

MINUTES
PAGE COUNTY PLANNING COMMISSION
January 25, 2022

Members Present

Catherine Grech, District 1
Jared Burner, Chairman, District 3

Allan Betcher, District 2
William Turner, Secretary, District 5

Members Absent

Isaac Smelser, District 4

Staff Present

Tracy Clatterbuck

Kelly Butler

Call to Order

Chairman Burner called the January 25, 2022 Page County Planning Commission Work Session to order in the Board of Supervisors Room located at the Page County Government Center, 103 S Court Street, Luray, Virginia at 7:00 p.m. The call to order was followed by *The Pledge of Allegiance* and a *Moment of Silence*. Chairman Burner reminded all commissioners and speakers to please turn on and/or speak into the microphones. The meeting was live streamed via YouTube. Ms. Clatterbuck conducted an attendance roll call. Isaac Smelser was noted as absent.

Adoption of Agenda

Mrs. Grech made a motion to adopt the agenda as presented. Mr. Betcher seconded the motion. The motion passed unanimously 4-0.

New Business

A. Adoption of Minutes – November 17, 2021

Mrs. Grech made a motion to the adopt the November 17, 2021 minutes as presented. Mr. Turner seconded the motion. The motion passed unanimously 4-0.

Unfinished Business

A. Cape Solar, LLC – Special Use Permit Application

Chairman Burner: I know at the end of the last meeting we talked about if there were any considerations from staff on the conditions for Cape. Does staff have any update on those?

Ms. Clatterbuck: I do not. I have not had the time honestly to sit down and go through them with a fine-tooth comb. Frankly, if you expect and want me to do that I would prefer if at least one of the commissioners is present.

Chairman Burner: I understand that. Any other questions or comments concerning Cape?

Mrs. Grech: We've just received some new documents. Especially the documents which I had requested that shows topographical map contours with different shading. I think that's an interesting map and I want to take time to consider it more attentively. I see Josh isn't here tonight, so I'll have a few questions that I want to review with him. I'm a little concerned that, unless I'm misunderstanding how to read a topographical map, but I did a bit of research on this. When I'm looking at this document...can maybe one of you gentlemen correct me? The areas that seem to be a little heavier shaded, which means a little bit more yellow. Tracy, can we see the bottom of the map a little bit more please? Anything that's more heavily yellow or heavily

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orange or heavily red or heavily green. Those are the ones that are on steepest slopes, right? The closer those lines are together the steeper the slope. Is that correct?

Mr. Turner: Correct.

Mrs. Grech: Yeah, that's it. I think we can see this a whole lot better than we could on the old maps. So, I'm a little concerned because we can only see this project as members of the public when we drive along 340 or maybe when we drive along Hinton Road or maybe up Farmview Estates and from Old Farms. So, a lot of those views, except for Hinton Road, we're seeing flat land. When you go down Hinton Road you see that it's not at all flat. You see those steep slopes. I have concerns about the fact that it appears to me that quite a bit of this project is on steep slopes. I think that's something we need to take a look at. I know that Mr. Propes has explained that, technically, they're able to put panel arrays on slopes up to 15%. I'm actually in the middle of researching how all of this would affect soil erosion. I'm going to take a bit more time and take Mr. Propes up on his recommendation to take our time and look at all this. So, that's what I have to say about that. I'm still unhappy with the location of the substation. I took another ride at Old Farms. I suggest you all do that. If you look on the site plan and you look at Old Farms Road; all those properties from 28 to 36. They're awfully close to the project. That substation is a real eyesore. I think it's really too close to that property. It's close to the, too close, to the property labeled 27. In general, I think we need to have generous setbacks. That's about all I have for now. I'm going to leave you all an opportunity to comment. When I look at my notes I may come back with more comments. But I know Mr. Turner wasn't there for a couple of meetings. I want him to have an opportunity to share his comments.

