

NELSON COUNTY PLANNING COMMISSION
MEETING MINUTES
June 22, 2011

Present: Chair Philippa Proulx, Commissioners Michael Harman, Linda Russell, Michael Tapager, Emily Hunt, and Supervisor Connie Brennan

Staff Present: Fred Boger and Wanda Staton

Call to Order: Chair Proulx called the meeting to order at 7:30 P. M. in the Board of Supervisors meeting room, County Courthouse, Lovington.

Approval of Minutes – April 27, 2011 Commissioner Russell asked Mr. Boger to look at page 30 under Subdivision Ordinance. Mr. Boger stated that Mr. Payne said that standards for separation can be added to the Subdivision Ordinance. Commissioner Russell asked about the issue of when the plat was signed. Mr. Boger said the dilemma that is run into is that someone comes in to get the plat signed and then the Planning Commission makes changes to it then those people have to be contacted again and get them to sign the plat again and it is very time consuming. Commissioner Russell asked that the approval of the minutes be postponed until the next meeting. Commissioner Harman made the motion to postpone and motion passed 5-0. (Supervisor Brennan abstained.)

Approval of Minutes – May 3, 2011 Work Session Commissioner Harman moved to approve the May 3, 2011 minutes. Motion passed 5-0 with Supervisor Brennan abstained.

Class III Communication Tower, with Exceptions – Application #2011-003 (Deferred by PC on 5/25/11)

Chair Proulx stated that the Class III Communication #2011-003 was a continuation of the Planning Commission's consideration from the last meeting. The public hearing was held at the last meeting.

Commissioner Russell asked if they were going to consider the letter from the applicant's attorney. Mr. Boger stated that one of the Board members requested the Planning Commission take the letter into consideration. Commissioner Russell said the applicant still had the opportunity to speak but was not present and did not have anyone there to represent him.

Commissioner Russell said that she had several issues with the application. She appreciated the effort of AT&T to locate the tower in area that might benefit a volunteer agency in the County. She said there are many issues that have not been addressed by the applicant including the visual impacts, lack of response from the FAA as far as the private airport is concerned and an explanation as to why this tower cannot be located in some other site. She stated that Mr. Larsen has not submitted a complete application and she cannot support the tower on this site. Commissioner Hunt said she was disappointed that the items were not addressed by the applicant. Supervisor Brennan asked if the applicant had made any attempt to complete the application. Mr. Boger stated that after the Planning Commission meeting he asked Mr. Larsen if they would try to relocate the tower and he replied that he doubted it. Mr. Boger said this application would go before the Board. Commissioner Tapager said that apparently the applicant misread the Ordinance and the Planning Commission should consider revising the section about public land. He said the tower doesn't fit this location. The Planning Commission has not approved towers where they are in the open with no trees to hide them.

Mr. Boger stated that when the applicant came in the tower was to be 90 feet. Staff suggested looking at the Rescue Squad since a 90 foot tower would not be so obnoxious. When the application came back the tower height was at 150 foot and that is not what Mr. Boger and the Mr. Larsen had previously discussed. Mr. Boger said he told him it would be hard to get that tall of a tower approved. Commissioner Tapager said that the applicant seems to think that County property is preferred.

Commissioner Russell said that the Planning Commission had a public hearing on May 25, 2011 but on June 9, 2011 a advertisement in the Nelson County Times stated that Central States proposed to build a 129 foot monopole tower at 8786 Richmond Highway in Gladstone. She said that was very confusing because it was advertised by the applicant after the tower had been reviewed by the Planning Commission.

Commissioner Russell made the following motion:

The Nelson County Planning Commission recommends to the Nelson County Board of Supervisors the denial of a Class III Communication Tower Permit for Central States Tower to erect a 125 foot Communication Tower on property owned by the Gladstone Rescue Squad at 8786 Richmond Highway (Tax Map #97-A-81A) for the following reasons:

1. It appears no effort was made to locate this 125' tower where visual obtrusiveness would not be an issue.
2. The parcel on which the tower is to be located is extremely small so as to require an exemption from the fall zone requirement (Sec.20-7-2a)
3. There is little to no tree coverage or foliage to reduce the visual impact.
4. The proposed location is in proximity to a private airport. No opinion has been received from the FAA to date.
5. The applicant has failed to show that other sites were considered and that this is the only site that would meet the company's requirements.
6. The application is incomplete in many areas, specifically but not limited to lighting, type and height of fencing (conflicting statements), number and design of antennas, etc.
7. Complete of item #6 would not outweigh the negatives in items 1-5 above.

Commissioner Hunt provided the second and motion passed 5-0 with Supervisor Brennan abstaining.

Site Plan #2011-003 –Taylor Smack- Blue Mountain Barrel House & Organic Brewery (Board of Supervisor action not required)

Mr. Boger reported that Mr. Taylor Smack has submitted the final site plan for the proposed Blue Mountain Barrel House to be constructed in the Colleen Industrial Park located on Cooperative Way in Colleen. The property is identified as Tax Map# 66-A-36 which is presently owned by Central Virginia Electric Cooperative. Mr Smack is the contract purchaser for the area shown on the final site plan.

