

MINUTES
PAGE COUNTY PLANNING COMMISSION
August 31, 2021

Members Present

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| Catherine Grech, District 1 | Donnie Middleton, District 2 |
| Steve Atkins, District 2 | Jared Burner, Chairman, District 3 |
| Keith Weakley, Vice Chairman, District 3 | James Holsinger, District 4 |
| William Turner, Secretary, District 5 | |

Members Absent

None

Staff Present

Tracy Clatterbuck (via phone)
Brooke Newman
Kelly Butler

Call to Order

Chairman Burner called the August 31, 2021 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 6:00 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. All were present.

Adoption of Agenda

Mr. Holsinger made a motion to remove the Tanners Ridge Properties/Board of Supervisors, Page County Special Use Permit. The motion was seconded by Mr. Weakley. The motion passed unanimously 7-0.

New Business

A. IBR Corporation – Rezoning Application

Ms. Clatterbuck presented the following staff report:

IBR Corporation has filed an application to rezone property located at 5550 US Hwy BSN 340, Stanley, VA, and further identified by tax map number 72-A-38 which containing 1.15 acres. The property is currently being used as follows:

- #5550 US Hwy BSN 340- Vacant Detached Garage
- #5558 A&B US Hwy BSN 340- Retail & Residential Apartment
- #227 Vista View Road- Single Family Dwelling
- #237 Vista View Road- Single Family Dwelling

IBR Corporation purchased this property in February 2007. Since the zoning ordinance was adopted in 1989, this property has always been zoned as Agriculture. The applicant is requesting to rezone the parcel from Agriculture (A-1) to Commercial (C-1). They would like to lease the existing vacant detached garage to an already established local business that does mobile metal work/welding. The use of the garage would allow them the opportunity to expand their current mobile-only business. Pursuant to § 125-12.B(2) of the Page County Zoning Ordinance, metal working and welding is permitted by-right in the C-1 zoning district. Also, staff would further note that retail [§ 125-12.B(1)], accessory and/or upstairs apartments [§ 125-12.B(9)], and single family dwellings [§ 125-12.B(13)] are all permitted by right under the C-1 zoning district.

The applicant has reached out to the following agencies for comment:

Virginia Department of Transportation (VDOT) – Per James Craun, “VDOT has no objection to the rezoning as it has no impact to the existing R.O.W.”

Page County Health Department- Per Herber Cormier, “This Health Department has no objections to the rezoning proposal for tax parcel # 72-A-38 from Agriculture (A-1) to Commercial (C-1). New proposed business is limited by sewage disposal design of not more than 9 employees.”

Page County Building Office- Per James Campbell, “No objection.”

The Page County Comprehensive Plan, Volume I, Goal 6 states:

Policy 6.2: “Encourage economic growth that is compatible with the County’s rural character while generating a positive net cash flow for the County”.

Policy 6.6: “Promote local employment opportunities.”

Policy 6.8: “Encourage small business incubators in existing or new buildings in commercially zoned areas.”

Policy 6.13: “Support and encourage a local skilled labor force needed by local employers.”

Based on the above referenced policies, staff feels the rezoning of this property from Agriculture (A-1) to Commercial (C-1) is appropriate for this area. This property is located directly on 340, about a half a mile from the Town of Stanley limits, and is in the vicinity of already commercially zoned properties. Staff requests that the Page County Planning Commission hold a joint public hearing on September 28, 2021 with the Board of Supervisors on the above listed rezoning request, and direct staff to provide adequate notice of such hearing in accordance with the Code of Virginia 15.2-2204.

Mr. Turner made a motion to accept the IBR Corporation Rezoning Application and the staff recommended joint session with the Board of Supervisors. The motion was seconded by Mr. Holsinger. The motion passed unanimously 7-0.

B. Adoption of Minutes – July 13, 2021 and July 27, 2021

Mr. Weakley made a motion to approve the minutes as submitted. Ms. Grech seconded the motion. The motion passed unanimously.

