

MINUTES
PAGE COUNTY PLANNING COMMISSION
September 10, 2019

Members Present

Bernie Miller, Vice Chairman, District 1
Steve Atkins, District 2
Jared Burner, District 3
Jonathan Comer, District 5

Paul Otto, District 1
Donnie Middleton, District 2
James Holsinger, Secretary, District 4
William Turner, District 5

Members Absent

Keith Weakley, Chairman, District 3

Staff Present

Tracy Clatterbuck
Kelly Butler

Call to Order

Vice Chairman Miller called the September 10, 2019 Page County Planning Commission Regular Meeting 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*.

Adoption of Agenda

Mr. Otto made a motion to approve the agenda as presented. The motion was seconded by Mr. Comer. The motion passed unanimously.

Public Hearing

A. Bernard Mills – Special Use Permit Application

Vice Chairman Miller called the public hearing to order at 7:02 pm. Ms. Clatterbuck gave the staff report for the special use permit application as follows:

Bernard C. Mills has filed an application for an SUP to operate a gun shop in an existing accessory building located at 5509 Ida Road, Stanley, VA. The parcel is identified by tax map number 73-A-40B, contains 8.6167 acres, and is currently split zoned as Agriculture (A-1) and Woodland-Conservation (W-C). The property is improved with a single family detached dwelling and numerous accessory buildings.

This SUP would allow Mr. Mills to operate a business that would offer gun and ammo sales. The business would be conducted out of an existing 32x28 accessory building that is already on the property. As stated above, this property is currently split zoned. However, the portion of the property where the business would be conducted is zoned as Agriculture (A-1).

Pursuant to § 125-10 C.(3) of the Page County Zoning Ordinance, home occupations pursuant to § 125-15 are permitted accessory uses. However, pursuant to § 125-15 B.(1)(e) of the Page County Zoning Ordinance, home occupations in an accessory building require a special use permit. Per § 125-15 B(1), the business would be limited to the following:

"The practice of a home occupation by the owner of a residence may be allowed in an accessory building incidental to the owner's residence located on the same tract or parcel of land, provided that the residence and accessory building shall have the direct access to a public street; and further

provided that the use of the accessory building does not change the character thereof, nor exceed 60% of the footprint-ground floor square footage of the dwelling unit, or the occupation in the accessory building does not exceed 1,000 square feet, whichever is the lesser, or have any exterior evidence of such use as a home occupation other than a small name plate, as provided in § 125-20B(2)(a). The specific home occupation allowed by special use permit shall not be changed in purpose, nor allow for more than three employees that do not reside in the residence on the same tract or parcel of land on which the business is located, during the term of the permit unless further application shall be made and approved for issuance of a special use permit. Home occupations pursuant to this subsection shall comply with the requirements of § 125-15A(1)(a) and (c) of this chapter and shall include but not be limited to the following Subsection B(1)(a) through (e): (a) Small country store, (b) Craft shops, (c) Garages (for servicing and repairing only), (d) Personal service shops, (e) Other similar home occupations."

Per § 125-15 A.(1)(a), "two off-street parking spaces, in addition to those required for the residence units, shall be required for any single home occupation, and four off-street parking spaces, in addition to those required for the residence units, shall be required for any home occupation in an accessory building."

Per § 125-15 A.(1)(c), "Home occupations shall be subject to the following limitations:

- [1]** No emission of unpleasant gases or other odorous matter shall be permitted.
- [2]** No emission of noxious, toxic or corrosive gases or fumes injurious to persons, property or vegetation shall be permitted.
- [3]** No glare and heat from any home occupation shall be permitted.
- [4]** No discharge is permitted into a reservoir, sewage or storm disposal system, stream, open body of water or into the ground of any materials in such a way or of such nature or temperature as could contaminate any water supply or damage or be detrimental to any sewage system or any sewage treatment plant or otherwise could cause the emission of dangerous objectionable elements.
- [5]** No vibration perceptible beyond the dwelling unit or building in which the home occupation is conducted, whichever shall be the smaller, shall be permitted.
- [6]** No noise shall be audible beyond the dwelling unit or building in which the home occupation is conducted, whichever shall be the smaller, exceeding the average intensity of street traffic at the front lot line. Objectionable noises due to intermittence, beat, frequency or shrillness shall be muffled.
- [7]** No emission of any smoke shall be permitted.
- [8]** Electric or electronic devices shall be shielded in such a manner as not to interfere with radio or television reception or transmission of any kind.
- [9]** Solid waste shall be contained and disposed of in a manner which will not detract from the appearance of the property or general neighborhood.
- [10]** Toxic waste or material, including but not limited to used motor oil, antifreeze, power steering fluid, transmission fluid, etc., shall not be stored on property. [Added 6-9-1998]"

