

March 20, 2024

Virginia:

AT A CONTINUED MEETING of the Nelson County Board of Supervisors at 7:00 p.m. at the Nelson County High School Auditorium in Lovingston, Virginia.

Present: J. David Parr, West District Supervisor – Chair
Ernie Q. Reed, Central District Supervisor – Vice Chair
Thomas D. Harvey, North District Supervisor
Jesse N. Rutherford, East District Supervisor
Dr. Jessica L. Ligon, South District Supervisor
Candice W. McGarry, County Administrator
Amanda B. Spivey, Administrative Assistant/Deputy Clerk
Dylan M. Bishop, Director of Planning and Zoning
Emily Hjulstrom, Planner
Catherine Redfearn, Berkley Group
Chris Musso, Berkley Group

I. CALL TO ORDER

Mr. Parr called the continued meeting to order at 7:03 p.m. with five (5) Supervisors present to establish a quorum.

II. PUBLIC HEARING

A. 2042 Comprehensive Plan

Berkley Group will provide a presentation on the draft 2042 Comprehensive Plan. Following the presentation, the Board will receive public input regarding the draft Comprehensive Plan. The Comprehensive Plan is the County’s key policy document for land use, development, housing, infrastructure, transportation, and related economic and social issues.

Ms. Redfearn presented the following information:

NELSON COUNTY, VA

Comprehensive Plan Update

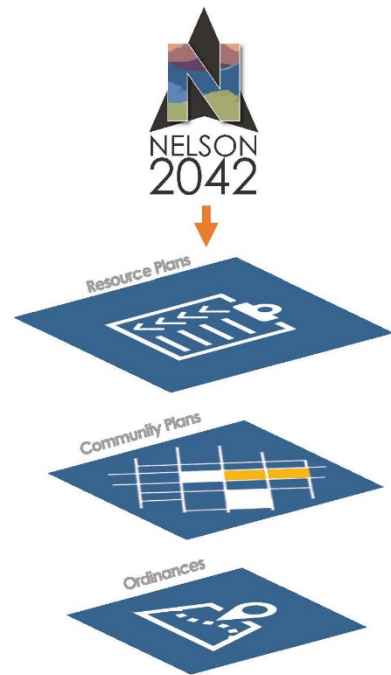


Board of Supervisors Public Hearing
March 20, 2024



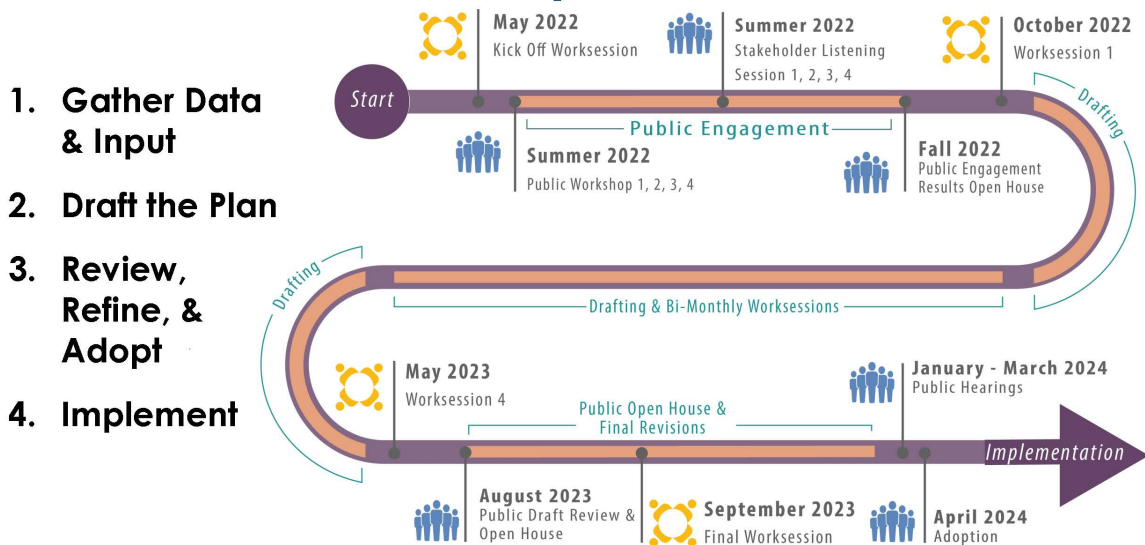
What is Nelson 2042?

- ❑ A community-guided vision for the future of the County
- ❑ The guiding framework for the community’s planning tools: Zoning Ordinance, Subdivision Ordinance, Capital Improvements Program, and other Plans & Studies
- ❑ A legally required document by Virginia State Code Section § 15.2-2223



Ms. Redfearn added that the Berkley Group has been working with Nelson County for the past two years to draft the 2042 Comprehensive Plan. She explained on February 28th the Planning Commission recommended to adopt the plan with the inclusion of several edits. She added that most of the edits are editorial in nature but there are two that incorporate policy changes.

