

NELSON COUNTY PLANNING COMMISSION
MEETING MINUTES
April 22, 2015

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

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

Call to Order: Chair Proulx called the meeting to order at 7:00 P. M. in the General District Courtroom, County Courthouse, Lovingson.

Approval of Minutes – February 25, 2015 and March 25, 2015: Chair Proulx asked if there were any further changes to the revised February 25th meeting minutes; no changes were noted.

Commissioner Harman made a motion to approve the February 25, 2015 minutes be approved as noted; the vote 6-0.

Chair Proulx asked to postpone the approval of the March 25, 2015 minutes until the next meeting; the Commission agreed.

Chair Proulx stated there was one change in the agenda; noting that Wayside Stand Permit #2014-001 for Mr. William Karnes will not be heard due to it being an incomplete application.

1. Consideration of Proposed Amendments to Zoning and Subdivision Ordinances:

Mr. Padalino stated that the County's local zoning and subdivision ordinances need to be amended to reflect and incorporate the new statewide requirements, established by the Virginia Stormwater Management Program (VSMP).

Chair Proulx opened the public hearing at 7:04 p.m. for comments; no comments were made. Chair Proulx closed the public hearing at 7:04 p.m.

Mr. Padalino's staff presentation began with proposed amendments to the Zoning Ordinance. He noted that he had assembled the proposed amendments onto Powerpoint slides in numeric order for easy reference.

Mr. Padalino noted that the first proposed change would be to add the following clause to Article 7 – Residential Planned Community District RPC; Section 7-8 – Street Improvements: “, and conform to all other applicable ordinances and laws.”

Mr. Padalino noted that there are a few proposed amendments to Article 10 – General Floodplain District FP. Specifically, the change would be to Section 10-16: Standards for the floodway district; Item A, #4. Commissioner Russell suggested that stormwater management permit be capitalized. It was discussed by the Planning Commission (PC) and determined that it should remain as is. Mr. Padalino noted that in an attempt to keep language and terminology consistent, he used the phrase “stormwater management BMPs/facilities” throughout the proposed amendments for the following sections:

- Article 10-20, Item B;
- Article 10-21, Item D;
- Article 13-4, Item R;
- Article 13-6-1, Item i: Storm drainage facilities
- Article 13-6-1, Item l: Bond;
- Article 13-7, Item C, #7

Commissioner Russell asked if Article 13, Item E in the Major Site Plan checklist, should include “Virginia Department of Environmental Quality (DEQ)” in the signature panel. Mr. Padalino said he feels it would be sufficient to have a copy of DEQ’s approval letter (on official letterhead) on file, instead of DEQ signing the actual site plan drawings.

Mr. Padalino identified the proposed amendment in Article 13-6-2 regarding variances: if a variance is granted, that does not exempt them from the VSMP requirement. He then noted Article 13, Section 7: Administration, Item C contains a proposed amendment that would accurately reflect the VSMP requirement.

Mr. Padalino then began presenting information about the proposed amendments to the Subdivision Ordinance. He noted that currently, the Subdivision Ordinance has the Erosion & Sediment (E&S) Control Plan and Stormwater Management in one section. The proposed amendments would result in the E&S Control Plan being an independent item, with a new item D being established for Stormwater Management Plan.

Mr. Padalino noted that in Article 5-4, Item B: Contents of Preliminary Plat, #7 be amended to show the stormwater management BMPs/facilities. He noted that the final change would be in Article 5-5, Item D: Addenda with Final Plat, #9; this would require that an approved stormwater management plan and/or documentation of permit coverage be provided to the County, if it applies to the project. Commissioner Russell stated that she does not believe there is a #8 in the current ordinance. Mr. Padalino said he would make this change to reflect the correct numerical sequence.

Commissioner Allen asked if Article 10-16, #4 and Article 13-4, Item GG state the same, and if so, they should be changed to be consistent. Mr. Padalino said he would make that change to make the language clear and consistent.

Chair Proulx asked for a motion, in resolution form. Commissioner Russell said she would like to see a clean copy, with the changes as noted, before making a motion.

