirmative.

Commissioner Weiss asked Mr. Boehmer to explain the site plan. Mr. Boehmer stated in the future they may use the lean-to to protect the lumber and would be used for storage.

There being no one further wishing to speak, Chairman Prengaman closed the public hearing.

Commissioner Sandlin said this is a good business for that site.

Chairman Prengaman said monument signs are preferred in order for this to be more consistent with other signage in the County. Mr. Boehmer said he had no objection to using a monument-style sign.

Chairman Prengaman stated the monument sign will not be lit and the sign on the building will be a low-lit sign.

Mr. Boehmer explained his request for the 6:00 a.m. opening time is due to the summer heat in the building [where the sheds will be built].

Commissioner Womack asked if the building will be insulated; Mr. Boehmer said that it will be insulated.

Commissioner Paige stated said there is a business near this location that does create noise, with their trucks and equipment. He added there is a subdivision behind this proposed location.

Chairman Prengaman asked if Mr. Boehmer would agree to changing the hours to 7:00 a.m. to 7:00 p.m. Mr. Boehmer agreed.

Commissioner Weiss asked for examples of incidental facilities. Mr. Love said it wouldn't affect this site, but if it were a site that required stormwater or grading, a same-size building could be placed on a different location if they had to move it, such as the lean-to could be moved on another side [of the property] depending on the topography.

Chair Prengaman asked the Commissioners to review the potential conditions.

Commissioner Weiss made a motion, seconded by Commissioner Peery, to recommend to the Board of Supervisors the Special Use Permit from Tim Boehmer for a Special Use Permit to construct and operate a storage shed manufacturing and retail facility on Tax Map Parcel 018-A-32, at 5865 Prince Edward Highway, Prospect, Virginia, with the following conditions; the motion carried:

Aye:	Brad Fuller	Nay:	(None)
	Llew W. Gilliam, Jr.		
	Preston Hunt		
	Clifford Jack Leatherwood		
	Whitfield M. Paige		
	John "Jack" W. Peery, Jr.		
	John Prengaman		
	Teresa Sandlin		
	Rhett Weiss		
	Henry Womack		

**Special Use Permit – Tim Boehmer**  
**Tax Parcel Map #: 018-A-32**  
**POTENTIAL CONDITIONS**

**SITE PLAN**

1. Development activities on the site shall be limited to those as specified in the Special Use Permit Application and Site Plan. The final locations of incidental facilities may be adjusted provided no such

adjustment violates any buffers, setbacks, or other statutory requirement. The concepts reflected in the filed special use permit dated 2/15/2023 are hereby made part of these development conditions.

2. Final site plan approval for the Storage Shed Manufacturing & Retail Facility shall be submitted to the Prince Edward County Community Development Department for final review and approval pursuant to Appendix B of the Prince Edward County Code (Zoning Ordinance).
3. Any proposed expansion of the operation, change of activities or additional facilities or activities shall be submitted to the Prince Edward County Planning and Community Development office for review prior to implementation. Any changes may be subject to Permit amendment procedures, including Public Hearings.
4. All buildings within the property shall be developed as a cohesive entity ensuring that building placement, architectural treatment, parking lot lighting, landscaping, trash disposal, vehicular and pedestrian circulation and other development elements work together functionally and aesthetically.
5. All landscaping shall be mulched and maintained to the reasonable satisfaction of the Prince Edward County Planning and Community Development Director. Any vegetation found to be of poor condition shall be replaced and/or improved at the reasonable direction of the Planning and Community Development Director or his designee.

#### **ENVIRONMENTAL**

6. All pollution control measures, erosion and sediment control measures, storm water control facilities, and all construction activities shall comply with the requirements of the appropriate federal, state, and local regulations and ordinances.
7. All facilities for the provision of potable water and sanitation and wastewater disposal systems shall be approved by the appropriate local, state, or federal agency including but not limited to Virginia Department of Health, Virginia Departments of Environmental Quality, Environmental Protection Agency, etc.
8. Any development activities of a structural or land disturbing nature not specifically addressed by these Conditions shall be in conformance with applicable provisions of federal, state, and local statutes and regulations.

#### **TRANSPORTATION**

9. All entrance permits must be authorized by the Virginia Department of Transportation.
10. All internal roads used for public access shall be of compacted earth or have a minimum of a four (4) inch stone base and shall be paved with concrete, asphalt, or durable pervious paving material.
11. Adequate area shall be provided on site to accommodate parking of all employees and patrons. It shall be the responsibility of the Permittee to assure that employees and patrons park only on site and not on any highway right-of-way, or on adjoining or adjacent parcels unless written consent is provided by the owner or owners thereof.
12. No storage shed building may be located closer than 10 feet from any property line nor be placed within VDOT right-of-way.

**GENERAL**

13. Hours of operation shall be limited to Monday thru Saturday 7 a.m. to 7 p.m. No Sunday operations are permitted.
14. Site signage shall be limited to a monument and storefront sign, as specified in Appendix B – Zoning, Section 3-104.5 (2) and Section 3-104.5 (3).
15. All exterior lighting shall be designed and installed so as to minimize glare onto adjoining properties or any public access road. All lighting shall be full cut-off type fixtures.
16. Outdoor storage of building materials and trash containers shall be situated at the rear of buildings and shall be appropriately screened per Prince Edward Zoning Ordinance, Section 4-200.15.
17. The Permittee is responsible for the appearance of the site including litter pick-up and other orderly site appearance.
18. This Permit is non-transferable, except and unless written notice from the Permittee regarding the transfer, and a signed document from the proposed new Permittee is received by the Planning and Community Development Office which states that the new Permittee agrees to comply with all terms and Conditions imposed with the original Permit Issuance. If the proposed new Permittee desires to amend the original Permit Conditions, amendments must be addressed by the Prince Edward County Planning Commission and Board of Supervisors through the Special Use Permit process.
19. Failure of Permittee to full conform to all terms and conditions may result in revocation of this Special Use Permit if said failure or failures are not corrected or addressed to the satisfaction, not to be unreasonably withheld, of the County within thirty (30) days of written notice from the County.

**In Re: Public Hearing – 2232 Review – Community Solar Energy Facility**

Chairman Prengaman announced this was the date and time scheduled to receive citizen input prior to considering a request from Elam Road Solar LLC to construct and operate a 3MWac community solar energy facility on a 33-acre portion of Tax Map Parcel 031-A-16, containing a total of 136+ +/- acres, which is zoned A-1, Agricultural Conservation. Notice of this hearing was advertised according to law in the Wednesday, March 8, 2023 and Wednesday, March 15, 2023 editions of THE FARMVILLE HERALD, a newspaper published in the County of Prince Edward.

Mr. Love stated the County has received an application request from Elam Road Solar LLC to construct and operate a 3MWac community solar energy facility on a 33-acre portion of Tax Map Parcel 031-A-16, containing a total of 136+ +/- acres, which is zoned A-1, Agricultural Conservation.

As required by VA Code § 15.2-2232, the Planning Commission must review all proposed developments that include a "public utility facility" prior to the construction or authorization of such facility. A public hearing is required to determine whether the location, character, and extent of the proposed solar facility is in substantial accord with the Prince Edward County Comprehensive Plan, prior to any approval of the special use permit for the facility.

The application property consists of mostly timber land. It is bordered by existing agricultural land consisting of pasture and timber land, as well as a single-family residential homes. The property is zoned A-1, Agricultural Conservation and is shown as Agricultural and Forestal on the Future Land Use map as described in the Prince Edward County Comprehensive Plan.

