



# **Nelson County Planning Commission**

## **Meeting Minutes**

### **July 24, 2024**

**Present:** Vice Chair Robin Hauschner and Commissioners Mike Harman and Phil Proulx. Board of Supervisors Representative Ernie Reed

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

**Call to Order:** Vice Chair Hauschner called the meeting to order at 7:00 PM in the General District Courtroom, County Courthouse, Lovingston.

#### **Review of Meeting Minutes:**

Mr. Hauschner noted that the review of the June 26th Planning Commission minutes would be reviewed at their next meeting.

Ms. Bishop announced that SUP #24-0157 for the Permanent Sawmill would be deferred to the August 28th, 2024 Planning Commission meeting. She explained that recent legislation changes regarding advertising for public hearings had shifted the advertising window by one day. The application would have to be readvertised to meet the new code.

#### **Major Site Plan #24-0169 - Renaissance Ridge**

*Ms. Bishop presented the following information:*

Ms. Proulx noted that she had spoken with the owners of the agriculturally zoned property behind the subject property. She explained that up until 2004 the subject parcel was Agricultural (A-1) and the neighboring property owners had a right-of-way (ROW) around the side of the property. She noted that the easement is now shown as going through the middle. She added that the neighbors' biggest concern was that they would not be able to continue their own agricultural and agritourism uses without limitation. She added that there were some issues with the ROW itself. She noted that Residential Planned Community zoning (RPC) is exempt from site plan requirements, but it did say in that section of the ordinance that the site plan should take into consideration the impact of development on neighboring properties. Ms. Bishop explained that a ROW dispute would be a private/civil matter. She noted that she was aware of this case where the landowners were currently in court to relocate the ROW. She added that it shouldn't be a factor in the site plan approval unless there was something in Article 7 or the submitted proffers that the ROW was not compliant with. Ms. Proulx noted that the

court was not considering the ROW's effect on the uses of the A-1 property. She noted that Article 7 said "Site planning shall consider the future development of adjacent parcels as recommended by the Nelson County Comprehensive Plan or other approved local plan... The site plan shall provide for safe and convenient vehicular and pedestrian circulation between sites to be occupied by complementary uses." She questioned that if they were to approve the plan and the neighbors then wanted to put in a farm brewery, what would happen if ABC would not allow it due to the ROW. She noted that the neighbors could be left without the full use of their property. She added that the developer could work with the neighbors to guarantee public access. She noted that VDOT should take into consideration the potential for additional development on the neighboring parcel. Mr. Reed noted that he agreed with Ms. Proulx's concerns but that he also agreed with Ms. Bishop that it was not under their purview to decide if their appeal had merit in the court of law.

Mr. Reed noted that Stuart Sadler had stated in his letter that the intention of the proffer from the 2004 rezoning was not to create a residential care facility when it seemed to Mr. Reed that the proffer read that it was. He noted that the response was confusing at best. He noted that the proffer read as what it said and not what an attorney said it said, unless they were in a court of law. Ms. Bishop noted it had been unclear to staff and the County Attorney's office what the proffer language was supposed to mean. She noted that they had requested a statement of compliance with the proffers for staff to review and make a determination. She noted that they had not received the letter from Mr. Sadler until earlier that day. She noted that she had sent this to the County Attorney for review but was not able to provide feedback yet.

Mr. Reed noted that the proffer statement even specified a location for the 'senior residential care.' Ms. Proulx noted that while the site plan ordinance did not apply, they did need to consider adjoining properties. She noted that it did not matter how it was resolved but this project did have the potential to limit the property behind it. She asked if the neighbors were to construct a brewery, would they be able to use the ROW through the middle of the development? Mr. Reed noted that he had not seen the determination from the court case but that it was not their position to make a determination on it. He noted that the County Attorney should take a look at both the proffers and the ROW issue. Ms. Bishop noted that she had not read the order but she believed it gave limited access to the property. She added that access does sometimes prevent and prohibit development in other cases, for example, where someone would want to subdivide but they could not due to not being able to secure a wide enough ROW. Ms. Proulx noted that in this case, they were talking about existing/by right uses that the owner wanted to maintain. Ms. Bishop noted that what she was unclear on was whether the existing ROW had allowed any more access than the new one.

