



To: Chairman and Members, Nelson County Planning Commission

From: Tim Padalino | Director | Department of Planning & Zoning

Date: February 20, 2014

Subject: Board of Supervisors Referral: Amendments to Zoning Ordinance (pertaining to “two-family detached dwellings”)

On February 12th, 2014, the Department of Planning & Zoning received a referral from the Board of Supervisors (BOS) containing “suggested text” to amend Article 4 (“Agricultural District A-1”) as it pertains to provisions and regulations for “two-family detached dwellings,” or duplexes.

That BOS referral, provided by Mr. Steve Carter, Nelson County Administrator (a copy of which is provided with this report), asks the Planning Commission to, “consider this amendment and present it[s] recommendations to the Board as expeditiously as possible.” Please note that the BOS referral makes reference to the applicable requirements of Code of Virginia §15.2-2285, and Nelson County Zoning Ordinance §16-1-2, which require that a public hearing be conducted.

Existing Regulations and Provisions

The Zoning Ordinance currently contains the following regulations and provisions relating to duplexes:

Article 2. Definitions.

- *Dwelling*: Any building which is designed for residential purposes (except apartment houses, boardinghouses, dormitories, hotels and motels.)
- *Dwelling unit*: A single unit providing complete independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.
- *Dwelling, two-family detached*: A building arranged or designed to contain two (2) dwelling units.

Article 4. Agricultural District (A-1), Section 2. “Lots Allowed and Area Regulations”

- §4-2-1a: The minimum lot area shall be two (2) acres (87,120 sq. ft) or more per dwelling unit. For family subdivision lots the minimum lot area shall be one (1) acre (43,560 sq. ft.) per dwelling unit.
 - *(Note): Based on the definitions in Article 2 and listed above, the correct interpretation of §4-2-1a currently requires 4 acres for a duplex (at 2 acres per dwelling unit).*

Proposed Text Amendment

The proposed text amendments for your review and consideration include:

Article 4. Agricultural District (A-1), Section 2. "Lots Allowed and Area Regulations"

- §4-2-1a: The minimum lot area shall be two (2) acres (87,120 sq. ft) or more per single-family detached dwelling or two-family detached dwelling containing a total of four (4) or fewer bedrooms and two (2) or fewer bathrooms. For family subdivision lots the minimum lot area shall be one (1) acre (43,560 sq. ft.) per dwelling unit.
- §4-2-2: For permitted uses utilizing individual sewage disposal systems, the Health Department shall review and approve the required area for any such use ~~shall be approved by the health official~~ in consideration of the average daily water usage, as calculated by the number and size of bedrooms and bathrooms. The administrator may require a greater area if considered necessary by the health official.
 - *(Note): As explained in the referral memo from Mr. Carter, the Commission is welcome to consider these proposed changes to §4-2-2 at their discretion; but the BOS did not discuss these specific amendments or formally refer them to the Commission.*

In speaking with Mr. George Krieger, Director of Nelson County Community Development Foundation (NCCDF) and originator for these proposed amendments, he indicated that these proposed amendments would be very beneficial for NCCDF's efforts to provide rental housing to senior citizens and other low- to moderate-income residents who qualify for subsidized housing.

Additionally, because the proposed amendments would limit which duplexes are eligible for the 2-acre density requirement based on the number of bedrooms and bathrooms, it does not appear that the amendments would create issues with public health or sanitation. As Mr. Krieger has noted, a 4 bedroom, 2 bathroom duplex would represent comparable average daily water usage as a single family home of the same size. If the dwellings – whether they contain one unit or two units – contain the same (or similar) number of bedrooms and bathrooms, and thus have comparable average daily water usage and septic requirements, then it should be acceptable for a duplex to be subject to the same 2-acre area regulation as a single-family dwelling. The proposed amendments to §4-2-2 would provide further assurance that a 2-acre site would provide adequate area for septic systems, drainfields, and reserve drainfields by directly requiring Health Department approval.

Please reference the second and third pages of the referral memo, which contain materials submitted by Mr. Krieger and which contain supplemental information about why these proposed amendments are beneficial, and why he believes they are not problematic and not in conflict with Zoning Ordinance and Comp Plan policies.