How Was the Plan Updated?



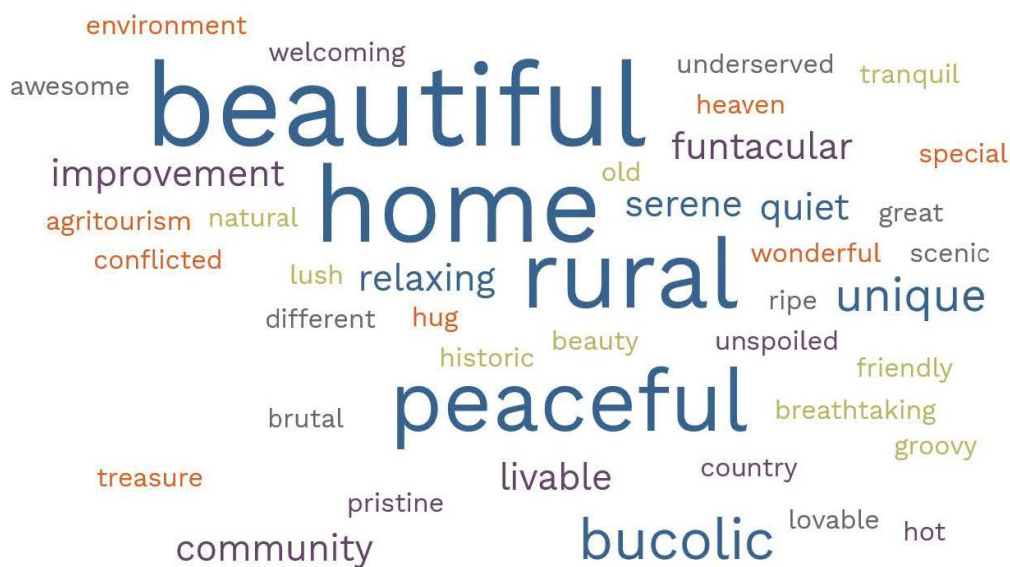
Ms. Redfearn explained that the 2042 Comprehensive Plan update was the culmination of bringing the community together and questioning what was valued, important to the community, and the future direction of the county. She noted that the Comprehensive Plan translated that input, data, and research into a policy and decision making guide for public officials. She added that the plan itself was not regulatory but provided the framework for updating and improving the county’s regulatory tools.

Ms. Redfearn explained that implementation was the most important part of the process and the plan would only work if it was utilized. She added that it was their charge, as community members, staff, and officials to ensure that the vision and policies in the document come into reality.

How Was the Community Involved?



She explained that this process was designed to be inclusive and robust as possible. She noted that all comments from the community were recorded and considered during plan development and refinement.



Ms. Redfearn pointed out that the beauty and rural environment were what drew people to live and recreate in Nelson County. She noted that it was not surprising that the key takeaway from community engagement was that there was a rural character that the county must strive to protect as well as environmental resources worthy of protection. She explained that the county must limit new development to specific areas of the county in order to achieve that goal. She added that it must be in balance with the need for housing choice, economic and educational opportunities, improved transportation safety and recreational amenities.

Key Takeaways from the Community



Rural character & environment considered most valued asset



Any new development should be strategic and not impact rural character



Nelson has a strong **sense of community and identity**



Transportation safety improvements are a top priority



Improving **housing choice & quality** is a priority focus



Schools & educational opportunities are top priorities for the future



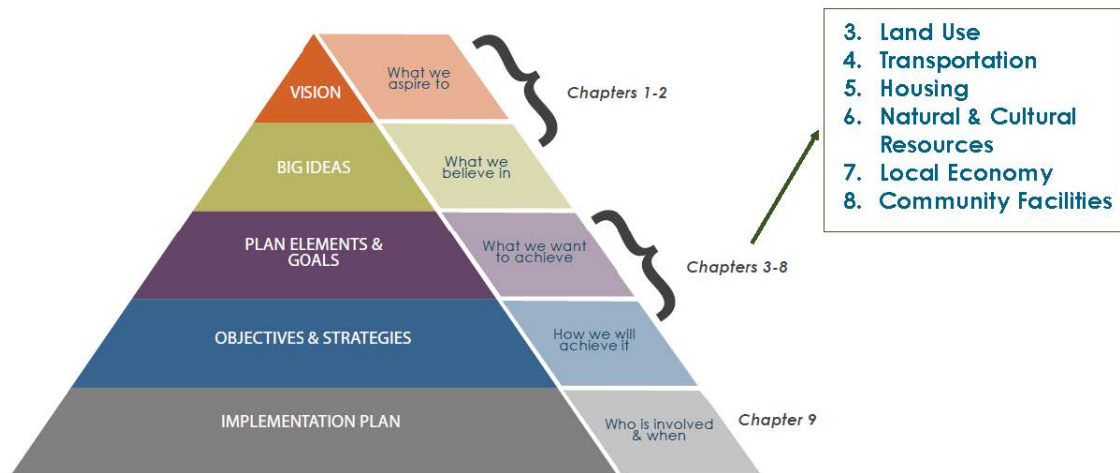
Target **commercial & economic** growth on the 29 corridor



Improve **recreation & alternative transportation**

6

What is in the Comprehensive Plan?





