

NELSON COUNTY PLANNING COMMISSION
MEETING MINUTES
February 25, 2015

Present: Chair Philippa Proulx, Commissioners Linda Russell, Mike Harman, Robert Goad and Larry Saunders (Board of Supervisors Liaison)

Absent: Commissioner Mary Kathryn Allen

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

Call to Order: Chair Proulx called the meeting to order at 7:05 P. M. in the General District Courtroom, County Courthouse, Lovingston.

Approval of Minutes – December 17, 2014 and January 28, 2015: Chair Proulx asked if there were any further changes to the December 17, 2014 draft minutes; none noted.

Commissioner Harman made a motion that the December 17, 2014 minutes be approved; the vote 5-0.

Chair Proulx asked if there were any further changes to the revised January 28, 2015 minutes; none noted.

Commissioner Harman made a motion that the January 28, 2015 minutes be approved as amended; the vote 5-0.

1. Review of proposed Zoning Ordinance amendments re: “Artist Community”

Mr. Padalino stated the proposed amendment would create a definition for “Artist Community” as a permissible use in the Agricultural (A-1) District. As proposed, a Special Use Permit (SUP) would be required.

Mr. Padalino provided a brief overview of the process to date. At the November PC meeting, Mr. Greg Smith, Executive Director for the Virginia Center for the Creative Arts (VCCA) presented a request to consider the possibility of initiating this amendment. At the December PC meeting, draft recommendations for a possible amendment were reviewed. Then at the January PC meeting, those discussions continued and the PC directed that this public hearing be conducted in accordance with the Code of Virginia requirements and the Legal Notice was advertised in the Nelson County Times on February 12th and 19th.

Mr. Padalino read the three (3) proposed Article 2 Definitions; as well as the proposed provisions to Article 4: Agricultural Districts (A-1).

Chair Proulx opened the public hearing at 7:10 p.m. for comments.

Mr. Greg Smith, Executive Director of the Virginia Center for Creative Arts (VCCA): Since there is no provision in the current Ordinance, Mr. Smith initiated this request some months ago and has been working with County staff. He indicated that the proposed language is in keeping with how VCCA operates. He noted that VCCA is currently located in Amherst County, on property owned by Sweet Briar College (SBC) and has been there for forty-four (44) years. Mr. Smith noted that SBC is currently rethinking that agreement, which is the reason for VCCA to seek other alternatives. He noted that he has been talking with one Nelson County property owner about acquiring that property. Mr. Smith shared a book of photographs of how the VCCA currently looks with the Commissioners. The zoning of the property in Amherst County is Agricultural District (A-1).

Chair Proulx closed the public hearing at 7:14 p.m.

Commissioner Russell commented that she grew up in an area that had an artist community, and she wholly supports this and hopes VCCA comes to the County in the near future.

Commissioner Russell made a motion that the Planning Commissioner recommend to the Board of Supervisors approval of an addition to the Zoning Ordinance with reference to “Artist Community” as defined in the public hearing notice that was in the Nelson County paper and is further defined in the Staff Report, dated February 4, 2015. Commissioner Harman provided the second; the vote 5-0.

Other Agenda Items:

1. Major Site Plan #2015-01 – David Hughes:

Mr. Padalino noted that County Staff received a complete application in January from Mr. David Hughes, son-in-law of Mr. Delmond B. Hall III, who is the designated trustee for the property owners. The applicant seeks approval for Major Site Plan #2015-01 for the proposed construction of a third dwelling unit on one parcel/lot. Mr. Padalino noted that this site plan is somewhat atypical relative to most major site plans. Virtually all others seek permission to construct commercial or industrial facilities; but this application seeks permission to construct a private residential dwelling, which happens to be the third dwelling on one parcel. He also noted that most major site plans are for properties located in areas of high visibility and high traffic areas; whereas this property is an isolated and large parcel, beyond the end of state road maintenance. The Zoning Ordinance does require a major site plan.

Mr. Padalino noted that the subject property is located in the West District near Love Gap, on Chicken Hollow Lane. It is a 323-acre property zoned Agricultural (A-1), and is further identified as Tax Map Parcel #17-A-44. The site plan depicts a proposed new dwelling with a footprint of approximately 1,300 sq. ft. plus additional decks and porches. It is not clear if the dwelling would be a one-story building or multiple floors. The proposed dwelling site is already served by necessary utilities, including a Health Department-approved well and septic system. Mr. Padalino noted that power has already been brought onto the property and a meter has been installed.

