

MINUTES
PAGE COUNTY PLANNING COMMISSION
February 17, 2022

Members Present

Catherine Grech, District 1
Jared Burner, Chairman, District 3
William Turner, District 5

Thomas Mitchell, District 2
Isaac Smelser, District 4

Staff Present

Tracy Clatterbuck

Kelly Butler

Call to Order

Chairman Burner called the February 17, 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 7:02 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. Due to technical issues, the meeting was not available via YouTube as advertised. Ms. Clatterbuck conducted an attendance roll call.

Adoption of Agenda

Mr. Turner made a motion to adopt the agenda as presented. Mr. Smelser seconded the motion. The motion passed unanimously 5-0.

New Business

None

Unfinished Business

A. Adoption of Minutes- December 7, 2021, December 14, 2021, & January 11, 2022

Mr. Turner made a motion to approve the December 7, 2021, December 14, 2021 and January 11, 2022 minutes as presented. Mr. Smelser seconded the motion. The motion passed unanimously 5-0.

B. Johnathan Martinez- Special Use Permit Application

Ms. Clatterbuck provided the commission with a revised site plan from the applicant based on feedback from commissioners and citizens. The applicants have agreed to remove any language in the packet that references a Phase II. Also, instead of the domes, they have agreed to do A-frame cabins. They have also agreed to reduce the number of campsites to a maximum of seven instead of ten. Staff also explained that due to the traffic concerns from citizens, a second opinion from the Virginia Department of Transportation (VDOT) was initiated by staff. A copy of that was also provided in the packet. For the record, VDOT has no concerns related to traffic impacts on this road. The applicant will not be permitted to install two entrances onto the property as indicated on the proposed site plan because VDOT will only allow one entrance off Kite Hollow Road. Ms. Clatterbuck concluded to note that Mr. Martinez was available via phone to reiterate the above and to answer further questions.

Mr. Martinez stated he had spoken with some of the neighbors. There were concerns with the proposed domes. They understand the concern and have agreed to change the structures to A-frame

cabins. The structures will include plumbing facilities in each cabin and they will be engineered as required by the permitting office. They have also reduced the number of camping units removing those that were closer to the property lines. They also understood they could not have two entrances off Kite Hollow Road and were okay with that change. Mr. Martinez stated that with the revised site plan, he felt those items would alleviate some of the concerns from neighbors.

Ms. Grech asked how tall the units would be and the square footage of the units. Mr. Martinez replied they would be 270 square feet and 21 feet in height.

Chairman Burner stated the narrative explains that there will be a manager onsite at all times. However, at the last meeting the applicants mentioned the manager would be off-site instead. He wondered what the definitive answer would be for this proposed campground. Mr. Martinez explained that they did not have plans to have an onsite manager at all times due to the associated expenses of building another cabin just for the manager to live in. He further explained that all guests would have their contact information readily available for checking in/out and if they have questions, etc. There will be cleaners onsite every day.

Ms. Grech noted he applied for a campground and her understanding was that campgrounds have a check in/out office along with a manager onsite at all times. This is an application for a campground but you are operating it like an air b&b. She stated she was not comfortable with that and would like to have a manager onsite at all times. Mr. Martinez explained that he was aware that he had applied for a campground permit based on the county code. For just a couple of cabins, he felt it was not necessary to have an onsite manager. This really would not operate as a campground which typically has many more units than what they are proposing. He requested that Ms. Clatterbuck explain why he had to do the campground route vs. just being able to put up multiple cabins on his property.

Ms. Clatterbuck explained that Mr. Martinez had reached out to our office back last year looking at property in Page County where he could build multiple single-family dwellings on a single piece of property to operate them as short-term tourist rentals. She explained that in Page County you are only allowed one dwelling per tract of land. The only way to add a second dwelling is to do a guesthouse, which cannot be rented or sold separate from the main dwelling. Furthermore, you are only allowed one division of land into two parcels once every five years as a non-family division. In Mr. Martinez case, he did not want to pursue the guesthouse option as his intentions is to rent each dwelling separate. Because of the limitations on subdividing, he would not have been able to do all of the divisions at once; therefore, that was not an option for him either based on the number of dwellings he wanted to build initially. He could have also applied to rezone to residential and then do a full-blown Class A or B subdivision. Staff would not have supported this as a residential subdivision in this area does not make sense nor was he interested in complying with the lengthy provisions of a full-blown subdivision. After having these discussions, the only option left, based on what the applicant wanted to do, was to apply for a special use permit to operate a campground. She further explained that due to how our code is currently written, and based on the volume of calls from people wanting to build multiple short term tourist rentals on a single tract of land, she predicts that we will see an influx of campground applications. She strongly encouraged the commission to think about that and keep that in mind as we go through the zoning ordinance update and she urged them to reach out to their Board of Supervisor representative to have this discussion. Mr. Burner stated that if Mr. Martinez would have patience and do the permitted divisions over