Ms. Redfearn explained that the four big ideas and the vision statement came directly from the community engagement process. She added that these big ideas and vision statement form and inform the policy content of the plan.





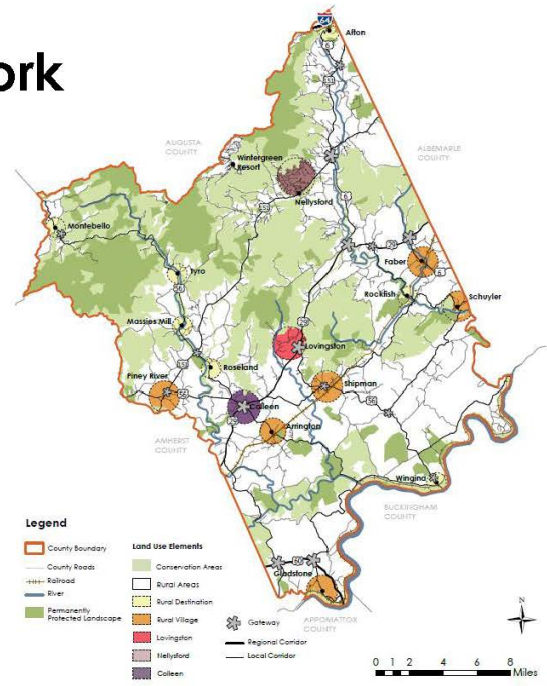
Chapter 3
-
Shaping Community Character

Our Goal for Shaping Community Character
Nelson County preserves and enhances its rural character and natural resources by creating opportunities for strategic growth to create a stronger, more vibrant, and prosperous community.

Ms. Redfearn explained that Chapter 3 addresses future land use and includes a policy framework for strategic investment in the county, a conceptual future land use map, land use pattern areas, design principals, and supporting strategies. She described the land use categories.

Future Land Use Framework

			
CONSERVATION & RURAL	RURAL CENTERS	COMMUNITY CENTERS	GATEWAYS & CORRIDORS
Conservation Areas <hr/> Rural Areas	Rural Destinations Allie Masses Mill Montebello Rowland Wingina Tyro Rockfish Rural Villages Piny River Cladstone Schuyler Shipman Faber Arrington	Nellysford <hr/> Lovington <hr/> Colleen	Community Gateways Regional & Local Corridors



Future Land Use Framework

			
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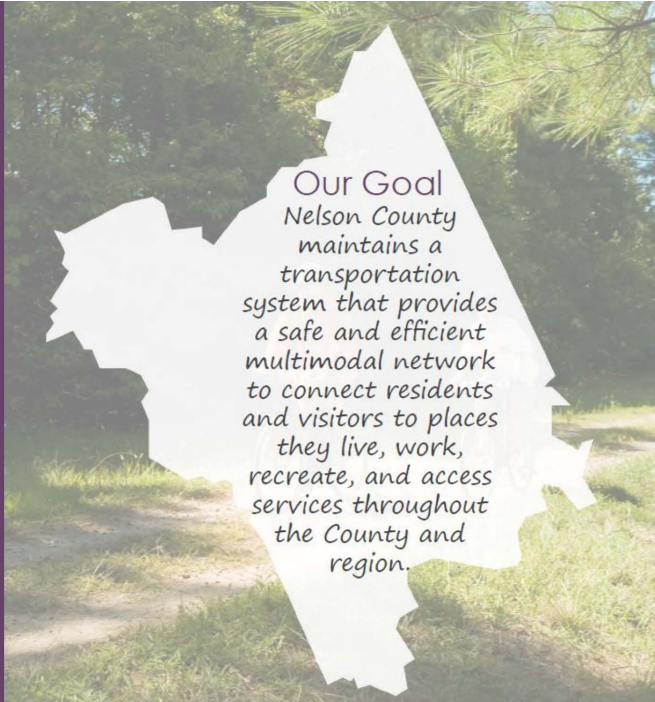