Mr. Padalino noted that the Site Plan Review Committee did not meet on February 11th but comments were submitted via email. The committee members’ comments are as follows:

- Mr. Jeff Kessler of Virginia Department of Transportation (VDOT) stated in an email dated February 10th as follows: “We foresee no significant impacts to the state road, Route 684 (Chicken Hollow Lane). As this property is served by the existing extension of the roadway beyond End of State Maintenance of Route 684, a VDOT Land Use Permit is not required.”
- Ms. Alyson Sappington of the Thomas Jefferson Soil & Water Conservation District, provides review of the Erosion & Sediment Control Plan (E&S), wrote comments on February 5th as follows: “It appears that the proposed land disturbance for the Delmond B. Hall property is less than 10,000 sq. ft., and therefore would not need an E&SC plan.”
- Mr. Tom Eick of the Health Department noted the following: On September 1st, the Virginia Department of Health (VDH) issued an “OSE Construction Permit” authorizing the installation of a sewage disposal system and a private well. That permit was then supplemented by and “Inspection Report and Completion Statement” submitted to the Health Department by a licensed private Onsite Soil Evaluator, certifying that the sewage disposal system was properly installed and completed in accordance with the previously issues VDH permit.

Mr. Padalino noted that there are no unresolved concerns expressed by the Site Plan Review Committee. With consideration of the requested residential use, the Major Site Plan application appears to be acceptable relative to the Site Plan requirements in Article 13.

Mr. Massie Saunders, Engineer of the Major Site Plan: Mr. Saunders stated that he and the applicant are there to answer any questions from the PC.

Commissioner Russell made a motion that the Planning Commission approve Major Site Plan #2015-01 for David Hughes on property on Chicken Hollow Lane, Tax Map #17-A-44. The Site Plan consists of three (3) pages, dated January 30, 2015, submitted by Massie Saunders. Commissioner Harman provided the second; the vote 5-0.

2. Report and recommendations from Agricultural and Forestal District (AFD) Advisory Committee:

- **Two Applications for addition(s) to Existing Davis Creek AFD**
- **Application for addition(s) to Dutch Creek AFD**
- **Application for the creation of new Greenfield AFD**

Mr. Padalino stated that the PC accepted four (4) applications at the previous meeting and sent them to the AFD Advisory Committee. The Committee met on February 12th. He noted that Mr. Andy Wright is here to report on its actions.

Mr. Andy Wright, Chairman of the AFD Advisory Committee: Mr. Wright stated that the AFD Committee met on February 12th to consider the applications that were referred by the PC; as well as several additions [modifications] to those existing applications. He noted that draft minutes of the Advisory Committee meeting are being reviewed, and will be provide to the PC as soon as they are approved. Mr. Wright noted that the Advisory Committee unanimously recommended that all the applications be approved for additions on the existing Dutch Creek and Davis Creek AFD's; and for the creation of a new AFD centered around Greenfield.

Mr. Wright stated that the proposed additions to the Dutch Creek AFD are 746 acres. Of those, 278 acres is the McSwain property that would be added to their existing AFD property; 403 acres is property of Mr. John Ed Purvis, who is a Nelsonian and lifelong farmer; 50 acres is the John and Jonna Clarkson property, who have hay and horse operations; and the latest is 15 acres is the property of Randy Green, who grows hops to sell to the local breweries.

Mr. Wright stated that there were two portions to the additions to the Davis Creek AFD for a total of 228 acres. He stated that Mr. Bolton and landowners along Perry Lane propose to create an addition to the existing district; it is mainly forested, some sheep are being raised, and there are six (6) families. The other 11 acres were proposed for addition by Mr. Andre Deredyn and another landowner closer to the original Davis Creek AFD area.

Mr. Wright stated that the proposed new Greenfield AFD contains 2,344 acres; which is an increase of 40 acres from the original application. In addition to the Shannon Farm community, there are 37 more families. This includes a wide variety of activities such as timber, cattle and horse farms, organic gardens and nurseries. Mr. Wright noted that this district which will be located on both sides of the Rockfish River makes a very important contribution to the entire welfare of the river's watershed because it is next to the headwaters.