Staff has reviewed the final site plan and finds it to be complete and recommends approval with authorization for staff to sign the plat once all required signatures from other outside agencies have been obtained. Mr. Boger said that he has received a letter from Mr. George Miller, Nelson County Service Authority, stating he is very satisfied with the proposed pre-treatment system.

Mr. Taylor Smack said they are scheduled to break ground in late July. The Engineer, Brian Smith was present for any questions.

Commissioner Russell asked about the one light pole in the parking lot, the signage, and if the operation was going to be Monday through Friday. Mr. Smack said this brewery is going to be a production brewery only and will operate Monday through Friday. They plan to open the brewery to the public Thursdays

through Sundays for tours but not for food service. Mr. Smack stated that they were only asking for approval of the barrel house site. Mr. Smack said they are working on a 15 acre subdivision plat from Central Virginia Electric Cooperative. It will be two purchases and they will have a 4 year time line to start the second brewery on the 3+ acre parcel. The production brewery will be on the 11.654 acre parcel. Mr. Smack stated they are working on filing the subdivision plat but must obtain approval from the Planning Commission before the plat can be approved.

Chair Proulx opened the public hearing and with no comments from the public, the public hearing was closed.

Commissioner Russell said she was present at the site plan review meeting with the Engineer, Brian Smith and that it was obvious that the applicant and his engineer understands what the regulations are in the County and has respected the regulations. As a result the time frame for Mr. Smack to get approval from the County has been very short. Chair Proulx expressed her approval of choosing a location that was suitable for this type of business. Commissioner Tapager said this will be ~~complimentary~~ complementary to the existing breweries in the County.

Commissioner Russell made the following motion:

The Nelson County Planning Commission approves the Site Plan #2011-003, for Blue Mountain Barrel House, Tax Map# 66-A-36, Lot A, consisting of 11.654 acres subject to the subdivision approval upon real-estate closing. Staff is here-by authorized to sign the plat after receiving the signed approvals from VDOT, E&S, Central Virginia Electric, Health Department and the Service Authority.

Commissioner Harman provided the second and the motion passed 5-0 with Supervisor Brennan abstained.

Special Use Permit #2011-003 – Kim and Stanley Cash

Applicant withdrew the application.

Rezoning Parcels on Thomas Nelson Highway

Mr. Boger reported that the rezoning was a request from the Planning Commission to rezone parcels near Vitos from Agricultural, A-1 to Business, B-1 including the following: Tax Map # 67-A-10, 8101 Thomas Nelson Hwy., Tax Map #67-A-10A, 8047 Thomas Nelson Hwy., Tax Map# 67-A-9D, 8151 Thomas Nelson Hwy., Tax Map # 67-A-15, 8207 Thomas Nelson Hwy.

There was a work session held on this request and the Commission directed staff to contact the property owners. All property owners were contacted and Mr. Boger said that he received positive comment from Sharon Ponton, Nelson County Rescue Squad, AEP and the Lovingston Veterinary Hospital.

Chair Proulx opened public hearing.

Mr. Tommy Bruguiere agreed that the parcels probably need to be zoned Business. He personally would like to see the applicant request it. He does not think the County should arbitrarily rezone the property. He stated that all the rezoning has had a specific request. He states that the property owner should come in and ask like everyone else has done in the past.

Chair Proulx closed public hearing.

Commissioner Russell made the following motion:

The Planning Commission and the Board of Supervisors approved rezoning to B-1 for Vito's Restaurant, Tax Map# 14-A. The Planning Commission reviewed adjacent properties and found many were zoned A-1 but being used for commercial purposes. Having received no objections from the owners of these properties that we propose to rezone, the Planning Commission recommends that the Board of Supervisors approve the rezoning of parcels 67-A-10, 67-A-10A, 67-A-9D and 67-A-15 from A-1 to B-1.

Commissioner Hunt provided the second and motion passed 5-0 with Commissioner Brennan abstained.

Supervisor Brennan asked if this rezoning was something that was done occasionally. Chair Proulx stated that it was done to try to make areas consistent in use. She said it would benefit the businesses in the area to be rezoned.

Mr. Boger stated that this process had been done before in Lovington. An area in Lovington was zoned business. Staff sent notices to the property owners to see if they had any objections to rezoning to residential. No one objected and it was rezoned to residential. If anyone had had objections, their property would have been excluded.

Commissioner Tapager said that the Commission is trying to undo years of arbitrary spot zoning where an owner comes in and asks for a rezoning for their specific concern. Chair Proulx said that the rezoning would bring the area more in line with the Comprehensive Plan.

Commissioner Harman asked if signatures were obtained from all the property owners involved. Mr. Boger said that he met with Sharon Ponton, AEP and the Veterinary Hospital sent in a signed card, and verbal consent was received from the Rescue Squad.

