

**NELSON COUNTY PLANNING COMMISSION**  
**MEETING MINUTES**  
August 6, 2014

**Present: Chair Philippa Proulx, Commissioners Linda Russell and Michael Harman**

**Absent: Commissioners Emily Hunt and Mary Kathryn Allen**

**Staff Present: Tim Padalino, Director of Planning & Zoning and Stormy Hopkins, Secretary**

**Guest: Mr. Phillip Payne, County Attorney**

**Call to Order:** Chair Proulx called the meeting to order at 7:03 P. M. in the General District Courtroom, County Courthouse, Lovingston.

Chair Proulx began the work session by thanking Mr. Payne attending and asking that he address the questions that Mr. Padalino submitted.

Mr. Payne proceeded to answer the following question:

1. *Which definition of "restaurant" from the Code of Virginia should be used?* It was recommended by Mr. Payne that the current definition should be left as-is and deal with "mobile points of service" on its own. Chair Proulx stated that the existing definition in the Zoning Ordinance was sufficient.

Commissioner Russell asked Mr. Payne if he recommends the Planning Commission add a mobile food service definition to the Zoning Ordinance. Mr. Payne suggested that mobile points of service be defined; that it be permitted to operate as a by-right use where restaurants are permitted by-right; that it be considered an accessory use to a restaurant; that it may operate in conjunction with a special event permit; and that it may operate at private functions and sporting events.

Mr. Payne noted there may be an issue regarding the storage location of mobile points of service or "food trucks." He suggested that mobile points of service should not be stored in Residential (R-1) and (R-2) districts. Commissioner Russell suggested putting a limit on the total number of units that could be stored at one location.

Chair Proulx stated that the Planning Commission would recommend to the Board of Supervisors that they omit the proposed "Restaurant" definition and keep the existing definition.

2. *If we are to use the phrase "bona fide production," should we define it?* Mr. Padalino and Mr. Payne agreed that this would need to be dealt with in the context of each case; and it does not need to be defined by Ordinance.
3. *Regarding "Agricultural Processing Facilities" under the proposed Article 4, Section 1-28 – how does this work in connection with "Agricultural Exemptions"?* Mr. Payne noted that the Building Code exemption is for a building used for "storage, handling, sales, etc...of products produced in the farm." He also noted that if such structures are used to sell or process products that are purchased from outside the farm, those structures would lose the exemption status and should be inspected to comply with the Building Code; but such a structure would still be considered an agricultural building for zoning purposes.

Commissioner Russell noted that the previous Planning & Zoning Director Fred Boger did not require the Zoning Ordinance setbacks to be met for these “farm exempt” structures. Commissioner Russell also noted concern with the larger setback requirements, and asked if the zoning setbacks take precedence over building requirements. Mr. Payne stated that the Zoning Ordinance and Building Code are separate and that each need to be complied with. Mr. Padalino noted that all accessory structures must be outside of the front yard setback area, and meet all other setback requirements.

4. *Agricultural Processing Facility & Agricultural Processing Facility, Major: is it acceptable for the proposed definition to be modified?* Mr. Payne noted that there are essentially three facilities under this category.

1. Agriculture Operation: not regulated; traditional farm sale building and/or packing shed that purchases no more than 20% of products for agriculture processing.
2. Agriculture Processing Facility: purchases more than 20% but less than 50% of products for agriculture processing; by-right use in A-1 district; and must meet all setback requirements.
3. Agriculture Processing Facility, Major: purchases 50% or more of products for agriculture processing; requires a Special Use Permit; and approaching non-agricultural operation.

Mr. Padalino suggested changing the proposed definition for Agricultural Processing Facility (APF) and Agricultural Processing Facility, Major (Major APF) to include, “...crops or animals are not produced *on an agricultural operation on the same or adjacent parcels* owned or controlled by the operator of the facility.”

For clarification purposes, Mr. Padalino noted that his suggested modification is meant to ensure that projects cannot circumvent other ordinance provisions for restaurant, brewery, or other uses; and to ensure that APF or Major APF uses have a localized connection to a bona fide agricultural operation. The Commissioners and Mr. Payne stated that was correct.

5. *Chair Proulx suggested that since a “limited brewery” is now defined by state law, that the proposed amendments need to be modified as well.* Commissioner Russell asked Mr. Payne for clarification between a micro-brewery and a limited brewery. Mr. Payne stated that a “micro-brewery” is an accessory use to a restaurant, and a “limited brewery” is a farm operation in the Agricultural District, and not something that can be located in the Business District (B-1).

Mr. Padalino suggested that the proposed amendments should read “limited farm brewery,” since by definition it is a land use connected to the Agricultural District (A-1). Mr. Payne said this modification would make the definitions more clear. Chair Proulx noted that since “limited brewery” has a production limit (of 15,000 barrels annually), this should be noted in the “micro-brewery” definition as well. Mr. Padalino suggested using the proposed definition for micro-brewery and adding the “15,000 barrels of beer per calendar year...” to keep establish a limit consistent with the “limited farm brewery” concept. The Commissioners and Mr. Payne agreed.

6. *Why do proposed changes to Article 18 specifically refer to Section 18-4?* Mr. Payne indicated that should be removed. It was also discussed that Agricultural Processing Facility and Agricultural Processing Facility, Major would be removed from both the Industrial District (M-1) and Limited Industrial District (M-2), since those land uses are by definition only permissible on a “bona fide agricultural operation,” which is not likely to occur in the M-1 or M-2 zoning districts.

It was recommended that Article 9, Section 1-6 be amended to strike the word “food” from the following, “...and food products other than a feed or meat packing or processing plant.”

Commissioner Russell suggested that in the Agricultural District (A-1), Section 1-28 relating to Agricultural Processing Facility, should be amended to add “and/or” to the following, “...street if screened by fencing *and/or* vegetation...”

Mr. Padalino indicated that he will make the noted revisions to the amendments contained in the Board of Supervisors referral (R2014-31 “Ag Operations”), send to Mr. Payne for review, and then provide the modified amendments to the Commissioners in their meeting materials packet for the August 27<sup>th</sup> Planning Commission meeting.

Commissioner Harman asked if the following changes to the proposed amendments satisfied the wayside stand, roadside stand, farm stand, etc. Chair Proulx noted that it does not, and this current review is only for the proposed amendments referred by the Board of Supervisors. Mr. Padalino then suggested that this review process could actually be the best time to review and make suggested changes to the wayside stand definition and regulations, for the purpose of dealing with these agricultural issues comprehensively and consistently.

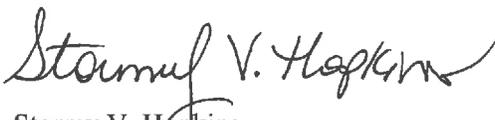
There was then discussion about whether the Planning Commission could incorporate additional proposed amendments into their recommendations to the Board of Supervisors, and effectively expand the scope of the policy review. Mr. Payne stated that he would review in detail the legal aspects of the process(es) for initiating amendments, and let Mr. Padalino know his findings.

Chair Proulx asked that Mr. Padalino provide another copy of his February 20<sup>th</sup> staff report on “Wayside Stands” and add this to the August agenda.

**Adjournment:**

At 9:00 P.M. Commissioner Harman made a motion to adjourn.

Respectfully submitted,

  
Stormy V. Hopkins  
Secretary