Mr. Wright stated that the Advisory Committee requests the PC advertise for public hearing at the March meeting or as soon thereafter as possible.

Commissioner Russell asked Mr. Wright if some of the districts that were approved had additional properties than what was submitted to the PC. Mr. Wright stated that was correct. Commissioner Russell also asked if Dutch Creek had 746 acres. Mr. Wright indicated that number included the 15 acres that was added by Mr. Green; and the numbers were given had been rounded up.

Commissioner Russell also noted that the PC didn't have any maps or data on the additional parcels that had been added. Mr. Padalino indicated that he had produced shapefiles and maps using the County's GIS system showing

all the parcels. Supervisor Saunders commented that the PC should have had copies of the proposed additions or the updated maps included in their packets, and does not feel that he is prepared to make a motion.

Commissioner Russell noted that the County Code allows for additions to districts up until the BOS final approval and that this action requested is only for PC approval to conduct a public hearing at which time the PC will have updated information for these expanded (modified) districts. She stated that this was the motion. Commission Harman seconded the motion; the vote 4-1 in favor with Supervisor Saunders voting against the motion.

3. Policy Review: "Wayside Stand Permits"

Continuing this discussion, Mr. Padalino had a few recommendation for a Wayside Stand policy as well as Farmers Markets.

Mr. Padalino stated that after talking about this numerous times and conferring with others, including Mr. Jeff Kessler at VDOT; he has come up with the following recommendations:

1. Separate Wayside Stand into two separate categories based on the VDOT functional classification code (VDOT FCC) of the road that it is located on. Mr. Padalino stated that for those that are on small roads that have less traffic or safety concerns, a simplified permitting process could remain. For higher volume roads or higher profile roads, there would be more requirements.
 - a. Wayside Stand Class A: roads with VDOT FCC of 115 or higher
 - b. Wayside Stand Class B: roads with VDOT FCC of 114 or lower (major roads such as Routes 6, 29, 56, 60, 151, and 250, as well as some secondary roads such as Beech Grove Road, Oak Ridge Road, Laurel Road, Schuyler Road and a few others)
2. Clarify and improve the procedures for how these permit applications should be reviewed.
 - a. Wayside Stand Class A: Director of Planning & Zoning provides administrative review and approval process. Administrative review process must include VDOT review; and County approval requires VDOT's recommendation for approval.
 - b. Wayside Stand Class B: Planning Commission conducts review and approval process. Review process must include VDOT review; and County approval requires VDOT's recommendation for approval.
3. Specify what application materials should contain:
 - Zoning Permit application
 - \$25.00 fee (remains unchanged)
 - Brief project narrative detailing the following:
 - Proposed frequency of wayside stand operation (# of hours per day? # of days per week? etc.)
 - Proposed duration of wayside stand operation (growing season? year-round? specific holidays or seasons? etc.)
 - Proposed location and type of wayside stand "structures" / facilities (including distance from property boundary and distance from public ROW)
 - Type(s) of items proposed for sale, including the source(s) of goods or products which must be owned or controlled by the seller
 - Description of the proposed signage
 - Scaled site plan drawing covering the following:
 - Wayside Stand (Class A) requires a scaled site plan drawing (covering a few basics)
 - Wayside Stand (Class B) requires a Minor Site Plan prepared in accordance with the normal Site Plan requirements.

Commissioner Russell asked if Minor Site Plans are required to show parking areas. She stated that she thinks it should be a part of the Class B requirement. Mr. Padalino agreed.

Chair Proulx stated she wasn't sure if this type of permit could be treated the same way as a Special Use Permit (SUP); or whether it's more of a checklist type permit. She stated that she would like for the PC to have some sort of control over the Class B type permit. Mr. Padalino noted that currently all these permits are processed administratively, and the proposed policy would change that process for some permit applications. Mr. Padalino also stated that any approach involving SUP's would require a public hearing and would also allow for the BOS to make conditions if they see fit. Mr. Padalino stated that to accomplish those suggestions, a Wayside Stand Permit would be listed as a by-right use for a Class A, and Class B would require an SUP.

Chair Proulx stated that she does not feel these types of permits need to go before the BOS, making it easier for the farmer, and for the Supervisors.