every five years, he would be able to do the very thing he is proposing to do now without going through the campground application process and Ms. Clatterbuck confirmed.

Mr. Martinez stated they have submitted an application for a campground and a lot of localities that are tourist driven are seeing these types of businesses as he has other businesses just like this in other states that are in operation and additional ones that are going through a similar process like the special use permit here. He stated he felt what they were proposing was very reasonable based on the area and they wanted it to fit in as much as possible.

Ms. Clatterbuck stated she understood that there were concerns related to the off-site management. However, Section 128-9 of the Page County Campground Ordinance does not say they have to be onsite. It says that their contact information has to be posted if they are not onsite. She urged the commission to also keep that in mind during the zoning ordinance update.

Ms. Grech noted that the campground ordinance required a landscaping plan, a service building, and the proposed site plan does not address fencing. She would like to put a condition on the permit limiting the type of structures. Mr. Martinez stated that anytime the commission has provided feedback, they have been willing to revise and comply with requests. As far as fencing is concerned, based on feedback from the commission and neighbors, they didn't want fencing because it would be an eyesore. He understands wanting to stop trespassers but it is not in their vision to fence the entire property. As far as the service building is concerned, he supposes they can add that as far as some type of check in kiosk or shed where tools are kept. As far as the service building though, he doesn't see how that would determine the appropriateness of the campground. Ms. Grech responded that it was part of the requirements in the campground ordinance. Mr. Martinez asked what was required of the service building and Ms. Grech stated she was not certain after reading the code out loud. Mr. Martinez responded that they would be working with the Health Department on that along with other things they require. He further stated they would be happy to have that as a condition he just didn't understand how that would determine appropriateness of the proposed. Chairman Burner replied that it would not be a condition because it was a campground ordinance requirement. Ms. Grech stated she wanted to see the service building on the site plan and wants to see a 52" woven wire fence around the entire property. Chairman Burner also pointed out that a 50-foot greenbelt was also required in the campground ordinance. The ordinance requires posting of no trespassing signs but based on neighbor concerns, he felt fencing should be installed as well. Mr. Martinez stated there was already a lot of existing trees that provided buffer to the neighbors and had they known fencing was required they would have shown chicken wire fencing on the site plan. They are hoping to get a vote on the project so they can move forward to the next stage of the permitting process. They will follow all conditions placed on the permit but need to know ahead of time what they are or what the county wants to see. Chairman Burner explained the difference in chicken wire fencing and woven wire fencing. Mr. Martinez stated they want to be good neighbors and have tried to revise the plan to address some of the issues from neighbors. Chairman Burner restated that there was no landscaping plan included in the packet and there needs to be one. Mr. Martinez stated that they were in the process of obtaining funding for the project but did not want to put a lot of money into engineering (structures, landscaping, etc.) not knowing if the project would be approved or not. It really is cost prohibitive to do all that work \$25,000-75,000 not knowing if the project is going to get approval. Mr. Turner stated the last campground application had all that with the application and without those things he could not support the project. Ms. Grech noted they have to treat all applicants fairly and cannot allow one to go through without all that information upfront

like others have done. She stated she was not comfortable proceeding without a landscaping plan, fencing details on the plan, consideration of onsite management, a service building on the plan, and a condition of allowing only cabins and Mr. Turner agreed.