Commissioner Allen made the following motion:

WHEREAS, the Nelson County Planning Commission has received and reviewed in public session conducted on April 22, 2015 a staff report on changes proposed to Appendix A-Zoning (Nelson County Zoning Ordinance) and Subdivision Ordinance of the Code of the County of Nelson, Virginia; and,

WHEREAS, the staff report proposed changes to the Zoning and Subdivision Ordinance in order for these Ordinances to reflect the County’s decision to have the Virginia Department of Environmental Quality (DEQ) administer the Local Stormwater Management Program;

NOW, THEREFORE, BE IT RESOLVED by the Nelson County Planning Commission pursuant to the applicable provisions of Title 15.2 Chapter 22, Planning, Subdivision of Land and Zoning of the Code of Virginia, 1950 with specific reference to §15.2-2285 of said Code, that the proposed amendments of the Code of Nelson County to incorporate local Stormwater Management Program administration components be recommended for approval to the Nelson County Board of Supervisors for review and development, including change to Article 10, number 4 to be consistent with Article 13, GG; and Appendix B: Section 4: 5-5, Item D to make sure numbers are corrected.

Commissioner Harman provided the second; the vote 5-1 in favor, with Commissioner Russell voting against the motion.

Commissioner Russell asked that ~~a copy of the changes~~ a revised copy reflecting changes recommended by the PC be added to the minutes. Mr. Padalino said those would be provided.

Other Agenda Items:

1. Minor Site Plan #2015-04 – Taylor Smack / Blue Mountain Brewery:

Mr. Padalino stated that a complete application was received on March 27th from Mr. Taylor Smack of Blue Mountain Brewery. The application for Minor Site Plan #2015-04 seeks the County's zoning approval to construct a 25-space employee-only parking lot, and to install landscaping, a locked gate, and two (2) very small informational signs. The proposed construction of the parking lot would be a permissible by-right use pursuant to Zoning Ordinance §4-1-10 and §12-7-1. The subject property is located on Route 151 in Afton, in the North District. It is a 2.472 acre parcel, zoned Agricultural (A-1) and further identified as Tax Map Parcel #4-A-60.

Mr. Padalino noted that there is an existing entrance on the subject property; and the applicant is seeking approval from Virginia Department of Transportation (VDOT) for a low-volume commercial entrance. Part of that process is to get an approved Site Plan at the ~~local~~ County level.

Mr. Padalino referenced Sheet 2 of the Site Plan. He indicated that the Site Plan depicts a proposed new employee parking lot with 25 spaces. The gravel parking lot that would contain a parking block for each space. A locked gate would be utilized to control access to the parking lot, for the purpose of ensuring that employees only (and no patrons) would park there.

Mr. Padalino stated that the site layout attempts to preserve desirable site features. Specifically, the parking lot is configured to allow several existing mature canopy trees to remain and to provide some shade for the lot. Other proposals to improve the site include the installation of landscaping along the entire side of the parking lot facing Critzer Shop Road, which is a designated Virginia Scenic Byway. Other improvements include the removal and official abandonment of an existing well, which is a process that requires a Health Department permit; and the removal, re-grading, and re-seeding of an abandoned driveway area.

Mr. Padalino also noted that the site plan identifies a total land disturbance area of 32,000 SF, which requires an Erosion & Sediment (E&S) Control Plan. He noted that the Minor Site Plan checklist does not require an E&S Control Plan, but that the applicant is aware of the need for an E&S Control Plan to be submitted, reviewed, and approved prior to construction. He indicated that the applicant will be submitting an E&S Control Plan directly to the Building Inspections Department and to the Thomas Jefferson Soil & Water Conservation District.

