

Overview

The following is a summary of the discussion held during the second Board of Supervisors and Planning Commission Work Session for the Page County Zoning & Subdivision Ordinance Update on Tuesday, November 10, 2020.

1. Schedule & Key Progress

The purpose of the second Board of Supervisors and Planning Commission worksession was to review public engagement results and collect direction from the Commission and Board on key policies necessary to proceed with ordinance development.

Berkley Group (BG) staff reviewed the Project Overview identifying that the new ordinance will: provide streamlined and user-friendly regulations; incorporate best planning practices and current state code requirements; address goals and strategies identified in the Comprehensive Plan; and, consider citizen needs and issues identified through the public engagement process. BG staff also reviewed key progress for the project to date including the July project kickoff, September public engagement sessions, worksessions with Page County staff, and the BG team's analyses of public input, the existing ordinance, uses and districts, as well as beginning updates to ordinance structure, definitions, and uses.

2. Public Engagement Summary

Public engagement, including a series of stakeholder interviews and a community input workshop, was conducted on September 2, 2020. BG staff summarized input from these sessions. Key needs and goals identified were: protect agriculture and tourism industries and lands; support agri-tourism; locate growth near towns; maintain rural character and scenic corridors; and, improve minimum subdivision standards and regulations for uses.

3. Ordinance Structure and Content

Table of Contents

BG staff presented the recommended reorganization of the Zoning Ordinance with a new table of contents noting that reorganization of the ordinance is recommended to provide a streamlined, more user-friendly document that will offer predictability and transparency.

Discussion: In response to a question from the Board, BG staff noted the proposed reorganization is similar to the structure found in ordinances in other communities and those the Berkley Group has prepared for other Virginia localities.

Inclusion of Nuisances and Campgrounds Ordinances

BG staff indicated that, with input from county staff, incorporation of the Nuisances Ordinance and Campgrounds Ordinance into the new Zoning Ordinance is recommended. Definitions and enforcement, use and design regulations from these ordinances are referenced (with some discrepancies) in the current Zoning Ordinance. These regulations as they relate to land use are typically included in the Zoning Ordinance rather than separate ordinances to streamline regulations for ease of use and to eliminate discrepancies between code sections.

Discussion: No dissent was expressed on the recommendation to include the Nuisances Ordinance (currently Chapter 80) and the Campgrounds Ordinance (currently Chapter 128) into the new Zoning Ordinance. In response to questions from the Board, Page County staff confirmed components of the Nuisance Ordinance and that the Planning Department enforces all aspects of this ordinance. It was agreed that making this ordinance part of the new Zoning Ordinance should be seamless.

Separate Ordinance for Floodplain Regulations

BG staff acknowledged that while floodplain regulations do govern development in the floodplain as an environmental protection, the regulations also ensure that Page County citizens qualify for pre-disaster flood insurance and post-disaster relief funds from the federal government. BG staff recommended that the County adopt a floodplain ordinance separate from the Zoning Ordinance, and noted that having a separate ordinance will offer ease in amendments as floodplain regulations change due to state and federal mandates.

Discussion: All were in agreement with proposal to sever the Floodplain article from the Zoning Ordinance as a separate ordinance. There was some discussion about how the floodplain regulations and floodplain map (potential inaccuracies) had caused some issues with development in the past that may have sparked some opposition/resistance to the ordinance. The group noted that the “Hawksbill Study” (an older local study not reflected in the current FEMA maps) should be considered in the ordinance as perhaps as best local data.

ACTION: The Board of Supervisors and Planning Commission were in agreement with the re-organization, components, and Table of Contents for the ordinance as drafted.

