



Nelson County Planning Commission Meeting Minutes December 28, 2022

Present: Chair Mary Kathryn Allen and Commissioners Mike Harman, Phil Proulx, Jesse Rutherford and Robin Hauschner

Staff Present: Dylan Bishop, Director and Emily Hjulstrom, Planner/Secretary

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

Public Hearings

Special Use Permit #808 - Kennel

Ms. Bishop presented the following information:

Nelson County Planning Commission

To: Planning Commission

From: Dylan M. Bishop, Director of Planning & Zoning *DMB*

Date: December 28, 2022

Re: SUP #808 – Service Dogs of VA – Rockfish Valley Hwy between Blundell Hollow and Chapel Hollow

BACKGROUND: This is a request for a special use permit for a kennel use on property zoned A-1 Agriculture.

Public Hearings Scheduled: P/C – December 28; Board – January 10 (tentative)

Location / Election District: Rockfish Valley Hwy / North District

Tax Map Number(s) / Total Acreage: 12-12-6 / 9.88 +/- total

Applicant Contact Information: Jeremy Fox (Timmons Group), 608 Preston Avenue Suite 200, Charlottesville, VA 22903, 434-327-5382, Jeremy.fox@timmons.com

Owner Contact Information: Peggy Law (Service Dogs of VA), P.O. Box 408, Charlottesville, VA 22902, 434-295-9503, info@servicedogsva.org

Comments: This property is currently vacant, and is part of the Spirit Trail Subdivision. The lots within this subdivision range from 5 acres in size to 25 acres. Service Dogs of Virginia, a non-profit organization that raises, trains, and places dogs to assist individuals with disabilities, purchased the property in 2020. In August 2022, the Board of Supervisors, at the Planning Commission's recommendation, amended the Zoning Ordinance relative to the 'kennel' use. The definition was amended (below) and was moved from a by-right use in the A-1 District, to a Special Use Permit (SUP).

Kennel: A place where the primary use is to house, board, breed, handle, groom, train, or otherwise keep or care for dogs, cats or similar small animals for sale or in return for compensation. Kennels may include associated facilities necessary to support the operation including but not limited to office space, meeting space, and temporary lodging accommodations exclusive to those clients training with the animals.

The proposed project is comprised of five structures: training center, adult kennel, nursery wing, kennel manager's house, and client dormitory. The training center includes office space, a conference room, and training space. The adult kennel is designed to house up to 16 dogs that are in training, and are intended to leave the property on the weekends for socialization purposes. The nursery wing, or the puppy center, includes whelping and enrichment rooms for two litters of puppies. The kennel manager's house is dedicated for an employee to stay on the site 24/7, and the client dormitory is designed to accommodate up to 4 clients and their aides for up to 2 weeks.

According to the narrative provided by the applicant, the facilities are proposed to have noise reduction insulation, and the majority of the dogs will be placed in volunteer homes on the weekends to socialize. Hours of operation are proposed to be 9:30 a.m. to 5:00 p.m. on weekdays only, and would not open to the public. (i.e. not a commercial kennel). The applicant intends to have quarterly classes/seminars for up to 10 attendees, and 2-3 events per year for up to 100 attendees.

DISCUSSION:

Land Use / Floodplain: This area is residential and agricultural in nature. Zoning in the vicinity is A-1 Agriculture. Other uses in the vicinity include residential dwellings, several bed and breakfasts and event properties, a landscaping/hardscaping business, and Rockfish Valley Elementary School. There are no floodplains located on the property.

Access / Traffic / Parking: Comments from VDOT indicate that the proposed entrance location may need to be shifted slightly to accommodate for sight distance requirements, but do not foresee any major issues with permitting a commercial entrance to the property. Additionally, turn lanes likely would not be required due to the low entrance volume.

Utilities: Comments from the Health Department indicate that an engineer would be required to design the well and septic for this development. The narrative provided by the applicant indicates that the Environmental Protection Agency (EPA) regulates the kennel wastewater treatment and dispersal system, and that Old Dominion Engineering is proposed to design these systems. Staff has contacted the EPA and hopes to have additional information on these requirements available at the meeting.

Erosion & Sediment Control / Stormwater: When total land disturbance of a development exceeds 10,000 square feet, an Erosion and Sediment Control Plan is required to be approved by the Building Inspections Office. When total land disturbance exceeds 1 acre, a Stormwater Management Plan is required to be approved by the Department of Environmental Quality (DEQ).

Comprehensive Plan: This property is located in or near Greenfield on the Future Land Use Map, an area designated Rural Residential, which would allow low density residential and compatible non-residential uses in rural areas where agriculture is not the predominant use. The property is also located in or near the Rural and Farming District which comprises the majority of the County. This district would promote agricultural uses and compatible open space uses but discourage large scale residential development and commercial development that would conflict with agricultural uses. This district would permit small scale industrial and service uses that complement agriculture.