PC RECOMMENDATION

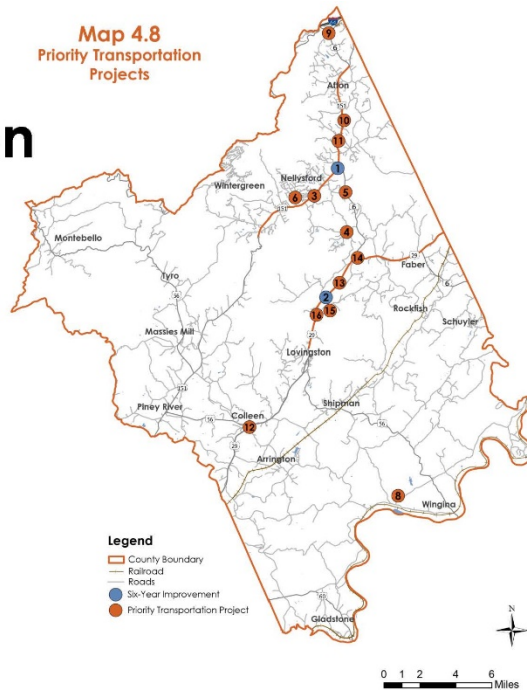
1. Remove Montebello from Rural Destination Land Use Category
 - Delete from Future Land Use Map
 - Delete Description on page 41
2. Add a Strategy to Land Use Chapter
 - Discourage the use of large-scale development in Montebello through zoning.

Ms. Redfearn noted that a recommended revision from the Planning Commission was to clarify the intent behind the land use designations and Nellysford in particular. She then reviewed the two recommendations shown on the slide above that pertain to the Future Land Use Framework and Montebello. She explained that this would restrict Montebello to conservation and rural area types.

Chapter 4 - Connecting People and Places



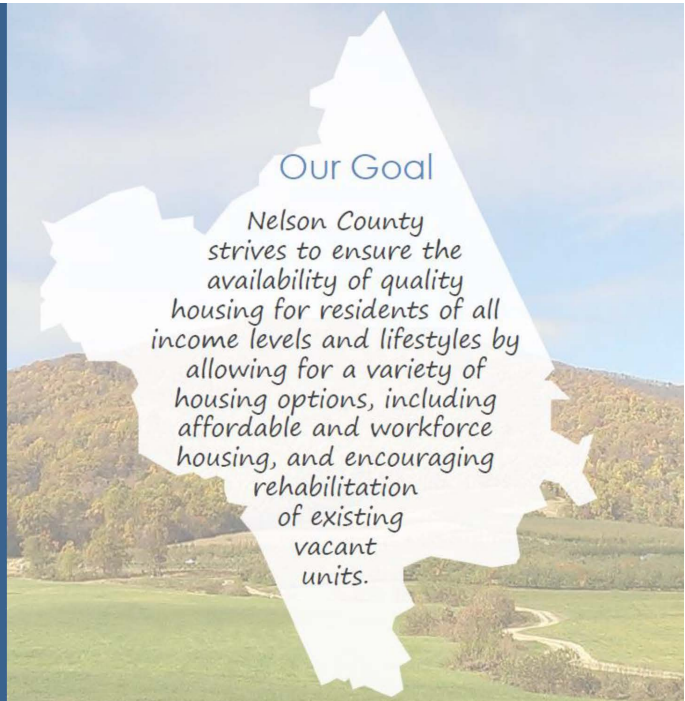
Priority Transportation Projects



Ms. Redfearn noted that this chapter described the transportation inventory, needs, planning assumptions, and recommended connectivity projects and strategies across the county. She added that focus areas included improving the existing transportation network with a key emphasis on vehicular safety improvements, investing in alternative transportation, and coordinating those projects with the Future Land Use Map.

Ms. Redfearn showed the priority projects map and associated list from the plan. She noted that these projects had been identified in coordination with VDOT and approved by VDOT. She noted that these projects prioritized safety improvements, investments in trails and sidewalks, continued coordination with VDOT through further plans and studies. She explained that language in this section had been further refined and edited to clarify the need for transportation safety improvements along the Route 151 corridor.

Chapter 5 - Creating Livable Communities



Ms. Redfearn explained that this chapter addressed housing. She noted that the chapter described the existing housing conditions, ways to promote affordable housing, housing choice, and healthy livable neighborhoods. She added that key objectives included improving the quality of the existing housing stock, expanding allowable housing types, and supporting livable connected communities by locating amenities and services near villages or existing residential areas.