Mr. Turner: I have some comments on this because if I was going to build a poultry or a farm building or something around something like this, I'd have to have at least 1700 feet to set back on this. And here we are putting a substation and stuff I mean right on people's boundary lines. I cannot see us doing that. We need to have more thought on this. It needs to be more planned out. It's nowhere near that I could even vote for something that is like this. It's just too much for me to be able to vote on something like this. I just can't do it. I can't pursue it forward. So, it needs to be a lot of studying on this because it's a lot of area here. This is good farmland that we need to use for other than a solar panel operation. Thank you.

Mrs. Grech: So, I have a question for the farmers in the room. We have two. We're lucky to have you two on our board. Farmland, Mr. Propes says again in his letter to us, that unlike a subdivision this area would be returning to farmland. What is your opinion on that Mr. Turner? He says here, "It's also important," I quote Mr. Propes' email to us dated January 13th and he says here, "It's important to point out that while this use of the farmland is long-term, it's temporary. And the land can be put back into farmland at the end of the useful facility. A feature that no other type of development can claim. For example, if the land were turned into a housing development, the farmland would be lost forever." Do you agree that it would be put back into farmland?

Mr. Turner: Yes. It can be put back into farmland, but it's not to be farmed. You can run cattle on it. You can do different things on it. It'd still be in farm use or farm-land. But it's not something that you could just do right away. It's something that you need to look at and think about.

Mrs. Grech: So, would that be a waste of prime farmland? Prime soils?

Mr. Turner: Yes, yes. As far as I'm concerned it would be.

Mrs. Grech: I think that's a discussion that we may want to have. I don't know what your opinion is Mr. Burner. I'm a little concerned that this is valuable farmland. We have so little valuable farmland in the county compared to the whole acreage of the county. Our prime farmland is far and few between. We're losing farmland at an alarming rate in Page County, in Virginia. We had a presentation of the Berkeley Group about a year ago

about that. Concerning our new subdivision ordinance. I was on the phone for a webinar last week with the National Law Center for Agriculture. They were outlining the conflicts between land use policy preservation of farmland and lofty policies that trickle down from state or Washington. Their recommendation...it was a very interesting webinar. I'm happy to share the link with you if you want to listen to the recording. Their number one recommendation is to protect prime soils in dealing with the conflicts that solar farms are posing nationwide between government policies for renewable energy and land use. That was their number one recommendation. I'm happy to share the links with you. Protect prime soil. So, I think we're all talking about the same thing or am I misunderstanding? I'm sure Chairman Burner's got an opinion on that.

Chairman Burner: I mean that's the key. You can have a piece of property labeled as prime farmland, but there's not always going to be the scenario where that prime farmland is always made up of prime soils. Just like every farmer's always got a back corner that's not productive. Doesn't do anything. Then you also got the ground that you don't want to give up. That's your most productive ground. Mr. Propes at the last meeting stated that this would give an opportunity for the ground to heal. I have a little bit of a problem with that statement; because if the ground's not broken to begin with, what does it need to heal from? If it's active and productive, what are we trying to heal it from? Now there could be grounds that are heavy in their clay types that they need some type of regeneration. You have conservation techniques that need to be with minimum tillage. Yeah, I can see that, but we have to be able to distinguish between the prime soils. Just because that's a way to be fair. I had done a little bit of research on it. So, I pulled up the soil survey from Page County where they go over the different types of soil in Page County. And what soil types are classified as prime soils. On the first page there you'll see where it goes through the list of actual designated prime soils, not just for prime farmland, but the designated soils that encompass that. And if you go back and look it's in the environmental report of the Cape Solar packet it actually has the soil map from that using the same group, NRCS Soil Survey. They have it in there. Just looking over this property there are some marginal soils, but there's a lot of really good soils too. I have a hard time sacrificing prime soils for putting solar panels on that large of a scale. That's the only way I know to be fair. I mean there's areas of the properties that are better suited in terms of soil type, but there is a large chunk of highly productive soil on that property.

Mr. Betcher: What percent Jared do you believe of the total amount of that property is prime soil?