Conditions: Should the Planning Commission recommend approval of this application, staff would recommend discussing and considering the following conditions:

1. No more than twenty (20) dogs shall be permitted in the primary kennel.
2. The facilities shall not be utilized as a public commercial kennel.
3. Hours of operation shall be limited to 9:30 a.m. to 5:00 p.m., Monday through Friday, with the exception of quarterly (four per year) classes or seminars not to exceed ten (10) attendees, and five (5) other events per year not to exceed 100 attendees.
4. Documentation from the Environmental Protection Agency (EPA) certifying that the kennel wastewater treatment and dispersal systems are compliant is required.
5. There shall be on-site supervision on a 24/7 basis.
6. The kennel yards and outdoor runs shall be screened with fencing and evergreen plantings.
7. Engineered certification from a sound or audio engineer addressing how noise will be handled, both indoor and outdoor, with a Sound Transmission Class value of 55 or greater is required.
8. Overnight accommodations shall not be utilized as commercial short-term lodging.

All applications for Special Use Permits shall be reviewed using the following criteria:

- a. The use shall not tend to change the character and established pattern of development of the area or community in which it proposes to locate;
- b. The use shall be in harmony with the uses permitted by right in the zoning district and shall not affect adversely the use of neighboring property;
- c. The proposed use shall be adequately served by essential public or private services such as streets, drainage facilities, fire protection and public or private water and sewer facilities; and
- d. The proposed use shall not result in the destruction, loss or damage of any feature determined to be of significant ecological, scenic or historic importance.

Attachments:
Application
Narratives
Site Layout
Site Plan
Public Comments

Ms. Proulx clarified that the owner of the property is legally Service Dogs of VA.

Ms. Peggy Law is the applicant for the project, she lives at 4783 Turkey Side Rd in Keswick.

Ms. Law presented the following narrative:

December 2022

Presentation for Nelson County Zoning and B.O.S.

Submitted by Peggy Law, Executive Director, Service Dogs of Virginia

Brief Outline of Service Dogs of Virginia: History and Programs

- Founded in 2000, currently five training programs, accredited by Assistance Dogs International, supported by a significant donor base, and in need of a facility capable of meeting specific needs.

Service Dogs of Virginia (SDV) was founded in 2000, by Executive Director, Peggy Law. Peggy started training dogs for physical assistance in her garage. Fast forward to 2022, SDV has five programs (physical assistance, autism, medical alert, and PTSD service dogs, and facility dogs), regular accreditation by Assistance Dogs International, an increased number of dogs placed annually, and a solid base of individual donors, corporate, and philanthropic support.

SDV is currently constrained by the lack of a suitable, purpose-driven facility capable of meeting our unique needs. Our goal is to be a more efficient organization that best uses donor funds, volunteer help, and staff time. We do not want to be a much larger organization, just one that meets top level industry standards and offers maximum support to our deserving clients. Our campus will meet the highest standards in the assistance dog field, comparable to larger programs.

Potential Impacts

- Advocacy for disability services, eco-friendly, sustainable footprint, lower cost for client training and support services.

SDV's presence in Nelson County will generate much needed interest in and support of disability services, will provide an eco-friendly footprint, and will significantly reduce the cost to clients learning how to work with their service dogs and receiving ongoing support while they have a service dog.

Facility Use, Noise & Kennel Concerns

- Under 20 dogs in kennel, noise reduction insulation in buildings, dedicated septic systems, open only weekdays, 9:30 AM – 5 PM, 24/7 on-site supervision by kennel/property manager, small staff, and small events.

While SDV recognizes that some Nelson County residents might see our kennel plans as a noise problem, we want to be sure it's understood that we will not be housing large numbers of dogs as commercial kennels do. Rather, the maximum on any given day would be 16. We will take the following steps to mitigate noise: the building plan will use extra sound insulation; few dogs, if any, will be there on weekends; service dogs in training are tired and ready for rest at the end of the day; and any dog not doing well in a kennel will be placed in a home situation for its own support and well-being. No dogs from outside our school will be permitted in the kennel. The kennel is for our use only and not for the public.

The main kennel is designed to house 16 dogs. The female kennel is for females in heat who need to be housed separately from the males. As females can synchronize their cycles, the female kennel is designed to

house four dogs. There is a dedicated puppy center that can accommodate up to two litters at a time. Our current plan is to breed one to two litters a year. In the drawing, these 2 buildings are referred to as The Puppy Center. Puppies are on campus only for the first eight weeks of their lives. Subsequently, they go to puppy raisers' homes. They return for advanced training when they are between one year and 18 months of age where they will be housed in the primary kennel.

Kennels are indoor/outdoor by design. Dogs will be indoors during the night but will have access to the outdoors during the day. They will be in training during the day and spend time in trainers' offices so they will have varied amounts of time in the kennel. Dogs that train and are well exercised are mentally and physically tired at the end of the day. We will use volunteers to exercise dogs daily.