Commissioner Russell asked if it's possible for Staff to administratively review the Class B with advice from the PC. Mr. Padalino stated that he does not know if Commissioner Russell's concern is accurate because all the recent legislation was related to on-farm sales; because these Wayside Stands are classified as off-farm sales, the perceived limitations on regulating this type of land use are not entirely correct. Commissioner Harman noted that the State didn't want the PC to make any arbitrary rules that would limit the use of these stands, unless it related to safety issues.

Commissioner Russell indicated that she would like to see the word(s) "off-farm" or "off-site" added to the Wayside Stand definition. She also noted that she is still concerned with the use of the word "structure" in the definition. Mr. Padalino noted that in his notes from last month's meeting, there were proposed changes to the definition: "any facility or site used for the off-farm sale of agricultural or horticultural produce, livestock, or merchandise that is produced by the owner or the owner's family on their farm or on an agricultural operation under their control." He noted that there seemed to be some confusion with the word "facility" but it was an alternative to using the word "structure."

Mr. Padalino stated that if someone could not meet the criteria for a Wayside Stand, they could alternately join a Farmer's Market. In regards to the review and approval process, he will look at the Class B classifications; and if times permits, he will discuss this with Mr. Payne at their meeting scheduled for later in the week.

Commissioner Goad stated that he recalls, at last month's meeting, Mr. Padalino had some concerns about reviewing and approving these types of permits administratively, and asked if he could go over those concerns. Mr. Padalino stated traffic and safety are a concern; and to some degree there isn't much distinction between some of the proposed uses and a retail store, which could result in changes in the land use patterns. He indicated that he is trying to broaden the review to include VDOT to look at the safety aspects, including concern about increased turning movements, entrances and access, parking, and overall safety.

Commissioner Harman suggested that the word "structure" was too broad; it could refer to a tent, a building, a permanent or non-permanent structure. Chair Proulx concurred. Commissioner Russell noted that if the definition used the word "building", setback requirements might not allow them to be located in the front yard.

Commissioner Goad asked if this works as suggested, could there be a situation where one could apply for a Wayside Stand Permit just off of a road such at Route 29 & Route 6, on a side road and VDOT would approve it because of its location. Mr. Padalino stated that it is possible, but he hopes that VDOT would be able to take that locational attribute into consideration as part of their evaluation. Commissioner Russell noted that she had previously read in an ordinance where a Wayside Stand could not be located within 500 ft. of an intersection. She suggested adding as a requirement the location of a Wayside Stand on any given road and its position in respect to intersections. Commissioner Harman stated that he thought VDOT would cover that issue. Mr. Padalino noted that VDOT may not be in position to cover that issue, since it would be the County deciding what class the proposed wayside stand would be before the permit application would ever be referred to VDOT.

Chair Proulx then asked Staff to provide a new draft amendment for Wayside Stand.

The Planning Commissioners suggested adding the following conditions/regulations: operate in daylight hours only; number and size of signs; and minimum parking requirements. Commissioner Russell also asked to incorporate "temporary" into the definition.

Supervisor Saunders asked how yard sales fit into all of this. He also stated that this seems to be making it difficult for the farmers.

Commissioner Goad stated his opinion that this review and approval can't be put on Mr. Padalino. He feels that the PC needs to make the regulations. He also indicated that leaving Class A as an administrative approval is fine but that the definition needs to be tightened; and Class B should come before the PC for a decision.

Chair Proulx suggested that the PC revisit the "Farmers Market" at the next meeting. She asked Staff to go ahead and draft an amendment for that as well. The Commissioners agreed.

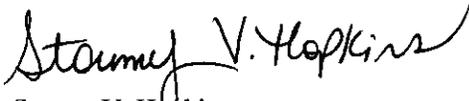
Other (as determined by Planning Commission members / as applicable):

Commissioner Russell stated that the PC received an email from the Zoning Director stating that Kim Page is withdrawing her request for a Special Use Permit on her property on Route 151. She noted that this raises the issue with Mr. Karnes and his Wayside Stand Permit. She asked Staff to contact Mr. Karnes to see if he wants to continue with his application. Mr. Padalino stated that Staff had reached out to Mr. Karnes and had not received an update, but would continue to try to reach out to him. Commissioner Russell stated that if Mr. Karnes does wish to withdraw the application that it be done in writing.

Adjournment:

At 8:23 P.M. Commissioner Harman motioned to adjourn.

Respectfully submitted,



Stormy V. Hopkins
Secretary, Planning & Zoning