



## COUNTY OF PRINCE WILLIAM

5 County Complex Court, Prince William, Virginia 22192-9201

MAIN (703) 792-7615 | FAX (703) 792-4758

[www.pwcgov.org/Planning](http://www.pwcgov.org/Planning)

PLANNING  
OFFICE

Christopher M. Price, AICP  
Director of Planning

October 11, 2013

### **STAFF REPORT**

Public Facility Review #PLN2013-00389, Berry Property Sewer Extension  
(Brentsville Magisterial District)

**Planning Commission Public Hearing: October 23, 2013**  
**Staff Recommendation: Denial**

#### **I. Background:**

- A. Request – This is a request of the property owners, Chris and Jolene Berry, for a public facility review (PFR) under §15.2-2232 Code of Virginia requesting connection to public sewer service in the Rural Area. The administrative determination of the Planning Office, provided July 19, 2013, found the request inconsistent with the Comprehensive Plan. At the September 4, 2013 Planning Commission meeting, Ron Burgess, the Brentsville District Planning Commissioner, requested a public hearing be held on this case at the next Planning Commission meeting.
- B. Location – The site is located approximately 2000’ west from the intersection of Nokesville Road and Fitzwater Drive; GPIN 7493-19-9643. See Attachment A for the reference maps.
- C. Comprehensive Plan – The site is designated AE, Agricultural or Estate on the Long Range Land Use Map and is in the Rural Area. See Attachment A for the Long Range Land Use Map. The Zoning Ordinance prohibits extension of public sewer into the Rural Area except under special circumstances specifically enumerated in the Comprehensive Plan, that maintain the land use densities delineated in the Long-Range Land Use Map. This application does not meet any of those special circumstances.
- D. Zoning/Acreage – The property is zoned A-1, Agricultural and is approximately 16.24 acres. See Attachment A for the Zoning Map. Section 32-250.75 of the Zoning Ordinance states that residential and nonresidential uses within the rural

areas (as defined in the Comprehensive Plan) shall not connect to the public sewer system, except in accordance with the Comprehensive Plan.

- E. Availability of Sewer – On May 15, 2008 the Virginia Department of Health denied the request of a previous property owner for on-site sewer as the soil and site conditions within the parcel do not allow on-site sewage systems (see Attachment B). According to a June 2, 2008 Prince William County Service Authority letter, public sewer with capacity for a single-family home is available along the front of the property along Fitzwater Drive (see Attachment C).
- F. Previous Request – There was a previous request through PFR #PLN2008-00607, Gilberto Guel, for sewer extension to this same property that was found inconsistent by the Planning Commission on May 21, 2008. The applicant appealed the Planning Commission’s determination of inconsistency on May 29, 2008. The case was then brought forth before the Board of County Supervisors for an Administrative Hearing on July 22, 2008. The Board confirmed the Planning Commission’s determination of inconsistency and denied the appeal. See Attachment E for Planning Commission resolution and Attachment F for the Board of County Supervisors resolution.

## **II. Current Situation:**

- A. Administrative Public Facility Review – The land has been purchased since the original request and the current property owners submitted an application for a public facility review for public sewer extension. The request was found to be inconsistent with the Comprehensive Plan for reasons that are outlined in the Administrative Determination Report found in Attachment D.
- B. Planning Office Recommendation – The relevant policy circumstances have not changed since the previous actions of both the Board of County Supervisors and the Planning Commission to deny extension of sewer service to the subject parcel. The Planning Office recommends that the request be found not substantially in accord with the Comprehensive Plan and therefore deny the request for the extension of public sewer to this site.
- C. Planning Commission Public Hearing – A public hearing before the Planning Commission has been properly advertised for October 23, 2013.

## **III. Issues:**

- A. Comprehensive Plan – How is the location, character, and extent of the proposed sewer extension consistent (or inconsistent) with applicable Comprehensive Plan policies?
- B. Community Input – Have members of the community raised any issues?

- C. Legal Uses of the Property – What uses are allowed on the property? How are legal issues resulting from Planning Commission action to be addressed?

**IV. Alternatives** beginning with the staff recommendation are as follows:

- A. Find PFR #PLN2013-00389, Berry Property Sewer Extension, is not substantially in accord with the Comprehensive Plan.

1. Comprehensive Plan – A finding that the request is not substantially in accord with the Comprehensive Plan would restrict development of the property to those uses that do not require sewer, consistent with the purpose of the AE, Agricultural or Estate land use designation, which is to protect existing agricultural lands and open space and maintain a maximum density of one dwelling per 10 acres. Such a finding is also consistent with Sanitary Sewer Plan Policy #3 of prohibiting the extension of public sewer into the Rural Area except under special circumstances; none of which apply to this case.
2. Community Input – Notice of the application has been transmitted to adjacent property owners within 200 feet of the property. As of the date of this staff report, the Planning Office has not received any comments on the case.
3. Legal Uses of the Property – The site can be used for purposes identified in A-1, Agricultural zoning district. The decision of the Planning Commission can be appealed to the Board of County Supervisors. Legal issues resulting from Planning Commission action are appropriately addressed by the County Attorney's Office.