A dedicated septic system will be used for the kennels. The kennel wastewater treatment and dispersal system will be regulated through the Environmental Protection Agency (EPA). Use of the kennel wastewater treatment and dispersal system is conditional upon compliance with the conditions of the EPA issued permit and Virginia State Law. The purpose of these permits is to protect environmental and public health. Our systems will be designed by Old Dominion Engineering. They have significant experience in designing septic systems for kennels and our project is much smaller than others they have successfully designed.

Our planned hours of operation are 9:30 AM to 5 PM., Monday through Friday. An important goal is to have small weekend classes, seminars, and events. Classes and seminars would be one per quarter and limited to 10 people. Any larger events would be two to three times per year with perhaps 100 people in attendance.

In order to have 24/7 on-site supervision, SDV will have a full-time kennel/property manager. The manager's home will be on the premises.

SDV currently has five full-time employees and two part-time employees. SDV expects to slightly increase positions with the new facility as there will be a need for a kennel /property manager, additional trainers, and additional development staff.

Screening and Fencing

- Kennel yards and outdoor runs will be fenced and screened with vegetation. The goal is to fence the entire property for added security.

Construction

- Buildings will be sited to minimize visual impact and designed to meet Nelson County's comprehensive plan typology, have an ADA compliant setting, eco-friendly buildings, solar array for 100% on-site renewable electricity, and only native plant landscaping.

The campus is designed to fit the characteristics of the larger Nelson County community, and the overarching goal of our master plan strategy is to fit the desired characteristics of the Rural Village typology outlined in the Nelson County comprehensive plan.

The campus is divided among five buildings and each building is scaled to match the proportions common to agricultural and residential buildings in the area.

The campus buildings are positioned on site to maximize setbacks from the property lines (well in excess of zoning ordinance minimums) and to leverage the densest existing vegetation on the property for visual and acoustic screening. We will cultivate and bolster these vegetated areas to increase the evergreen screening. Buildings are sited strategically to minimize the visual impact to the surrounding community. All buildings are under the 35' height limit for the Agricultural zoning district. The siting also allows us the opportunity to create a fully ADA compliant path between all the structures.

The building exteriors will use materials and finishes commonly found throughout Nelson County to ensure visual harmony with the rural community, including but not limited to, metal roofing, vertical wood siding, natural tones and colors.

The building shells will be constructed using a prefabricated panel system which will allow us to minimize the duration of construction activities on site as well as drastically diminishing the amount of waste generated by the new buildings.

The panels are designed to exceed current building codes with relation to the insulation values of the exterior envelope. This added insulation ensures we can maintain a consistent indoor environment which subsequently reduces the energy demand from the new buildings by a significant factor. The added insulation in the panels also increases the Sound Transmission Coefficient (STC) of our exterior envelope

Subsequently, our reduced operational energy requirements will be fulfilled by the deployment of an on-site roof mounted solar array that will provide 100% on-site renewable electricity for the whole campus. The site design will be intentionally low impact to allow the vegetation density to increase around the property. Any new landscaping at the buildings will utilize regenerative landscape practices and we will only specify and plant species native to this region.

Mr. Harman asked Ms. Law if she was in agreement with the conditions presented by staff. She noted that she was. Mr. Rutherford asked if the 20 dog number included puppies. Ms. Law noted that it doesn't and that the puppies are only there for a limited time.

Chair Allen opened the public hearing at 7:23 PM.

Mr. Maxwell Depiro of 145 Chapel Hollow Rd. He explained that it is he and his wife's dream to have a home with horses and cows. He presented the following:

I would like to address the commission hearing on Special Use Permit #808 - Kennel. I am a Nelson county resident with our primary residence being an adjoining property to the Service Dogs of Virginia proposed building lot.

The packet outlines 4 criteria for a Special Use Permit to be acceptable. It is my intent to provide content that shows that Permit #808 does not meet 2 out of 4 of these criteria and it is therefore my request that the commission recommends to the County board to reject this application.

On the criteria that the use shall not tend to change the character and established pattern of development of the area or community in which it proposes to locate.

The proposed plan calls for 5 buildings comprising of 24,900 sqft of indoor space on just 9.5 acres. This level of development is egregiously outsized from any neighboring commercial or residential development, and will inherently change the character and established pattern of development of the area. The nearest development of that size is the Rockfish River Elementary School which sits on nearly 47 acres. The lot size for the proposed development is simply too small for the planned activity.

Additionally, to address concerns of noise, lighting, and the visual "character" of the proposed use, the proposers state they will go outside normal building practices to accomplish and meet the criteria. If a

proposed project must go outside normal accepted building practices and codes and ordinances to be acceptable under Special Use terms than by definition, it does not fit the character and established patterns of development.

On the criteria that the use shall be in harmony with the uses permitted by right in the zoning district and shall not affect adversely the use of neighboring property.