Chairman Burner: Since it doesn't give any calculation it would be just a shot in the dark. I don't even know how you would estimate. I mean somebody on the GIS would have to estimate exactly how much of the project size would be designated as prime soil. I don't have that answer off the top of my head. But you can look and see, especially the Braddock-loam soils. Those are some of the most productive soils in Page County. Using this soil survey, you can back it up because they go through in their tables and go through anticipated yield types based on the soil. The Braddock-loams are some of the highest yielding soils. I hate to take that out of agricultural production and put something on that you can't eat, you can't benefit from. You get your electricity, but you can't eat electricity.

Mr. Turner: I live on Naked Creek and I got prime soil on that. It's rocks. You got to stipulate prime soil. Just because it's primed for one thing you can still use it for something else. If you don't make it in production for corn or soybeans or something like that you can run cattle on it. It's things that can be done with that land other than solar panels.

Mrs. Grech: So, I think there may be a need to make a distinction between prime farmland, which is a generic designation that does not take into account the specific soils of one parcel like we are called to do in a special use permit (SUP). In the context of a potential solar ordinance then, I think, if I'm not mistaken the commission a year ago had proposed a concept that was in reference to prime farmland is that correct, Jared? If I remember correctly. And had limited it to 50% of prime farmland. I know that some of you and some farmers

had expressed some reservations, saying it's a little unfair because you could have a designation. Is that what you're talking about Mr. Turner? You could have a designation of prime farmland that actually isn't maybe appropriate for the whole of your farm.

Mr. Turner: Right.

Mrs. Grech: That's where I would think that I like what Chairman Burner is proposing. Instead of going with a general concept we go with a more specific concept looking at the specific soils on each piece of land as we are doing an SUP. We're looking at this piece of land, which soils are where, in order to decide what we may or may not consider appropriate for the use. Is that correct?

Chairman Burner: That's correct.

Mrs. Grech: So, we're making a difference between the generalities of the comp plan and the proposed solar ordinance of last year. This is entirely in keeping with the recommendations that I'm seeing in the literature and the latest recommendations as I cited in that webinar. That we are more precise in our analysis. I think there's an intersection, if I'm not mistaken, between the soil types and erosion issues and slopes and erosion issues. I had a concern with slopes. I'm not a farmer. I'm looking at it from a different approach and I feel I need to be modest on an opinion on farming. I would defer to you gentlemen. From a soil conservation and erosion perspective I would be weary of slopes. I think there's an intersection. Could you explain to me Mr. Chairman? Those prime soils, why do I see here on the NRCS report, page 71, Braddock-loam, 2-7% slopes. They seem to limit all the slopes here to 7%. Is that an erosion?

Chairman Burner: Billy can back me up. It's for erosion. If you go in there and you plow that ground. If you plow 15% slopes and a heavy rain comes, half your soil is going to wash to the bottom of the hill. But if you go in and plow something that's 2-4%, you don't have as much soil moving and you're able to maintain your topsoil across the entire platform. That's not saying that you can't farm the 7-15% slopes. It just says you need to have a different management technique in preserving the soil that's there.

Mrs. Grech: Should that be a guidance principle for us in terms of setting maximum slopes for this and other projects? But we're looking at this project so let's keep it here. So should we look at a maximum percentage that is more in keeping with... I'm hearing that Dominion says that they favor less than an 8% slope. That was cited in a recent lawsuit. I've been doing research on that and I don't see a lot of support for acceptable percentages of slope as much as the equipment can tolerate, meaning as much as 15%. So, I think we need to look at that and see what our limit might be. And I know that VDOT doesn't go above 6%, I think?

Chairman Burner: Ten percent is what's at the top on theirs.