Supervisor Brennan said that she thought it was a good idea to have written consent.

Proposed Zoning Amendment- Definitions: Wildlife Rehabilitation Center

Mr. Boger stated he was called about the Wildlife Rehabilitation Center and he referred them to Supervisor Mr. Allen Hale to help them initiate an amendment. The group wants to open up a facility associated with the center in Waynesboro. This center would be where the animals are rehabilitated and then released into the wild. After discussing with Mr. Payne, County Attorney, Mr. Boger suggested they come up with a definition to submit to the Board. The property they are looking to use is zoned Agricultural.

Commissioner discussed rewording the definition but decided to advertise the draft definition as submitted by the group.

Commissioner Tapager moved that the Planning Commission advertise for Public Hearing for proposed amendments to definitions for Wildlife Rehabilitation Center.

Wildlife Rehabilitation Center exists for the purpose of care, rehabilitation, and release of orphaned and injured Virginia native wildlife. Wildlife rehabilitation centers are regulated by the Federal Department of Fish and Wildlife, the Virginia Department of Game and Inland Fisheries, and the National Wildlife Rehabilitation Association. A wildlife rehabilitation center must be supervised by a wildlife rehabilitator with valid permits from the Virginia Department of Game and Inland Fisheries and the Federal Department of Fish and Wildlife. Wildlife rehabilitation centers are inspected by the Virginia Department of Game and Inland Fisheries as a condition of obtaining a permit. Finally, a separate Federal permit is required for the care of migratory birds and birds used for educational purposes.

The Ordinance would include the definition in the following districts:

ARTICLE 3, CONSERVATION DISTRICT,C-1; Section 3-1-a Uses-Permitted by Special Use Permit only, subsection 3-1-17a

Article 4, AGRICULTURAL DISTRICT, A-1; Section 4-1-a Uses-Permitted by Special Use Permit only, Subsection 4-1-43a

Commissioner Harman provided the second and motion passed 5-0 with Supervisor Brennan abstaining.

Other Business

Chair Proulx asked Mr. Boger about the revision of the Comprehensive Plan. Mr. Boger said he had received the revision and some corrections had been made. He is going to send back for final revisions before presenting to the Planning Commission.

Subdivison Ordinance

Mr. Boger said there was a comment about the Septic Soils – Parent Soils. He said the Parent Soils is the original source and is a valid term to be used.

Commission deferred consideration of the May 2011 draft until the next meeting in July.

Board of Supervisor liaison report- Connie Brennan

Supervisor Brennan said the Board of Supervisor's retreat would be held and wanted to know if the Commission had any suggestions that they want discussed on the proposed amendment Article 20. ,Communication Tower Ordinance.

On Section 20-5-5, Clustering, there is question if towers should be spread out along the highway. Chair Proulx said it makes sense to cluster at Wintergreen. The towers are looked at case by case and considered by location and visibility. Mr. Boger stated that a lot of the shorter towers are approved administratively. Supervisor Brennan said the Ordinance requires a 200 feet separation. Chair Proulx said that the Planning Commission prefers not to have the towers spread out. Commissioner Russell said there is no tower short enough not to be seen. She said there are areas that are appropriate to cluster and some are not. Commissioner Tapager said ideally the Commission would have Mr. Boger approve all towers that are non-controversial. Mr. Boger said he can't cluster towers administratively without coming to the Planning Commission. Mr. Boger said that carriers are encouraged to use smaller towers for quicker approval.

The Board would like to increase the height of the Class I tower to 95 feet. There has only been one Class I tower denied and the Commission doesn't feel like the tower height needs to be changed.

Supervisor Brennan said there is question about the burden on the owner to provide a yearly report. Mr. Boger said it's not necessary and most of the time if the carrier is going to add antennas on the tower they have to be approved by him.

Mr. Boger said the topography is used for the E&S plan and if Allyson Sappington wants more they have to do it.

Mr. Boger commented on the question of consultant fees. He said you never know how much it's going to cost and you can't put a cap on the cost.

Mr. Boger commented on who should have the most time to make decision on the towers, the Board or the Commission. Commissioner Russell said the FCC has 150 days for local approval. She said the

Board will only see towers that are Class III over 130 feet. The rest of the towers will go to the Planning Commission. She said the Planning Commission does 75% of the research. Supervisor Brennan asked Mr. Boger to figure out a time frame for the Board and the Commission. Mr. Boger said the day the application is submitted to the Planning Commission starts the 150 days.

Supervisor Brennan said there was a long time conflict whether Wintergreen has to abide by the Ordinance. Mr. Boger said that Wintergreen does have to abide according to the Ordinance, Section 20.

Adjournment

Commissioner Tapager made a motion to adjourn. Motion passed 5-0 and meeting adjourned at 9:10 p.m.

Respectfully submitted,

Wanda Staton

Planning and Zoning Secretary