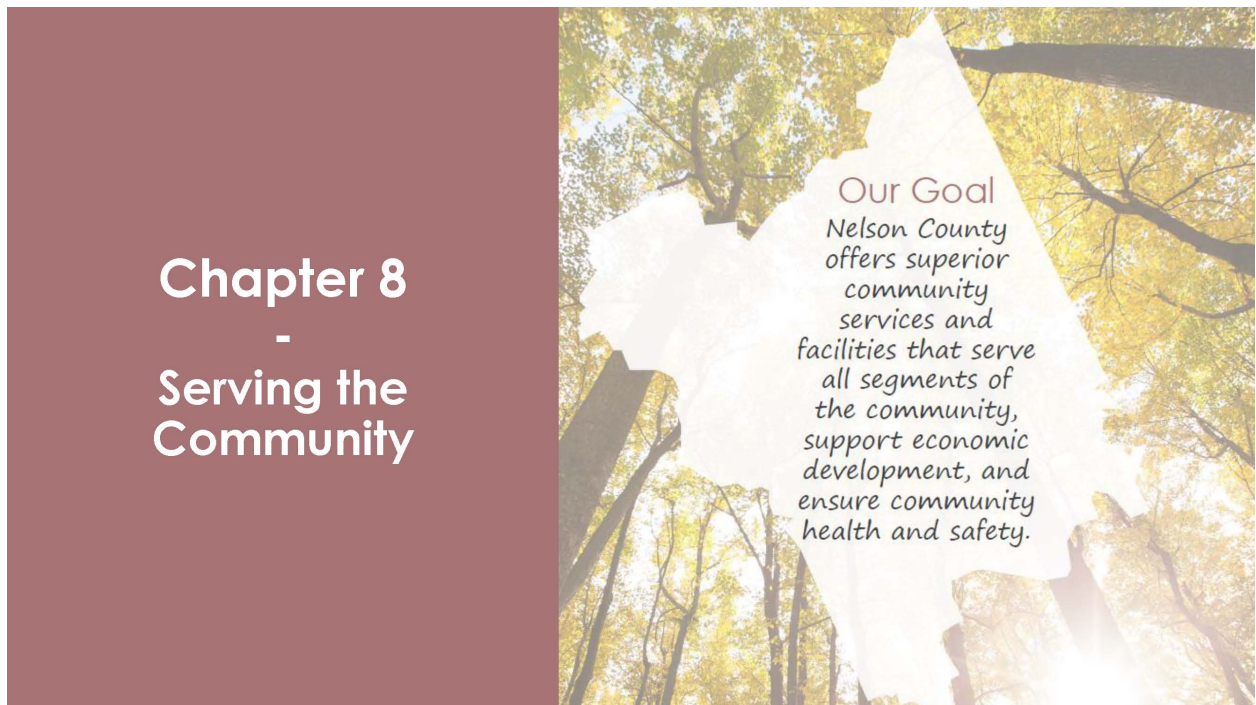
Chapter 6 - Protecting Valuable Resources



Ms. Redfearn explained that this chapter addressed natural and historical resources. She noted that the chapter described information on items such as topography, water resources, flood hazards, cultural/historical sites, and strategies for sustainable growth and development. She added that the key focus areas were planning for resiliency in the community while protecting the sensitive resources and landscapes within the county.



Ms. Redfearn explained that this chapter addressed the economy within the county. She noted that the chapter described economic data and drivers within the county, key industries, and strategies for economic growth. She added that the key focus areas included supporting today’s work force through education and training opportunities, diversifying and enhancing the community’s economy by supporting both traditional and emerging industries (many of which are based on the tourism and recreation).



Ms. Redfearn noted that Chapter 8 described anticipated needs and improvements to public facilities, recreational amenities, educational needs, and other public assets. She added that the key focus areas included enhancing the effectiveness and the efficiency of county government, improving infrastructure, and providing quality of life services to all segments of Nelson County.



Chapter 9 - Implementation

Implementing the Plan



- **Annual Budget**
- **Capital Improvement Plan**
- **Land Use Regulations**
- **Land Use Actions**
- **Intergovernmental Cooperation**
- **Annual Review**

IMPLEMENTATION TYPE	RESPONSIBLE AGENCY	SCHEDULE
<ul style="list-style-type: none"> • Regulation Updates and Enforcement • Programs & Services • Community Outreach and Education • Partnerships • Plans and Studies • Capital Projects 	<ul style="list-style-type: none"> • Nelson County • Nonprofit Organizations • Regional and Institutional Partners • State and Federal Agencies • County Citizens 	<ul style="list-style-type: none"> • Short-term (1-3 years) • Mid-term (3-5 years) • Long-term (5+ years) • Ongoing

Ms. Redfearn noted that Chapter 9 categorized and prioritized all of the strategies from the previous chapters and provides a list of tools for their successful implementation. She noted that a plan is only successful if it is used. She explained that the implementation matrix is the tool to keep the county on track and monitor progress towards the Nelson County of 2042. She added that the plan should be used daily or as they are making development decisions as well as reviewing the matrix annually and updating the document as necessary to keep them on track.

Thank you!