Mr. Padalino summarized the Site Plan Review Committee Members' comments; ~~these comments are~~ as follows:

- Ms. Alyson Sappington of the Thomas Jefferson Soil & Water Conservation District will review the Erosion & Sediment (E&S) Control Plan. She noted the site layout needs to accommodate the stormwater management or E&S Control facilities. She also brought up the concept of trying to accommodate for any future development with the initial E&S and stormwater plans. The applicant clarified that they do not have plans to do any future development at this time.
- Mr. Tom Eick of the Virginia Department of Health confirmed that a permit would be needed to officially abandon a well.
- Mr. Jeff Kessler of Virginia Department of Transportation (VDOT) had a few issues but those were addressed on the revised site plan, such as moving the locked gate out of the VDOT right-of-way. It was noted that the entrance would be limited to a maximum of fifty (50) vehicle trips per day, which is a requirement for a low volume commercial entrance permit.
- Mr. David Thompson, Nelson County Building Official noted that an approved E&S Control Plan and Land Disturbing Activity Permit are both required.
- Commissioner Russell, as Planning Commission representative, identified concern that a portion of the parking lot would be located within the required front yard setback area.

Mr. Padalino noted that as stated in the Staff Report, he considers the proposed layout to be acceptable and compliant with applicable ordinance provisions for the following reasons: ~~He indicated that the following reasons lead him to that conclusion:~~

Site Specific Considerations:

1. The VDOT right-of-way (ROW) is abnormal. The ROW configuration is based on a previous road alignment, and the ROW was never adjusted when the road was rebuilt. He stated that the proposed parking lot location would meet the front yard setback requirements using one of the two criteria; it has to meet either the 50' minimum distance from the edge of the right-of-way or the 75' minimum distance from the centerline. He noted that the parking lot would be less than 50' from the right-of-way but would be greater than 75' from the centerline. He indicated that the parking lot would be approximately 82' from the centerline at its closest point.
2. Blue Mountain Brewery is trying to use the existing grade and terrain. The majority of the property is sloped, but the proposed configuration would utilize an existing flat area, which would prevent the applicant from having to reconfigure the parking lot and compromise the existing canopy trees.
3. The revised landscape plan (dated April 14th) includes additional landscaping materials to provide more effective screening. The recent revisions include evergreen shrubs along almost the entire frontage of the proposed parking lot.

Administrative Considerations:

4. The partial encroachment in the front yard setback area is acceptable relative to the site conditions and to other administrative issues regarding this project and other recent ones.

Chair Proulx asked if the applicant had anything to add to Mr. Padalino's summary.

Taylor Smack of Blue Mountain Brewery in Afton: Mr. Smack indicated that an E&S Control Plan would be submitted to Alyson Sappington tomorrow or Friday. He noted that all E&S control measures would be located off to the right side of the parking lot, which is the south side; and that they would be located outside of the setback areas. He also noted that the final location would be unlikely to affect the overall site layout.

Mr. Smack then noted that the old Route 151 cuts directly across the property. He also noted that the proposed project was not a structure but a gravel parking lot. He indicated that there is a nice sloping hill on the subject property, and they wanted to line up the location of the parking lot parallel to Route 151 because it would fit in better. He stated that they didn't want to put the parking lot any higher on the hill because of the existing trees and the pole light. He stated that the existing pole light was from the old residence and it does still hold power. He said that the old light could be removed. He indicated that a new dark sky light had been put in next to the old power pole. Commissioner Russell asked if the light would be on twenty-four (24) hours. Mr. Smack said the light was on a timer.

~~Commissioner Russell asked about the gate and if it would be left open all night. Mr. Smack said the gate would be open at night and employees would close the gate at the end of business. Commissioner Russell also stated that they would be an overlap in parking. Mr. Smack said this would be a first come first serve employee parking area.~~

Commission Russell asked if the gate would be left open all night. Mr. Smack said the gate would be open at night and employees would close the gate at the end of business. Commissioner Russell noted that with the changing of shifts, there could be parking overlap. Mr. Smack said that parking would be on a first come basis for his employees.

Commissioner Russell stated that she agrees with Alyson Sappington's concern about future development. She noted that since some of the setback area would be used for parking, this may result in future development requiring a more expensive E&S. Mr. Smack stated that he was aware of that.

Commissioner Russell made a motion that the Planning Commission approve the Minor Site Plan submitted by Taylor Smack for Blue Mountain Brewery located on Critzer Shop Road as evidenced by the Site Plan dated March 27, 2015 and revised April 14, 2015. The conditions for this approval is that the old light fixture on the pole be removed, and that the Planning & Zoning Director may give final approval to any future signage as shown on the plan.