4. Key Policy Discussion

BG staff explained the importance that revisions to the Zoning Ordinance ensure future development is based on clear, defined guidelines to balance property owners’ rights with the vision of the community at large. After BG staff analyzed the existing ordinance, Comprehensive Plan, and public and county staff input, it was determined additional guidance from the Planning Commission and Board of Supervisors was needed on key policy points prior to finalizing drafts for ordinance modifications - Zoning Districts, Subdivision and Residential Development Regulations, and Potential Zoning Map Revisions. Discussion of these key policies included:

A. Zoning District Analysis

BG staff noted that analysis of the County’s existing zoning districts revealed there is little variation in existing zoning district regulations for residential use and single districts exist for each major land use category (residential, commercial and industrial). BG staff stated that having multiple districts and regulations will provide clearer and more relevant mitigation strategies and allow the county to better direct uses to avoid incompatibility and respond to future growth.

ACTION: The Board of Supervisors and Planning Commission were in agreement with the modifications to the Zoning Districts as proposed which will:

- Establish an Agricultural Residential (AR) District – This district will permit low density residential development (potentially 1 unit per 2-5 acres) with the option of increased density (likely up to 1 unit per 30,000-40,000 square feet) with the guaranteed preservation of farm/forested lands and open

space. Agricultural Residential District regulations will incorporate preservation design standards for residential subdivision and cluster cabin development and will include residential farm use to allow the keeping of animals.

Discussion: The title of this district was revised from Rural Residential as presented by BG staff to Agricultural Residential due to concerns from the Commission and Board that the term “rural” is vague and not clearly defined. There was agreement that this new title will better reflect that agriculture operations will be preserved and those moving into the area would be more aware agricultural operations will remain as a primary use.

Commission and Board members agreed that farming and keeping of animals should be permitted within this district as recommended by BG staff and suggested elements from the Virginia Tech report presented to the County regarding animal keeping be considered when drafting these regulations, in particular the number of animals appropriate per acre. The members also suggested that the circumstance of feedlots be used as a litmus test to prevent smaller lots from being used as feedlots which are often not compatible with residential use.

- Modify the existing Residential (R) district and move higher density residential uses to a new R-1 (High Density) District – The existing R District will be modified relative to uses and potential district standards. A new R-1 District will be created to permit higher density residential development including small lot cluster-style single family dwellings, townhomes, and multi-family residential use and will also allow higher density developments for senior occupancy. Development standards will allow for a variety of designs and include appropriate building lay-outs and amenities to ensure quality higher density development.

Discussion: There was agreement on adding a higher density residential district. Board members noted there was no current demand for higher density residential development, but the potential for senior occupancy higher density residential development exists.

- Establish a Planned Unit Development (PUD) District – A new Planned Unit Development (PUD) District will be created to allow for residential developments with a variety of housing types and densities and developments with a mix of residential and commercial uses, such as commercial development with an over-shop housing option. A PUD would likely be located in the Community Service Areas adjacent to towns so required infrastructure could be provided. This district will include specific application requirements, such as a proffered development plan and impact analysis, and minimum design considerations to ensure quality mixed use projects are the result.

Discussion: There was support for adding a PUD district which will permit types of developments desired for the County and will allow for flexibility on the inclusion of mixed uses. In response to questions from the Board, BG staff offered an example of the uses and application process, which will be the same for a rezoning request, and assured the group that the district standards will include clear and concise regulations.

- Maintain the existing C-1 (Commercial) District renamed Neighborhood Commercial District and create a new C-2 (General Commercial) District. Commercial uses will be separated into these districts based on intensity of the uses, such as convenience and personal service uses being permitted in the C-1 (Neighborhood Commercial) District and heavier, outdoor, and automobile-oriented uses being permitted in the C-2 (General Commercial) District. This will allow the County to direct less intense retail, personal service, and tourist-serving uses to Community Service Areas around the

towns where public utilities are available and guide more intense commercial uses (with greater land use impacts) to appropriate areas where conflicts with residential and scenic areas can be avoided. Development standards will be modified for the C-1 District and drafted for the C-2 District to ensure visual and other impacts (access, architectural design, and setbacks) are appropriately addressed.

Discussion: There was consensus that two commercial districts are necessary and desired. In response to questions, BG staff indicated more retail and personal service uses, such as a gift shop or beauty shop, will be permitted in the Neighborhood Commercial (C-1) District while more intense uses such as a contractor's shop and storage yard or automobile repair will be permitted in the General Commercial (C-2) District.