- B. Find PFR #PLN2013-00389, Berry Property Sewer Extension, to be substantially in accord with the Comprehensive Plan.

1. Comprehensive Plan – A finding that the request is substantially in accord with the Comprehensive Plan would allow the property to connect to public sewer.
2. Community Input – Notice of the application has been transmitted to adjacent property owners within 200 feet of the proposed facility. As of the date of this staff report, the Planning Office has not received any comments on the case.
3. Legal Uses of the Property – The proposed extension of sewer service would allow development of a use requiring sewer service. Legal issues

resulting from Planning Commission action are appropriately addressed by the County Attorney's Office.

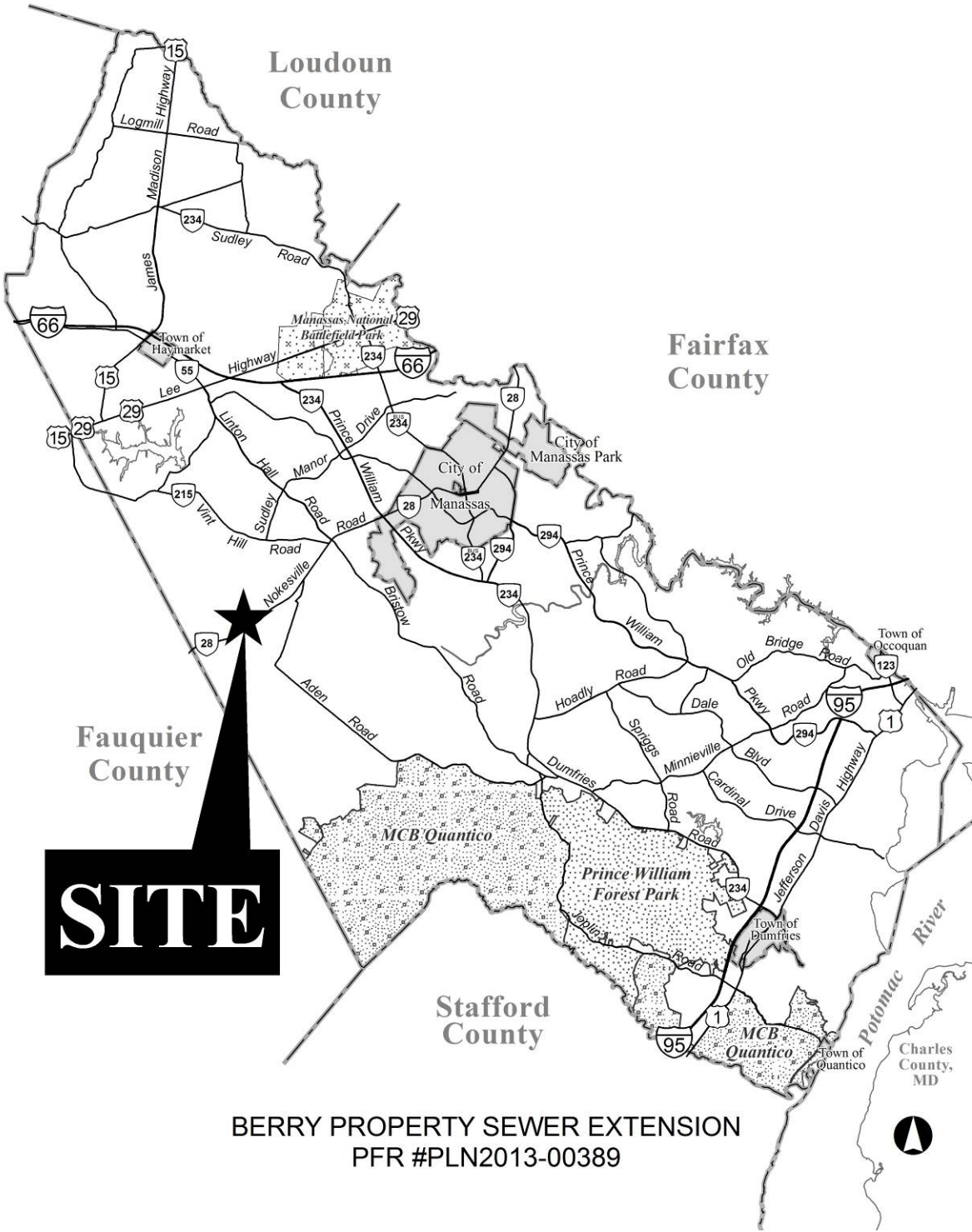
- V. **Recommendation** is that the Planning Commission concur with Alternative A and determine that PFR #PLN2013-00389, Berry Property Sewer Extension, is not substantially in accord with the Comprehensive Plan and therefore deny the request for the extension of public sewer to this property.

