



Nelson County Planning Commission Meeting Minutes May 22, 2024



Present: Vice Chair Robin Hauschner and Commissioners Mike Harman, Phil Proulx, Chuck Amante.
Board of Supervisors Representative Ernie Reed

Staff Present: Dylan Bishop, Director

Call to Order: Vice Chair Hauschner called the meeting to order at 7:00 PM in the General District Courtroom, County Courthouse, Lovingsston.

Review of Meeting Minutes:

February 28th, 2024

Ms. Proulx made a motion to approve the minutes from the February 28th, 2024 Planning Commission meeting. Mr. Harman seconded the motion.

Yes:

Phil Proulx

Chuck Amante

Mike Harman

Robin Hauschner

Ernie Reed

Discussion of Land Use Policy Diagnostic

Ms. Bishop noted that the Board of Supervisors had adopted the 2042 Comprehensive Plan in April of 2024. She added that the Berkley Group had provided the Land Use Diagnostic as part of their existing contract. She explained that the Land Use Diagnostic was a review of the Zoning and Subdivision Ordinances for compliance with VA State Code and to identify opportunities to include strategies from the Comprehensive Plan. She noted that some of the key findings were to recommend:

- combining the Zoning and Subdivision Ordinances into a single document,
- incorporating low-impact design and landscaping standards,
- greater conservation regulations,

- alternative residential uses and increased density where appropriate,
- compliance with VA State Code,
 - Ms. Bishop showed Page 4 of the Land Use Policy Diagnostic and explained that the pie charts showed compliance with VA State Code. She noted that the Zoning Ordinance was about 50-70% compliant and the Subdivision Ordinance was about 50-80% compliant.
- including graphics,
 - She explained that staff had indicated that the county likely did not want a graphics-heavy ordinance but would want to include them where they are most useful.
- updating uses and definitions while implementing the Comprehensive Plan Glossary, and
 - Ms. Bishop noted that they would need to add modern uses, such as Accessory Dwelling Units, and remove antiquated uses, such as Blacksmith Shops. She added that they would be updating and combining like uses to create a more cohesive ordinance.
- annual review.
 - Ms. Bishop noted that staff could include this review in their annual report by cross-referencing with Comprehensive Plan strategies. She added that the Planning Commission could initiate updates at any time.

Recommended Ordinance Structure:

1. *General Provisions*
2. *Administration*
3. *Permits and Applications*
4. *Primary Districts*
5. *Overlay Districts*
6. *Use Matrix*
7. *Use Performance Standards*
8. *Community Design Standards*
9. *Nonconformities*
10. *Subdivision*
11. *Definitions*

Ms. Bishop showed the Recommended Ordinance Structure on Page 6. She noted that the current Zoning Ordinance had separate articles for each zoning district. She explained that this structure would put commonly approved Special Use Permits as a by right use but with customary conditions as performance standards. She provided the example of a one-site campground that could be permitted if the owner lives on the property and has a certain amount of acreage, etc. She added that they would need to address short-term rentals and accessory dwelling units. Mr. Reed asked where enforcement would be included in the new ordinance structure. Ms. Bishop noted that it would be included under 'Administration'. Ms. Bishop added that they would also be addressing green infrastructure principles,

signs, design standards for different development types, connectivity and recreation, overlay zoning districts (mountain ridge, tourism, Route 151, etc.)

Ms. Bishop noted that Appendix A of the Land Use Policy Diagnostic addresses every strategy from the Comprehensive Plan with a recommended action for the ordinance update. She explained that VA Code section 15.2 governs everything that they do.

Ms. Bishop asked the Planning Commission to provide her with their initial thoughts on the document. She explained that they would be submitting a work order amendment with the Berkley Group to develop a scope of work to update the Zoning and Subdivision Ordinances. She noted that this work order amendment would be presented to the Board in June. She explained that the process would be very similar to the one used for the Comprehensive Plan update. She added that there would be some public engagement and existing public engagement could be utilized. She explained that there would be joint work sessions, a kick-off public workshop, focus groups, topic-specific work sessions, regular Planning Commission meetings, and an open house. She noted that it is anticipated to take about 18 months. Mr. Amante asked if the zoning map would be included in the Zoning Ordinance. Ms. Bishop noted that it would not be, adding that any potential rezoning would happen after the update. She explained that rezoning would involve the landowners.

Mr. Amante asked if she anticipated much rezoning occurring. Ms. Bishop noted that the process would include reviewing the current zoning, uses, landscape, infrastructure, etc. She noted that there were other options including a new mixed-use district and overlays. Ms. Proulx asked if overlay districts would be looked at during the update. Ms. Bishop noted that while updating the ordinances they should have those potential rezoning areas in mind but they would not be mapping out boundaries at that point.