There was discussion about infrastructure necessary for expanding areas for commercial development and whether the Towns' water and wastewater treatment systems are capable of serving additional customers. It was the consensus that the County needs to discuss potential service/expansion of these facilities before considering where new commercial districts should be located.

- Maintain the I-1 (Industrial) District and rename Light Industrial District; create a new I-2 (General Industrial) District. Industrial uses will be separated into these districts based on intensity of uses such as lighter industrial uses (mainly indoor and warehousing) being permitted in the I-1 (Light Industrial) District and heavier manufacturing uses being permitted in the I-2 (General Industrial) District. This will allow the County to consider accommodating less intense, lighter industrial uses in Community Service Areas around the towns where public utilities are available, and guiding more intense industrial uses (less desirable uses with greater land use impacts) to appropriate areas where conflicts with agricultural, residential, commercial, and scenic areas can be avoided. Development standards will be modified for the I-1 District and drafted for the I-2 District to ensure visual and other impacts (access, screening, and setbacks) are appropriately addressed.

Alternative Option: Given the concerns expressed about the impacts of heavier industrial uses on the scenic beauty and environment of Page County and the small amount of heavy manufacturing anticipated, an alternative option would be to maintain a single industrial district and modify permitted uses to require a special use permit for more intense manufacturing uses. Development standards for the district would still be revised to ensure appropriate standards are in place as discussed above.

Discussion: There was support for the two industrial districts. While some thought it may be acceptable to keep one industrial district as offered in the "alternative option" above, the group agreed there is a need to establish the different districts for future development. There was discussion about the different impacts of manufacturing uses relative to the two recommended districts. BG staff offered examples of warehousing and industrial uses where the majority of the operation is inside of a building for the light industrial uses and those uses that have more outside activity and storage and heavier processing operations as examples of general industrial uses. There was consensus that larger operations with greater outside storage/activity would have greater impacts on the surrounding area and viewshed and should be defined as general industrial uses separated from the light industrial use district. Protecting the viewshed from heavier industrial uses seemed to be the primary reason for increased support for the two industrial districts.

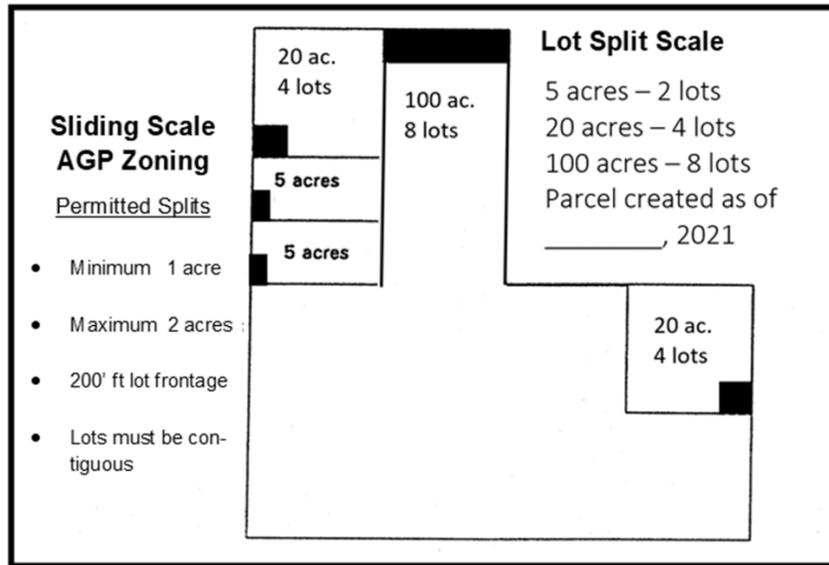
B. Subdivision and Residential Development Regulations