**Staff:** David McGettigan, 703-792-7189

**Attachments:**

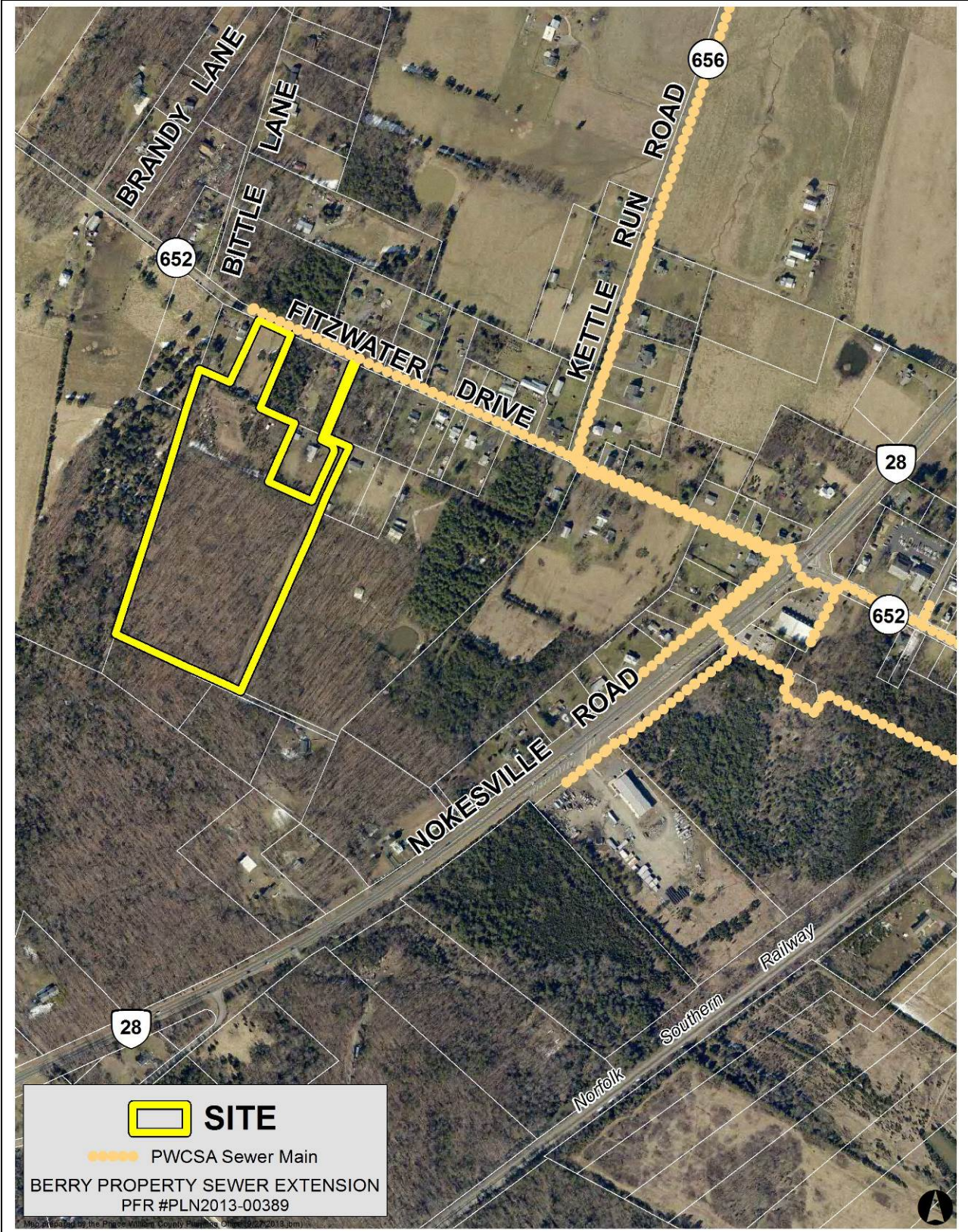
- A. Maps
- B. Virginia Department of Health Letter
- C. Prince William County Service Authority Letter
- D. Administration Determination Report
- E. PC PFR Determination
- F. BOCS Denial of Appeal