Mr. Hauschner noted that there were two different issues they were discussing in regard to the ROW. Both the existing agricultural uses that were there and then the prospective use for a brewery. He noted that they would need to convert the ROW to a use that it was not currently being utilized for.

Mr. Reed asked if an application had been made for public access at that point. Ms. Bishop noted that they did not regulate access and it was the owner's responsibility to work with ABC on the access. Ms. Proulx noted that she had heard second hand that ABC was not sure how to navigate RPC zoning.

Mr. Hauschner asked if it was within the scope of that meeting to make a request for the ROW to continue allowing for the use of farm equipment for its current use. Ms. Bishop noted that the ROW

would be a civil matter. Ms. Proulx noted that she believed they could only look at what was presented on the site plan. Ms. Bishop noted that if the plan meets the Zoning Ordinance and the proffers then it must be approved by the Planning Commission. Ms. Proulx noted that she had suggested it might not meet the ordinance and Mr. Reed suggested it might not meet the proffers. Mr. Reed noted that there was a plat of relocated easements, dated March 13th, 2024, that showed a connecting road from the main entrance of the development back to the northernmost ROW. He noted that he did not know if it was something submitted as part of the application or its status. Mr. Reed showed the plat and Ms. Bishop noted that it did have Steve Driver's seal from Terra Engineering. Mr. Reed noted that he had received it from Donna Small. Mr. Reed noted that if it was part of the submission then it would change the layout of the development. Ms. Bishop noted that the plat would not come through Planning and Zoning. Ms. Proulx asked if ROWs should be shown on the Site Plan. Ms. Bishop believed so. She noted that it was a plat that showed existing easements. Mr. Reed asked if the blue-colored easement existed.

Steve Driver of Terra Engineering is the engineer for the project. He noted that the blue easement was an access to the Small property from the main road. He noted that this easement was in place of the existing easement that ran along the unnamed tributary. Ms. Proulx asked if it was shown on the site plan. Mr. Driver noted that it was, he explained it was shown in blue on the plat to show that it was intended to replace the northern easement. Mr. Reed and Mr. Driver then lined up the plat and site plan to show that they do match.

Ms. Bishop asked what code section Ms. Proulx had referenced earlier from Article 7. Ms. Proulx noted that it was from Article 13, section 13-4-DD. Ms. Bishop noted that the review would be exempt from Article 13.

Ms. Proulx asked what the parking lot was for. Mr. Driver noted that it was to accommodate more than the minimum number of parking spaces. He noted that most of the homes had garages where they could park in the garage and in front of the garage. He noted that there was a road without as much parking and the parking lot was to prevent people from parking along the road.

Mr. Reed asked if the County Attorney could take a look at the issues and provide feedback.

**Mr. Harman made a motion to defer MSP #24-0169 Renaissance Ridge until the August 28th Planning Commission meeting regarding waiting for more information on the proffers and the ROW access. Mr. Hauschner seconded the motion.**

**Yes:**

**Phil Proulx**

**Mike Harman**

**Robin Hauschner**

**Ernie Reed**

**Board of Supervisors Report:**

Mr. Reed noted that they had a presentation from their consultants on the potential for water impoundment and water supply upgrades to the Lovington Wastewater plant. He noted that this also went before the Service Authority. He believed that there was more engineering that had to be done on the project. He added that the Service Authority and the County would need to make an agreement on the bond.

Ms. Hjulstrom noted that staff had met with the Berkery Group that morning regarding the Zoning Ordinance update and they were excited to get started on it.

Ms. Bishop noted that they were planning a Joint kick-off meeting in August and they would need to decide on a date. She added that they would also have a public workshop and focus groups in October. She noted that joint work sessions would be every other month starting in December.

**Ms. Proulx made a motion to adjourn at 7:37 PM. Mr. Reed seconded the motion.**

**Yes:**

**Phil Proulx**

**Mike Harman**

**Robin Hauschner**

**Ernie Reed**

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Emily Hjulstrom". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Emily Hjulstrom

Planner/Secretary, Planning & Zoning