BG staff reiterated the Comprehensive Plan's guidance that scattered development as with current by-right subdivisions challenges the County's ability to preserve farmland, natural resources and rural character. BG staff noted that the County needs to balance by-right uses with these preservation goals. BG staff explained the current by-right subdivisions (those allowed without requiring residential zoning and approval through the Subdivision Ordinance) permitted in the county include: 1) Parcel divisions into lots of 25-acres or more; 2) Family divisions (protected under state law when a property is split for an immediately family member of the property owner provided the owner/gifter has owned the property for 5 years and the family member retains ownership for 5 years); and 3) Any division of a parcel into lots with a minimum area of 1.75 acre provided such division only occurs every 5 years. BG staff noted that the 1.75 acre by-right divisions were expressed as a concern during the public input sessions, mainly because of the 5 year waiting period; however, staff advised there is a greater concern that 1.75 acre by-right divisions create incompatible, fragmented development patterns and occur outside of any regulations (other than the time delay) that will appropriately guide the location and access, as well as design of these residential lots in rational, useable pattern. In addition, BG staff informed the Commission and Board that a timing delay provision in a Subdivision Ordinance was successfully challenged and overturned by a Circuit Court in a Virginia locality, and while that ruling does not have standing in Page County, it may set a precedent in other courts' considerations.

BG staff offered alternatives to the 1.75 acre/5-year by-right subdivisions of land, noting that this recommendation will not affect the current regulations to permit family divisions and 25-acre lot divisions:

- Option 1 – Implement Sliding Scale Zoning. Continue to permit by-right residential lots at a number based on the size of the original parcel existing at the time of the adoption of this ordinance revision. This is referred to as sliding scale or agricultural protection zoning. Sliding scale zoning is utilized in many rural communities in Virginia and other states and is considered a viable conservation tool. These regulations can reduce conflicts between farm and non-farm uses; maintain critical mass of farmlands, which also keeps farm support businesses viable; protect prime agricultural soils; and, protect the rural character of the community.

With sliding scale zoning, the number of residential lots permitted is based on the size of the parent (original) parcel. Basically, as the size of the parent (original) parcel increases, the number of dwellings allowed in relation to the total area decreases. As an example, a 5-acre parcel may be allowed 2 lots while a 20-acre parcel may be allowed 4 lots (1 dwelling unit per 5 acres or 0.2 unit per acre); and a 100-acre parcel may be allowed 8 lots (1 dwelling unit per 5 acres for the first 20 acres – 0.2 unit per acre - and 1 dwelling unit per 20 acres - 0.05 unit per acre - thereafter). There are different variations of this approach that can be utilized (i.e. with respect to lot size and number of permitted lots) none of which will include a time delay for the land divisions. The following example of various divisions was presented to the group:



Discussion: There was overwhelming support for not continuing the 5-year waiting period for by-right land divisions and enacting a sliding scale zoning approach. Many board members believe the 5-year rule stopped development, and that both the 1.75-acre rule and the 5-year rule has increased scattered subdivisions. Members expressed much interest in seeing a final proposal with standards and hearing more detail about how this will be administered. There was some concern about the difficulty of administering this regulation and gaining support for this approach from the public. It was stated that it is important to ensure landowners understand the benefits of the proposal versus the current 5-year delay.

There was discussion about existing non-conforming (non-buildable) residential lots and how to address this issue. BG staff offered that rezoning these parcels to a residential zoning classification or combining parcels to meet minimum standards were options. It was agreed that non-conforming lots will continue to be examined during the process to determine if other strategies would be appropriate to assist in addressing these lots.

There were also discussions about the subdivision ordinance requirement for roads to be built to state road acceptance standards which the group believed has inhibited subdivision development. There was agreement that options for private road subdivisions should be examined for certain subdivision development, as may occur within the proposed Agricultural Residential District. BG staff advised that it is important for road construction standards to ensure that roads are passible in all-weather conditions for emergency access and that there are clear requirements for road maintenance. Members offered examples of where there are currently issues with private road maintenance often due to costs and original maintenance agreements including nominal fees.