Attachment A – Maps  
VICINITY MAP

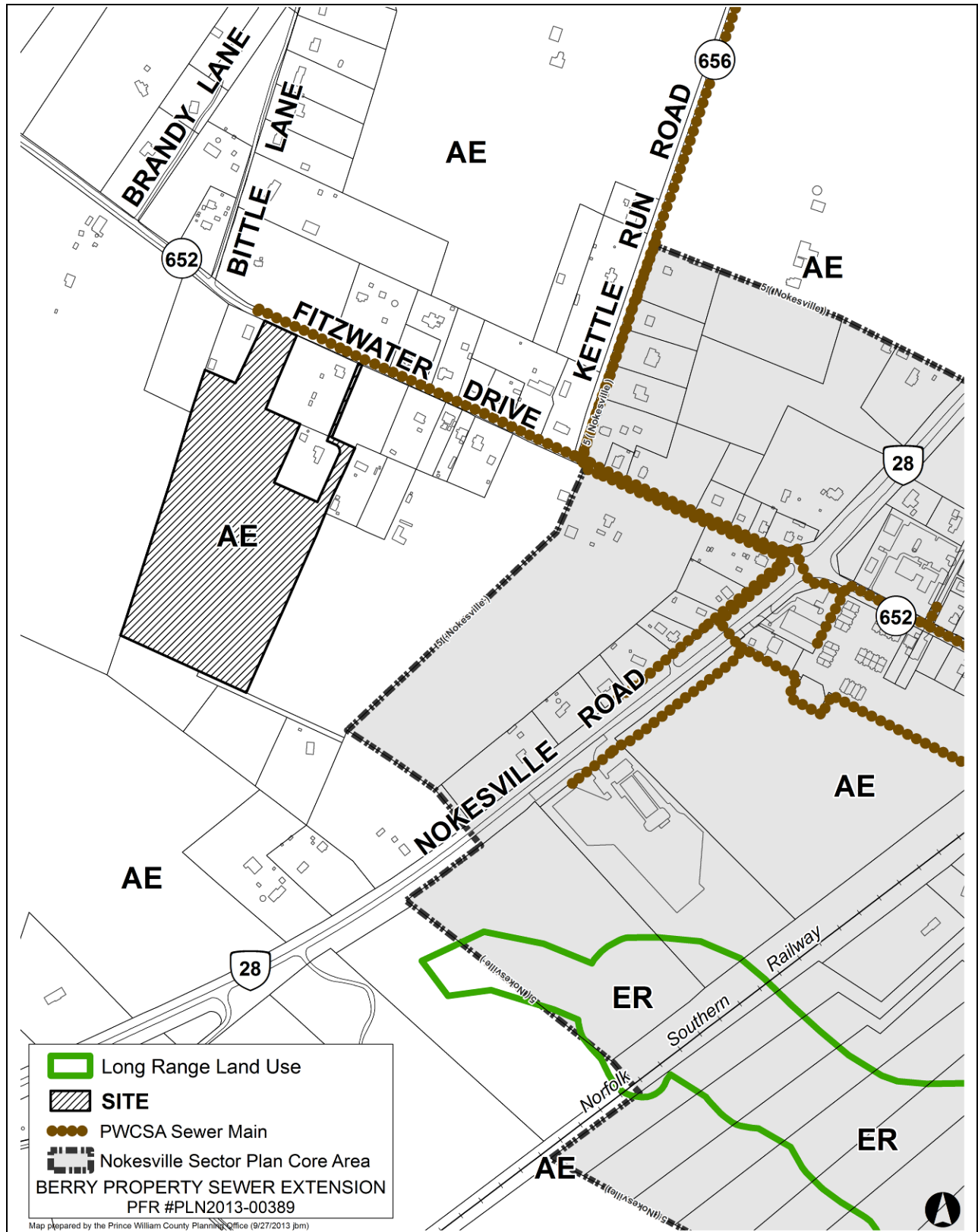


BERRY PROPERTY SEWER EXTENSION  
PFR #PLN2013-00389

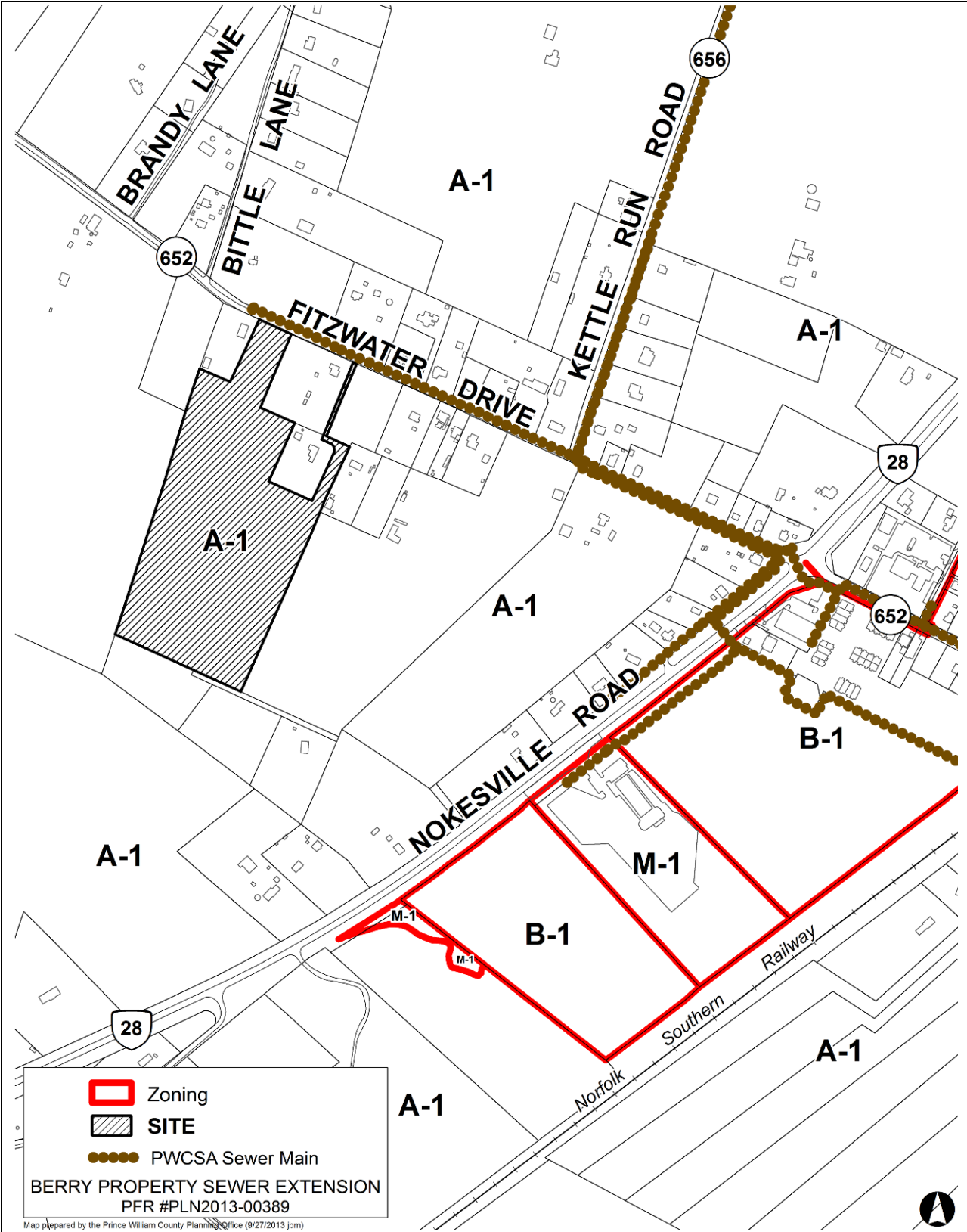
Attachment A – Maps  
AERIAL MAP



# Attachment A – Maps LONG RANGE LAND USE MAP



Attachment A – Maps  
**ZONING MAP**







COMMONWEALTH of VIRGINIA

In Cooperation with the  
State Department of Health

Prince William Health District  
8470 KAO CIRCLE  
MANASSAS, VIRGINIA 20110-1702

SERVING:  
CITY OF MANASSAS  
CITY OF MANASSAS PARK  
PRINCE WILLIAM COUNTY  
TELEPHONE: (703) 792-6300  
ENVIRONMENTAL HEALTH: (703) 792-6310

May 15, 2008

Guel Gilberto  
244 Rubens Circle  
Martinsburg, West Virginia 25401

**NOT A PERMIT**

Re: **DENIAL** - Sewage Disposal System Construction Permit Application #175-08-0224  
13301 Fitzwater Drive, GPIN: 7493-19-9643

Dear Mr. Gilberto:

The Prince William Health District [District] received the referenced application along with sewage disposal site evaluation work related to the application that had been prepared by S. Michael Lynn, Authorized Onsite Soil Evaluator (AOSE) #005. The application was submitted pursuant to the provisions of §32.1-163.5 of the *Code of Virginia* and Chapter 615 of the Virginia Administrative Code (12VAC5-615) which require the Virginia Department of Health [VDH] to accept private sewage disposal site evaluations from an AOSE or a Professional Engineer (PE) in consultation with an AOSE. The District performs an administrative review of such applications for completeness and apparent substantial compliance with the regulations of the Board of Health, VDH Guidance Memoranda and Policies and local ordinances/policies. Upon a finding that a permit application (and documentation submitted by an AOSE) is in proper form, the District, as an agent of the VDH, is required to accept the work of the AOSE and issue the appropriate document (permit, denial, certification letter, etc.) in reliance of the work of the AOSE.

In reviewing the AOSE site documentation it appears that all topographically suitable landscape positions within the property were evaluated and that the areas evaluated contained firm, massive, dense, clay loam soil material at a depth of seventeen (17) inches or less (most at 12 inches or less) which exhibited redoxymorphic features. A seasonal water table was identified as shallow as six (6) inches. As required by §32.1-163.5, the certified work of Mr. Lynn is hereby accepted. Note that the District did NOT conduct independent field evaluations to confirm or refute the soil and site conditions certified by the AOSE.

The Sewage Handling and Disposal Regulations and VDH Guidance Memoranda and Policies require a minimum of six to twelve (6-12) inches of separation distance between the infiltrative surface of an onsite sewage disposal site and a water table and a minimum of 18 inches of separation distance between the infiltrative surface and a restrictive horizon. Based on the AOSE data it does not appear that there is sufficient depth of suitable soil above the water table or sufficient depth of suitable soil above the firm, dense clay material, which we interpret to be a restrictive horizon. The soil and site conditions within the parcel do not appear to conform to the minimum criteria established for permitting of any of the onsite sewage systems presently approved for use in Virginia; consequently your application must be denied.