Below are relevant excerpts of Prince Edward County Comprehensive Plan:

Chapter VI, Special Policy Areas, on Pg. 75 notes "When future development requests require Commission review and Board of Supervisors approval, the economic and quality of life benefits of open space and agricultural and forest land uses should be considered as well as the adequacy of public facilities and services to the area."

Goals, Objectives, and Strategies, Land Use on Pg. 94-95: "Goal: Ensure optimal use of land resources within Prince Edward County, and promote and support an environmentally sound future land use pattern that provides for a variety of community needs, minimizes conflicts between existing, and proposed land uses, and can be supported by adequate public facilities."

Land Use Objective #1: Strategies on Pg. 95: "Utilize well planned site designs and effective buffer areas to mitigate the impacts of adjacent land uses of differing intensities."

Historic and Cultural Resources Strategies on Pg. 105: "Evaluate the impact of new development on local historic structures and areas. Support development proposals and site designs that respect and promote the character of adjacent or nearby historic properties."

Mr. Love no calls or contact was received for or against this proposal.

John Townsend, Sun Tribe Development, Elam Road Solar, LLC, presented the scope and gave a brief history of the company based in Charlottesville. He said the project they are proposing is a 3MWac with no battery storage component; that can power up to approximately 500-600 homes. The site is approximately three miles west of Prospect. The parcel is 136 acres and the project will only use about 20 acres of that site. He stated the site will be screened and there will be no offsite noise; only 25% of the parcel will be used for solar panels. Mr. Townsend stated this project provides revenue to the County without using County services. He said there is no permanent on-site lighting and does not need a large substation. Benefits to the County include the expectation to generate up to \$300,000 in revenue to the County with no draw on County services. He said this is a local source of zero emission energy production and is a long-term reliable energy source. He said there will be temporary construction jobs.

Mr. Townsend said this meets consistency with the County's Comprehensive Plan; he cited several sections as examples. He said this is a temporary land use and can go back into agricultural use. He said Elam Road Solar intends greater than specified buffers and setbacks; he said there will be 75 feet of existing mature vegetation along the Elam Road frontage and the panels will be set back approximately 150 feet from Elam Road and several hundred feet from the nearest residence. He said vegetation within the buffers will be retained and supplemented with new vegetation as necessary, based on the landscape plan to be approved. He said they plant native pollinator species as groundcover; pollution control measures, erosion and sediment control measures, stormwater control facilities and all construction activities will comply with all Federal and State regulations.

Mr. Townsend stated construction takes approximately four to six months and could begin in 2024-2025. He said during that time, there would be a short increase in traffic, and noise for a short period Monday through Saturday during daylight hours. After construction is complete, there will be no measurable increase in traffic, no noise and will be monitored constantly. He added the vegetation will be maintained year-round and any vegetation not grown successfully will be replaced. The project will be decommissioned at the project owner's expense, not the taxpayers' or County's [expense]. Materials will be recycled, salvaged or repurposed to the extent practicable.

Mr. Townsend said this is reliable, providing over \$300,000 of direct revenue to the County for 30+ years. He said this project would meet or exceed the County's ordinance requirements. He said if this is approved, following the discretionary permitting, there will be additional site plan approvals and a variety of other checklists that must be met before the project can begin.

Commissioner Fuller asked about the existing topography. Mr. Townsend replied that the ground is relatively flat and there would be no need for mass grading; there may need to be some tree removals and slight adjustments to the site, but will not be taking down hills or filling in large sections of the site. He said this site is well suited [for this project].

Commissioner Hunt asked what would be done in the event of a natural disaster. Mr. Townsend said there is that chance; he said the safeguards are in place, as the panels are encased in plastic and safety glass. He said facility itself would be insured and any damage would be repaired or replaced to begin generating power again.

Commissioner Womack requested a staggered run of evergreens be added to the buffer. Mr. Townsend said that could be done in the conditions.

Commissioner Weiss asked if the interconnection with the distribution lines across the street, and asked if they are overground or underground. Mr. Townsend said that is left up to Dominion [Power] but is likely overhead.

Commissioner Gilliam said there is an emphasis in these panels burning off the ozone layer; he asked if solar will burn it off. Mr. Townsend said the panels have full glint-and-glare analysis with a third-party consultant and there is no effects of that.

Commissioner Weiss asked if it is conceivable that the owner/operator would not decommission but could swap out panels or the prevailing technology and keep operating. Mr. Townsend said that hypothetically, yes but the technology is likely to be more advanced at that time and it would be most viable to remove the facility and begin the process again.

Commissioner Peery asked how much [of the panels] can be recycled. Mr. Townsend said they consist of aluminum, glass and silicon, along with the steel racking that the sit on; he added that can be re-used or repurposed.

Commissioner Gilliam asked if they intend to harvest the timber and expand. Mr. Townsend stated it has not been discussed nor is a part of this project to have a second phase; he added that the way the project is designed is for Dominion to set the size that it cannot become larger and is not an option.

Chairman Pregelman asked if they have other projects in the area. Mr. Townsend said there is a completed project in Fluvanna County, and approved projects in Middlesex County and Halifax County.

Chairman Pregelman opened the public hearing.

Krystal Hochstetler, Prospect, read a prepared statement into the record:

*“Dear Board of Supervisors and Planning Commission Members:*

*I am writing as a concerned citizen, in regards to the Community Solar Energy Facility that is on the Agenda for this evening's Public Hearing. I feel the development of this solar panel facility has no substantial accord with the Prince Edward County Comprehensive Plan. The proposed parcel lies within existing Agricultural/Forestal land use. If this particular facility is approved, I feel it opens up opportunities for other solar facilities nearby, of which go against the future land use objectives as well. If we give up our agricultural land, I fear for the future of agriculture and forestry altogether. This 33 acres is small compared to nearby 1000+ acres that have been sought after for solar panel farming.”*

Mrs. Hochstetler added that Chapter 3 in Land Use in Chapter 2, Part 8 states that rural zoning standards should “encourage the preservation of agricultural and forest lands,” and she does not believe this [project] does that, and it also states that it “ensures ordinances do not unduly promote the conversion of agriculture and forest lands to more intensive uses.” She said she fears this could open up further conversion of land.

Commissioner Pregelman stated the County originally did not have anything in the Comprehensive Plan for solar projects, and the County recognizes that it does not want to be a solar panel County but also recognizes what the project does for the County for growth and energy. He said the County looks at each project individually.

Steve Hochstetler, Prospect, stated he shares her concerns and is not opposed to solar, but is concerned with large tracts of land being turned into solar farms. He said a lot of the land surrounding his farm is “signed up” for solar, and is concerned for what that does to property values and the environment.

Mr. Love said there are no applications or letters of intent for any large tracts of land to be used for solar projects.

Commissioner Gilliam said that the panels are placed over fields of grass and questioned if animals can graze on that grass. Mr. Townsend said sheep may graze, but cattle would be too large and could damage the panels. He said that is an option and he will look into that option.

Mr. Townsend stated he understands the concerns, adding that while the solar is being used on the land, the land is being preserved. Once the project is done, the land is given back to the landowner in the same condition. He said the land does not need to be cleared or graded; vegetation will be maintained and the panels will be cleaned periodically, with one to two vehicle trips per month.

Chairman Pregelman stated the County requires a bond to ensure the company decommissions the project; this protects the County and the land.