Mr. Smelser suggested they run down through the draft conditions. Mr. Turner stated the draft conditions were nothing like what the last campground permit had. Mr. Smelser replied that he understood and while they were reviewing, they could add in ones they see fit. Mr. Martinez stated as far as landscaping, they do not plan to add any additional landscaping because there is a lot of natural vegetation there already. He stated he was comfortable adding a condition related to fencing. Mr. Mitchell asked did the ordinance say you need “x” number of managers for “x” number of campsites. Ms. Grech replied that the ordinance didn’t provide that detail but they have the authority to add it as a condition. We have detailed plans for towers, campgrounds, etc. in the past and here we can’t even get a landscaping plan which is making her feel uncomfortable. Mr. Martinez asked what she specifically wanted to see on the landscaping plan restating they would be leaving all-natural vegetation as it is. Mr. Smelser stated it sounded as if Mr. Martinez had given them all that he was willing to provide, and he felt they should review the draft conditions, add any applicable, and give him a vote.

Ms. Grech proposed a condition for a 52” woven wire fencing on both sides and rear of the property (interior of the greenbelt). Mr. Smelser suggested the fencing be required on only the ten acres of the campground vs. the entire 47 acres. Ms. Grech stated she would be okay with that as long as the campers don’t have access to anything beyond the ten acres. Mr. Martinez mentioned adding trails beyond the ten acres. If they would do that, they would request that in the future. Chairman Burner stated any revisions to conditions would have to come back to the commission and board for review. Ms. Clatterbuck encouraged them to look at the other condition where we limited them based on the number of campsites. She stated the commission may also want to limit the special use permit to the ten acres. Mr. Smelser stated he would like to see the condition worded to limit the number of campsites (seven) and the ten acres and remove language referencing Phase I. Ms. Grech agreed and stated she would like to see a condition limited to A-frame cabins only. Staff recommended just saying cabin vs. A-frame cabins in which Ms. Grech agreed.

Mr. Turner stated with the plan that has been presented he is not comfortable approving this. We don’t know what we are getting into. Everything out there is just weeds. If we give them what they are asking for, the adjoining neighbors will be calling and emailing us every day. He is not comfortable proceeding with this application. Mr. Smelser stated he fully understood what he was saying. He stated Mr. Martinez has given us what he is willing to do which has helped him make his decision as well. That’s why he would like to discuss these draft conditions and bring it to a vote tonight. Ms. Grech continued to review the draft conditions.

Mr. Martinez questioned what the commissioners that felt they couldn’t support the application, would need to see to support the application. Ms. Grech stated they have been pretty clear with the discussion tonight. We want to see additional buffering to supplement existing vegetation, fencing, etc. Mr. Martinez asked what they specifically wanted to see in the additional buffering. Chairman Burner stated the existing vegetation was not enough and they wanted to see a plan for additional landscaping. Mr. Martinez requested that the commission table this application until they could seek civil or architect engineering on what the commission wanted. Mr. Mitchell stated he agreed that we needed to be fair across the board and if other applicants have been required to do so then

he needed to provide the same. Ms. Clatterbuck requested that if there was any other documentation that they would like to see from the applicant. Ms. Grech restated the location of the service building on the plan, landscaping plan, one entrance vs. two entrances shown on the plan, fencing as discussed, and any other condition discussed. Ms. Grech made a motion to table the special use permit application at the request of the applicant. Mr. Smelser seconded the motion. The motion passed unanimously.

C. Rodger Aaron Bogner- Special Use Permit Application

Ms. Clatterbuck reminded the commission that they have already scheduled this public hearing. She simply put it on here to discuss the draft conditions of the permit which have been provided to the commissioners. Mr. Bogner is present for any questions.

Chairman Burner requested they scan through the draft conditions. Ms. Grech asked if this was an existing building and Ms. Clatterbuck confirmed. Also noting the applicant had plenty of parking. He has already consulted with the Building Official and there is no work and/or permits needed for the existing structure. Chairman Burner asked if they should limit the days of operation in the conditions. Ms. Clatterbuck urged the commission not to. Starting out, he will be open just a few days a week but the long-term goal is to expand the days of operation and she didn't feel it would be appropriate in this case to do so.

Ms. Grech stated that the proposed business does not produce noise, smells, etc. to adjoining neighbors and she was okay with the draft conditions as written. The other commissioners agreed as well.

Ms. Clatterbuck reminded all that the public hearing was scheduled for March 8, 2022.

D. Cape Solar, LLC- Special Use Permit Application

Ms. Clatterbuck noted that Mr. Janney was present and Mr. Propes was available on the phone for any questions.

Chairman Burner stated they would begin by continuing the review of the draft special use permit conditions- starting at #9. He proceeded to read the draft condition out loud. There were no suggested changes from the commissioners.

