

NELSON COUNTY PLANNING COMMISSION
MEETING MINUTES
October 23, 2013

Present: Chair Philippa Proulx, Commissioners Linda Russell, Michael Harman and Mary Kathryn Allen.

Absent: Commissioner Emily Hunt

Staff Present: Tim Padalino, Director of Planning & Zoning

Call to Order: Chair Proulx called the meeting to order at 7:01 P. M. in the General District Courtroom, County Courthouse, Lovington.

Chair Proulx opened the meeting by stating the Tower Application that had been advertised would not be heard.

Approval of Minutes: Commissioner Russell made the motion to approve the August 28, 2013 minutes with the noted corrections: on page 3, change the “z” to an “s” in advertised; on page 4, change “approval” to “recommendation”. The motion passed 4-0. Commissioner Russell noted the following changes to the September 18, 2013 minutes: on page 6, change “records” to “recordings”; change “plane” to “plan”. Commissioner Allen made the motion to approve. The motion passed 4-0.

1. Rezoning Application #2013-003 – Mr. Taylor Smack / Blue Mountain Brewery

Tim Padalino, Director of Planning and Zoning, presented the Staff Report about this request for a zoning change from Residential (R-1) to Agricultural (A-1). The subject property, consisting of approximately 2.5 acres, is located at 9403 Critzer Shop Road, Afton, Tax Map #4-A-60. It is located directly to the north adjacent of the existing Blue Mountain Brewery site. Some of the surrounding land uses are agriculture or agritourism based, including the Critzer Family Farm and A.M. Fog. The Church of the Blue Ridge lies adjacent to the subject property. Staff believes that the requested rezoning fits into the surrounding land use pattern.

In conjunction with the application the Applicant has submitted a Minor Site Plan. It shows the general concept of how the property might be developed.

Chair Proulx opened the public hearing session at 7:06 p.m. No comments were made and the public hearing was closed.

Chair Proulx stated her biggest concern is that Mr. Smack’s proposed uses are not truly agricultural in nature. If the rezoning is approved, it could open up a number of by-right uses such as an automobile graveyard or kennels, which seem inappropriate for the area. She also had major concerns with the traffic, both currently and in the future, but acknowledged that this would be dealt with by Virginia Department of Transportation (VDOT). She offered the suggestion that if Mr. Smack wanted to apply for a Conditional Rezoning, which the Planning Commission could not require or request, he could proffer away certain uses. Commissioner Russell agreed and noted that there could also be landscaping, parking, and public utilities issues.

Mr. Smack addressed the Planning Commission stating that he had been unable to get any answers from VDOT. He suggested that if he is unable to get a VDOT approved entrance into this subject property, he would ask for approval of an expanded entrance to his current site, and then provide a vehicular connection between the two properties. Mr. Smack noted that if he were to pursue the one-entrance option with the interparcel connection, the design would take into account the seasonal spring located between the two parcels which might require some type of environmental review and approval.

Mr. Smack also stated that he is not aware of any public utilities concerns. Commissioner Russell suggested he look at the by-right uses, and referenced Section 4-1-11 of the zoning ordinance. Mr. Smack further stated that he had met with his neighbors and addressed their concerns. Mr. Padalino assured Mr. Smack that a new Minor Site Plan would not be required should he decide to withdraw his current Rezoning application and apply for a Conditional Rezoning, but any new application would require posting a legal notice.

Mr. Smack asked to withdraw his application so he could submit a Conditional Rezoning application. Chair Proulx authorized the waiver of additional fees and asked Mr. Padalino to try to prepare the new application for the November 20 Planning Commission meeting.

Additional Items:

1. Site Plan for the Shipman Apartments Phase 2 – Nelson County Community Development Foundation – Mr. George Krieger

Mr. Padalino stated this was a continued review of a Major Site Plan from the September meeting. At that meeting it was determined that several of the supplemental documents that were received were not reflected in the Site Plan. Subsequently, Mr. Krieger has submitted an amended Plan including the location, number, species of plants for the landscape, the location and type of lighting, and the location and specifications for the pedestrian walkways. Staff concluded that all the required items on the checklist have been satisfied except for an approved Erosion & Sediment Control Plan. Mr. Krieger assured the Planning Commission that Alyson Sappington had notified his Project Engineer, Jim Taggart, that changes to the proposed plan meet the requirements of the Erosion and Sediment Control Ordinance.

Chair Proulx asked if anyone had any questions or comments. None were given. Chair Proulx asked for a motion.

Commissioner Russell made a motion to approve Site Plan #2013-006 for Nelson County Community Development Foundation to complete the Shipman Apartments on Parcel 68-A-57, the Site Plan and accompanying drawings of 5 sheets last revised on October 14, 2013. The motion was seconded by Commissioner Harman and passed 4-0.