- Option 2 – Increase Agricultural district minimum lot size. BG staff stated that the current subdivision ordinance permits by-right subdivisions of land with minimum lot sizes of 25 acres. A simple and commonly-used method to preserve the rural landscape would be for the County to continue this allowance and require smaller-lot subdivisions to rezone to an appropriate residential district. This method is easy for property owners to understand and the local government to administer, as it does not require extensive record keeping and monitoring beyond normal code enforcement.

Discussion: The group, including those members from the farming community, expressed support for the sliding scale zoning option over the large lot option for by-right parcel divisions. Discussion from Planning Commission and Board members returned, as in first work session, to the pitfalls other counties have experienced with large lot minimums.

ACTION: The Board of Supervisors and Planning Commission were in agreement with the option to discontinue the 1.75 acre/5-year by-right division of land and replace those standards with a sliding scale zoning option for by-right lot divisions as recommended. Family subdivisions and divisions of lots with 25 acres or more will still be permitted by-right. Details of sliding scale regulations will be provided with forthcoming ordinance section drafts.

C. Potential Zoning Map Revisions

BG staff discussed the negative impacts of unplanned growth on the County's goals of preserving agricultural, environmental and scenic assets, and growth management strategies with "leap frog" development into less dense, rural areas. Staff explained that analysis of the County's existing zoning revealed scattered zoning common in many localities, often as a result of historic zoning map amendments approved with the initial adoption of zoning and from accommodating existing land uses at that time, as with historical development patterns of locating uses along primary roadways. The sprawling distribution of some of these zoning designations challenges the County's vision for growth management tiers and preservation of scenic corridors.

BG staff stated that it is common when revising the zoning ordinance to incorporate zoning map changes to guide land use in compliance with the Comprehensive Plan. Staff provided that state law establishes that the Planning Commission and/or Board of Supervisors can initiate zoning map amendments with or without property owner consent. In either scenario, appropriate public advertisement and public hearings are required to ensure the public can weigh-in on the specific changes being considered. BG staff noted that some localities take pro-active measures to comprehensively rezone large areas of the County; however, BG staff does not recommend comprehensive large-scale zoning map amendments for Page County and offered the following options for map amendments:

- Modify Zoning Map Within Community Service Area Boundaries: Community Service Areas are identified in the Comprehensive Plan as the tier where growth should occur first. Some properties within these boundaries may be appropriate for neighborhood-scale commercial, medium to high density residential and some light industrial (warehousing, indoor) uses. Properties where public water and sewer exist or could be reasonably extended would be target properties for consideration.
- Modify Zoning Map to Create Neighborhood Commercial Node(s): The Comprehensive Plan suggests commercial uses outside of community service areas should be centrally located, not sprawled along primary roads. Zoning for a neighborhood commercial node(s) may be appropriate at the location of two primary routes or major roads.
- Modify Zoning Map to Identify Areas Along Routes 211 and 340 For Scenic Corridor Design Standards Overlay: Protection of scenic roads (Routes 211 and 340) have been identified as a priority through public input. Consideration is being given to establishing design standards along these roadways which will likely include greater setbacks, vegetation preservation, and specific design guidelines for

properties within a certain distance of these roadways. If these design standards are adopted, the boundaries of the design district will need to be identified on the zoning map.

Discussion: There was a lengthy discussion about revisions to the zoning map. No final consensus was reached except that there is a desire for increased availability of commercially zoned property along Routes 211 and 340 Business to allow for a more business friendly opportunities. When discussing the following questions presented by BG staff, there was an understanding by the group of the benefits of map revisions, but also concerns expressed.

- Is it the County's desire to pro-actively make changes to the zoning map with this Ordinance amendment?

Discussion: Concern was expressed about the repercussions of making proactive (Board or Commission initiated) zoning map changes as many in the community do not fully understand the regulations that are in place now. Voluntary (property owner request) re-zoning was more acceptable to the group, but it was agreed that many likely would not understand the issue or consider going through the process of rezoning unless there were clear benefits presented. BG staff advised that zoning map revisions are not required with an ordinance update and could be delayed and considered by the County at its discretion.