Ms. Carolyn Roberts lives at 215 Chapel Hollow Rd. She mentioned that she would also like to address Criteria A and B of the criteria when reviewing an SUP. She explained that Ms. Law's outline and wording is indicative of the concern of visual impact to the neighboring lots. She explained that the word 'campus' outlines her concern. She added that the amount of space for the building allotment and the visual impact is very concerning. She explained that Spirit Trail is a special piece of property and that the lots there are mainly residential. She added that she appreciates the owner's mission but that she doesn't think this property is appropriate for the use.

Mr. Ron Hendrickson lives at 148 Blundell Hollow Rd. He requested that the PC reject the proposal based on failing to meet Criteria A and B. He added that according to the IRS a business qualifies as a farm if it's cultivating, operating, or managing land for profit. He explained that for this to be a not for profit exemption it can't be a farm. He added that there are exemptions but they can't have more than two buildings and more than 7500 sq ft. His concern is that he shares 1435 ft of property line with the proposed kennel and that there is no natural sound barrier. He added that it would drastically change the pattern for development of the area and it's not in harmony with the existing buildings. He added that animals will defecate on the floor and that it will crack and leak animal waste into the water. He added that he fully supports the mission but that he thinks the PC should reject the application.

Ms. Holly Hutchens of Chapel Hollow Rd explained that she borders the Hendricksons' lot. She explained that the nature of the landscape is a gentle slope up from Route 151. She explained that there is a constant breeze coming from that valley and that every scent and sound will come to their property. She explained that they can hear all the sound from the valley that they can hear the single dog barking on Blundell Hollow Rd and the rooster crowing next door on Rt 151. She explained that Nelson County has a noise ordinance that from 7 AM to 10 PM sound should not exceed 65 decibels and otherwise should not exceed 55. She added that there have been a number of different studies done on kennels and that one study showed that noise ranged from 84 to 108 decibels and a separate study found that kennels can have a continuous noise level of 10-120 decibels. She added that it is an admirable volunteer organization but that volunteers aren't always consistent or reliable. She added that all of the properties will be on well water and that ground water contamination is an issue. She explained that this property was originally a very large piece of property that has been divided and turned into a residential area.

Ms. Alison DePiro lives at 145 Chapel Hollow Rd. She presented the following information:

The neighboring properties, in use as primary residences, equestrian, and other farming enterprises, by right, shall be affected adversely by the proposed development. The proximity of development to support these Special Use activities of breeding, training, and housing dogs for commercial purposes is too near the property borders to practically buffer and shield these activities from affecting the current by right activities. Dogs need outside exercise and activity by nature and there is no practical way for the proposed Special use activity to harmonize with the existing, by right, use and development.

I want to thank everyone here today for considering these issues. For what it is worth, I believe that the Service Dogs of Virginia serves a noble mission. It is unfortunate that this location is not a fit for these purposes. It is critical that as a community we come together to put the right land to the right use.

Ms. Jennifer Hendrickson of 148 Blundell Hollow Rd noted that she would like to affirm her neighbors and agrees that Criteria A and B are not met by the application. She explained that the use would totally change the feel of the neighborhood. She added that they are large pieces of property designed for farming or residential use that have been divided in the last three years. She noted that everyone that has purchased a parcel there for their dream home or job. She explained that they want to start a vineyard and that their neighbors want to have horses.

Chair Allen closed the public hearing at 7:38 PM.

Ms. Proulx explained that there are two immediate neighbors that sent in letters expressing similar concerns.

Mr. Hauschner explained that the noted decibel range in the study that was referenced is a systematic review and that the sound measured is a range of the maximum values found , an average weighted value of the initiation of a bark to the continuation of the sound throughout. He added that it uses specific dog breeds to get maximum value and that the measurement was taken from 5 feet from the dogs mouth. Ms. Bishop explained that Planning and Zoning does not regulate the noise ordinance. Ms. Proulx noted that her understanding is that it was measured from the property line. Mr. Rutherford explained that enforcing the noise ordinance requires a deputy standing on a property line with a meter and that the Sheriff's Department does not have the mechanisms to send deputies out to measure noise.

Ms. Proulx asked if dark sky was covered in the ordinance. Ms. Bishop noted that they could add a condition but that there is a criteria in the ordinance to cover directional and shielded lighting.

Mr. Harman noted that this is a very admirable thing for the County and that it's a tremendous amount of activity on 9 acres. He explained that if it was in a different location it would be fantastic. Ms. Proulx agreed with Mr. Harman due to the area being essentially residential. She explained that she is torn because the applicants are being very responsible. Mr. Rutherford asked if the Zoning Ordinance can regulate how many dogs or puppies a person can own. Ms. Bishop noted that the Ordinance doesn't address it. Mr. Rutherford explained that someone could be a breeder and/or have hunting dogs. He explained that he doesn't see a zoning restriction for the square footage of the facility as long as setbacks are met. He added that he knows many dog hunters that have more than 20 hounds. Ms. Proulx noted that if they have enough employees for there to be a fair amount of traffic. Ms. Proulx asked what made this a kennel. Ms. Bishop explained that the new definition is that the primary use must be a kennel for the Special Use Permit but that a kennel can be an accessory to a single family dwelling by right. Ms. Allen noted that she bred labs and that she could have 8-10 puppies in a litter. She explained that she did this as a home occupation. She made the point that they didn't have employees coming in and out. She noted that having litters of puppies up to 8 weeks is not a problem. Ms. Proulx noted that she doesn't think the dogs are the problem. Chair Allen noted that the size and location of the project are the issue. Mr. Rutherford noted that the Board has been wrong every time they tried to