Mrs. Grech: I think I researched it and I saw 6. I could be wrong. I think we could check with Keith Weakley; I might give him a call on that one. Those are paved surfaces, but one thing is for sure these huge arrays of panels; they're impervious surfaces. They're impervious surfaces. We need to consider them a little bit like we would a roof that lacks gutters. We're going to have to be really careful. I think we need to pay more attention to the slopes, the intersection of the slopes, with the prime soils and see where that leaves us for any conditions that we might have. And how we feel about this project in general. I am a little uncomfortable that we have not received a more...all of these site plans that we've received, and we've received quite a few. There was some from three years ago; I have a whole dossier from three years ago. But even in this recent application we've received many new plans and there's always a reservation saying that they're temporary plans, they're tentative plans. We don't know that when it comes to construction that things are going to be located...that the panel arrays will be located where they are now. Because it's my understanding that's changed for Dogwood. Then we don't have a grading plan. I can understand why we don't have a grading

plan if they don't know where the arrays are going to go. But where does that leave us if we don't know how much grading is going to take place how can we properly address any issues of erosions and then address permit conditions. So, I think there's more research to do with that. I guess one of my questions would be if the assumption that the current plans that we have stay as they are how much grading would be required would be my question number one. That's an issue because you were referring to grading and plowing a field? Grading would be the same thing, same issues. Right? Unless I'm mistaken.

Mr. Turner: You're correct.

Chairman Burner: The more you grade the more topsoil you strip off and that there's where your key is.

Mrs. Grech: Mr. Propes said that they would store the topsoil, but if the project is going to store topsoil that means that some topsoil is going to be removed if not there would be no need to store it. So, they've already admitted that there's going to be a need to store; therefore, a need to grade. I would like to know how much grading is going to take place. It's very difficult to measure if this is going to be too big of a mouthful for the county to chew if we don't have that information. We talked about storm water quality. I think Mr. Propes talks about "they're amenable to discussing an appropriate water sampling protocol. You want to be sure that whatever conditions, they're based on good science and grounded in fact." Do any one of you have any suggestions that if we sample storm water what we should be looking for? My recommendation would be any heavy metals, any metals associated with any equipment that's on site. Maybe we need to do some more research into that.

Mr. Turner: A lot of sediment would be good. The amount of sediment that's in the stormwater. We'd have to monitor for that. It's different things that we would have to monitor for. We just can't go out there and give somebody a turn of a hat and say you monitor stormwater. We have to put stipulations in there for those people.

Mrs. Grech: We need to know what we're looking out for. I think some of the concerns, if I heard correctly from the public, would be any potential toxic materials within the panel arrays, within the installations. Now we're hearing from the developer that there's absolutely no risk of that. Vast sections of the public think differently. I think we need to do our due diligence and make sure that if we do ask for water testing...it's my water, it's your water. Any neighbors, it's all our water. We need to make sure that we don't ruin our water supply. There was some interesting reading in the comp plan actually. Mr. Propes refers to the comp plan, page 52. Well, page 52 through 55. I strongly encourage my fellow commissioners to go and look at that. There are some concerns about you know development on prime soils directly related to water quality. Karst terrain is mentioned. All of this is something we need to think about. We need to find out which heavy metals we want to test for. What would we be testing for? Kelly, do you have any suggestions? Is that something we need to be working on maybe with you. I'm happy to work with you on that.

Ms. Butler: As far as stormwater goes, stormwater management doesn't look at the quality of the stormwater they look at the quantity. So, they don't look at what's in the water. They look at how much water there is before and after construction. Jared may have some contacts at Virginia Tech that he could work with as far as getting that protocol set up as to what you all might want to look for.

Mrs. Grech: Yeah, because we cannot reasonably ask any applicant to test with for water if we don't ask them what to do for that. We need to be clear on that. I assume we wouldn't be testing for the same thing as a product of farming, right? It's not the same thing we're testing for, right?

Chairman Burner: But you would have to establish a baseline. So, you would have to measure what comes in and get the components of that and then measure what goes out. The difference would be what is generated

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on site. So you would be, like Mrs. Grech talked about, you would want to be looking at components of the equipment that is there in the event that a panel does leak and come into the storm water you can catch it. Now on the flip side of that is if nothing ever happens you have an established baseline you have an established exit line you can say hey nothing came out of this property.