Commissioner Harman provided the second; the vote 6-0.

2. Wayside Stand Permit #2014-001 – Mr. William Karnes (Tax Map #12-A-109) – continued from November 19, 2014.

Mr. Padalino stated that a certified letter was mailed to Mr. Karnes notifying him that his application would be put back on the agenda. He stated that he also communicated Mrs. Kim Page, who is the property owner where Mr. Karnes wishes to put the wayside stand, to see if she still authorizes the use of her property. Ms. Page replied that with the issues involving the entrance(s), she could not allow this application to move forward in connection with her property.

Other Business:

Possible Zoning Ordinance Amendments pertaining to “Off-Farm Sales” (Wayside Stands and Farmers Markets):

Mr. Padalino stated that the proposed definition for Wayside Stand has changed to now read to include the following: *“The use of any land, vehicle, equipment, or facility...”*

Mr. Padalino noted that there was a question from last month’s meeting regarding “second-hand products” in the Farmers Market definition. He said that he took the language that was used in the Flea Market definition that currently exists in the ordinance and tailored it to read as follows, *“...not to include the sale of second-hand products, or other merchandise purchased specifically for resale at a profit.”*

Commissioner Allen asked what is being referred to when using the term “second-hand products” in the Farmers Market definition. Chair Proulx stated that this is for “off-site” sales of products, and that the person with the stand, has to be the one producing the produce. Mr. Padalino stated this was to prevent someone from going to another location, purchasing goods and coming back and selling them. He also noted that this concept is to have a Farmers Market do what it is intended to do, which is to support local agriculture, and not ~~do~~ for a retail operation. Supervisor Saunders stated that he was under the impression that “second-hand” was referring to flea market type items. Commissioner Goad stated that the PC could differentiate between produce that was bought and resold, and merchandise.

After the noted discussions, it was decided that the Farmers Market definition would read as follows:

Farmers Market: Any structure, assembly of structures, or land used by multiple vendors for the sale of agricultural and/or horticultural products, and/or agriculture-related goods and services; but not to include the sale of merchandise purchased specifically for resale.

Commissioner Goad stated that he feels that the first three (3) words should be deleted from the Wayside Stand definition ~~as well along with some others~~. Commissioner Allen asked if the last sentence should be removed regarding daylight hours. It was agreed and the definition would read as follows:

Wayside Stand: Any land, vehicle, equipment, or facility that is used for the off-site sale of agricultural, horticultural products, merchandise which are produced on an agricultural operation owned or controlled by the seller or the seller’s family. Wayside stands are a temporary (non-permanent) land use.

Wayside Stand, Class A: Mr. Padalino noted that there were six (6) performance criteria for Wayside Stand, Class A and provided a summary of the draft criteria for each of those. The Planning Commission discussed each item; comments are listed below:

- (i) *Proposed frequency and duration of operations (throughout the day, week, month, and calendar year):*

Commissioner Russell stated that by definition it's limited to daylight hours then she's not sure if item b is needed. She also indicated that the idea behind this process is to make it easier for someone to have a stand. She indicated that some criteria needs to be added so that Mr. Padalino has something to use when he approves these, but to do that, some restrictions need to be put in place.

Chair Proulx stated that the restriction to operating during daylight hours makes sense for safety reasons. ~~so that these uses would not be conducted at night.~~ Commissioner Russell stated that she does not have a problem with someone wanting to operate seven (7) days a week during the summer. She added the question that, since this is a temporary use, does the "weeks per year" need to remain as one of the criteria.

Supervisor Saunders asked what the reasoning is for the proposal to limit operations to daylight hours. Commissioner Russell stated that nighttime operations would involve the use of electricity; that wayside stands are meant to be temporary operations; and if the operation was happening at all hours, it would probably be defined as some other land use. Supervisor Saunders added that an existing structure with electricity could be used as a wayside stand.

Commissioner Goad stated that he thinks something should be added in regards to the approval from the owner of the property. Mr. Padalino said that the heading would be changed to "Property Owner Approval". He indicated that he would the items listed above to the criteria.