Chairman Burner continued by reading #10. Ms. Grech asked Chairman Burner to explain what a Virginia Nutrient Management Plan was in which he and Mr. Turner did. After discussion, Ms. Grech suggested splitting the condition into two separate conditions and amending it to read as follows:

10. No part of the facility shall be located on prime farmland or farmland of statewide importance.

11. The applicant shall maintain a Virginia Nutrient Management Plan. Soil testing reports shall be submitted as required, but at least prior to any clearing or construction activity as a base line and every two years thereafter for the duration of the permit, and again during and after decommissioning.

Chairman Burner continued by reading #11. Ms. Butler noted that unless we implement a water monitoring program, Department of Environmental Quality (DEQ) monitors runoff through stormwater management but as far as the water quality, they won't do that. Ms. Grech suggested they speak to someone that has experience as far as what they should be testing for. She referenced the material safety data sheet (MSDS) for the panels. Mr. Mitchell suggested language be added that the expense of this must be covered by the applicant.

Chairman Burner continued by reading #12. Ms. Grech asked for confirmation of what disposal is available in Virginia at the moment and she requested an explanation of what a sealed dry-waste container looked like. Mr. Propes explained that the disposal company would determine if it was hazardous or not based on information provided on the panel. They go to a special hazardous waste facility. There is special record keeping that goes along with hazardous waste disposal. Mr. Janney stated that on all special use permits, there is a condition that says the operator must be in compliance with all local, state, and federal laws. Chairman Burner suggested they add a condition that says the MSDS sheet must be on record with the county.

Chairman Burner continued by reading #13. Mr. Janney provided the commissioners with a map of Page County showing all proposed conditions applied noting that based on the draft conditions there would be no land available for this solar project especially with the slope requirements. Chairman Burner noted that he did research and the slope condition came out of Pennsylvania noting that each condition had been studied and developed based on research. Ms. Grech asked who prepared the map and Mr. Janney noted that the GIS Department did based on a request from him that was paid for. Ms. Grech stated that the map included all the conditions vs. just a map showing slope data which may be useful. She stated in her opinion the map provided was too small to be able to read. There was further discussion amongst the commission, Mr. Propes, and Mr. Janney related to concerns of slope and water runoff from the panels.

Chairman Burner continued by reading #14. There were no suggested changes from the commissioners.

Chairman Burner continued by reading #15. Mr. Propes asked what determines qualified rainfall. Ms. Butler answered that DEQ states it is measurable rainfall (a quarter of an inch). Ms. Grech noted on line three of the condition it should say "including but not limited to..." Ms. Grech asked what a responsible land disturber was. Mr. Butler explained what that was. Ms. Grech asked if Ms. Butler seen anything that needed to be changed in this condition. Ms. Butler spoke on topsoil disturbance as far as storing it onsite to use. She also noted that condition is wording that DEQ regulates anyway.

Chairman Burner continued by reading #16. Ms. Grech stated she didn't know what a two-phase extension, etc. was and wondered if they were being too specific in the language in this condition. She also suggested removing "structures to house electrical and maintenance equipment" noting there was no planned structure shown on the site plan.

Ms. Grech suggested the commission schedule an extra meeting, prior to the public hearing, to continue discussion of the conditions noting there was not enough time to review them all tonight. After discussion, it was decided to have a special meeting on March 1, 2022 to continue the review of the proposed conditions. Ms. Grech made a motion to have the special meeting on March 1, 2022

in an effort to include Mr. Mitchell after his medical procedure, with a backup date of February 24, 2022 if March 1, 2022 is not available. Mr. Turner seconded the motion. The motion passed unanimously 5-0.

E. Review draft of Zoning and Subdivision Ordinance- Proposed Zoning Districts

Ms. Clatterbuck reminded the commission that they had left off deciding they would not have two industrial zoning districts as proposed by The Berkley Group. Chairman Burner suggested that due to the heavy meeting agendas over the next couple meetings, he may meet with Ms. Clatterbuck and Mr. Hahn on a path forward to get this project moving along because there is not enough time in the meetings with everything else on the agenda to discuss this and give it the attention and dedication it needs. The commissioners agreed.

Adjourn

Chairman Burner requested a motion to adjourn the meeting. Mr. Smelser made a motion to adjourn. Mr. Turner seconded the motion. The meeting was adjourned at 9:15 p.m.


Jared Burner, Chairman