Ms. Butler: So, I think that the commission was on the right track with asking for the soil summation example for Dogwood. That they wanted it before construction. They wanted it before it's in operation, then every so many years through the life of the project. It's just a matter of asking them for the right things. I don't think we asked for the right thing for that.

Mrs. Grech: No, yeah, and we're very much aware that many of the conditions for Dogwood could have been better thought out. This is a mistake we cannot make this time.

Ms. Butler: That condition was good. It's just that we didn't define what we were looking for.

Mrs. Grech: So, we need to be defining, like Mr. Propes says, we need to define what it is that we're going to be looking for right? What is the water sampling "protocol" is the term that he used? But I assume we're also going to have to decide where we're testing right? So, this is all something we need to look at.

Mr. Turner: I'll tell you a good place to start would be the landfill.

Mrs. Grech: How would the landfill be relative to this project?

Mr. Turner: They have their water tested and they know the components that's in it.

Mrs. Grech: You mean for the protocol?

Mr. Turner: For the protocol.

Mrs. Grech: Can you look into that to see what protocol they use for the landfill?

Ms. Butler: We could contact Jeff Blevins.

Mrs. Grech: That'd be cool. You mean that would be a blueprint which we could adapt. Yeah, that's a great idea.

Chairman Burner: Yeah, and like I said when Kelly brought up, we also need to follow the same theory and thought process when it comes to the soil. We need to be specific in what we ask for, the frequency in which require samples. Not only during construction, but post construction. Just like with us when we have to have a DEQ plan number. We're every two years... has to be done. And if you're out of your realm you get a little nasty slap on the wrist and a couple of harsh words.

Mr. Turner: They'll pull your license.

Mrs. Grech: And it makes a lot of sense because if you have regulations as farmers when you are working your farmland in the intent for which it was zoned right? You're working farmland. You're farming farmland. Here we're talking about an intensive industrial use of farmland. I'd like to repeat that and I would like it to sink in. I am very much reticent to use the word "solar farms." You know, in the beginning, three years ago, Urban Grid was here telling us they were going to harvest sunlight. It was a wonderful romantic picture. This is not what it is. This is an industrial use of farmland. My personal opinion is solar farms need to be zoned on

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industrial land, not on farmland. Anyhow, this application is for farmland. It's an industrial use, so we should at least be as strict in monitoring conditions as the conditions that you have to abide by as farmers farming the same or equivalent land. I mean does that make sense?

Mr. Turner: Yes, it does.

Mrs. Grech: There's no reason that we should be more lenient in the monitoring of an industrial activity than we are in monitoring a farming activity on farmland. Does that make sense to everybody?

Chairman Burner: I think that goes back to Billy's previous comments when we're talking about the setbacks on the substation. We can't build poultry houses right on the line and watch as a substation in a solar farm have the solar panels right on the line or within so many feet. What's the difference?

Mrs. Grech: Mr. Turner, were you referring to the setbacks of the substation or the setbacks in general?

Mr. Turner: Setbacks in general.

Mrs. Grech: So, there's a setback in general that we need to talk about you know for conditions. And then setbacks... I would absolutely want different setbacks for the general setbacks. We've already established we wanted them from the property line.

Mr. Turner: Just look at all these lots right here. All these people here got a legitimate complaint.

Mrs. Grech: Please drive by. Please drive by Old Farms Road. What concerns me with Old Farms Road is we had a member of the public last time who said she bought a house recently. Didn't know that this project was underway. We've known about this for three years. But if you're a newcomer to the county it's a possibility that some of these people here just have no idea. And I think we need to do our due diligence to respect the conflicting uses. This is heavy industrial use. Again, it's not farmland. It's not farming. And this is a residential neighborhood. And there's not only one residential neighborhood. There's Old Farms. There's Parkview Estates. It's caddy corner with... what's the one next to Parkview? It would be right where the blown-up station is. Right next to Parkview. There's a trailer park. And there's numerous houses. We really need to pay close attention to that. Tracy, I think I mentioned it at the time we received the petition from Old Farms three years ago. Could you resuscitate that for us please?