Chair Parr opened the public hearing at 7:22 PM

Sherri Smith explained that she was from a first family Virginia farming legacy. She added that she has lived in Montebello since the 1990's raising her family. She explained that she was speaking on behalf of

the Keep Montebello Rural Coalition (KMRC). She thanked the Board of Supervisors and Planning Commission for the recent revisions that were recommended for the plan, with emphasis on the provisions pertaining to the Montebello region. She noted that there was a full copy of the comments from the KMRC that has been submitted to the Board.

Ms. Smith explained that the KMRC requested Montebello not be referred to as a gateway or a basecamp for other parts of the county. They felt that Montebello was the destination to protect, that it was unique in and of itself, a gem for the generations, and distinctive. She added that Montebello was not a passthrough to the county.

The KMRC requested that 'by right' be strictly defined. Ms. Smith added that the KMRC had looked at definitions from other localities and found very little in common. She added that not having a definition for 'by right' in Nelson County suggested a latitude that other counties were not allowing. The KMRC asked they address 'by right' by both what it was, and what it was not. They felt that this could be easily done without conflict with the Code of Virginia. They further requested that upon finalization of the plan that 'by right' is strictly defined as it pertains to zoning applications, especially Major Site Plans.

Ms. Smith stated that it has been indicated that 'by right' will be looked into when the county reviews the Zoning Ordinance. The KMRC asked that this be a total revisal, and not just a review, to protect these regions from unweildly commercial development. They also requested that further site plans and Special Use Permits for significant developments be put on hold in the Montebello area until the anticipated zoning revisions are finalized.

She added that it appeared evident that developers who built groups of cabins or multiple small dwellings were ultimately and intentionally planning them as short-term vacation rentals and that this type of development should be viewed as a commercial endeavor (whether or not that is stated in the building permit or site plan). She explained that although very small structures (such as cabins) may meet building requirements, if they are discharging into a natural water source, there should be some regulations through DEQ that monitor their high volume of discharge so as not to disrupt the sensitive ecosystem that provides a life source for their native Brook Trout. In addition, during past hurricanes there had been massive property damage and even loss of life from collapse of buildings that have been situated too close to the river or in the floodplain. Their great concern ws protecting Montebello's way of life and our headwaters, which ultimately affect every waterway from here to the Chesapeake Bay.

Ms. Smith noted that Nelson County zoning code does not define the word "cabin." Therefore, when the word "cabin" was used with a multiple dwelling "by right" use provision in a Major Site Plan application, it suggested that the county must trigger a more profound inquiry to determine commercial intent and the potential development of a campground, thus requiring a Special Use Permit. She asked that the county recognize such cabins as having C-1 or A-1 zoning intent.

She added that they do not want to see their roads damaged by the overuse of such developments. The KMRC thanked the Board for listening to their community and asked that the county assist them in fulfilling their mission to protect the rural resources and character of the region.

**Keep Montebello Rural Coalition
Nelson County Board of Supervisors Comprehensive Plan Hearing
March 20, 2024, 7 PM, Nelson County High School**

The Keep Montebello Rural Coalition (KMRC) is committed to preserving our Community's unspoiled nature, neighborly relationships, cultural heritage, authenticity, and rural character.

We thank the Planning Commission and the Nelson County Board of Supervisors for the recent changes recommended for the Comprehensive Plan by the Planning Commission on February 28, 2024, and the Nelson County Board of Supervisors on March 12, 2024, pertaining to the Montebello region (see Background & History).

Regarding wording used, we further request that Montebello not be referred to as a “gateway” or “basecamp” for other parts of the County, as stated in the current draft of the Comprehensive Plan. We feel that Montebello is **THE** destination to protect, unique in and of itself. Montebello **IS** a gem for the generations, and we want to assist Nelson County in keeping it that way, distinctive in every way.

Additional Matters of Concern

1. The KMRC has researched the use and definition of “by right” use. In this search, KMRC found nothing instructing counties on what to include as a “by right” use. Although there are other references to “by right” in the VA code, there is no definitive definition. Comparing Nelson County's “by right” uses with other counties in Virginia, we found very little in common, and the uses by other counties do not appear to offer the latitude that Nelson does for short-term rental developers.
 - a. KMRC agrees with the Board of Supervisors’ decision to define “by right” in the comprehensive plan and asks that said definition cover what it is and what it is not. We suggest that this could easily be done without conflict with Virginia codes.
 - b. KMRC further requests that upon finalization of the Comprehensive Plan, the provision of “by right” as pertains to Zoning applications be strictly defined, especially in the context of a Major Site Plan application.