Pursuant to §32.1-163.5, 12VAC5-615 and VDH Guidance Memorandum and Policy #126A, this denial is issued in total reliance of the work and certifications of the above named AOSE who is believed to be in good professional standing at the time of this writing. In issuing this denial the VDH does not assume or accept responsibility or liability for the data certified by the AOSE or any party relied on by the AOSE and does not accept responsibility or liability for problems or losses resulting from its acceptance of or reliance on the AOSE data. Recourse shall be to the AOSE.



**Attachment B – VDH Letter**

Page 2

DENIAL - Sewage Disposal System Construction Permit Application #175-08-0224  
13301 Fitzwater Drive, GPIN: 7493-19-9643  
May 15, 2008

The decision to deny your application may be appealed in accordance with the provisions of the Sewage Handling and Disposal Regulations by submitting a written notice of intent to appeal and request for a hearing to Alison Ansher, M.D., Health Director, Prince William Health District, 9301 Lee Avenue, Manassas, Virginia 20110-5577. The request should be addressed to the Commissioner of Health, Virginia Department of Health but delivered to the local Health Director at the address noted. The notice/request must cite the reasons for the hearing and the sections of the regulations of the Board of Health you believe were not properly interpreted or applied. Data or information you have to support your cause or which refutes the District's findings, or shows how the regulations were not properly interpreted or applied, should be submitted at the time the hearing request is filed. **THE NOTICE OF INTENT AND REQUEST FOR A HEARING MUST BE FILED WITHIN THIRTY (30) DAYS OF YOUR RECEIPT OF THIS CORRESPONDENCE.**

You may contact me at telephone number (703) 792-4469 with any questions regarding your application or this correspondence.

Sincerely,

  
Maria Michelbook  
Environmental Health Specialist

Reviewed by   
Environmental Health Supervisor

Cc: Michael Lynn, AOSE #005

County Complex Court  
P. Box 2266  
Fordsburg, VA 22195-2266

Phone (703) 335-7930  
Fax (703) 335-8933  
www.pwcsa.org



Division of Engineering & Water Reclamation  
Charles R. Weber, P.E., Director  
John T. Bailey, Deputy Director, Engineering  
Stephen M. Bennett, Deputy Director, Water Reclamation

June 2, 2008

Cintia Guel  
64 Beaumont Avenue  
Inwood, WV 25428

RE: 13301 Fitzwater Drive, Nokesville, Virginia  
Sanitary Sewer Service

Dear Ms. Guel:

In response to your recent inquiry, please be advised that there is capacity for another single family home in the low-pressure force main that runs in Fitzwater Drive in front of the referenced property. This letter shall not be construed as an endorsement for connecting the referenced property to public sewer, but merely as a statement of capacity. The County's comprehensive land use plan controls this property's ability to connect to the public sewer system. The Service Authority cannot allow this property to connect to the public sewer system without the written permission of the County.

Please Contact me if I can be of further assistance in this matter.

Sincerely,



Richard D. Visger, P.E.  
Project Engineer III/Manager

RDV/rdv

cc: Ms. Karla Coker, PWCSA

PADEVELAS PSD13301FitzwaterDr-A VAIL

# Attachment D – Administration Determination Report



## COUNTY OF PRINCE WILLIAM

5 County Complex Court, Prince William, Virginia 22192-9201  
(703) 792-7615 Metro 631-1703, Ext. 7615 FAX (703) 792-4401  
Internet www.pwcgov.org

PLANNING  
OFFICE

Christopher M. Price, AICP  
Director of Planning

August 26, 2013

**TO:** Planning Commission

**FROM:** Raymond E. Utz  
Chief, Long-Range Planning Division

**RE:** Review for Determination of Conformity with the Comprehensive Plan/  
Public Facility Reviews (Pursuant to State Code Title 15.2-2232)

Reporting Period: July 4, 2013 through August 21, 2013

During the above referenced reporting period:

- One public facility review application was administratively denied by staff. See attached case information.
- No applications requiring public facility review by the Commission were received.
- No site plans requiring a public facility review were received.

Please call me at 703-792-6846 if you have any questions involving public facility reviews.

cc: Board of County Supervisors  
Christopher Price, Planning Director  
Deborah Bruckman, Current Planning Manager  
Teresa Taylor, Clerk to the Planning Commission  
Curt Spear, Assistant County Attorney

*An Equal Opportunity Employer*

# Attachment D – Administration Determination Report



**COUNTY OF PRINCE WILLIAM**  
5 County Complex Court, Prince William, Virginia 22192-9201  
(703) 792-6830 Metro 631-1703, Ext. 6830 FAX (703) 792-4401  
Internet [www.pwcgov.org](http://www.pwcgov.org)

PLANNING  
OFFICE

Christopher M. Price, AICP  
Director of Planning

July 19, 2013

Chris and Jolene Berry  
6835 Crescent Ridge Ct.  
Bealeton, VA 22712

**RE: Public Facility Review Determination (PFR #PLN 2013-00389)**  
Proposal: Sewer Extension @ 13301 Fitzwater Dr.  
Location: 13301 Fitzwater Dr., Nokesville, VA 20181  
GPIN: 7493-19-9643  
Comprehensive Plan: AE, Agricultural Estate  
Zoning: A-1, Agricultural  
Magisterial District: Brentsville

Dear Mr. and Mrs. Berry:

This letter is in response to your letter received on June 26, 2013, requesting a determination of consistency with the Comprehensive Plan for your request to connect to the sewer line running along your property on Fitzwater Drive.