predict where a business would want to go. He added that a business will want to go where it wants to go. He noted that Rt 151 has a proximity to I64 which gives it access to so many metropolis areas and an attractive area. Ms. Proulx explained that this particular use doesn't require that kind of access.

Mr. Rutherford asked what the total square footage of the buildings would be. Ms. Law explained that she doesn't know the exact number herself. Ms. Proulx asked what breed of dogs they would have. Ms. Law explained they would be Labs or Lab/Golden mixes. She explained that they have a two year waiting list for dogs and place about a dozen a year. She added that most volunteers work off site. She explained that the structure is like a big horse barn. Chair Allen asked about the lodging accommodations for clients. Ms. Law explained that the class was a two week period and the same client can come back multiple times for trainings.

Ms. Law clarified that the zoning is Agricultural and not Residential. She explained that neighbors will have horses and cows that will be defecating directly into the groundwater and not into a septic system like her facility will use. Mr. Rutherford explained that his family used to own a large pig farm that came to attention when the EPA was formed. He explained that the building itself could be by right in an agricultural setting for another use like farm animals. Ms. Law explained that they oriented the least used building closest to Mr. Hendrickson out of consideration for him.

Mr. Hauschner asked if there is a specified outdoor area for the dogs. Ms. Law explained that there would be fenced in yards adjacent to each kennel as well as walking trails that the dogs can access on a walk with a trainer. She added that they plan to fence in the property so that they can take dogs on an off leash walk if they choose to. Mr. Rutherford asked if they planned to have puppies every cycle. Ms. Law explained that they are in a breeding cooperative and are probably going to do two litters per year. She explained that currently they have to use a volunteer's home to do this. She added that they are very concerned about the health and enrichment of their dogs. Having a dedicated building to be used twice a year for litters would allow them to keep them healthy and enriched. Ms. Proulx asked where they were currently located. Ms. Law explained that they are currently in an office park in Charlottesville and rely on volunteers to take the dogs home at night. She explained that it gets complicated around popular vacation times. She explained that she is not worried about the dogs on the weekends and that 90% of the time they will be away from the facility for the weekend. Mr. Rutherford noted that he is not against waiting another month to gather more information. Ms. Proulx noted that there is a commercial aspect to this with the classes and training. Mr. Rutherford explained that agricultural uses can offer classes by right.

Ms. Proulx made a motion to recommend deferment of SUP #808 Kennel until the regular Planning Commission meeting on January 25th, 2023.

Mr. Harman seconded the motion.

Yes:

Mike Harman

Phil Proulx

Jesse Rutherford

Mary Kathryn Allen

Robin Hauschner

Ms. Bishop asked if there was any specific information that the PC is looking for. Mr. Rutherford asked to know what the other uses, such as training, would entail. Ms. Proulx explained that she would like more information on the screening. She added that she doesn't like another entrance on Rte 151 but that there's nothing that they can do about it.

Other Business:

Division from Family Trust

Ms. Bishop presented the following information:

Memo

To: Planning Commission
From: Dylan M. Bishop, Director of Planning & Zoning
Date: December 28, 2022
Re: Proposed Subdivision and Zoning Ordinance Update – Family Division from Trust

Family Division from Trust

The Planning & Zoning Department sometimes receives questions regarding the requirements for family divisions of land. There are protections that the state provides to reduce the requirements for family divisions, as opposed to subdivisions of land for sale. For example, the minimum lot size requirement for a subdivision is 2 acres, while a family division only requires one acre.

State code allows localities to adopt an ordinance that would permit family divisions of land to beneficiaries of trusts. The purpose of this ordinance update is to reflect state code and allow family divisions to be gifted to beneficiaries of a trust.

After presenting this information to the Planning Commission at the June 22, 2022 meeting, PC recommended presenting amended language to reduce the access width requirement from 30 feet to 20 feet, increasing the minimum lot size from 1 acre to 2 acres, with a 15-year restrictive covenant.

Staff is proposing that the Planning Commission make a motion to hold a public hearing on this ordinance amendment at their January 2023 meeting.