2. As the Board of Supervisors has indicated at public hearings, beyond defining "by right" in the Comprehensive Plan, the "by right" use provision in the County's zoning ordinances needs to be "fixed."
 - a. KMRC requests that zoning ordinances be overhauled, updated, and revised per the intentions behind the new Comprehensive Plan. This will protect unique rural regions like Montebello from unwieldy commercial development, expressly yet not limited to commercial development under the vague "by right" use loophole.
 - b. The KMRC respectfully requests that Major Site Plans and Special Use Permits for significant development applications/projects in the Montebello area (subdivisions, groups of cabins, golf courses, etc.) be put on hold until the anticipated zoning revisions are finalized.
3. It appears evident that developers who build groups of cabins or multiple small dwellings are ultimately and intentionally planning them as short-term vacation rentals; therefore, this type of development should be viewed as a commercial endeavor (whether or not this is stated in the building permit or site plan).

Although very small structures (such as cabins) may meet building requirements, if they are discharging into a natural water source, there should be some regulations through DEQ that monitor their high volume of discharge so as not to disrupt the sensitive ecosystem that provides a life source for our native Brook Trout. In addition, during past hurricanes there has been massive property damage and even loss of life from collapse of buildings that have been situated too close to the river in the floodplain. Our great concern is protecting Montebello's way of life and our headwaters, which ultimately affect every waterway from here to the Chesapeake Bay.

- a. Of note: The Nelson County zoning code does not define the word "cabin." Therefore, when the word "cabin" is used with a multiple dwelling "by right" use provision in a Major Site Plan application, it suggests that the county must trigger a more profound inquiry to determine commercial intent and the potential development of a campground, thus requiring a Special Use Permit.

- b. The KMRC asks Nelson County to recognize this kind of grouping of dwellings for what it is because commercial endeavors in an area such as Montebello stress rural infrastructure, destroying its pristine nature and rural character, and is contrary to the current A-1 “Agricultural Intent” and C-1 “Conservation Intent” as currently defined by Zoning.

“A-1 Statement of intent: This district is designed to accommodate farming, forestry, and limited residential use. While it is recognized that certain desirable rural areas may logically be expected to develop residentially, it is the intent, however, to discourage the random scattering of residential, commercial or industrial uses in this district.”

“C1 Statement of intent: This district covers portions of the County which are occupied by various open spaces such as steep slopes, forests, parks, farms, marshland, lakes or stream valleys. This district is established for the specific purpose of facilitating existing and future farming operations, conserving water and other natural resources, reducing soil erosion, protecting watersheds, reducing hazards from flood and fire and preserving wildlife areas of the County.”

- c. KMRC does not want to see our picturesque and rural country roads utilized as primary conduits for traffic destined for scattered campgrounds, groups of short-term rentals, golf courses, or wineries. With only a few roads in this pristine area, KMRC asks Nelson County to respect the extreme need for safety, congestion, and wear and tear prevention, as it seeks to preserve the rural and historical character that our backroads represent.

4. In Conclusion

As members of the KMRC, we are looking to Nelson County to assist in fulfilling our community mission of protecting the valued resources and rural character of our Region.

KMRC respectfully requests the County's continued support, ensuring that future growth in our community respects the core rural values and attributes we've identified herein with reasonable and substantive changes to the current Comprehensive Plan and to the revision of zoning ordinances that is to follow.

3/20/2024 Presentation to NC BOS Hearing, re: Comp Plan, Page 3

Stephen Bayne – Nellysford, Virginia

Mr. Bayne read the following quote from the Comprehensive Plan Executive Summary “While Lovingston and Colleen have the capacity to absorb new growth, provide regional services, and provide for housing needs within the County, Nellysford is at capacity and planning should focus on targeted investment in services, amenities, rehabilitation, and redevelopment.”. He added that they are aware Nellysford was at capacity to absorb new growth. He stated that language on Page 44 of the Comprehensive Plan draft was likely contradictory and certainly insufficient. He believed that increasing density in Nellysford was likely contrary to the fact that Nellysford was at capacity. Mr. Bayne read the following from Page 44:

- “...encourage a mix of use types in a traditional Village development pattern.”
- “Focus on allowing for a mix of uses in a village setting.”
- “...ensure compatibility with ... traditional Village development patterns.”
- “Allow the development of a variety of housing types.”

Mr. Bayne requested that Traditional Village Development Pattern be defined in the glossary. He questioned how encouraging mixed-use types would not increase density and contradict that Nellysford was at capacity. He explained that this was heightened with the use of “encourage and focus on” rather than “allow”. He questioned how they could allow a variety of housing types without increasing density. He

asked that the language be clarified so that the constituents could understand. He asked that in Appendix B they update the definition of ‘Small-Scale Multi-Family Residential’ as follows “Housing options such as apartments, duplexes, triplexes, or townhomes that are developed in a way to have a small impact to the surrounding area in regard to such things as traffic volume, noise, lighting, **viewshed**, etc.” He stated that it was important to itemize ‘viewshed’. He asked that the Board address these concerns and added that it was important that they have the best Comprehensive Plan possible with known improvements as it would inform and guide the zoning rework to follow. He requested that those comments be addressed prior to finalization of the Comprehensive Plan.