The code further reads:

"(2) The following criteria shall be considered when determining the advisability of issuing a special use permit pursuant to this subsection:

- (a)** Probable increase of traffic to the general area.
- (b)** Concurrence of surrounding property owners.
- (c)** Size, purpose and likelihood of expansion of the proposed home occupation.
- (d)** Probable impact on surrounding properties.
- (e)** Determination that the accessory building meets the maximum requirements of the Uniform Statewide Building Code and BOCA Code and the Code of Page County.

- (f) Determination of a need for the proposed business for the surrounding community.*
- (g) Screening of property by fencing, landscaping or other acceptable means."*

OTHER AGENCY COMMENTS:

Virginia Department of Transportation (VDOT) – Per Jeff Nicely, the structure is served by an existing entrance and a land use permit is not required.

Health Department- Per Gerald Dovel with the Health Department, they have "no objections to the permit. No employees other than owner. Owner to use restroom facilities in house."

Building Official- Per Don Williams, Page County Building Official, the applicant will need to "obtain BATF licensing for a FFL. Abide by stocking criteria for ammo and fire separation if applicable."

ADJOINING PROPERTY OWNERS:

Adjoining property owners were notified as required by state code. As of the date of this memo, staff has received several comment sheets back from adjoining landowners, whom have no objections to the request. Copies have been provided in your packets.

PAGE COUNTY COMPREHENSIVE PLAN:

Regarding the Page County Comprehensive Plan, this property falls within the "Agricultural Protection Tier". According to Volume 1, Section 2.2 of the Comp Plan, "the purpose of the Agricultural Protection Tier is to protect agricultural uses and preserve the rural lifestyle and sense of community that has long defined Page County. This tier is intended primarily for very low-density residential development, large lot rural development and agricultural uses. Non-residential uses would serve the needs of residents in the surrounding rural areas and generally be limited to agriculture-related businesses. Low density suburban subdivisions and low intensity employment centers may be permitted if access is adequate and the use is compatible with surrounding uses. Levels of service depend on the density/intensity of a development and its location." Due to the low impact, the proposed business would not change the character of the property.

Chapter 3, Goal 6, Policy 6.2 states, "Encourage economic growth that is compatible with the County's rural character while generating a positive net cash flow for the county."

Chapter 3, Goal 6, Policy 6.5 states, "Protect and enhance the environmental resources of the County, recognizing they can attract agriculture, business and industry as well as provide hunting and fishing for local residents and tourists." The proposed business would support this goal as it would provide the equipment needed.

Chapter 3, Goal 6, Policy 6.8 states, "Encourage small business incubators in existing or new buildings in commercially zoned areas." While this property is not zoned Commercial, it would be a small business in an existing building that is an accessory to the primary use of the property which is residential and farming.

Chapter 3, Goal 6, Policy 6.12 states, "Enhance the County's tourism and retail base."

FISCAL IMPACT:

Mr. Mills will be required to obtain a Page County business license which will result in additional revenue for Page County.

Ms. Clatterback moved that the Page County Planning Commission recommend approval to the

Page County Board of Supervisors to allow for a special use permit to operate a home occupation in an accessory building with the following conditions:

1. This special use permit is transferable, it will meet the requirements in and have privileges provided for in the Page County Zoning Ordinance, and any ordinance amendments for the period set forth within the parameters in this special use permit. The special use permit shall remain with the property for a period of thirty (30) years.
2. Bernard C. Mills or its successor and/or assigns, shall be in compliance with all county ordinances, the Uniform Statewide Building Code, and all state and federal agency regulations.
3. The owner and/or operator shall apply for and maintain a valid Page County business license.
4. The business shall comply with all applicable sections of § 125-15 (home occupation regulations) of the page county zoning ordinance which are attached to this permit. This special use permit is for use of the existing shop only.
5. Use of the existing shop and/or any future additions to the existing shop must be in compliance with § 125-15.B.(1) of the Page County Zoning Ordinance and any other applicable codes and ordinances.
6. Any lighting that is provided on the property will be directed downwards, so as not to produce a glare onto adjacent properties or right-of-ways.
7. This special use permit may be revoked upon material noncompliance with the terms of the permit, or upon violation of any other relevant terms of the Zoning Ordinance or any other ordinances of the County of Page, Virginia. However, prior to the commencement of any action to revoke this permit, the county shall notify the permit holder in writing of the material in noncompliance or violation, and the permit holder shall have thirty (30) days thereafter to cure the material non-compliance or violation. The notice shall be deemed given when hand delivered to the permit holder or when mailed by certified mail, return receipt requested, to the permit holder.
8. Any change of use or expansion of services not included in this special use permit will require an additional, new, or modified special use permit as required by the Page County Zoning Ordinance at that time.
9. The Zoning Administrator or their designated representative may visit the site at any time to ensure compliance with the special use permit.

Mr. Mills was available for questions. Mr. Miller asked if any members of the commission had any questions. No questions.

Mr. Turner made a motion to recommend approval to the Page County Board of Supervisors to allow Mr. Mills to operate under a special use permit for a home occupation in an accessory building. Mr. Otto seconded the motion. The motion passed unanimously with Mr. Weakley being absent. The public hearing closed at 7:06 pm.

B. Sign Ordinance Amendment §125-20

Vice Chairman Miller called the public hearing to order at 7:08 pm. Ms. Clatterbuck gave the staff report for the sign ordinance amendment as follows:

In June 2015, the United States Supreme Court entered an opinion in *Reed v. Town of Gilbert*, ruling that the Town of Gilbert's sign ordinance infringed upon the First Amendment of the United States Constitution since Gilbert's sign ordinance allowed certain signs based upon content. Under this decision, a sign ordinance that imposes restrictions according to a sign's content is presumptively unconstitutional and is subject to strict scrutiny. Based on this decision, many subsections of Page County's Code, specifically § 125-20, are now unenforceable. Under this ruling, the County cannot base their approval or denial of a sign permit based on the content used on the sign.

A copy of the amendments are attached to these minutes for review. Items in black are existing and/or current language, and items in red are proposed changes. The draft has been reviewed by legal and is satisfactory.

Ms. Clatterbuck stated that an error in the §125-4 definitions was not caught by legal. When the next ordinance amendment is put on for public hearing, the §125-4 definitions will be put on for public hearing as well. The definition for "home occupation" is being moved to §125-20, which is a change since the last draft was presented. Because this public hearing was only advertised for §125-20, another public hearing on the §125-4 definitions will be required.

Ms. Clatterbuck moved that the Page County Planning Commission recommend approval to the Board of Supervisors of the proposed ordinance amendments as drafted to Section 125-20 (Signs) of the Page County Zoning Ordinance.

The proposed ordinance amendment is included as an attachment to these minutes.

Mr. Miller asked if there were any other questions. No questions. Mr. Holsinger made a motion to recommend approval to the Board of Supervisors of the proposed ordinance amendments as drafted to Section 125-20 (Signs) of the Page County Zoning Ordinance. Mr. Atkins seconded the motion. The motion passed unanimously with Mr. Weakley being absent. The public hearing closed at 7:15.

Citizen Comments on Agenda Items

Mr. Ken Jemielity – Is there anything in the sign ordinance that require people who want to put up political signs get permission from the property owners beforehand? Mr. Comer said the law says that you can't trespass, but it tends to happen anyway. Mr. Jemielity stated that one of Sheriff Cabbage's signs appeared on his fence and nobody asked for permission. He stated that he supported the Sheriff, so he isn't going to take it down. But if one of his competitor's signs goes up, he wanted to know if he could take it down.

New Business

A. Adoption of Minutes

Mr. Otto made a motion to approve the August 27, 2019 minutes as presented. The motion was seconded by Mr. Comer. The motion passed unanimously.

Unfinished Business

A. Proposed amendments regarding commercial parking facilities, commercial workshops, contractor office, and signs

Ms. Clatterbuck stated that she made the changes that were last discussed and sent the draft to legal. Legal approved the draft as written. This draft is attached to these minutes.