There being no one further wishing to speak, Chairman Pregelman closed the public hearing.

Commissioner Weiss stated the Comprehensive Plan has nothing regarding solar; Mr. Love said the Comprehensive Plan predates solar.

Mr. Love said the Commission will be working on the updated Comp Plan this coming fall; he said the Planning Commission will be tasked to address alternate energy, technology, broadband, and traffic. Discussion on current projects must be addressed and held to the current Comprehensive Plan.

Avery Clemens, Development Engineer, Elam Road Solar, LLC, stated the study and the work being done with Dominion is for a 3MWac facility and that cannot be increased.

Commissioner Weiss made a motion, seconded by Commissioner Paige, to recommend to the Board of Supervisors that the proposed solar facility is in substantial accord with the Prince Edward County Comprehensive Plan, and promotes the Goals, Objectives, and Strategies noted in the Plan, provided it has the proper screening and buffers; the motion carried:

Aye:	Brad Fuller	Nay:	(None)
	Llew W. Gilliam, Jr.		
	Preston Hunt		
	Clifford Jack Leatherwood		
	Whitfield M. Paige		
	John "Jack" W. Peery, Jr.		
	John Pregelman		
	Teresa Sandlin		
	Rhett Weiss		
	Henry Womack		

**In Re: Public Hearing – Special Use Permit, Elam Road Solar, LLC, Community Solar Energy Facility**

Chairman Pregelman announced this was the date and time scheduled to receive citizen input prior to considering a request from Elam Road Solar, LLC for a Special Use Permit to operate at 3 MWac community solar energy facility on Tax Map Parcel 031-A-16, on Elam Road, Pamplin, Virginia. Notice of this hearing was advertised according to law in the Wednesday, March 8, 2023 and Wednesday, March 15, 2023 editions of THE FARMVILLE HERALD, a newspaper published in the County of Prince Edward.

Mr. Love stated the County has received an application for a Special Use Permit from Elam Road Solar LLC to construct and operate a 3MWac community solar energy facility on a 33-acre portion of Tax Map Parcel 031-A-16, containing a total of 136+/- acres, which is zoned A-1, Agricultural Conservation.

The purpose of the Special Use is to allow for the location of a community solar energy generation facility. The applicant stated that the proposed facility will not be seen nor heard and will not impact adjacent properties. The facility will not generate noise, light, dust, odor, fumes, or vibrations. Water quality will be addressed according to Virginia Stormwater Management Permit requirements and the site will not generate any significant amount of traffic with the main traffic occurring temporarily during the construction phase.

Mr. Love stated if this is recommended and approved by the Board, this site will have to go through Stormwater and ENS permitting, site plan approvals, and can address any additional conditions in this stage.

Commissioner Weiss stated he had several concerns regarding definitions and asked to meet with Mr. Love at a later time.

Chairman Pregelman opened the public hearing.

Rosa Thomas, Prospect, stated the land has been in the family for 200 years and there has been no farming on it since the 1950s. She said he would like to plant crimson clover to expand his bees, and will still be agricultural. She spoke in favor of this proposal.

There being no one further wishing to speak, Chairman Pregelman closed the public hearing.

Commissioner Womack said there is to be a buffer of 75 feet of mature hardwoods; he said he would like two rows of evergreens added to block the view [of the site].

Chair Pregelman asked the Commissioners to review the potential conditions.

Commissioner Weiss made a motion, seconded by Commissioner Peery, to recommend to the Board of Supervisors the Special Use Permit from Elam Road Solar, LLC for a Special Use Permit to operate at 3 MWac community solar energy facility on Tax Map Parcel 031-A-16, on Elam Road, Pamplin, Virginia, with the following conditions; the motion carried:

Aye:	Brad Fuller	Nay:	(None)
	Llew W. Gilliam, Jr.		
	Preston Hunt		
	Clifford Jack Leatherwood		
	Whitfield M. Paige		
	John "Jack" W. Peery, Jr.		
	John Pregelman		
	Teresa Sandlin		
	Rhett Weiss		
	Henry Womack		

**Elam Road Solar, LLC  
PRINCE EDWARD COUNTY, VIRGINIA  
Special Use Permit Conditions**

**SECTION I. GENERAL PROVISIONS**

1. This Special Use Permit applies to the following properties for which a special use permit application was submitted:

Tax Map Parcel Identification Number: 031-A-18

The Special Use Permit application was submitted on 02/07/2023 by Elam Road Solar, LLC on behalf of the owners of the said properties, and compliance with these conditions is the express duty of, and these conditions shall bind, the Applicant and any assignee of the Applicant who operates the Solar Facility.

2. The Site shall be developed, constructed, operated, and decommissioned in compliance with all of the following:
  - a. All applicable federal, state, and local laws, statutes, ordinances, and regulations.
  - b. All written agreements entered into between the Applicant and the County, expressly including, but not limited to, a Solar Facility Siting Agreement.
  - c. The Site Plan approved by Prince Edward County.
  - d. The Decommissioning Plan approved by Prince Edward County.
  - e. The Emergency Response Plan approved by Prince Edward County.
  - f. The Construction Traffic Management Plan approved by Prince Edward County.
  - g. The Erosion and Sediment Control Plan approved by Prince Edward County.
  - h. The Stormwater Management Plan approved by Prince Edward County and/or DEQ.

Violation by the Applicant or by any one or more of Applicant's agents, employees, contractors, assigns, or successors in interest of any terms, conditions, or provisions of any of the foregoing shall constitute a violation of this Special Use Permit.

3. The following terms shall have the following meanings if or when used in these Conditions:
  - a. **"Abandoned"** means the discontinuation of power generation by the Solar Facility for a period of at least 180 consecutive days, except in the event of a force majeure event requiring reconstruction.
  - b. **"Applicant"** means Elam Road Solar, LLC.
  - c. **"Approved Site Plan"** means the detailed drawing showing all equipment, excavation, landscaping, and other changes or improvements to be made to the real property or properties for the development of the Project following approval of the Special Use Permit Application by the Prince Edward County Planning Commission, and the Prince Edward County Board of Supervisors and administrative review and approval by Prince Edward County staff.
  - d. **"Board"** means the Board of Supervisors of Prince Edward County, Virginia.
  - e. **"Commercial Operation"** means the period beginning on the date that the sale of electricity generated from the Solar Facilities to a third party through the Grid commences pursuant to a Power Purchase Agreement and terminating contemporaneously with the commencement of Decommissioning.
  - f. **"County"** means Prince Edward County, Virginia.
  - g. **"County Administrator"** means the county administrator of Prince Edward County, Virginia.
  - h. **"Decommission" or "Decommissioning" or "Decommissioning Activities"** means the work on the Solar Facility to remove improvements on the real property and to otherwise comply with the Decommissioning Plan.
  - i. **"Decommissioning Commencement Date"** means the earliest date on which Decommissioning is required to begin under the terms set forth in these Special Use Permit Conditions.
  - j. **"Decommissioning Plan"** means the plan for Decommissioning Activities submitted by Elam Road Solar, LLC and approved by the County.
  - k. **"Grid"** means the interconnected network for delivering electricity from producers to consumers (consisting of generating stations, electrical substations, high voltage transmission lines, and distribution lines that connect individual customers) to which the Project is connected and provides power.
  - l. **"Investor Owned Utility Company"** means an electric utility as defined in Section 56-576 of the Code of Virginia.