Section 3-2(A)(4) of the Nelson County Subdivision Ordinance

“A single division of a tract or parcel of land for the purpose of sale or gift to a member of the immediate family of the property owner if the property owner agrees to place a restrictive covenant on the subdivided property that would prohibit the transfer of the property to a nonmember of the immediate family for a period of five (5) years. Any parcel thus created having less than five (5) acres shall have a right-of-way of no less than ~~thirty (30)~~ **twenty (20)** feet wide providing ingress and egress to and from a dedicated recorded public street. Only one (1) such division shall be allowed per family member, and shall not be for the purpose of circumventing this ordinance. For the purpose of this subsection, a member of the property owner’s immediate family is defined as any person who is a

natural or legally defined offspring, stepchild, spouse, sibling, grandchild, grandparent, or parent of the owner. It shall be noted on the plat and in the deed that this is a family division of property pursuant to this subsection.

Vehicular access serving a family division when the access serves more than two (2) parcels, including the parent tract, by initial or subsequent division of land shall have the following certification on the plat before approval:

"The streets in this subdivision do not meet the standards necessary for inclusion in the system of state highways and will not be maintained by the Department of Transportation or the County and are not eligible for rural addition funds or any other funds appropriated by the General Assembly and allocated by the Commonwealth Transportation Board."

Insert the following paragraph:

In addition to the foregoing provision, a single division of a lot or parcel of land held in trust for the purpose of sale or gift to a member of the immediate family, as defined above, who is a beneficiary of such trust. All trust beneficiaries must (i) be immediate family members as defined above, (ii) agree that the property should be subdivided, and (iii) agree to place a restrictive covenant on the subdivided property that would prohibit the transfer of the property to a nonmember of the immediate family for a period of 15 years. Notwithstanding the provisions of clause (iii), the Planning Commission may reduce the period of years prescribed in such clause when changed circumstances so require. Upon such modification of a restrictive covenant, a locality shall execute a writing reflecting such modification, which writing shall be recorded in accordance with Virginia Code § 17.1-227.

Section 4-2-1a of the Nelson County Zoning Ordinance

"The minimum lot area shall be two (2) acres (eighty-seven thousand one hundred twenty (87,120) square feet) or more for single and two-family detached dwellings, ~~For~~ and for family subdivision lots, ~~the minimum lot area shall be one (1) acre (forty three thousand five hundred sixty (43,560) square feet) per dwelling unit."~~

State Code Reference:

§ 15.2-2244.2. Subdivision of a lot of property held in trust for a family member. — In addition to §§ 15.2-2244 and 15.2-2244.1, a locality may include in its subdivision ordinance provisions permitting a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family, as defined in § 15.2-2244, of beneficiaries of a trust, of land held in trust. All trust beneficiaries must (i) be immediate family members as defined in § 15.2-2244, (ii) agree that the property should be subdivided, and (iii) agree to place a restrictive covenant on the subdivided property that would prohibit the transfer of the property to a nonmember of the immediate family for a period of 15 years. Notwithstanding the provisions of clause (iii), a locality may reduce or provide exceptions to the period of years prescribed in such clause when changed circumstances so require. Upon such modification of a restrictive covenant, a locality shall execute a writing reflecting such modification, which writing shall be recorded in accordance with § 17.1-227. The locality may require that the subdivided lot is no more than one acre and otherwise meets any other express requirement contained in the Code of Virginia or imposed by the local governing body. (2011, c. 141.)

Ms. Proulx made a motion to move the proposed Zoning and Subdivision Ordinance updates for Family Divisions from Trust to public hearing.

Yes:

Mike Harman

Phil Proulx

Jesse Rutherford

Mary Kathryn Allen

Robin Hauschner

Cluster Housing Development

Ms. Bishop explained that in October, staff met with some developers that are under contract with a property in Lovingson where they want to develop 40 workforce dwellings. She explained that there is not a way to allow that density with the current ordinance.

Ms. Bishop showed following table of current regulations with the proposed development:

Nelson:

- Density is 1 dwelling unit per 6.8 acres and 1 unit per 20 acres for area over 75 acres (only one unit per lot)
- Lot area is 1 acre (private well & septic), 30,000 sf (public sewer), and 10,000 sf (public water and sewer)
- Minimum open space is 40%
- Minimum size is 75 acres
- Setback requirement is 35' front
- Frontage is
- By-right in C-1, A-1, and R-1

Amherst:

- Density is 4 SFD per acre, 6 two-family per acre, or 12 multifamily per acre
- Lot area is 10,000 sf for SFD, 12,000 sf for two-family
- Minimum open space is 10%
- Minimum size is 40 acres
- Setback requirement is minimum 10' maximum 15' for front and side
- Frontage is
- Separate zoning district (MU/TND)
- Only in Designated Growth Area/UDA OR planned for service by public water and sewer

	Proposed Development	Current R-2 Residential Req.	Current Cluster Ordinance Req.
Number of Units	40 dwelling units (SFD)		1 unit per 6.8 acres
Minimum Area	35 acres		75 acres
Minimum Lot Size	5,000-7,000 square feet	10,000 square feet	10,000 square feet
Public Water & Sewer	Yes	Yes	Yes
Other Notes			40% reserved open space

Fluvanna:

- Density is 1 dwelling unit per 2 acres
- Lot area
- Minimum open space is 75%
- Minimum size
- Setback requirement
- Frontage is 60'

She explained that the parcel is partially zoned R-2 (Residential). She added that the Cluster Ordinance has not been utilized to her knowledge and that the one time it was the lots had to be vacated because they could not be sold. Ms. Proulx asked how much of the property wouldn't be developed. Ms. Bishop noted that the developers want to do 5-7000 square foot lots with about 30 acres of open space.