Paul Davis – Nellysford, Virginia

Mr. Davis stated that he supported exactly what Mr. Bayne presented. He questioned why it was so difficult to change the language used for the Nellysford area. He explained that the residents he had spoken to had noted that Nellysford was at capacity. He noted that he had gone door to door from Black Bear Creamery down to the entrance of Stoney Creek along Route 151. He explained that the residents were all scared of big developments coming in and changing the area. He added that all the residents he spoke to were living in homes that had been in their families for decades. He questioned how difficult it would be to change the language of the plan when it was only a guide line that could be manipulated. He asked that they take the time to speak with the residents along that stretch of Route 151. He explained that big developments could change the area for their own profit. He added that this could cause Nelson County to lose a way of life that the county had.

Stanley Milesky – Nellysford, Virginia

Mr. Milesky addressed growth and development along the Route 151 corridor and its impact on highway safety and traffic flow issues, and possible water table depletion. He noted that the underlying highway safety problems of Route 151 were the consequence of a complex mix of local and through traffic. He explained that the same 14.1 mile stretch of two-lane road was used by that varied mixture for different purposes. He added that drivers also have differing expectations regarding appropriate speed and destination for themselves and other drivers utilizing the same road. He noted that a relatively long stretch of road between Wintergreen and US 250 with its average speed of 55 mph was almost the perfect recipe for conflicts and near misses daily experienced on Route 151. He explained that this mix of traffic types was not likely to change and the conflicts they produce remained a problem that could be expected to exacerbate as traffic volumes increase. He noted that there are at least 20 agritourism businesses located along Route 151 or adjacent access roads. He explained that these establishments bring additional traffic on Route 151 as well as significant increase in tax revenues to both the Commonwealth of Virginia and Nelson County. He added that it was likely that additional similar businesses would seek to locate along Route 151. He noted that there were already restaurants and other business located along the corridor that were also likely to increase. He stated that it was fair to designate some portion of the increased revenues to the mitigation of the traffic conflicts resulting from that increased growth. He added that it would also be fair to require developers of businesses submit newly revised Special Use Permits to share in the cost of the mitigation. He explained that otherwise the cost of mitigation was placed solely on the taxpayers and citizens of Nelson County. He added that the same dynamics affecting traffic were also affecting the water table and aquifers across the entire county, but especially in Nellysford and Stoney Creek. He stated that a formal process was needed for any Special Use Permit with entry on the Route 151 corridor. He noted that this should include an analysis of the additional traffic (present and future) likely to be generated, the impact of that traffic on highway safety, and the likely use from the aquifer.

Bonnie Seaman Nedrow – Greenville, Virginia

Ms. Seaman Nedrow stated that she was originally from Montebello but currently lived in Augusta County. She explained that she still owned the property where she was born and raised on Fork Mountain. She stated that she did not want to see that property be encircled by development of campgrounds, cabins, or anything else that took away from the beauty of her home town. She implored the Board to look at the plan very carefully. She requested that they look at ‘by right’. She asked them to take all the people that live and have lived in Montebello into consideration. She explained that their community was as important to them as it was to anyone else that travels Route 56 from Steele’s Tavern at Route 11 to Route 151 in Nelson County. She asked that they keep Montebello and Nelson County from being developed by big developers that only want to put money in their own pocket. She noted that there was already a development occurring. She added that she did not want to see condos that remind her of California.

March 20, 2024

Susan McSwain – Shipman, Virginia

Ms. McSwain noted that the Comprehensive Plan lived up to the definition of comprehensive. She explained that the plan covered all aspects of Nelson County and presented a lot of data. She suggested that it can be a guide post on county ordinances and it was a great resource for citizens to learn about the county. She noted that it could apply to newcomers to the county or long time residents. She noted that she liked the list of documents and resources provided in Appendix C. She noted that Appendix D currently had no information so it should either be deleted or have the information included. She thanked county staff and elected officials for the work done to complete the plan. She thanked the Berkley Group for coalating all of the input received from citizens. She believed that the finished Comprehensive Plan would serve the county well.

Chair Parr closed the public hearing at 7:43 PM

III. ADJOURN AND CONTINUE TO MARCH 22, 2024 AT 9:30 A.M. FOR A BUDGET WORK SESSION.

At 7:44 p.m., Mr. Reed made a motion to adjourn and continue to March 22, 2024 at 9:30 a.m. for a budget work session. Dr. Ligon seconded the motion. There being no further discussion, Supervisors approved the motion by vote of acclamation and the meeting adjourned.