- m. **"Operator"** means any party which undertakes the management, maintenance, and operation of the Solar Facility, including, but not limited to, as assignee of the Applicant.
  - n. **"Power Purchase Agreement"** means the written agreement pursuant to which electricity generated from the Solar Facilities is sold to a third party.
  - o. **"Project"** means the Solar Facility on the parcel, including the following: (i) the development, design, procurement, construction, installation, commissioning, testing, interconnection, and start-up of the Solar Facility on the Site; (ii) the operation, repair, replacement, and maintenance of the Solar Facility on the Site; and (iii) the decommissioning and removal of the Solar Facility from the Site.
  - p. **"Related Entity"** or **"Related Entities"** means any two or more entities described in I.R.C. § 267(b).
  - q. **"Site"** or **"Solar Facility Site"** means all properties to be leased or purchased by the Applicant or any Related Entity for development in connection with the Project, identified as follows: Prince Edward County Tax Map Identification Number 031-A-18.
  - r. **"Site Plan"** means the detailed drawing showing all equipment, landscaping, roads, retention facilities, fencing, buffers, and other changes or improvements to be made to the real property or properties for the development of the Project.
  - s. **"Solar Facility"** or **"Solar Facilities"** means the Site together with all equipment, apparatus, or other items of personal property used for the construction, operation, or decommissioning of the Project.
  - t. **"Surety Review Date"** means the date by which the Applicant will update the cost estimate in the Decommissioning Plan every seven (7) years and reimburse the County for the actual and reasonable, out-of-pocket costs of each such independent review and analysis by a licensed engineer of each decommissioning cost estimate revision.
4. The Site shall be developed in general conformance with the information and exhibits submitted with the Special Use Permit application (the "SUP" Application), except as modified by associated conditions, the Approved Site Plan, and as required by the land development ordinances of Prince Edward County.
  5. This Special Use Permit (SUP) is issued to the owners of the properties for which the special use permit application was submitted (the Properties) and shall run with the land unless and until this SUP is revoked, expires, or is voided.
  6. An Approved Site Plan shall be required for this use.
  7. Prior to the issuance of construction permits, the Applicant shall record in the Circuit Court Clerk's Office of Prince Edward County, Virginia a plat of survey delineating the property boundary and total acreage.
  8. The Applicant shall submit an Emergency Response Plan (the "ER Plan") with the submission of the Site Plan. The ER Plan shall include fire suppression methods that can be deployed during both the construction and operation of the project. The ER Plan shall also include a program of education and training to be provided for County emergency response staff covering onsite emergency response.
  9. Unless approved in writing by the County, no signage shall be permitted on the Site; except that signage containing notices, warnings, or other information, if required by law or by applicable codes and standards, or deemed by the County to be in the interest of the safety and welfare of the community, shall be required.
  10. Elam Road Solar, LLC will reimburse, or cause to be reimbursed, to the County all reasonable, out-of-pocket costs and fees incurred for professional services engaged for purposes of assisting the County during the application process and during construction, including, but not limited to, legal fees and consulting fees; however legal fees shall not be assessed to Elam Road Solar, LLC after construction is completed. The purpose of the reimbursement payments is to defray the costs and expenses incurred

by the County in connection with (i) the zoning and permitting processes related to the approval of the Solar Facility, (ii) the permitting process with federal and state agencies, as applicable, and (iii) the construction of the Solar Facility. Should the special use permit application submitted by Elam Road Solar, LLC for the Project not be approved by the County, no reimbursement under this paragraph will be owed by Elam Road Solar, LLC to the County.

## **SECTION II. BUFFERS, HEIGHTS, AND SETBACKS**

11. Buffers throughout the Site shall include the following:
  - a. All setbacks shall be no less than those shown on the site plan approved by Prince Edward County.
  - b. The Site Plan will identify a maximum extent of Project area, outside of which solar panels or other equipment will not be located. The solar panels or other equipment of the Solar Facility will not be located within the standard setbacks established by Section 7-110 (D) of the County Ordinance.
  - c. The Site Plan will include a vegetative buffering plan (the “Vegetative Buffer Plan”) that will limit the visibility of the Solar Facility from the public rights-of-way adjacent to the Site. For purposes of this Condition, “Solar Facility” does not include the perimeter security fencing, gravel access road, or interconnection equipment. Also, the “Solar Facility” is not an objectionable feature, within the meaning of County Ordinance Section 7-110 (F). All vegetative buffering areas, as shown on the Vegetative Buffer Plan, shall enable insolation of the Solar Facility and may be both natural and planted, shall be a part of the approved Project, and should be protected from harvest so long as the Site is operated as a solar facility.
  - d. Vegetative buffering areas shall be installed (pursuant to the screening suggestions attached as Exhibit A) and, as necessary, managed to ensure health and preservation of the vegetation. Any vegetative buffering that is dead during the operating period shall be removed and replaced in conformance with the approved site plan, within a six (6) month time period during a typical growing period. The type and height of replacement vegetation shall be similar to that of which was originally planted during construction. In the event that the vegetative buffering is severely damaged due to an unusual weather occurrence or natural catastrophe, the Project shall have one year or one growing season, whichever is sooner, to replace or replant.
  - e. A 15’ screening buffer shall be observed with any bordering standing timber harvested after construction of the solar facility.
  - f. Electrical lines leaving the Solar Facility shall be underground until the point of reaching the first pole outside of the facility as to not impact the screening plan.
  - g. Any historical resources noted in the Virginia Department of Historic Resources Map must be identified, marked, and preserved at a setback of at least 100 feet, as reflected on the Site Plan.
  - h. The maximum height of ground mounted systems, equipment, and structures, as measured from the grade or base of the improvements to the highest point, shall not exceed eighteen (18) feet in height. Excluded from this height requirement are overhead electric distribution and transmission lines and poles, project substation, and utility switchyard.

## **SECTION III. CONSTRUCTION, TRAFFIC, and ROAD REPAIRS**

12. Subject to compliance with applicable site safety requirements and upon reasonable prior notice, the County Administrator, building official, zoning administrator, or environmental codes and compliance officer, or any party or parties designated by any one or more of those county officials, including other

federal, state, or local government officials, shall be allowed to enter the Site at any time during construction. Once the facility has commenced Commercial Operation, subject to compliance with applicable Site safety requirements, County officials may enter the Site upon at least one week's advance notice to the Solar Facility liaison.