Mr. Hauschner asked if there would be any form of moratorium on development for properties that were to be rezoned. Ms. Bishop noted that she is not familiar with the process of county-initiated zoning map updates. She added that any changes in zoning would not be in effect until after adoption. She explained that there would be public hearings where the landowners would be able to provide input. Mr. Reed asked if the Berkley Group would provide recommendations for that process. Ms. Bishop noted that she believed there was language included in the new scope of work to address it.

Mr. Amante noted that no updates would be made in the next 18 months and they would still be bound to the Zoning Ordinance as it was. Ms. Bishop noted that they did have the new Comprehensive Plan to use for guidance when making recommendations. She noted that the Board of Supervisors had a year to vote on Special Use Permits. It was her understanding that the Board was likely to hold off on making decisions for applications, such as short-term rentals in residential zoning, until the updates.

Mr. Amante asked about recommendations in the Land Use Policy Diagnostic that were necessary for compliance with VA State Code. Ms. Proulx noted that with the criteria that they review Special Use Permits, they can use the new Comprehensive Plan to make decisions.

Mr. Harman asked if any new applications were coming up. Ms. Bishop noted that since the Comprehensive Plan adoption, staff had been advising people with the new ordinance update timeline in mind. She noted that some applicants might be waiting for the ordinance update to decide what to do with their vacant property.

Mr. Harman asked how the Site Plan for the cabins in Montebello was progressing. Ms. Bishop noted that the first site plan had been approved around the end of 2022 where they were approved for 9 cabins. She added that they had about 4-5 built at that point. She explained that they had submitted a second site plan for more cabins in the same area. She noted that it was under review by other agencies at the time and would then be proceeding to the Planning Commission. Mr. Harman noted that it was a by right use so they couldn't do anything about it. Ms. Proulx noted that they would need to ensure the site plan met the requirements in the ordinance.

Ms. Bishop noted that in the current ordinance, by right administrative site plans and subdivision plats over certain thresholds required Planning Commission review. She added that this can be looked at in the ordinance update. She noted that these things could be reviewed administratively but having them go to the Planning Commission gets them more into the public eye.

Mr. Harman asked if they were compliant with VA state code under the current ordinance. Ms. Bishop noted that they were 50-70% compliant. She added that the bulk of the non-compliant cases seemed to be with enforcement.

Ms. Proulx asked if they would be reviewing the ordinance update section by section. Ms. Bishop confirmed that they would. She added that the review would follow the proposed format of the new ordinance.

Mr. Harman asked how other localities were handling these updates. Ms. Bishop noted that Albemarle County was updating on a constant revolving schedule. Mr. Amante noted that Albemarle County had a lot more staff.

Mr. Harman asked about the scope of work for the ordinance update. Ms. Bishop explained that they had been working with the Berkley Group on the scope of work that would go to the Board in June. If approved, the plan was to start the process in July. Mr. Harman added that he was excited to start the process.

Mr. Hauschner asked if removing specific land uses (ex. Blacksmith) from the ordinance would be restrictive to diversifying tourism. Ms. Bishop noted that in removing the definition for something like a blacksmith shop, they would be simultaneously grouping it in with a broader use (ex. Artisan Industry). She added that anything in place at the time of the ordinance update would be a legally vested nonconforming use. She noted it would stay existing nonconforming as long as the use did not cease for a period of two years or more.

Mr. Hauschner asked if they would need to remove anything from the ordinance to come into compliance with VA State Code. Ms. Bishop noted that there were cases in which things might be removed, such as the sign ordinance. She further explained that in some cases the VA State Code gives localities more leeway.

Ms. Bishop provided the example that cell phone towers could now only be denied on the basis of essentially view shed via VA State Code. She added that some believe this might occur with solar. She explained that if projects keep getting denied by localities, the state could apply different regulations. She added that the Wild Rose Solar Special Use Permit application should go to the June Planning Commission meeting. Mr. Amante asked if they could ask the applicant to recycle all the panels. Mr. Reed noted that they were always required to recycle. Mr. Amante noted that most solar panels end up

in the dump because it costs too much to recycle. Ms. Bishop noted that she would review the decommissioning plan submitted by the applicant.