Unfinished Business

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

Chairman Burner asked about the lots in the agriculture zoning district that are smaller than 1.75 acres. Ms. Clatterbuck reminded the commission that the 1.75 acres was not adopted until June of 2005. Lots that were established before that date that are less than the 1.75 acres are considered non-conforming lots. Ms. Grech stated her understanding is that we cannot subdivide more than once anything that is less than 3.5 acres right now. This means that many would not be concerned with the sliding scale, as 61% of the parcels in the proposed districts will not be affected too much by the sliding scale. Chairman Burner stated it will need to be decided at some point whether to use a sliding scale or time delay. There has been no data showing how it relates to municipalities and what it does in terms of economic development and how it actually plays out in land use. Ms. Grech referenced the sliding scale document on page 44 of the draft ordinance. The number of permitted lots in the second column, each has a maximum, area of developable of 3 acres. If you multiply that number by 3 acres and divide it by the size of the parent parcel, you are looking a ratio of percentage of land that could be developed. It goes all the way from 100% to 17% as you move down the chart. That is a useful figure. The larger parcels will not be able to develop more than 70% of their land. Chairman Burner stated that not all lot division is going to be for residential purposes. Mr. Weakley suggested a pros and cons column on sliding scale vs clustering. The commission discussed possible scenarios for each.

Ms. Grech asked the commission to look at page 126, section 125-716 subdivision for non-residential purposes. Ms. Clatterbuck confirmed that this is a new concept. Currently, in Page County we do not tell you that you cannot use your land for non-residential purposes. Making sure the language is clear, so that we can explain this and enforce it, is important. Ms. Grech stated that this means that you would be allowed to subdivide under certain circumstances as long as it is not for residential use and I am not sure I understand the circumstances in which that is possible. Mr. Holsinger stated he did not feel it addresses the concerns because it does not mention industrial or commercial. If you are selling property from farm-to-farm, to be farmed and to continue to be farmed, I agree with Jared that you should not be using your dominant rights in order to just create farmable property for a neighbor. Ms. Grech stated her concerns that these are perfect examples of how much more needs to be considered before she would feel comfortable with the sliding scale. Is the premise that we have two agriculture zones? Mr. Burner answered yes. Ms. Grech asked if commission agreed that we need two agriculture zones. Mr. Burner stated that at the last meeting they voted to have two separate agriculture zones and they just needed to work out the use district details. They need to pick a point to start working on those details. Mr. Holsinger asked if they would make changes to the existing agriculture zone. There is no doubt in the new zone, they could create the sliding scale. Mr. Turner stated he would not change the small farmer. I would just change up to the 25 acres if that is what they go with. Mr. Burner asked if they make the brace at 25 and 6 acres, what happens if the person who has 6 acres next to a 12-acre lot, next to another 12-acre lot that just happens to buy piece by piece at a time, are we going to allow them to be eligible in the prime district because the acres are contiguous or because they are 3 separate parcels. Are they going to have to stay in general agriculture? Mr. Turner stated someone with that small acreage would have to be a worker and he would not be able to be a full-time farmer. Mr. Holsinger stated if the same person owns all those acreages, they should be allowed to aspire to the total acreage, and not have to be dependent on each of those individually. Ms. Grech stated the Rockingham ordinance addressed this by saying minimum acreage for the A-1 district should be 6 contiguous acres and that no minimum acres should be required for additions that form a logical extension of or adjoin an existing A-1. This can easily be addressed. Ms. Grech asked if the 6 and 25 acres mentioned, minimum lot sizes for A-1 and A-2? We need minimum lot sizes for these districts and we need minimum lot sizes for those lots being subdivided in those districts and those numbers do not need to be the same. Mr. Burner stated that prime agricultural district reads, on parcels of land that are greater than 40 acres, one non-family division shall be permitted every 5 years except as permitted under subsection 16-9 in accordance with subsection 16-9B1C. However, either the parent parcel or the newly created parcel shall be at least 40 acres and shall not be reduced below 40 acres. If the newly created parcel is 40 acres and the parent tract becomes less than 40 acres, there shall be no further non-family division rights of the parent tract. Ms. Grech asked if this was acreage in case of subdivisions, not the minimum standards for that zone. Mr. Burner answered correct and stated in Page County, he thinks 40 is too high. He thinks 25 in this scenario is a better fit. Mr. Holsinger stated the parent would never fall below 25 rather than the parent not falling below 40. Mr. Burner stated where as in their general, they use 6 as their standard. Mr. Holsinger stated the scenario there is that you could theoretically take your parent down to 25 if you haven't used your family rights by then and could still create family lots. Ms. Grech asked what the minimum lots be for those zoning district. Mr. Holsinger responded if they don't change it, it will be 1.75 acres. Mr. Weakley asked if this was in prime agriculture or regular agriculture. Mr. Holsinger responded if we don't change it, it will be everywhere. Mr. Weakley stated back to the original question, using Rockingham, that 6 acres has some logic behind it for land use? Mr. Holsinger stated most likely we would model the Rockingham in the direction we are going. We might adjust those number a little bit, it would be safer to do so. In that case, their minimum lot size is 6 acres. That is because Rockingham County they rationalized those 6 acres is still farmable and will be supported by a low tax rate if you use it to farm. You lose it if you do not use it to farm. That is an incredible incentive. We probably should not let prime agriculture fall below 6 acres. Last time we discussed it we were willing to go with 12 acres because some people wanted to be even more aggressive. Ms. Butler stated in the first paragraph in exceptions to