13. All construction entrances for the Site shall be in general conformance with the information and exhibits submitted with this Special Use Permit application and must be authorized and approved by the Virginia Department of Transportation (VDOT).
14. All construction activity shall be conducted during daylight hours Monday-Saturday. Activities allowed on Sundays include only the following: onsite planning, walking and riding the Site by passenger vehicle (not heavy construction trucks or equipment), office work, and other activities that do not produce large quantities of traffic on the surrounding roads or loud construction noises within the Site. The Applicant shall comply with the Prince Edward County Noise Ordinance Chapter 46, Article II during operation but shall not be required to do so during construction.
15. All heavy construction traffic, including, but not limited to, dump trucks, tractors and trailers, supplier vehicles, and trucks hauling equipment shall enter the site at the designated private driveway along Route 639 (Elam Road).
16. The Applicant shall submit a Construction Traffic Management Plan ("CTMP") as part of the Site Plan. The CTMP shall address traffic control measures, an evaluation of the condition of the public roads along the Delivery Routes prior to construction, and a description and an estimate of any anticipated repairs to public roads that may arise due to damages attributable to construction of the Solar Facilities, which CTMP must be reviewed by a third-party selected by the County and paid by, and at the sole cost of, the Applicant.
17. Dust containment measures shall be utilized at all times, as necessary, to contain dust from constituting a nuisance to nearby residents.
18. No burning of stumps and/or debris will be allowed onsite at the subject solar facility.
19. The Solar Facilities shall be enclosed within chain link security fencing not less than six (6) feet in height.
20. The Project will not utilize permanent lighting. If installed at a later date, lighting will be downward facing, motion activated security lighting located at the Project entrance gate or at the control panels near the equipment pad.
21. Prior to commencement of construction, the Applicant shall provide the County a bond equal to 100% of the cost of the anticipated repairs to be made to the public road along the Delivery Routes, as defined in paragraph 22 below, including the entire public right of way along the Delivery Route. The bond may be in the form of a letter of credit, a surety bond, or a cash bond given to the County, to be held by the County without interest, but the form of any surety bond must be approved by the County Administrator. The County will release, return, and terminate the roadway surety upon completion of construction and Commercial Operation of the Project.
22. Delivery Routes to the site shall include Route 657 (Sulphur Spring Road), from its intersection with State Route 460 (Prince Edward Highway) and Route 639 (Elam Road) from Route 657 (Sulphur Spring Road) to the Elam Road Solar, LLC site entrance.
23. The Solar Facilities shall be constructed and operational within two (2) years of approval. The Zoning Administrator may approve an extension of up to one (1) year upon written request from the Applicant detailing the need for an extension.

24. Solar panels will be constructed, maintained, and operated in accordance with national industry standards and regulations including the National Electrical Code, International Fire Code of the International Code Council and the National Fire Protection Association Fire Code, as provided in Va. Code 15.2-2286. In the event of a conflict between the national industry standards and these Conditions, the national industry standards shall control so that as technology advances, updated technology may be used by the Applicant. Notwithstanding any of the foregoing, the use of any of the following materials at any time, whether in construction, maintenance, or operation of the facility, is expressly prohibited: cadmium telluride, cadmium, tellurium, GEN X, field-applied Teflon® coating, or any other materials prohibited by federal or state agencies.
25. Storage on the Site of power generated by the Facility or generated elsewhere is prohibited.
26. No panels, inverters, pyranometers, substations, or any other component of the Solar Facility, except fencing, shall be located in a floodplain.
27. Upon completion of the construction of the Solar Facilities, the Applicant shall submit a post-construction evaluation of the condition of the roads along the Delivery Routes to the County Administrator for approval. The post-construction evaluation shall include a plan for repairing any damage caused to the public roads along the Delivery Route directly attributable to the Applicant. The Applicant shall be responsible for causing such repairs to be completed to the satisfaction of the VDOT and shall be responsible for coordination of repairs with VDOT. All roadway repairs along the Delivery Routes shall be made at the sole expense of the Applicant.

#### **SECTION IV. ENVIRONMENTAL**

28. The Applicant shall submit a Stormwater Management Plan and an Erosion and Sediment Control Plan as part of the Site Plan. The Applicant shall reimburse, or cause to be reimbursed to, the County all reasonable, out-of-pocket costs incurred by the County related to retaining such third-party inspectors, plan reviewers, and advisors as reasonably necessary for project review and inspections. All such payments shall be remitted to the County within thirty (30) days of invoicing. The County shall retain the right to inspect the Site to verify the findings of the third-party inspectors upon reasonable, prior notice and subject to compliance with Site safety requirements. The phasing of land disturbance shall be detailed in the Erosion and Sediment Control plan and accompanying project narrative.
29. Stabilization of the Site shall be maintained at all times in compliance with Virginia Department of Environmental Quality (DEQ) standards, rules, requirements, and regulations. The Applicant and the Operator, or either one of them, shall notify the County within twenty-four (24) hours of receiving any DEQ notice of less than full compliance by the Project and shall, within forty-eight (48) hours of receipt, provide the County with a copy of the notice. Thereafter, the Applicant and the Operator, or either one of them, shall provide to the County within forty-eight (48) hours of transmission or receipt copies of all correspondence with DEQ regarding Project noncompliance issue until such time as the matter is fully resolved to the satisfaction of DEQ. In order to ensure orderly development of the Solar Facility and to protect the stabilization and environmental integrity and quality of the Site, no more than fifty percent (50%) of the total site development area shown on the Approved Site Plan may be disturbed at any point in time. For purposes of this condition number 29, an area for which any one or more of the following is true is not considered to be disturbed: the area has established ground cover, the County has determined that the area is not disturbed, an area where temporary stabilization measures have been implemented, gravel driveways, or laydown areas.
30. Soil testing shall be conducted on the Site as follows:
  - a. Testing shall be conducted in no less than three (3) locations on the Site, at least one location being within proximity to panels of each different type or manufacturer. Samples will be collected from a depth of six inches below ground surface.

- b. Testing shall be conducted prior to the issuance of a land disturbance permit and every five years thereafter. Testing also shall be conducted immediately prior to Decommissioning and immediately following the termination of Decommissioning.
- c. Samples shall be analyzed for Priority Pollutant 13 Metals (arsenic, antimony, beryllium, cadmium, chromium, copper, lead, mercury, nickel, selenium, silver, thallium, and zinc) in accordance with EPA methods SW 6020, SW 6020A, SW1312, and 200.8.
- d. Testing shall be performed by a service provider retained by the Operator but approved by the County.
- e. A test report for each testing event, including an executive summary, shall be provided to the Prince Edward County zoning administrator within ten (10) days of the completion of such report.
- f. No costs shall be incurred by Prince Edward County for soil testing or reports of soil testing provided to Prince Edward County.

## **SECTION V. DECOMMISSIONING**

- 31. Decommissioning shall be conducted in accordance with the Decommissioning Plan approved by Prince Edward County.
- 32. The Applicant or the Operator shall provide a Notice of Decommission to the County Administrator of Prince Edward County within thirty days of a determination to cease Operation of the Solar Facility.
- 33. Prior to the commencement of construction, the Applicant shall submit to the County and receive County approval of a Decommissioning Plan. The Applicant shall comply with all terms and conditions of the Decommissioning Plan as approved by the County. The Decommissioning Plan at a minimum shall include provisions regarding the following:
  - a. Specifications for the removal of all solar equipment, buildings, cabling, electrical components, foundations, pilings, and fencing.
  - b. A requirement that all Site real property must be restored to the condition of the property as of the date Construction commences (reasonable wear and tear excepted).
  - c. A requirement that the property must be stabilized so as to adequately control, prevent, and minimize any and all erosion or sediment runoff, consistent with the approved Erosion and Sediment Control Plan.
- 34. Decommissioning shall begin immediately after the Facility has, for a period of six (6) consecutive months, ceased operating as a solar energy facility distributing energy to the electrical grid and shall be diligently pursued, as determined by the County in its sole discretion, and completed within eighteen (18) months from the Decommissioning Commencement Date. Prior to its expiration, the County may extend this Decommissioning period by six (6) months if the County finds that the Operator commenced Decommissioning the Solar Facility diligently and continuously worked to Decommission the Facility throughout the Decommissioning period, and is reasonably expected to complete the Decommissioning within the additional six month period.
- 35. Periods during which the Facility is not operational for maintenance, repair, or due to a catastrophic event beyond the control of Elam Road Solar, LLC during which time Elam Road Solar, LLC works diligently to return the Facility to full Commercial Operation, shall not constitute the cessation of operations requiring the initiation of Decommissioning requirements herein. Elam Road Solar, LLC must provide written notice and evidence of the Solar Facility status and repair efforts to the County Administrator during the period in which the Solar Facility is not fully operational. Such notice shall identify the last day on which the Facility was fully operational. Regardless of the efforts of Elam Road

Solar, LLC to return the Solar Facility to full Commercial Operation, if the Solar Facility does not operate as a solar energy facility distributing energy to the electrical grid after the catastrophic event for a period of eighteen (18) months, the Project shall be deemed Abandoned and Elam Road Solar, LLC shall commence Decommissioning no later than the 548th day after the catastrophic event.