We have reviewed your proposal and determined it is not consistent with the Comprehensive Plan for the following reasons.

1. Your property lies in the Rural Area as defined in the Prince William County Comprehensive Plan.
2. Section 32-250.75.3. of the Prince William County Zoning Ordinance states that "residential and nonresidential uses within the Rural areas (as defined in the Comprehensive Plan) shall not connect to the public sewer system, except in accordance with the Comprehensive Plan."
3. The Sanitary Sewer chapter of the Comprehensive Plan states that "all new development within the Rural Area shall be served by individual-lot, on-site sewerage systems. Public sewer systems – except under the special circumstances that are outlined in the action strategies contained herein, and as specifically permitted under the action strategies in the Nokesville Sector Plan for the "core area" identified in the sector plan – shall not be extended into the Rural Area."

Due to the fact that your property is located in the County's rural area, is undeveloped, and lies outside the Nokesville Sector Plan Core Area, connection to the sanitary sewer is not permitted.

*An Equal Opportunity Employer*

## Attachment D – Administration Determination Report

PFR PLN2013-00389, Sewer Extension @ 13301 Fitzwater Dr.

July 19, 2013

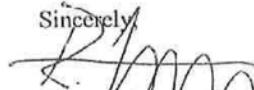
Page 2

A request was received by this office on April 7, 2008 from Gilberto Guel for this lot to connect to the sanitary sewer line. This office issued a similar determination at that time. The Planning Commission upheld the staff determination on May 21, 2008. The determination was appealed to the Board of County Supervisors who, on July 22, 2008 denied the appeal.

The Planning Commission will be notified of this action within the next Public Facility Review Report and considered at the Planning Commission's September 4, 2013 meeting. In accordance with Virginia Code Section 15.2-2232, the Planning Commission has the right to request a formal review and schedule a public hearing on this matter within the 60-day period following the dispatch of this report.

In addition, this decision is subject to being reconsidered by the Board of County Supervisors, in accordance with Section 32-201.17 of the Zoning Ordinance. You will be notified in the event that the Planning Commission or the Board of County Supervisors requires a formal review.

Sincerely,



Raymond J. J., AICP  
Chief, Long Range Planning

cc: Nick Evers  
Oscar Guzman  
Debbie DeGuzman

## Attachment E – PC PFR Determination



### COUNTY OF PRINCE WILLIAM

5 County Complex Court, Prince William, Virginia 22192-9201  
(703) 792-6830 Metro 631-1703, Ext. 6830 FAX (703) 792-4401  
Internet [www.pwcgov.org](http://www.pwcgov.org)

PLANNING  
OFFICE

Stephen K. Griffin, AICP  
Director of Planning

May 14, 2008

**TO:** Planning Commission  
**FROM:** Raymond E. Utz *REU*  
Chief, Long-Range Planning Division  
**RE:** Review for Determination of Conformity with the Comprehensive Plan  
(Pursuant to State Code Title 15.2-2232)

Reporting Period: April 29, 2008 through May 12, 2008

Please find attached public facility review(s) processed by the Planning Office during the period of April 29, 2008 through May 12, 2008, to be considered by the Commission at their May 21, 2008 meeting.

The Planning Commission has 60 days from the date of submission to act on the request for determination of consistency. The deadline for taking action for each case is shown on the attached list. Please note that if the Planning Commission decides to schedule a public hearing on the request, cases must be scheduled sufficiently in advance to allow advertising deadlines to be met.

Attachments: As indicated

REU/tgb

cc: Board of County Supervisors  
Stephen K. Griffin, Director of Planning  
Oscar Guzman, Development Services Division Chief  
Nick Evers, Zoning Administrator  
Ray Utz, Chief, Long Range Planning  
Chris Thompson, Clerk to the Planning Commission  
File

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**Attachment E – PC PFR Determination**