subdivisions, it states that the minimum lot size in Rockingham Ordinance that the minimum lot size in agriculture zoned districts shall be 1 acre. But if you go with area, minimum acreage required is 6 contiguous acres. There are differences in the definition of area and acreage and lot size. Mr. Holsinger stated his guess is that you have to have 5 acres to qualify and if you have created a building lot on that 6-acre footprint and fenced it so it could not be farmed, you fall out of land use. So, they did not want that building lot within the footprint of the area defined to be greater than an acre. Mr. Weakley stated that the 6 acres makes sense when trying to preserve farm land. It gives them to option to capitalize on it or not. Ms. Grech asked if this was for agriculture or prime agriculture. Mr. Burner stated it would be for general agriculture. The criteria for prime agriculture would be higher. Mr. Weakley asked if this was the minimum lot size. So, in regular agriculture the minimum lot size would be no smaller than 6 acres? And in prime agriculture no minimum lot size would be no smaller than 25 acres? Mr. Burner stated that is what he is suggesting but is open to discussion.

Mr. Holsinger stated they have talked about the pros of not doing the sliding scale but adjusting some of the minimums and making changes that could be made with or without the sliding scale. Mr. Burner stated just because you have 25 acres does not mean you automatically go into the prime zone. You may still choose to be general agriculture and then you can go down to the 6-acre lot size. Ms. Grech stated they need to make sure they do not mix up minimum lot size with the size of the lot minimum when subdivided. I thought the minimum lot size of 1.75 was already something people wanted smaller. Mr. Holsinger stated that 1.75 was considered as a way to protect our resources. Mr. Weakley commented that the comp plan is written to preserve farm land and this helps us do that. It helps us defend why we choose the numbers we defend. Mr. Holsinger stated to keep in mind that the new zoning will impact no one. When you set those parameters, they will go right through without difficulty. There is likely to be adjustments to whatever we send to them in the original agriculture zone. Mr. Turner stated that when he was in the farmer's association years and the 1.75 came up for prime agriculture land. It shouldn't have been put in for mountain land. Mr. Burner stated to think about it in a broad picture. If you basically allow subdivisions to have small lots on your prime agriculture land, who would ever do a residential subdivision? It is pointless to put the residential subdivisions in here if you can go out in the agriculture district and do it really quick especially if we go with the sliding scale and especially if we allow lot sizes to come down fast. And when it comes to infrastructure and putting something around the town where you can have residential, that's ok to put it there but then you are putting subdivisions out on farmland that do not necessarily need to be right there just because the roads and infrastructure are bad. We need to plan where things actually go. Mr. Turner stated the economy takes care of that because of the cost of putting a well and septic. Mr. Burner stated it sounds like they are setting the subdivision size as the prime agriculture being 25 acres and general agriculture being 6 acres. Does this take into account the sliding scale or do we go back to a time delay? Ms. Clatterbuck asked if they are saying that in the current agriculture zoning district that you are suggesting we change the minimum lot size from 1.75 acres to 6 acres. So, hypothetically if someone has a 10-acre tract of agriculture zoned land and they want to subdivide based on what is being said, they could not because they would need a minimum of 12 acres (6 for new lot and 6 for residue). Mr. Holsinger stated that probably would not pass through the Board of Supervisors because that is going change the existing zoning which is going to impact so many people. It might be adjusted to where there are no changes to the existing agriculture. The new agriculture would have the ability to go there with a minimum lot size that probably would pass because it does not impact anyone unless they choose it. That would be 25 acres. Mr. Burner asked if you essentially have to have 12 acres to make that division to meet the 6-acre lot size. Ms. Clatterbuck confirmed. Mr. Holsinger asked if they could rezone too residential. Ms. Clatterbuck said yes, anyone can submit an application for a rezoning. Mr. Holsinger stated that this discussion falls back to Mr. Turner's discussion on if you have a smaller farm, you probably need a different set of rules. It just gets more complicated. Mr. Weakley stated that the comp plan talks about preserving farmland. So, what we are doing is in compliance with the comp plan and moving in the right direction in which the comp plan guides us. Ms. Grech suggested they run the