Mr. Harman noted that solar farms were not in compliance with the Comprehensive Plan. He explained that the Comprehensive Plan recommends the protection of prime agricultural land in many sections. Ms. Proulx noted that the proposed application was not on prime agricultural land. Mr. Amante noted that Afton had already developed much of the prime agricultural land. Ms. Bishop noted that the proposed solar project was to be within a timber tract owned by Weyerhaeuser Company. She added that the applicant was proposing a 40-year lease with the property owners. Ms. Bishop explained that the ordinance requires that they return the land to its previous state. She noted that they are proposing to put the solar panels on the areas already timbered. These areas are surrounded by untimbered land that the Weyerhaeuser Company will continue to timber. She explained that this would create a natural buffer. She added that she would address the map showing prime agricultural land in the updated Comprehensive Plan.

Mr. Harman noted that Amherst County turned down a recent solar farm application. He explained that the Amherst application was to be built on property unsuitable for agriculture but was still denied. Ms. Bishop noted that these projects require local approval before going through the intensive assessments and studies for DEQ.

Ms. Bishop referenced § 15.2-2232 of the VA State Code requires the solar project to be substantially in accord with the Comprehensive Plan. She explained that the Planning Commission would need to make two votes, one for the application and the other for its accordance with the Comprehensive Plan. Mr. Harman asked what substantially meant in this context. Ms. Bishop explained that it would mean the Comprehensive Plan supported solar in that capacity and location. Ms. Proulx noted that she would like to see a project involving solar panels over a parking lot.

Mr. Hauschner asked if they would be able to condition how the power produced was utilized. He asked if there would be any benefit to the local community aside from the tax revenue. Ms. Bishop noted that the project would be taxed under machinery and tools but not higher than the property rate. She added that the SEC assessed the project at \$1.8 million. She noted that the Board would be reviewing a potential siting agreement that would include the financial aspect. She explained that this allowed the applicants to make a voluntary contribution to the county on top of the tax payment. She added that this money can be used by the county for anything it chooses.

Ms. Proulx asked if the property was in Land Use. Ms. Bishop explained that any property taken out of Land Use would have rollback taxes for 5 years. She added that the applicants would be working with another organization to provide local training for approximately 250 jobs over the duration of the project. She noted that anyone in the community near the project would be offered free rooftop solar.

Mr. Harman asked if there was support for the project from the Gladstone community. Ms. Bishop noted that there had been some concern. She added that staff would be over advertising the public hearing by sending letters to everyone within a radius of the project and not just the immediate adjoining.

Board of Supervisors Report

Mr. Reed noted that the budget public hearing would be coming up in June. He asked that they please let the Board know if they have any comments for the budget. He noted that there was a Department of Historic Resources public hearing for the designation of Warminster as a rural historic district. He explained that it should be designated in June if everything goes according to plan. Mr. Amante asked what establishing a historic district did. Mr. Reed explained that it would not put any regulations or restrictions on the area. He noted that it allowed for historic buildings within the area to get tax abatement for restoration. Ms. Bishop noted that they could look into regulations for historic districts in the Zoning Ordinance update.

Mr. Reed noted that there had been some progress on the Sturt Nature Park. He explained that they had a management plan from the Department of Forestry. He added that they would most likely be proceeding with surveying the property.

Mr. Reed noted that the Broadband Authority had been officially liquidated with its assets going to the county. He explained that 98% of the county now has access.

Ms. Bishop announced that there would be a community meeting for Move Safely Blue Ridge at the Nelson Center on June 12th from 6-8 PM. She added that in June, the Board would be looking at a resolution of support for that year's SMART Scale applications. She noted that they were proposing projects at Rockfish School Ln/Route 151 (turn lanes) and Tanbark Dr/Route 151 (roundabout).

Ms. Proulx asked about the timeline for the roundabout at Routes 6 and 151. Ms. Bishop noted that construction should begin in 2026 or 2027. Mr. Reed noted that the two roundabouts on Route 151 should significantly reduce traffic speed along the corridor. Mr. Reed added that a few more by right agricultural uses making entrances on Route 151 could provide justification for a speed limit decrease. Mr. Amante asked if they would widen Route 151. Mr. Reed noted that widening Route 151 was not on the table. Ms. Proulx added that she was glad it would not likely be widened. She explained that widening Route 151 would invite more traffic. Ms. Bishop noted that there was a possibility to widen Route 151 for interconnectivity purposes such as bike/pedestrian traffic. She added that the county could have the authority to change the speed limit in a specific area.

Mr. Amante asked what the term 'locality' referenced in the Land Use Planning Diagnostic. Ms. Bishop explained that 'locality' referred to counties, cities, or towns.

Ms. Proulx made a motion to adjourn at 8:07 PM. Mr. Amante seconded the motion.

Yes:

Phil Proulx

Chuck Amante

Mike Harman

Robin Hauschner

Ernie Reed

Respectfully submitted,

A handwritten signature in black ink that reads "Emily Hjulstrom". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Emily Hjulstrom

Planner/Secretary, Planning & Zoning