PFR # & Case Name	Applicant	Request	Comments	Magisterial District	Date of Response to Applicant	Date Submitted to PC (Dispatched)	Last Date to Request Formal Hearing	Last PC Date to Take Action
Verizon Antennas @7500 Ben Lomond Park Drive PFR PLN2008-00521	Stephanie Petway	Install 12 telecommunication antennas on an existing 125 foot monopole	Consistent w/ Comprehensive Plan	Gainesville	5/1/2008	5/14/2008	6/4/2008	7/16/2008
Gilberto Guel PFR PLN2008-00607	Gilberto Guel	Request connection to sewer line @ 13301 Fitzwater Drive	Not Consistent with Comprehensive Plan	Brentsville	5/7/2008	5/14/2008	6/4/2008	7/16/2008
NOVEC Distribution Station @ Innovation PFR PLN2008-00390	Gifford Hampshire	Add electrical distribution substation	Consistent w/ Comprehensive Plan	Brentsville	5/12/08	5/14/2008	6/4/2008	7/16/2008
Battlefield High School Modular Classrooms PFR PLN2008-00580	Maureen Hannan	Add four modular classrooms	Consistent w/ Comprehensive Plan	Gainesville	5/12/08	5/14/2008	6/4/2008	7/16/2008
Bristow Run Elementary School Modular Classrooms PFR PLN2008-00582	Maureen Hannan	Add three modular classrooms	Consistent w/ Comprehensive Plan	Brentsville	5/12/08	5/14/2008	6/4/2008	7/16/2008
Cedar Point Elementary School Modular Classrooms PFR PLN2008-00583	Maureen Hannan	Add three modular classrooms	Consistent w/ Comprehensive Plan	Brentsville	5/12/08	5/14/2008	6/4/2008	7/16/2008

4-29-08 thru 5-12-08 TABLE.doc  
 Printed 5/14/2008  
 Page 1 of 2



**PLANNING COMMISSION RESOLUTION**

**MOTION: HENDLEY** **May 21, 2008**  
**SECOND: BURGESS** **Regular Meeting**  
**RE: CONSENT AGENDA** **Res. No. 08-087**  
**ACTION: APPROVED**

**NOW, THEREFORE, BE IT RESOLVED,** that the Prince William County Planning Commission does hereby approve the consent agenda of May 21, 2008, to include:

- The meeting minutes for April 2, 2008 and April 16, 2008;
- The Development Application Processing Schedule (DAPS); and
- The Receipt for Review for Determination of Consistency with the Comprehensive Plan dated 05/14/08 (covering the period from 04/29/08 through 05/12/08)

**Votes:**

**Ayes:** Burgess, Fry, Hendley, Holley, Hosen, Bryant

**Nays:** None

**Abstain:** Friedman

**Absent from Vote:** None

**Absent from Meeting:** Gonzales

**MOTION CARRIED**

CERTIFIED COPY *M. Christine Thompson*  
Clerk to the Commission

## Attachment F – BOCS Denial of Appeal

**MOTION: STIRRUP**

**July 22, 2008  
Regular Meeting  
Res. No. 08-777**

**SECOND: MAY**

**RE: DENY APPEAL - PUBLIC FACILITY REVIEW PFR # PLN2008-00607,  
GILBERTO GUEL – BRENTSVILLE MAGISTERIAL DISTRICT**

**ACTION: APPROVED**

**WHEREAS**, this is an appeal of a Planning Commission action on a public facility review (PFR), which determined that the request for a sewer line connection was substantially inconsistent with the Comprehensive Plan pursuant to Virginia Code Section 15.2-2232; and

**WHEREAS**, the site is located at 13301 Fitzwater Drive and identified as GPIN 7493-19-9643; and

**WHEREAS**, the site is designated Agricultural or Estate in the Comprehensive Plan; and

**WHEREAS**, staff has reviewed the subject application and recommends a finding of inconsistency with the Sewer Plan, as stated in the staff report; and

**WHEREAS**, the Prince William County Planning Commission considered the request at its public hearing on May 21, 2008, and determined that the proposal was substantially inconsistent with the Comprehensive Plan, as stated in Planning Commission Res. No. 08-087; and

**WHEREAS**, the applicant appealed the Planning Commission's determination for denial on May 29, 2008; and

**WHEREAS**, Virginia Code Section 15.2-2232 requires the Prince William Board of County Supervisors to consider public facility review determinations made by the Planning Commission if appealed by the applicant; and

**WHEREAS**, the applicant appealed the Planning Commission's determination within 10 days of the decision; and

**WHEREAS**, general welfare and good zoning practice are served by the denial of the application;

**NOW, THEREFORE, BE IT RESOLVED** that the Prince William Board of County Supervisors does hereby determine PFR # PLN2008-00607, Gilberto Guel, to be substantially inconsistent with the Comprehensive Plan and that the BOCS deny the appeal.

# Attachment F – BOCS Approval of Denial

July 22, 2008  
Regular Meeting  
Res. No. 08-777  
Page Two

**Votes:**

**Ayes:** Caddigan, May, Principi, Stewart, Stirrup

**Nays:** Covington, Jenkins, Nohe

**Absent from Vote:** None

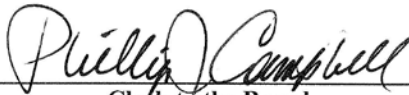
**Absent from Meeting:** None

**For Information:**

Planning Director

Gilberto Guel  
64 Beaumont Ave  
Inwood, WV 25428-3849

CERTIFIED COPY

  
Clerk to the Board