numbers for a potential sliding scale for each case scenario for the normal agriculture and the prime agriculture and see if they can work something that holds water. If they can, then they can have two sliding scales. If they don't like it than they can revert back to what they have now with some modification of standards. Mr. Weakley agreed they do this and bring it back to the table. Ms. Grech asked if they want to come up with a model with a number of lots or percentages. Instead of having one sliding scale, should they have two? One for the 6 acres and one for the 25 acres? Mr. Weakley asked if the base would be smaller if you had really small lots. Ms. Grech stated see if they can come up with two sliding scales incorporating the new minimum lot sizes and see if they work. Mr. Burner stated that they are to use the 6 and 25 as a base for each district and then formulate a sliding scale based on those criteria. Ms. Grech asked if they should do this based on number of lots or on percentages. If it is on percentages, it is easier to go with. Mr. Holsinger stated it is more understandable if this sliding scale only applied with the 6 acres. We could simply allow people to do 6 acres and 25 acres in their respected zones but when they run below that they could use a sliding scale. Ms. Grech stated that is another concept to consider. Mr. Holsinger stated if you are not going to only apply it to the 6 acres, he doesn't see how anyone will utilize the sliding scale. If they accept it, then that is what they will use. There may be some merit to applying it once the lot falls to that size. Mr. Weakley stated to put it in perspective, once a lot falls between 5 and 10 acres in agriculture, there are 751 lots. So, if you move to 6 acres minimum that's 751 lots that can be divided today, will not be able to be divided once we institute this. Maybe there is another option to mitigate some of that on the smaller lot size because this is a pretty large number. Ms. Grech stated if we look at the numbers she mentioned earlier, 61.4% of lots generally in those three zones, are less than 5 acres. Even more than that if we go to 6 acres could not be subdivided unless we had a separate set of rules. Mr. Weakley asked if they want that. Ms. Grech asked about the solution of not applying to 6 acres to the minimum lot size but keep a smaller lot size in applying the 6-acre minimum only when you subdivide. Meaning the 6 acres maximum when you subdivide but not initially the lot sizing for the district. Mr. Burner and Mr. Weakley agreed. Mr. Holsinger asked if it was still possible to build on a non-conforming 1-acre lot. Ms. Clatterbuck stated yes, as long as you can meet the county setback requirements. Ms. Grech asked if this would change with the Berkley Group's version. Ms. Clatterbuck stated that the setback requirements appear to be what they are today. But as far as minimum lot size and lot area, she recommended they refer to the document. Mr. Burner stated even if you use the concept of a functional lot verses the 1.75, you still are allowing the lots that are small the allotment to do that. We are just stopping them from dividing any smaller. Ms. Grech asked what is meant by a functional lot. Is it a lot that functions with the setbacks of the well, septic and build? A lot of places do not have a minimum. Mr. Holsinger stated there may be another section addressing this. Ms. Grech stated that it's not because there is no minimum lot size that it is necessary referring to the concept of a functional lot. I just want to understand the difference in the two. Mr. Holsinger and Mr. Weakley stated we should check on that. Ms. Grech stated if we have a minimum lot size that is what we can refer too. If we decided to go without a minimum lot size then we introduce the concept of a functional lot. Mr. Weakley stated we need to stipulation that and lay out some rules. His understanding of a function lot is meeting all setbacks including right-of-way, septic and well, and building. Mr. Holsinger the developer must bring proof to you that this less than average sized lot is functional. He would have the expense of that. This was only in the discussion. Ms. Butler stated to the commission to keep in mind that tiny houses are a huge thing right now so a functional lot can be very small. Mr. Holsinger mentioned when Gerald Dovel spoke with them. He talked about changing lot sizes. He thought that the vast majority of our acreage could be developed down to an acre. And that was for a standard size dwelling. I would suggest that going below an acre might not be reasonable and we might want to do that in certain locations. In the end, there are things to talk about when taking about preserving farm land. The most important thing to continue farming here is to have farmers, people who are willing to farm. The vast majority of us are raising children that go away and are not going to be here to farm. We are going to need people that are willing to farm. There will be a crisis when those people are not here anymore. If you want to save farm land, you have to make it more expensive. That means larger lots. Any efforts