(ii) Location and type of proposed wayside stand equipment or facility:

Commissioner Russell stated that the word "structures" is listed and she feels that it should not be used, because it has a legal definition. Mr. Padalino stated that he thinks that is acceptable, due to the fact that someone could reuse an old building for the sale of products. Commissioner Russell asked for clarification between that and a temporary, non-permanent land use. Mr. Padalino clarified that one could reuse a permanent structure that is only temporarily used during daylight hours.

(iii) Detailed information about the type(s) of products for sale, including:

Chair Proulx stated that she was confused with the criteria regarding the detailed information about the type(s) of products for sale. She was unclear as to what was meant when asking for the specific property information and asked if that was for the agricultural operation from which the product was derived. Mr. Padalino said that was correct.

Commissioner Goad stated that he does not feel the seller needs to provide a complete list of the types of products. Mr. Padalino suggested that a signature line be added that confirms that the owner is selling only what he grew, on property that is owned or controlled by him.

(iv) Location and details of proposed signage: No changes were suggested.

(v) Sketch site plan, including accurate locations and dimensions of:

Chair Proulx stated that she would like to see something added for a lighting plan if operating at night for safety reasons. This could be reviewed and approved by the Planning & Zoning Director. Mr. Padalino said he would add a lighting plan as another criteria item.

(vi) Review comments from Virginia Department of Transportation: No changes were suggested.

Commissioner Russell asked what would happen if a Wayside Stand, Class B application was referred to the Planning Commission for recommendation for the Planning & Zoning Director's approval. She stated this would be similar to the process that is used for some of the communication towers. She also noted that there is no criteria list for the approval of a Class B permit. Mr. Padalino stated that it was determined that all Class B permits would

be a Special Use Permit. Chair Proulx stated that this would allow for public comment, since it is on higher traffic areas.

Mr. Padalino stated that he would provide clean copy with the noted changes for the PC to review and make their recommendation to the BOS.

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

1. **AT&T Class C tower permit application:** Mr. Padalino said that the Planning & Zoning Department received an application for a new Class C Communication tower, located on Pine Needles Lane in Afton. This will be on next month's Site Plan Review Committee agenda. He noted that there are some requirements that need to be met with the new ordinance. A balloon test needs to be coordinated with the applicant and the PC through the Planning & Zoning Department. There needs to be at least ten (10) days advance notice.
2. **Rezoning:** Mr. Padalino stated that there will be a rezoning for public hearing for Mountain Sports in Nellysford.
3. **Special Use Permits:** Mr. Padalino noted that there are potentially a set of Special Use Permits for a retail operation in Lovingson. He noted that nothing has been received, but they have until Friday to submit the required documents. He also noted that Staff has been working with the prospective applicant for the last four (4) to five (5) months.

Commissioner Russell asked if Mr. Padalino had heard from Michael Penny. Mr. Padalino said he had not. It was his understanding that Mr. Penny had asked to hold his application on a postponement through April, in case the Crozet site did not work out.

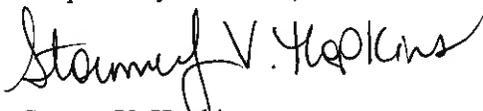
Board of Supervisors Report: Supervisor Saunders provided the following:

1. Taxes were not being raised.
2. At the last budget meeting, most requests were approved; **expect** except for the School Board budget, not all information has been received.
3. Employees and school members would be getting raises.
4. The Courthouse Committee has a scheduled meeting for tomorrow to review some stages of the Courthouse renovation plans:
 - a. Renovate the Clerk's existing office; bids will go out at the end of June or first part of July, and construction will hopefully start in the early fall. Landscaping will be done after this phase.
 - b. There will be additions to the back of the building.
 - c. There will be changes to where personnel are located.
 - d. There will be an expansion that will keep the judge, jury, public, and prisoners separate.
5. The School is going to have some major capital improvements coming in the next year, which there will be some big expenditures coming for that. There will be new a new security system for the schools. A new roof will be put on Tye River Elementary.
6. The Gladstone **dumper** dumpster site will be paved.

Adjournment:

At 8:54 P.M. Commissioner Allen made a motion to adjourn.

Respectfully submitted,



Stormy V. Hopkins
Secretary, Planning & Zoning