Ms. Clatterbuck: I need to pull it.

Mrs. Grech: I'd be very interested in finding how many people signed it.

Ms. Clatterbuck: Honestly, I forgot to do that.

Mrs. Grech: Yeah, that'd be great. I think we had talked about it. I think we definitely need to consider setbacks separately for the substation. And for the rest of the project and probably from 340 as well.

Mr. Turner: If you haven't really looked at the map each one of those little brown spots right there. That's somebody's house.

Mrs. Grech: Oh yeah. The document that we were given is the same one. The one we got today is a photocopy. But if you look at the original that we received a few weeks ago, it's a little clearer. You can see the brown blobs. That's 250 feet, the brown blob. And the 250 feet of Old Farms goes right up to the panel arrays. You see what I'm saying? You can't see it very well on the new photocopy, but you see it better on the

original. Anyhow I have reservations about all that. There's probably quite a lot of things we're going to need to look at before coming up with conditions. Anyhow that's all I have for tonight.

Mr. Turner: I'm good too.

Chairman Burner: Mr. Betcher you have any other comments?

Mr. Betcher: No, I think Mrs. Grech covered it real well.

Mr. Janney: Mr. Chairman, may I reiterate our request to set this matter for public hearing promptly?

Chairman Burner: I hear that and we will take it into consideration.

Mr. Janney: Thank you for your consideration.

B. Jonathan Martinez – Special Use Permit Application

Ms. Clatterbuck stated that the applicant sent over a new site plan. She had asked the applicant to make some revisions to the previously submitted site plan addressing the regulations of the campground ordinance. The applicant is available for any questions. They also submitted revised campground rules. Adjoining property owner notices have been sent out. Ms. Clatterbuck visited the site and provided photos to the Commissioners for them to better understand how the site looks. She provided the Commissioners with draft conditions. The Building Official, James Campbell, was available for questions relating to the dome structures.

Chairman Burner asked Ms. Clatterbuck if the structure is required to be 400 square feet. Ms. Clatterbuck clarified that is the definition of a camping cabin. She would not consider this a camping cabin. Mr. Campbell stated he will look if they are going to have bathrooms and all the facilities that you would have in a house. If so, he would consider it a cabin. If it has a bathhouse, and the dome is just used for sleeping, then, per the building code, he cannot consider it a cabin. Mrs. Grech noted a difference in location of the structures between the two submitted site plans. Sites have been spread out on the property on the newer site plan. Per the applicant, that was done to adhere to the 1600-square-foot per site requirement, as well as the required setbacks. There was discussion about the buffer along the sides of the property, as well as fencing. Parking will be provided at each individual site. There was discussion about having a bathhouse versus a bathroom in each unit.

SUP conditions were discussed. Commissioners discussed adding that this SUP is limited to Phase 1. Campground ordinance will be attached to SUP as part of conditions. Discussed off-road vehicles. A condition involving fencing and the location of the fencing was discussed.

This matter has already been set for public hearing on February 8, 2022 at the January 11, 2022 meeting.

C. Review draft of Zoning and Subdivision Ordinance provided by the Berkley Group

The Commissioners discussed the proposed zoning districts, specifically, adding a second agricultural zoning district. Mrs. Grech reiterated the need for a planner to assist in this process. Chairman Burner agreed. District overlays were also discussed. Commissioners and staff discussed if two commercial and two industrial districts were needed. The extensive process of rezoning was discussed if new districts are added. Rezoning fees were discussed. Mrs. Grech stated that the schedule of fees for land use permits, such as special use permits and rezonings, is unfair. In her opinion, asking an applicant for an SUP for a mobile home in a subdivision to pay the same fee as a utility-scale solar facility is unfair. The proposed sliding scale versus the 5-year time limit was also discussed.

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Adjourn

Chairman Burner requested a motion to adjourn the meeting. Mr. Turner made a motion to adjourn. Mrs. Grech seconded the motion. The meeting was adjourned at 9:31 p.m.



Jared Burner, Chairman