Staff is proposing the following amendments to § 125-4 (Definitions) of the Page County Zoning Ordinance:

- Add a definition for *commercial parking facilities* (page 5).
- Re-define current definition of *commercial workshop* and relocate definition in code (page 5 and 14).
- Amend the current definition of *contractor office* (page 5 and 6).
- Amend the definition of *sign* by referencing § 125-20 (Signs) (page 14).
- Strike *business sign*, *directional sign*, *home occupation sign*, and *temporary sign* as 125-20 will include them in the upcoming sign ordinance amendment (page 14 and 15).
- Remove *general advertising sign* from code (page 15).

- Strike *sign structure* definition as it will move to 125-20 in the upcoming sign ordinance amendment (page 15).

Staff is proposing the following amendments to § 125-9 (Woodland-Conservation) of the Page County Zoning Ordinance:

- Add the use of *commercial parking facilities* by special use permit (page 20).

Staff is proposing the following amendments to § 125-10 (Agriculture) of the Page County Zoning Ordinance:

- Add the use of *commercial parking facilities* by special use permit (page 24).

Staff is proposing the following amendments to § 125-13 (Industrial) of the Page County Zoning Ordinance:

- Add the use of *commercial parking facilities* by-right (page 26).

Staff moved that the Page County Planning Commission hold a public hearing on these ordinance amendments at the October 8, 2019 regular meeting, and direct staff to provide adequate notice of such hearing in accordance with § 15.2-2204 of the Code of Virginia.

Mr. Comer made a motion that the Page County Planning Commission hold a public hearing on these ordinance amendments at the October 8, 2019 regular meeting, and direct staff to provide adequate notice of such hearing in accordance with § 15.2-2204 of the Code of Virginia. Mr. Otto seconded the motion. The motion passed unanimously.

B. Comp Plan – Solar Draft

Mr. Otto stated that the seventh draft was distributed at the last meeting. Mr. Miller pointed out the item listed under Policy 13.6 of Goal 13: no toxic chemicals. He stated that he doesn't know of any panels that are non-toxic. Mr. Otto stated the concern is what if the panels are damaged. Mr. Miller asked how that would then apply to residential applications. Mr. Otto stated that there are ones that don't have toxic chemicals. Mr. Holsinger asked if that makes it impossible to have solar panels. Mr. Otto reiterated that this applies to utility scale. It does not apply to non-utility scale. Mr. Miller suggested then it should say that both applications not have toxic chemicals. Mr. Otto stated it could be made applicable to all solar panels in the county. Mr. Holsinger stated by this item solar electrical panels would essentially be negated. Mr. Burner brought up the fact that there are many things that we use on a daily basis that contain toxic chemicals. There isn't much of a way to get around that. Mr. Burner suggested that we may want to focus rather on who is responsible for the clean-up. Mr. Holsinger stated that they were encouraged to create the liability for clean up because it hadn't been determined.

Mr. Otto suggested that they do one or both of two things. State in the draft that no toxic chemicals be present in any solar panels installed in the county and/or be more specific about which chemicals are allowable. Mr. Holsinger said that if we do that then it would make solar impossible anywhere in the county. Mr. Miller stated again that this is the comp plan, not an ordinance. He suggested that they put that it is recommended that the non-toxic variety be used, for both types. Mr. Comer suggested it state "the chemical toxicity of the panels should be considered in any application." He stated that this recognizes the issue, but doesn't forbid it.

Mr. Otto stated that the sub-committee will go back and look that over and come up with different language there.

C. Sub-Committee Reports

Comp Plan Sub-Committee- Mr. Otto stated that the next meeting is on September 19, 2019 at 3:00 p.m. They will be reviewing the last three chapters of Volume 2. They will also discuss the comp plan – solar draft.

Open Citizen Comment Period

One citizen had signed up to speak, but the citizen left before the comment period.

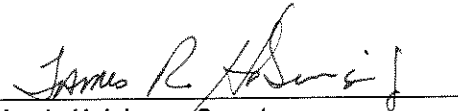
Clerk's Report

Tracy Clatterback stated that the Board of Supervisors would be voting on the Cape Solar SUP at the September 17, 2019 meeting.

Adjourn

Vice Chairman Miller adjourned the meeting at 8:38 p.m.


Bernie Miller, Vice Chairman


Jamie Holsinger, Secretary