2. Major Site Plan #2013-007 for Lovingson Family Dollar – Mr. Russ Orrison

Mr. Padalino stated this was a continued review of the Major Site Plan from the September meeting, as requested by the applicant. Mr. Padalino stated that the applicant has since incorporated the requested revisions, incorporating a lighting and photo-metrics plan as well as a landscape plan to the drawings. He stated that the applicant has been very responsive in incorporating all of the details, all of which is well reflected in the Staff Report.

During the Planning Commission's October review of this plan, there was confusion as to whether VDOT's comments were requests or requirements. VDOT has provided a clarifying email saying, "*curb and gutter along Main Street and sidewalks along Main Street would be required.*" Mr. Padalino stated that those further revisions have been incorporated into the Site Plan and provided to VDOT.

An additional issue held over from the October meeting was the question of sidewalks along Main Street. The Lovingson Master Plan included the County's desire for sidewalks at this location, but despite that plan the County has no legal mechanism to require that sidewalks be installed. In between the two Planning Commission meetings, there was conversation between the applicant, County staff, and VDOT which led the Director of Transportation and Land Use–Lynchburg District clarifying that sidewalks would be required pertaining to certain VDOT policies and manuals.

Mr. Padalino stated that in response to that VDOT directive, the applicant provided another iteration of the Site Plan that incorporate those required sidewalks. Commissioner Harman asked for clarification as to whether or not the sidewalk was in the plan. Mr. Padalino said a new set of plans reflecting VDOT's

requirements has been submitted to VDOT. He provided the Planning Commission with formal comments from Mr. Jeff Kessler of VDOT, “on review of the Site Plans revision dated October 17th from Russ Orrison, all the items listed in my letter to you of October 10th, have been satisfactory addressed, with one exception; the construction within the VDOT right-of-way.” Mr. Kessler further stated that this will affect the applicant’s pursuit for a VDOT Land Use Permit for beginning construction within the public right-of-way, but it will not alter the contents of the Site Plan.

Staff recommends, since all things have been addressed satisfactorily, that the Planning Commission consider approving the Site Plan contingent upon VDOT’s final approval.

Chair Proulx asked Mr. Orrison if he had any additional comments. Mr. Orrison provided a new set of plans for the Planning Commission to review. He stated that he sat with VDOT a month-and-a-half ago which resulted in him receiving informal recommendations from VDOT. He also stated he received written comments from Mr. Kessler that he still recommended sidewalk, however, during the same time, the applicant explained that Mr. Steve Carter had concluded that the County can not technically require sidewalks. Despite the conclusion by the County, Mrs. Jorg Huckabee-Mayfield, Director of Transportation and Land Use–Lynchburg District stated the following, “VDOT will require that the sidewalk be incorporated into the plan for approval.” As such, the project engineer confirmed that he did further revise the Site Plan to incorporate the required element(s).

There was discussion between Mr. Orrison and Commission Russell in regards to the Route 29 intersection and pedestrians signs. Commissioner Russell stated there were pedestrian signs there now, and that there is not any type of crosswalk but that a crosswalk might be a potential future element.

Chair Proulx asked if there were any other questions and no comments were made.

Commissioner Russell made the motion that the Planning Commission approves the Site Plan by Perkins & Orrison submitted on behalf of Family Dollar construction on Tax Map #58-A-39E in Lovingson, VA consisting of 6 pages dated August 30, 2013; last revised October 3, 2013 subject to final approval of a Site Plan detailing sidewalks along Main Street by VDOT.

The second was offered by Commissioner Harman, the vote was 4-0

3. Amendment(s) to Planning Commission Bylaws:

There was discussion to clarify why changes were necessary. Chair Proulx stated it was necessary for the Bylaws to be in accordance with the Board’s removal of a Board of Supervisors Liaison from the Planning Commission. In doing so, this changed the composition of the Planning Commission. Commissioner Russell noted some changes that needed to be made to remain consistent:

- a. Bylaws refers to the Director of Planning, should be “Director of Planning and Zoning”.
- b. Page 4; Regular Meetings: change conditional use to “Special Use Permit (SUP).

Chair Proulx asked for a motion to adopt the changes.

Commissioner Russell made the motion to adopt the changes to the December 2004 Bylaws for the PC, by removing the BOS member from the Commission; re-designating the “Director of Planning” as “Director of Planning and Zoning”; and remove “conditional uses” and replace with Special Use Permit under Approvals that we hold public hearings for.

The second was offered by Commissioner Harman, the vote was 4-0.