Related to this discussion, the Board of Supervisors Chairman suggested that a general (short, succinct) outline of the purpose/intent of the zoning ordinance revision be prepared and shared with both boards and staff. Due to the lack of understanding from the general public and the potential pushback the county may receive on any changes to land use regulations, he believes it is important that a clear and consistent message is circulated throughout the community by all members of government.

- Is there support for map revisions to rezone some properties within Community Service Areas to encourage growth within these areas?

Discussion: BG staff clarified that the potential map revisions within these areas would not include the entire areas as identified on the Comprehensive Plan, but would be more appropriate for select properties that could be served by public utilities. The group felt that choosing areas for rezoning that could be served by appropriate utilities (especially for commercial zoning) may be difficult when it is not clear what the future capabilities are for public water/sewer services from the towns. This initiated a discussion about the need for the Board to have conversations with the towns concerning potential service areas and future service plans. There was additional discussion about commercial zoning along Routes 211 and 340 Business regardless of the availability of public utility service.

Members stated that they want to maintain "dual zoning" for properties even if zoning is changed to commercial. After some discussion, BG staff understood the "dual zoning" term is being used in the County to describe the concept that a property could continue to be used for agricultural purposes and take advantage of the land use tax credit even if the zoning was no longer Agricultural. BG staff advised that typically once a property is rezoned, an existing land use, such as farming in this example, is considered a non-conforming use which may continue subject to zoning ordinance regulations regarding non-conforming uses. Members expressed that they want to ensure farming can continue on a property zoned commercially until redevelopment occurs. BG staff clarified that the zoning ordinance does not regulate whether properties are eligible for land use tax credits as agricultural uses.

- Is there support for map revisions to identify one or two neighborhood commercial nodes?
Discussion: There did not seem to be significant interest in rezoning certain rural intersections as commercial nodes. The majority of the comments continued to be about rezoning strips of Routes 211 and 340 Business.
- Is there support for map revisions to identify the boundaries for overlay district standards for scenic routes?
Discussion: There was little discussion about a scenic route overlay beyond the members recognizing that there are groups of citizens who will be interested in the idea of scenic route protections.

ACTION: Since no consensus was reached regarding zoning map revisions, the Board of Supervisors and Planning Commission were asked to review the proposed zoning map revisions and offer specific comments/recommendations to Ms. Clatterbuck who will share that input with BG staff. In addition, the County will pursue discussions with the Towns to better determine availability of public utilities to serve community service areas.

5. Uses

One of the first steps in drafting the ordinance is review and revision of permitted uses. BG staff advised that this step has begun and the group had received a matrix outlining the current permitted uses by zoning district with specific standards where they exist for those uses.

Discussion: Given the time, there was a consensus not to begin use discussions. BG staff informed the group a detailed proposed use list will be presented and discussed at the next worksession.

ACTION: To prepare for use discussions at the next worksession, the Board of Supervisors and Planning Commission were asked to review the existing use matrix and offer any specific concerns/comments about current uses to Ms. Clatterbuck. Ms. Clatterbuck will share those comments with BG staff.

6. Next Steps

BG staff directed the group to review the Updated Project Schedule and reiterated the group's homework from this meeting to review the Potential Zoning Map Revisions and Existing Use Matrix and offer any concerns/comments to Ms. Clatterbuck who will share that input with BG staff.

In response to BG staff's review of the project schedule, the Board of Supervisors Chairman expressed concern that people may lose interest in the process before the estimated completion date of late summer 2021. He asked if there was any way to speed up the process. BG staff referred to the monthly worksession scheduled, pointed out the complexity of the tasks, and the time necessary for the Commission and Board to review each task before progressing to the next ordinance section. BG staff offered to move the next scheduled BOS/PC worksession to the end of January as opposed to February, which the group accepted.

The Board and Commission members expressed that they need more time to review documents in detail. It was agreed that BG and County staff will provide all documents for each upcoming meeting a full two weeks prior to the scheduled meeting.