36. Any change of party responsible for Decommissioning of the facility, or change in any part of the contact information, shall be reported to the County Administrator within sixty (60) days of the change(s).
37. If Decommissioning Activities are not completed within the allotted time, or if the Project is Abandoned, the County may complete or have completed at its expense the Decommissioning Activities required under the terms of the Decommissioning Plan and may recover all costs of completing those Decommissioning Activities from the surety provided as set forth herein.
38. To secure the costs of Decommissioning, Elam Road Solar, LLC or its successor shall at all times, beginning at commencement of construction and until the termination of Decommissioning, provide financial surety in a form and in an amount approved by the County. If the Solar Facility is transferred to a public utility or an Investor or Member Owned Utility Company (e.g.,: Dominion Energy, Old Dominion Electric Cooperative or its successor entity), the surety required of the Applicant may be cancelled at the time of the transfer and no further surety will be required.
39. The amount of the surety required shall be 100% of the estimated Decommissioning costs estimated at each Surety Review Date, less the scrap or repurposing value of the Solar Facility. The estimated costs and surety to meet the above requirements shall be reviewed by the County Administrator on each Surety Review Date, at which time the County Administrator shall determine if the estimates adequately reflect the Decommissioning costs and any scrap or repurposing value and that the surety will guarantee performance. Should the County Administrator determine that estimated costs and surety are insufficient, the County Administrator and Elam Road Solar, LLC shall mutually agree to determine the correct surety amount; and Elam Road Solar, LLC shall then provide the agreed, adequate surety within one hundred eighty (180) days following the Surety Review Date or, if later, within thirty (30) days after the County Administrator and Elam Road Solar, LLC agree on the adequate surety amount.
40. Surety must be provided in the form of a cash bond deposited with the County; by an irrevocable letter of credit provided for the County's benefit; or by a surety bond listing the County as the obligee, an hypothecated account, an escrow account, or a guaranty issued by a credit-worthy entity, or as otherwise provided in Section 15.2-2241.2 of the Code of Virginia.
  - a. A cash bond shall be in the form of a cashier's check or certified check deposited with the County which has cleared all issuing institutions. Any interest accruing on such funds shall be added to the total amount and retained by the County for Decommissioning. The deposit shall be accompanied by a letter agreement, acceptable to, and issued by, the County Administrator, confirming that the cash deposit is to be held by the County to guarantee the performance of the Decommissioning work required herein, and should the Solar Facility be Abandoned or should the Decommissioning work not be diligently undertaken or performed according to the requirements herein, or should the Special Use Permit be revoked, lapse, expire, or be voided due to violation thereof, the County may expend the deposited funds to undertake the Decommissioning work required herein, without more, after providing written notice to the person identified as owner of the property in the land records of Prince Edward County as of the date of the notice. Within six (6) months of the completion of the Decommissioning work required herein by a person or entity other than the County or a contractor engaged by the County, as confirmed by the County Administrator, the cash bond and accrued interest, less any amounts expended by the County as allowed herein, shall be released and paid to Elam Road Solar, LLC or, if the Project has been Abandoned, to the person identified as owner of the property in land records of Prince Edward County as of the date of the completed Decommissioning or as otherwise directed by that owner of the property.

- b. An irrevocable letter of credit shall mean an instrument provided by a lending institution guaranteeing payment to the County within seventy-two (72) hours of the County's written notice to the institution that the Solar Facility has been Abandoned or the Decommissioning Activities have not been diligently undertaken or performed according to the requirements herein and demand to the institution for the funds, without more. The letter of credit shall have no expiration date or required renewal and shall remain in effect for the benefit of the County and shall under no circumstances be withdrawn before the Decommissioning Activities required herein are completed or the amount guaranteed has been fully drawn by the County. The letter of credit shall require that the County be notified thirty (30) days prior to any cancellation or alteration of the letter of credit. Should the County receive notice that the letter of credit will be cancelled or otherwise become unavailable or decrease, or should this Special Use Permit be revoked, lapse, expire or be voided due to violation thereof by Elam Road Solar, LLC, the County may, immediately draw down the entirety of the letter of credit and convert the surety to a cash bond to be deposited with the County and subject to the terms herein; this shall be specifically reflected in the language of the irrevocable letter of credit. The County may expend the guaranteed funds, without more, to undertake the Decommissioning Activities required herein and required pursuant to the terms of the Decommissioning Plan after providing written notice to Elam Road Solar, LLC or, if the Project is Abandoned, to the person identified as the owner of the Property in the land records of Prince Edward County as of the date of the notice. Within six (6) months following the completion of the Decommissioning Activities required herein and required pursuant to the terms of the Decommissioning Plan by a person or entity other than the County or a contractor engaged by the County, as confirmed by the County Administrator, the letter of credit shall be released by the County and any amounts drawn on the letter of credit, less any amounts expended by the County as allowed herein, shall be released and paid to Elam Road Solar, LLC or, if the Project has been Abandoned, to the person identified as owner of the property in land records of Prince Edward County as of the date of the completed Decommissioning or as otherwise directed by that owner of the property.
- c. A surety bond shall mean a bond issued by a company with an AM Best rating of A++, that is treasury listed, and that is licensed to do business in the Commonwealth of Virginia. The surety bond shall list the County as an obligee and shall remain in effect for the benefit of the County and shall under no circumstances be withdrawn or cancelled before the Decommissioning Activities required herein and required by the terms of the Decommissioning Plan are completed or the amount guaranteed has been fully paid to the County. The surety bond shall require that the County be notified thirty (30) days prior to any cancellation or alteration of the bond. Should the County receive notice that the surety bond will be cancelled or otherwise become unavailable or decrease below the limits required herein, or should the Special Use Permit be revoked, lapse, expire or be voided due to violation thereof by Elam Road Solar, LLC, the County may, immediately file a claim, for the entirety of the amount of the bond, the guarantor shall pay the amounts guaranteed and the County shall convert the surety to a cash bond to be deposited with the County and subject to the terms herein; this shall be specifically reflected in the language of the surety bond. The County may expend the guaranteed funds, without more, to undertake the Decommissioning Activities required herein and required pursuant to the terms of the Decommissioning Plan, after providing written notice to Elam Road Solar, LLC, or, if the Project is Abandoned, to the person identified as the owner of the Property in the land records of Prince Edward County as of the date of the notice. Within six (6) months following the completion of the Decommissioning Activities required herein by a person or entity other than the County or a contractor engaged by the County, as confirmed by the County Administrator, the surety bond shall be released by the County, and the bond funds paid to the County less any amounts expended by the County as allowed herein, shall be released and paid to Elam Road Solar, LLC or, if the Project has been Abandoned, to the person identified as owner of the property in land records of Prince Edward County as of the date of the completed Decommissioning or as otherwise directed by that owner of the property.