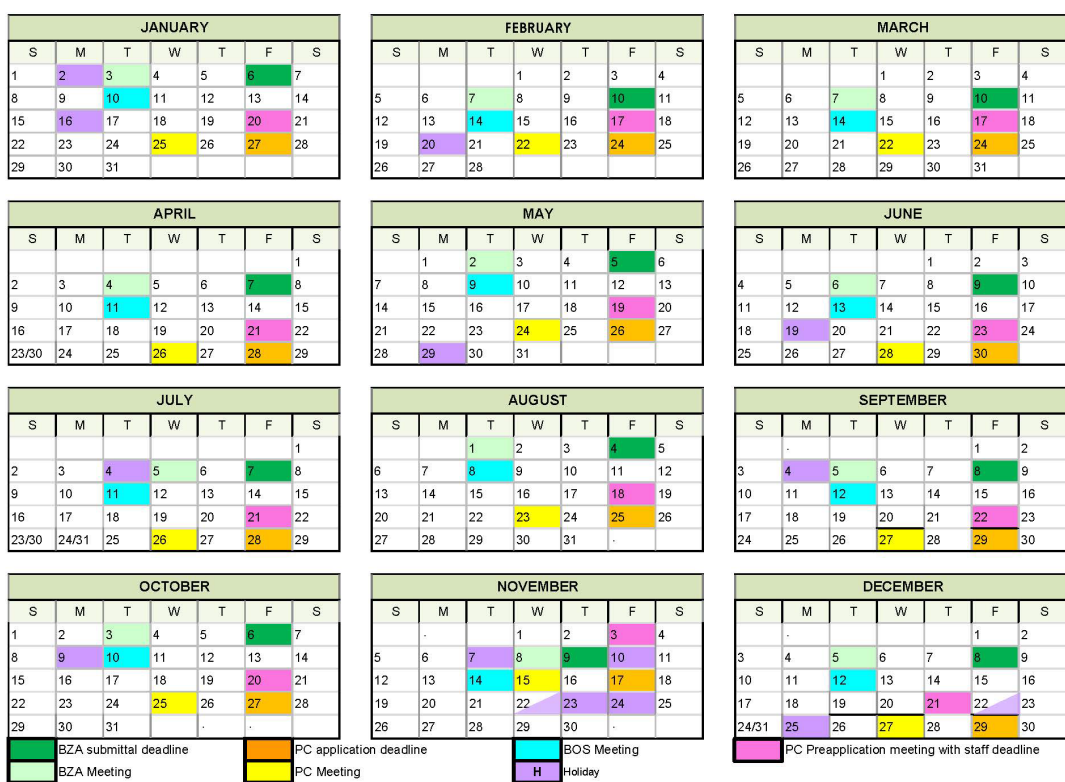
Mr. Hauschner noted that the topography will make it difficult to make the housing affordable. Mr. Rutherford asked if this would be a SUP. Ms. Bishop explained that Cluster Developments are currently

by-right but that they can make them a SUP. Mr. Harman asked if they would be able to access Service Authority Infrastructure. Ms. Bishop noted that they did meet with the Service Authority and that they stated it was possible and would max out their capacity. Mr. Harman asked if there would be an open space requirement. Ms. Bishop explained that the current ordinance reserves 40% for open space. Ms. Bishop asked the PC for their recommendations on what to do with the Cluster Ordinance. Mr. Rutherford noted that he would like to see the Cluster Ordinance reworked without involving the proposed project. Mr. Rutherford explained that they haven't had a large subdivision for affordable housing in years. He added that in other counties it has been required that a certain percent of housing be below AMI.

2023 Schedule

Ms. Hjulstrom reviewed the following schedule:

2023 Schedule



Mr. Harman made a motion to approve the 2023 schedule. Mr. Hauschner seconded the motion.