In consideration of all the above factors, County staff recommend that the Planning Commission review these proposed amendments at the February work session, conduct a public hearing at the March meeting on the Commission's preferred text amendments, and consider taking action to forward this item to the BOS inclusive of a recommendation to adopt the preferred amendments.

Please contact me with any questions you may have concerning this item. Thank you.

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12 February, 2014

To: T. Padalino, Director, Department of Planning and Zoning
From: S. Carter *SA*
Re: Referral of Proposed Zoning Amendment to Planning Commission

Transmitted herewith is the "suggested text" to amend Section 4-2-1a of the local Zoning Ordinance to provide for the inclusion of "two-family detached dwellings" therein.

At their meeting on February 11, 2014 the Board of Supervisors resolved to formally refer this consideration to the Planning Commission in accordance with the applicable requirements of §15.2-2285 of the Code of Virginia and Section 16-1-2 of the County's Zoning Ordinance. The Board requested that the Commission consider this amendment and present its recommendation to the Board as expeditiously as possible.

With regard to the attachment's reference to Section 4-2-2 of the Zoning Ordinance, which would also be an amendment thereto, the Board of Supervisors did not discuss this change nor did the Board act to refer it to the Commission. However, the Commission may consider this change at its discretion.

Please advise should Planning Commission or your office require additional input on the subject(s) of this communication.

The Commission's and your assistance and cooperation are appreciated.

Cc: Board of Supervisors
C. McGarry

NELSON COUNTY ZONING ORDINANCE

ARTICLE 2. DEFINITIONS

Dwelling, single-family detached: A building arranged or designed to contain **one (1) dwelling** unit with not more than (5) lodgers or boarders.

Dwelling, two-family detached: A building arranged or designed to contain **two (2) dwelling units**.

ARTICLE 4. AGRICULTURAL DISTRICT A-1

4-1

Uses—Permitted by right.

4-1-1

Single-family detached dwellings.

4-1-2

Two-family detached dwellings.

4-2-1a

The minimum lot area shall be two (2) acres (87,120 square feet) or more ***per dwelling unit***. For family subdivision lots the minimum lot area shall be one (1) acre (43,560 square feet) per dwelling unit.

4-2-1b

For single-family dwelling units utilizing the Nelson County public sewage disposal system, the required area for such use shall be thirty thousand (30,000) square feet.

4-2-1c

For a two-family detached dwelling unit on a single lot utilizing the Nelson County public sewage disposal system, the required area for such use shall be thirty thousand (30,000) square feet.

4-2-2

For permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the health official. The Administrator may require a greater area if considered necessary by the health official.

SUGGESTED TEXT CHANGE:

4-2-1a

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

Density Protection: 4-2-2 Health Department approval of individual septic systems based on bedroom size and average daily water usage

Negatives:

Will change the character of a neighborhood by creating greater density:

In a four-bedroom, two bath model, the maximum number of residents could be eight – two/bedroom. It is much more likely, and supported by rental evidence, that the tenant will be a single, or elderly couple, a single woman with children, a person with disabilities that may require in-home care at some time.

Will change rural character by introducing more rental housing into areas populated by homeowners:

The most common rental housing currently available is “scatter-site”, and the Code recognizes no distinction for rental, as opposed to “owned” property. There is no reason homeowner property cannot convert to rental property at any time in an A-1 zone (except when covenants and restrictions have been recorded).

Will prove a greater burden on water table, site development:

Referring to the first answer, evidence is this type of housing would require no more intensive use than single family units.

Will promote concentration of “low-income” families in “public housing”:

Demographically, more than 40% of Nelson residents are at or below 80% of the Area Median Income (LMI), so the predominant demand for rental housing will be from this group as homeownership becomes more difficult. The duplex concept would be less intensive than townhouse or garden apartment development, and more in character with A-1 zones. Duplex housing would not change the way a neighborhood looks.

Currently permitted subdivisions could now double the number of units per lot that could be built:

Only provided that those units meet Health Department requirements for lot size, which limits the number of bedrooms. The same arguments from above apply as to why this would not be a more intensive use of the property than originally permitted.