made, in the end if you have to buy 25 acres in farm land, you are going to find that closer to town. Ms. Grech asked if the Berkley Group was posing them to be regulated the same as mobile homes? Ms. Butler stated that a tiny home can be built tiny and not just a modular. They can be stick built, modular or manufactured. The health department is allowing that if your septic is approved for a three-bedroom perk, and you only have a two-bedroom dwelling on it now, they will let you stick a tiny home on an adjoining lot and use the same septic. That functional lot gets even smaller at that point. It's in the deed that they are using a shared well and/or septic. Mr. Burner asked if they are ready to determine the minimum lot size. Ms. Clatterbuck stated that if they decide to go the functional lot route, we need to make sure there are clear guidelines on what that is. Mr. Burner asked what everyone opinion is on dropping it down to an acre? Mr. Weakley asked what the acre would apply too. If we want to preserve the woodland area do, we want something larger there? Mr. Holsinger stated it is occupied by forest. Its 20 acres if it's just forest and 21 with a house. Mr. Weakley stated there is one counter argument to that. As the cabin capital are we going to dissuade people from putting cabins on property and building that revenue base if it's 21 acres? Mr. Holsinger stated he would not want to change the 1.75 acres at this time. He likes the idea of a function lot size but wouldn't use it unless it was a part of the sliding scale. And maybe a sliding scale in the new agriculture because he would want to squeeze those lots down as much as possible and create as much prime agriculture preservation as possible. And also doing it in an area which no one has already zoned, so once agriculture you would get to choose. Mr. Burner asked what commission wanted to do. Mr. Weakley stated what he was hearing from commission is that they have the 6 and 25 acres. They will come up with a potential alternate sliding scale for discussion's sake. We are not doing a functional lot at this time. Ms. Grech stated they could look at the functional lot as an exception to the rule on a case-by-case basis. Mr. Holsinger asked staff if the functional lot could be appealed to BZA. Ms. Clatterbuck stated that anything in the zoning ordinance can be appealed to the BZA. The burden of proof is on the applicant to convince the BZA why they should or should not grant it. Ms. Grech stated that presumable one of the criteria of the BZA would be that it is a functional lot. So, in the end, why include it in the zoning ordinance since they can revert to that and take it to the BZA.

