

DEPARTMENT OF  
PLANNING & ZONING



PLANNING COMMISSION  
BOARD OF ZONING APPEALS

To: Chair and Members, Nelson County Planning Commission  
From: Tim Padalino | Director | Department of Planning & Zoning  
Date: May 21, 2014

**Subject: Recent BOS actions in response to PC recommendations regarding proposed amendments to “Area Regulations” concerning two-family detached dwellings**

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At the April 23<sup>rd</sup> Planning Commission meeting, the Planning Commission (PC) motioned to have Chair Proulx provide a formal recommendation to the Board of Supervisors (BOS) recommending that the BOS explore alternatives to potentially modifying (reducing) minimum acreage requirements for duplexes Countywide, relative to what the Board originally referred to the Planning Commission in February 2014.

Please recall that the PC recommended that the BOS explore possible amendments that would provide the Nelson County Community Development Foundation with reduced requirements regarding minimum acreage necessary for constructing duplexes. This was recommended in lieu of amending the Ordinance in a way that would reduce the minimum acreage requirements for all duplex projects Countywide, regardless of the builder or developer.

That recommendation was provided to County staff and subsequently included in the BOS meeting packet.

At the May 13<sup>th</sup> BOS meeting, the Board reviewed the formal PC recommendation before moving to authorize and advertise a Public Hearing on June 10<sup>th</sup> for proposed amendments that would reduce the minimum required acreage for all duplexes Countywide, from 4 acres to 2 acres. I was not able to be present at this BOS meeting; and as a result, I am currently unfamiliar with the Board’s review of the PC recommendation.

Please see the attached “Notice of Public Hearing” that was distributed on Monday, May 19<sup>th</sup> by the authority of the Nelson County Board of Supervisors. That notice contains the specific proposed amendments to §4-2-1a, as decided upon by the BOS.

Thank you for your attention to this ongoing amendment proposal; and please contact me if you have any questions or require any assistance regarding this matter.

**NOTICE OF PUBLIC HEARING  
NELSON COUNTY BOARD OF SUPERVISORS  
AMENDMENT AND RE-ENACTMENT OF THE CODE OF NELSON COUNTY,  
VIRGINIA – APPENDIX A, ZONING ORDINANCE, ARTICLE 4,  
AGRICULTURAL DISTRICT A-1,  
LOTS ALLOWED AND AREA REGULATIONS**

Pursuant to §15.2-1427, §15.2-2204, §15.2-2285, §15.2-2286 of the Code of Virginia 1950 as amended, the Nelson County Board of Supervisors will hold a public hearing on **June 10, 2014** at 7:00 p.m., or as soon as possible thereafter, in the General District Courtroom in the Courthouse in Lovingston, Virginia. The purpose of said public hearing is to receive public input on an Ordinance proposed for passage to amend the Code of Nelson County, Virginia, Appendix A, Zoning Ordinance. The full text of the proposed Ordinance is as follows:

1. That Article 4, Agricultural District A-1, §4-2-1a, be, and the same is amended to read as follows:

4-2-1a            the minimum lot area shall be two (2) acres (87,120sq.ft) or more ~~per dwelling unit for single and two-family detached dwellings.~~  
For family subdivisions lots the minimum lot area shall be one (1) acre (43,560 square feet) per dwelling unit.

A copy of the proposed Ordinance is available for public inspection in the Office of the County Administrator, the Office of the Circuit Court Clerk at 84 Courthouse Square, Lovingston VA 22949, and at [www.nelsoncounty-va.gov](http://www.nelsoncounty-va.gov) .

**BY AUTHORITY OF THE NELSON COUNTY BOARD OF SUPERVISORS**



May 7, 2014

To the Nelson County Board of Supervisors,

The Planning Commission received Mr. Carter's instruction that we consider an amendment pertaining to "two-family detached dwellings" as proposed by Mr. Krieger of the Community Development Foundation.

We discussed this proposal at length and concluded that while we support the goals of the Community Development Foundation the proposed amendment raised too many collateral concerns for us to recommend it. An amendment to the ordinance would impact the entire county, not just Foundation projects.

Primary concerns were increase in housing density in agricultural zones, difficulty in meeting septic and water requirements, and inability to enforce the intended limitations. This proposed amendment is designed for a specific user, not generally considered a good principal in zoning.

While Mr. Krieger has said that the Foundation would allow a maximum of 8 occupants per duplex, a private developer would not have any restrictions. It would be possible for plans for a duplex to propose only four bedrooms, but also include an office, a family room, etc., and there is no way to limit additional rooms or to know how those rooms will be used after it's built. Further, the Planning Commission does not want to establish a precedent in our ordinance for regulating the number of bedrooms and/or bathrooms in a dwelling unit.

Increasing residential density in A-1 zones could create a great change in the character of an area. Much of our concern would be alleviated if this proposal was limited to the Community Development Foundation. At the Commission's request, Mr. Padalino discussed this possibility with Mr. Payne and made the following report:

"The Community Development Foundation can legally receive distinct relief from Zoning Ordinance regulations (which are not also afforded to other landowners/applicants) IF the purpose has a defensible nexus with "public health, safety, and/or welfare." If the County considers affordable housing as an important element of the broader public interest, the initial conclusion is that such an amendment would be legal and defensible (without having to create a "Housing Authority" which is potentially more complex and which has more authority than the current Community Development Foundation format/status)."

I discussed this approach with Mr. Krieger and it is my understanding that he felt this would address the needs of the Foundation.

The Planning Commission therefore requests that the Board of Supervisors direct Mr. Padalino and Mr. Payne to develop the mechanism by which the relief referenced above could be granted and not pursue the original proposed amendment.

Sincerely,



Philippa Proulx

Chair, Nelson County Planning Commission