Yes:

Mike Harman

Phil Proulx

Jesse Rutherford

Mary Kathryn Allen

Robin Hauschner

Comp Plan Meeting Schedule

Ms. Bishop reviewed the following schedule:

Nelson County Comprehensive Plan Meeting & Engagement Schedule

Note: Topics to be covered at each meeting are tentative. Public Meeting or Event

Date	Topic(s)	Notes	Attendees
3/30/22	Kickoff & Orientation	Staff & BG Internal Kickoff/Orientation	Berkley Group; County Staff
5/31/22 12:00pm 6:00pm	County Tour Joint Worksession - Kickoff	Comprehensive Planning Overview Review Project Schedule Review Draft Public Survey Review Draft Diagnostic Discuss Current Issues & Future Vision	Berkley Group; County Staff; Planning Commission; Board of Supervisors
May/June 2022	Youth Art Challenge Opens		N/A
6/15/2022	Project Website Goes Live	Website will be used to provide additional information, publicize events and engagement opportunities, post drafts, etc	N/A
7/1/22	Online Survey Opens	Public Survey	N/A
July 13, 2022 10:00am	Stakeholder Listening Session 1	Focus Topics and Issues Discussion Stakeholder Group – Housing & Development	Berkley Group; Stakeholder Groups
July 13, 2022 5:30pm	Public Workshop # 1	Strengths & Challenges Exercise Mapping Exercise	Public; Berkley Group; County Staff; PC; BOS
July 20, 2022 2:00pm	Stakeholder Listening Session 2	Focus Topics and Issues Discussion Stakeholder Group – Hospitality, Lodging, Tourism	Berkley Group; Stakeholder Groups
July 20, 2022 5:30pm	Public Workshop # 2	Strengths & Challenges Exercise Mapping Exercise	Public; Berkley Group; County Staff; PC; BOS
August 3, 10:00am	Stakeholder Listening Session 3	Focus Topics and Issues Discussion Stakeholder Groups - Agriculture & Agrotourism	Berkley Group; Stakeholder Groups

Nelson County Comprehensive Plan Meeting & Engagement Schedule

Date	Topic(s)	Notes	Attendees
August 3, 2:00am	Stakeholder Listening Session 4	Focus Topics and Issues Discussion Stakeholder Groups - Community Groups	Berkley Group; Stakeholder Groups
August 3, 2022 Date, 5:30pm	Public Workshop # 3	Strengths & Challenges Exercise Mapping Exercise	Public; Berkley Group; County Staff; PC; BOS
8/31/22	Online Survey Closes	Public Survey	N/A
8/28/22 3:00pm	Public Workshop #4	Strengths & Challenges Exercise Mapping Exercise	Public; Berkley Group; County Staff; PC; BOS
10/2/22 3:00pm	Community Engagement Results Open House	Public Review & Comment on Engagement Results	Public; Berkley Group; County Staff; PC; BOS
October 25, 2022	Joint Worksession - Draft Content Review	Vision & Goals Chapter 1 "About the Plan" (Public Engagement Summary) Chapter 2 "About Nelson" (Demographics Analysis)	Berkley Group; County Staff; PC; BOS
December 21, 2022	County-Led Focus Group	Ag/Forestry, Parks & Rec; Infrastructure, Services, County Communication	County Staff; PC; BOS
January 18, 2023	Joint Worksession - Draft Content Review	Natural & Historic Resources Community Facilities & Infrastructure	Berkley Group; County Staff; PC; BOS
February 16, 2023	County-Led Focus Group	Housing, Economic Development	County Staff; PC; BOS
March 15, 2023	Joint Worksession - Draft Content Review	Housing & Community Development Local Economy/Economic Development	Berkley Group; County Staff; PC; BOS

Nelson County Comprehensive Plan Meeting & Engagement Schedule

Date	Topic(s)	Notes	Attendees
April 13, 2023	County-Led Focus Group	Transportation; Land Use, Misc	County Staff; PC; BOS
May 17, 2023	Joint Worksession - Draft Content Review	Future Land Use/Community Character & Development Transportation/Mobility Implementation Tools/Matrix	Berkley Group; County Staff; PC; BOS
TBD	Public Open House	Present plan at a public open house. Receive feedback and comments from public.	Public; Berkley Group; County Staff; PC; BOS
TBD	Joint Worksession - Final Review	Review final plan.	Berkley Group; County Staff; PC; BOS
TBD	729 Review	Plan delivered for VDOT 729 Review	N/A
TBD	Joint Public Hearing & Adoption	Present Final Plan for consideration by Planning Commission and adoption by Board of Supervisors.	Berkley Group; County Staff; PC; BOS

Board of Supervisors Report:

Mr. Rutherford noted that he will likely not be at the next meeting and someone else will be appointed as the BOS representative. He explained that he has enjoyed his experience on the Planning Commission. He noted that the Comprehensive Plan and Zoning Ordinance updates are big ambitions. He added that they should review the Zoning Ordinance as soon as they're done with the Comprehensive Plan. He explained that the average age of Nelson County increases 10 years every 10 years. He added that work force housing is needed to attract the businesses where people will work. He added that the Affordable Housing Conference is March 24th. He added that Nelson County has a shortage of 1000s of homes.

At 8:40 PM, Ms. Proulx made a motion to continue the meeting to January 18th at 7PM.

Yes:

Jesse Rutherford

Mary Kathryn Allen

Mike Harman

Phil Proulx

Robin Hauschner

Respectfully submitted,

A handwritten signature in black ink that reads "Emily Hjulstrom". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Emily Hjulstrom

Planner/Secretary, Planning & Zoning