4. Zoning Ordinance Amendment(s): Communication Towers Referral (draft of June 26)

a. Continue discussion from Oct. 15th Work Session / identify final recommendations:

There was discussion as to whether the Board of Supervisors had gotten the notification of the requested extension deadline for recommendations. The date was confirmed as December 10, 2013. Additional discussion was made in reference to the tower heights and their inconsistency. It was agreed by the Planning Commission to make the following changes as follows:

- i. Class I Communication Tower: A communication tower which is equal to or greater than forty (40) feet in height and which is less than or equal to one-hundred (100) feet.
- ii. Class II Communication Tower: Any communication tower located in a Residential, R-1; Residential R-2; or Residential Planned Community, (RPC) District; or any communication tower within three hundred (300) feet of an occupied residential dwelling; or, any communication tower in any district that is greater than one-hundred (100) feet to a maximum of one-hundred thirty (130) feet in tower height.
- iii. Page 3, Class II Communication Tower: “greater than one-hundred (100) feet to a maximum of one-hundred thirty (130) feet in tower height. Also note is should state, “Residential Planned Community District”.
- iv. Page 8, Section B (4th line down): “Comprehensive Plan and communicate its determination together with any additional recommendations to the Board of Supervisors. In connection with any such determination, the Planning Commission shall, hold a public hearing, after notice as required by Section 15.2-2204 of the Code of Virginia. The Planning Commission’s actions shall comply with the requirements of the Federal Telecommunications Act of 1996.
- v. Page 10 & 11, Section B (1; 2; 3) change 95 to reflect 100 feet as well as correct the typo of Scenic Byway.
- vi. Page 15, Section 20-18-1: Definitions, remove (v) and (vi) and address these in Section 20-20. (viii): “is the placement of a freestanding monopole less than forty (40) feet in height in all zoning districts.

The Planning Commission agreed to have the Section on Temporary Towers moved to correspond accordingly to the regulations. Mr. Padalino stated he would contact Mr. Payne to discuss the legal aspects for clarity of the noted changes.

There was discussion in regards to provisions being made to towers such as adding antennas, replacing existing towers; wood to metal. Mr. Padalino stated that when such events occur, a new permit would need to be submitted.

Commissioner Russell inquired about fee exemptions for police, county, and non-profit organizations that are listed in the current ordinance, referencing page 144. There is a confusion as to whether it is meant as “not for profit” as opposed to non-profit. Mr. Padalino will seek counsel from Mr. Payne as to whether it was an omission or change in policy.

The Planning Commission addressed the fact that a Maintenance Agreement was not included in the ordinance. Commissioner Harman stated that during the October 15th work session with Mr. Payne, he stated that he didn’t agree with putting funds in Escrow/Bond but agreed a Maintenance Agreement should be added. Mr. Padalino stated this could be addressed through non-compliance with the Site Plan, referencing

Section 13. Chair Proulx asked for another draft after the consultation with Mr. Payne so the Planning Commission can vote to make recommendations to the Board of Supervisors for the next meeting.

b. Continue discussion about related Comprehensive Plan language:

Mr. Padalino suggested to the Planning Commission to go back to the September 16th Staff Report for the amendments to include in the Comprehensive Plan. The recommendation includes one Goal with five related principles to be included in the Public and Human Services section.

c. Transportation:

Mr. Padalino stated he wanted to wait on the final draft of the Route 151 Corridor Study to include it in this chapter, along with other corridor studies and plans in the Transportation Chapter. He also made note that the Board had requested revisions to the language describing Route 29. A new public hearing will have to take place. He also stated that he wanted to include the Green Infrastructure report and more Ag Census Data in other chapter updates. He'd like to coordinate with Maureen Kelly and Michael Lachance to get updated agricultural data from them.

Other Business:

Zoning Ordinance Amendment(s): other considerations

1. Policy Discussion: Farmers Markets, Farm Stands, and Farm-to-Table issues:

The Planning Commission discussed having Mr. Padalino create a rough outline to send to people that were engaged in the field who would be invited to the meeting. Commissioner Russell stated this would give the participants an idea of what the issues are.

2. Notification: Stormwater Management Ordinance update:

Mr. Padalino noted the need to adopt a Stormwater Management Ordinance. He stated that the County already has a well-finished product, due to the fact that the ordinance has been written by consultants and been reviewed by an attorney. Part of the consultant's process included a review of our existing Subdivision and Zoning Ordinances, which resulted in several proposed amendments that would establish consistency with the new mandated Stormwater Management Ordinance. The program must be reviewed and approved by Virginia DEQ and submitted to the state agency to have the VSMP program be administered by July 1, 2014. He stated the Stormwater Management Program Administrator will be David Thompson. Mr. Thompson will be responsible for administering, interpreting and enforcing the ordinance. The inspections portion can potentially be done through a third party contractor.

Chair Proulx noted that Signs need to be addressed as a separate Zoning Ordinance amendment project.

Adjournment:

At 9:37 P.M. Chair Proulx made a motion to adjourn. The second was offered by Commissioner Harman, vote being 4-0.

Respectfully submitted,

Stormy V. Hopkins
Secretary