41. Should this Special Use Permit be revoked, lapse, expire, or be voided due to violation thereof, the County may immediately draw down all of the surety funds and convert them into a cash bond for purposes of Decommissioning as set forth hereunder and as set forth in the Decommissioning Plan. In such case, no contractual agreement shall be required for the cash bond. This shall be reflected in the surety provided.
42. Should the funds guaranteed for the Decommissioning Activities for any reason not be sufficient for the County to complete the Decommissioning Activities as allowed for herein and as set forth in the Decommissioning Plan, Elam Road Solar, LLC or its successor, shall be and shall remain liable to the County for the difference between the guaranteed funds and the amounts required to Decommission the Solar Facility and shall pay the difference to the County upon demand. The County shall not be liable to any party in any way for the funds drawn pursuant to the conditions set out herein and expended in relation to Decommissioning.
43. Should the Facility be Abandoned, or should the Special Use Permit be revoked, lapse, expire, or be voided due to violation thereof, or should the Decommissioning Activities not be diligently undertaken or performed, and should the County draw down the funds for the purpose of performing the Decommissioning Activities and mobilize its contractors to perform the Decommissioning Activities or otherwise incur liability to its contractors for the performance of the Decommissioning Activities, Elam Road Solar, LLC, its successor or agent, shall have no right to perform the Decommissioning Activities unless specifically authorized by the County in a writing that confirms that the County has incurred no liability to any contractors to perform the Activities or that any such liability is transferrable as deemed acceptable to the County. The Applicant or the Operator shall immediately, upon written demand by the County or any person or entity authorized to act on behalf of the County, without more, grant or release to the County, or any person or entity authorized to act on behalf of the County, under terms deemed acceptable by the County, all necessary real property rights, personal property rights, either or both, as determined solely by the County, other than fee simple ownership or a leasehold interest of the real property, so that the County or any person or entity authorized to act on behalf of the County may undertake any required Decommissioning Activities that have not otherwise been performed as required. This shall include, but may not be limited to, releasing any interest in the personal property, facilities, fixtures, and structures which are to be removed and recycled, disposed of, or otherwise demolished.

**In Re: Public Hearing – Zoning Ordinance Amendment**

Chairman Prengaman announced this was the date and time scheduled to receive citizen input prior to considering an Ordinance Amendment to amend Appendix B – Zoning of the Prince Edward County Code, with additional definitions of expanded uses and use types, description of development standards, and adjustment of setbacks for accessory structures. Notice of this hearing was advertised according to law in the Wednesday, March 8, 2023 and Wednesday, March 15, 2023 editions of THE FARMVILLE HERALD, a newspaper published in the County of Prince Edward.

Mr. Love said the Prince Edward County Board of Supervisors requested that staff review all existing County Ordinances and provide updates as necessary in order to comply with the Code of Virginia. Therefore, staff reviewed the existing Prince Edward County Zoning Ordinance as well as researched standards utilized by various rural Counties in their Ordinances and the most recent updates in the Code of Virginia.

At the January and February meetings, staff presented a Draft Ordinance with new language and description of development standards. Staff has incorporated all recommendations by the Planning Commission into the Zoning Ordinance Amendment that includes new language, definitions, and description of development standards. Significant changes include: adding new definitions for uses such as private camping, short-term tourist rental, and adjusting setbacks for accessory structures in order to allow for public safety.

Mr. Love stated there have been no comments received and this ordinance has been online and shared in the media. Mr. Love stated one example is that in reviewing the ordinance, he found there were no setbacks mentioned in some of the residential zones. He met with Trey Pyle, Deputy Emergency Management Coordinator, and setbacks are now at 10-feet and are not permissible to be placed at the property line as it creates fire and rescue issues.

Chairman Prengaman opened the public hearing.

There being no one wishing to speak, Chairman Prengaman closed the public hearing.

Commissioner Sandlin made a motion, seconded by Commissioner Paige, to recommend to the Board of Supervisors the approval of the Ordinance Amendment to amend and re-ordain Appendix B of the Prince Edward County Code, (Zoning) in order to define new uses and the adjust setbacks for accessory structures; the motion carried:

Aye: Brad Fuller  
Llew W. Gilliam, Jr.  
Preston Hunt  
Clifford Jack Leatherwood  
Whitfield M. Paige  
John "Jack" W. Peery, Jr.  
John Prengaman  
Teresa Sandlin  
Rhett Weiss  
Henry Womack

Nay: (None)

- F. (Reserved)
- G. The farm winery is subject to the requirements of Prince Edward County Code § 5-104 regarding permits.
- H. The regular business hours for the farm winery shall be between 9:00 a.m. and 10:00 p.m.
- I. Any parking space(s) designated for handicap access shall be connected to a paved or otherwise hard-surfaced travelway, sidewalk or path of sufficient width to facilitate the maneuverability and operation of a wheelchair connecting the parking space(s) to and from all buildings which guests of the farm winery are authorized to visit.

Kennel. Noncommercial

- A. Any structure and/or area occupied by animals (runs, training areas, pens and/or dwelling) shall be no closer than 200 feet from any neighboring residence, and set back 100 feet from any property lines.
- B. Any exterior structure and/or area occupied by animals (runs, training areas, pens, etc.) shall be enclosed by a solid fence not less than six feet in height; located within 50 feet of the structure; composed of materials approved by the Zoning Administrator; and installed within 60 days of approval. If individual cages or enclosures are used to separate individual dogs from other animals, the cage shall accommodate no more than one dog and shall be sized to allow adequate space for movement as following; The length and width shall be a minimum of three times the dog's length (nose to tail and a minimum of four feet high).
- C. When adjoining a residential use, landscaping separation buffers and screens shall be provided along the property line as described in §Section 4-200.3.
- D. The kennel shall be cleaned of animal waste on a daily basis, double-bagged and disposed of

at County collection sites.

- E. Upon request, the kennel owner shall provide to the Zoning Administrator copies of inoculation and/or vaccination certificate, including rabies, issued for each dog. Additionally, copies of dog licenses are regulated as noted under Prince Edward County Code Article III, Division 2.
- F. The applicant shall meet all Virginia Department of Transportation, Health Department, and Animal Control requirements.
- G. The applicant shall allow agents of the Prince Edward County Planning Department and Prince Edward County Animal Control to inspect the property to ensure compliance.
- H. For the purposes of this section, a noncommercial kennel shall be defined as a place where five (5) or more dogs that are six (6) months in age or older, are owned, boarded, housed, or offered for sale.

#### *Microbrewery*

- A. Agricultural products, including hops, barley, other grains, or fruit utilized in the microbrewery operation, shall be grown on the farm where the microbrewery is established.
- B. The hours of operation for the microbrewery shall be between 9:00 a.m. and 10:00 p.m.
- C. Microbreweries shall be located on a lot or parcel adjacent to a state-maintained road.
- D. Beer can be sold for on- and off-premises use.

#### Sec. 3-100. Generally.

- (A) The standards contained in article II, District Regulations, shall apply to all of the following use types, unless specifically modified and/or superseded by the use and design standards in this article.
- (B) The standards listed herein as general standards shall apply in all zoning districts in which the use type is permitted, either by right or by special use.
- (C) Where a specific zoning district is indicated; the use and design standards listed in this article shall apply to that zoning district, and shall be in addition to any general standard for that use.