Ms. Grech stated she would like to go back to the alternative dwelling unit. Looking at page 150 in the definitions, alternative dwelling unit is a structure or combination of structures considered temporary or permanent such as tents, yurts, shipping containers or tiny house which are defined as dwelling units that contain less than 400 square feet and similar structures intended to be locate on the lot or premises for temporary or permanent residential occupancy. This is well defined and would define the case scenario brought up by Ms. Butler. Then, in the matrix they are only by SUP and they are only allowed in PR, W-C, A-1, and RR. Since they are allowed by SUP there would be some control there. Ms. Butler confirmed that yes, they would be able to set conditions. Ms. Grech added that the functional lot would be part of that. Ms. Grech asked if it was still a concern. Ms. Butler stated that when they had presented the alternative dwelling units, they were not including the stick built tiny homes but more of the modular or manufactured tiny home, the ones brought in rather than built onsite. It is hard to tell someone they cannot build a small house. As long as it meets building code requirements. But as far as people using siloes, airplane, and trains for a dwelling unit, then I think neighbors are going to want to have a say in that. Ms. Clatterbuck stated that we have multiple discussions going on with multiple current cabin rental operators in the county who now want to build tree houses as single-family dwellings. Ms. Butler stated they are not directly connected to trees but elevated in trees to give a tree house feel. Mr. Holsinger stated that the objection started with the functional lot, so if we do not change the lot sizes then whether they are stick built or moved in, the concern is not the same. Ms. Grech asked if that particular section and definition of an alternative dwelling unit and the fact that it be authorized only by SUP in those four categories, is that something that would work for the county. I'm hearing maybe not. Because as a lot of people who want to build small houses can't. Ms. Butler stated she feels like we see a lot of yurts, modular tiny homes and stick built tiny homes and that is going to be hard to swallow if you have to get an SUP every time that

happens. It's happening a lot right now and goes along with the cabin use that we have. Mr. Middleton asked if Yogi Bear has small cabins. Ms. Butler stated that they have what is called park models units. They have everything inclusive inside the modular unit. They are inspected off site and when they are brought in, we only do exterior inspections on their tie-ins. There are building code regulations that govern these. It will be difficult with the non-traditional look and being small when you are looking at it from a neighbor's perspective. Mr. Holsinger asked if we would recommend an SUP with any of these things. Ms. Butler stated for a small house that would be difficult. Mr. Weakley stated that the 400 square feet governs that and when it came up the first time and they batted around the size, they settled on the 400. Ms. Butler stated that the manufactured 400 square foot is state code. Ms. Grech asked is we see a lot of structure smaller than that or proposed to be smaller than that? Ms. Butler stated we have a lot of people who ask. Ms. Clatterbuck stated we have people ask about 200 square foot homes. Ms. Butler stated we have 2-3 potential homes that are 300 square feet. Ms. Grech asked if we allow them but with what the Berkley Group is proposing, we would not allow them unless they were by SUP. Ms. Butler stated yes and in agriculture we revisit this category and see how we want to regulate it.

Mr. Burner stated we have homework to do on the agriculture side. Take a look at the sliding scale concept and go over the division and how to do that. Also, take time to think about how it would affect both W-C and PR. We may have to have different standards for each. Also, in accordance with the comprehensive plan we don't want to affect tourism. We do not want to kill that industry either. We need to be adaptive to different industry needs and the comprehensive plan. Ms. Grech added that if they are thinking from the more protective of agriculture to the less protective but still somewhat agriculture, then there is rural residential which used to be called agriculture-resi. Maybe we need to also think of that in the mix because that is sort of between what would be the normal agriculture and the residential. Take that into account to see if that is a category that serves us.

Adjourn

Chairman Burner requested a motion to adjourn the meeting. Mr. Weakley made a motion to adjourn. Mr. Atkins seconded the motion. The meeting was adjourned at 7:53 p.m.



Chairman, Jared Burner



Vice Chairman, Keith Weakley