#### Sec. 3-100.1. Agricultural use types.

##### *Agriculture*

###### General standards:

- 1. Commercial uses such as gift shops and restaurants associated with viticulture operations shall only be allowed by special use permit.

##### *Commercial feed lots*

###### General standards:

- 1. For the purposes of this use type, the following definitions shall apply:

*Livestock*: Includes all domestic or domesticated bovine animals, including but not limited to cattle; equine animals, included but not limited to horses; ovine animals, including but not limited to sheep,

porcine animals including but not limited to hogs, and poultry included but not limited to turkeys or chickens.

*Natural buffer:* Any hill, trees, woodland or combination thereof which completely blocks the view of a commercial feedlot from public roads and any existing dwellings located on properties adjoining the commercial feedlot.

*Operator:* The owner or operator of a commercial feed lot, or the land on which the commercial feed lot is located.

*Structure:* Any building, structure, installation, storage container or storage site used in the operation of a commercial feed lot, including but not limited to feed storage bins, litter storage sites, incinerators, manure storage sites, poultry houses, poultry disposal pits and dead poultry cold storage chests.

2. All commercial feed lots shall meet the following minimum acreage requirements.

Beef or dairy cattle: 60 acres for the first structure and 15 acres for each additional structure.

Swine: 50 acres for the first structure and ten acres for each additional structure.

Poultry: 15 acres for the first structure and five acres for each additional structure.

The expansion of any existing conforming commercial feedlot structure shall require an additional one acre of land for each 5,000 square feet (or part thereof) of structure addition. Commercial feedlots that are non-conforming on the effective date of this ordinance due to insufficient acreage as required above shall be considered non-conforming uses and shall be governed by the provisions of section 5- 126 of this ordinance.

- (a) Any project for improvement for a structure to comply with existing state or county health, sanitary or safety code specifications which are solely necessary to assure safe living condition; or
- (b) Any alteration of a structure listed on the National Register of Historic Places of the state landmarks register.

TELECOMMUNICATIONS. The transmitting and receiving of electromagnetic signals through the atmosphere.

TRAVEL TRAILER (RECREATION VEHICLE). A portable vehicular structure built on a chassis; designed to be used for temporary occupancy for travel, recreation or vacation use; being of any length, provided that its gross weight does not exceed 4,500 pounds or being of any weight, provided that its overall length does not exceed 40 feet.

VARIANCE. A reasonable deviation from the provision regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure in accordance with *Code of Virginia*, § 15.2-2201.

WATERCOURSE. A natural or artificial channel for passage or running water fed from natural sources in a definite channel and discharging into some stream or body of water.

YARD. A required open space on a lot, unoccupied and unobstructed from the ground upward, unless otherwise provided by this ordinance.

YARD, FRONT. A yard between the building line and the street right-of-way extending across the full width of the lot.

YARD, REAR. A yard between the rear line of the building and the rear line of the lot extending the full width of the lot.

YARD, SIDE. A yard between the side line of the building and the side line of the lot extending from the front lot line to the rear lot line.

(Ord. of 11-14-13; Ord. of 9-8-15)

**Sec. 6-200. Use types.**

(A) The purpose of use types is to establish a classification system for land uses and a consistent set of terms defining uses permitted within various zoning districts In Prince Edward County, Virginia. The use types section also facilitates the process of determining the applicable use type of any activity not explicitly defined.

**(B) The use types defined herein shall apply in all zoning districts in which the use type is permitted, either by right or by special use.**

(C) In the event of any question as to the appropriate use type of any existing or proposed use or activity, the administrator shall have the authority to determine the appropriate use type. In making such determination, the administrator shall consider the operational and physical characteristics of the use in question and shall consider the classification contained in the most recent edition of the North American Industry Classification System Manual published by the U.S. Office of Management and Budget. In addition, the administrator shall consider the specific requirements of the use in common with those included as examples of use types. Those examples, when included in use type descriptions, are intended to be illustrative, as opposed to exclusive lists. The administrator may also determine that a proposed use or activity is sufficiently different from any use type listed below and will require an amendment to the text of this ordinance.

~~(D)~~ (D) The administrator shall make such determinations of appropriate use types in writing, which shall include an explanation of the reasons for the determination.

(b) Internet service providers. Businesses that provide Internet service to businesses or residents.

(c) Software design and development. Businesses that design software or businesses that develop the design of specific software.

(d) Computer and peripheral sales and assembly. Businesses that assemble computers or sell the hardware associated with computers.

(e) Content developers. Businesses that design and build computer systems.

(f) Internet-based sales and services. Businesses whose primary trade is based on the Internet. be It a sales or service provider.

(g) Hardware design, manufacture, assembly and development. Businesses that manufacture, assemble or develop hardware design for computers.

(h) Telecommunications-based video service providers. Businesses that use video conferencing or cable connections for employees to telecommute.

(i) Outbound or Inbound call centers. Businesses that either market their product through phone calls or businesses that answer consumer questions.

(j) Telecommunications equipment manufacturing, assembly and service. Businesses that build, put together or service telecommunications equipment.

(k) Owned, operated, managed, or leased as landlord or tenant, as all or a part of a data center.

TRUCK STOP. An establishment containing a mixture of uses which cater to the traveling public and in

particular motor freight operators. A truck stop might include such uses as fuel pumps, restaurants, overnight accommodations, retail sales related to the motor freight industry, and similar uses.

VETERINARY HOSPITAL/CLINIC. Any establishment rendering surgical and medical treatment of animals. Boarding of animals shall only be conducted indoors, on a short term basis, and shall only be incidental to such hospital/clinic use, unless also authorized and approved as a commercial kennel.

(Ord. of 3-11-14; Ord. of 9-12-17; Ord. of 2-11-20; Ord. of 7-14-20; Ord. of 1-12-21)

**Sec. 6-200.11. Industrial use types.**

ASPHALT PLANT. An establishment engaged in manufacturing or mixing of paving materials derived from asphaltic mixtures or tar.

CONSTRUCTION YARDS. Establishments housing facilities of businesses primarily engaged in construction activities, including outside storage of materials and equipment. Typical uses are building contractor's yards.

CUSTOM MANUFACTURING. Establishments primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving the use of hand tools, or the use of mechanical equipment commonly associated with residential or commercial uses.

INDUSTRY, TYPE I. Establishments engaged in the processing, manufacturing, compounding, assembly, **packaging**, treatment or fabrication of materials and products, from processed or previously manufactured materials. Type I Industry is capable of operation in such a manner as to control the external effects of the manufacturing process, such as smoke, noise, soot, dirt, vibration, odor, etc. A machine shop is included in this category. Also included is the manufacturing of ammunition and firearms, apparel, electrical appliances, electronic equipment, camera and photographic equipment, ceramic products, cosmetics and toiletries, business machines, food, paper products (but not the manufacture of paper from pulpwood), musical instruments, medical appliances, tools or hardware, plastic products (but not the processing of raw materials), pharmaceuticals or optical goods, bicycles, and any other product of a similar nature or requiring similar production characteristics.

**In Re: Review of Supervisors Actions**

Mr. Love reported that Blackwood project has been approved and he expects the site plan and stormwater designs to be submitted quickly.

**Old Business**

(None)

**New Business**

Mr. Love said the date of the next Planning Commission meeting has been set for Thursday, April 20. He said there is an active application.

Chairman Pregarman declared the meeting adjourned at 8:30 p.m.

**Next Meeting: Thursday, April 20, 2023 at 7:00 p.m.**