



Nelson County Joint Planning Commission/Board of Supervisors
Meeting Minutes
August 28th, 2024



Present: Board of Supervisors: Chair David Parr, Jesse Rutherford, Jessica Ligon, and Ernie Reed -
Planning Commission: Chair Mary Kathryn Allen and Commissioners Chuck Amante, Phil Proulx and
Mike Harman

Staff Present: County Administrator Candy McGarry and Deputy Clerk Amanda Spivey - Dylan Bishop,
Director and Emily Hjulstrom, Planner/Secretary

Call to Order: Mr. Parr and Mr. Harman called the meeting to order at 4:02 PM in the Old Board of
Supervisors Meeting Room, County Courthouse, Lovingston.

Mr. Musso of the Berkley Group introduced himself. He explained that Cecile Gaines, a Senior Planner at
the Berkley Group, would be joining him throughout the Zoning Ordinance update. He added that Rebecca
Cobb, Deputy Director, would also join them.

Mr. Musso presented the following information:

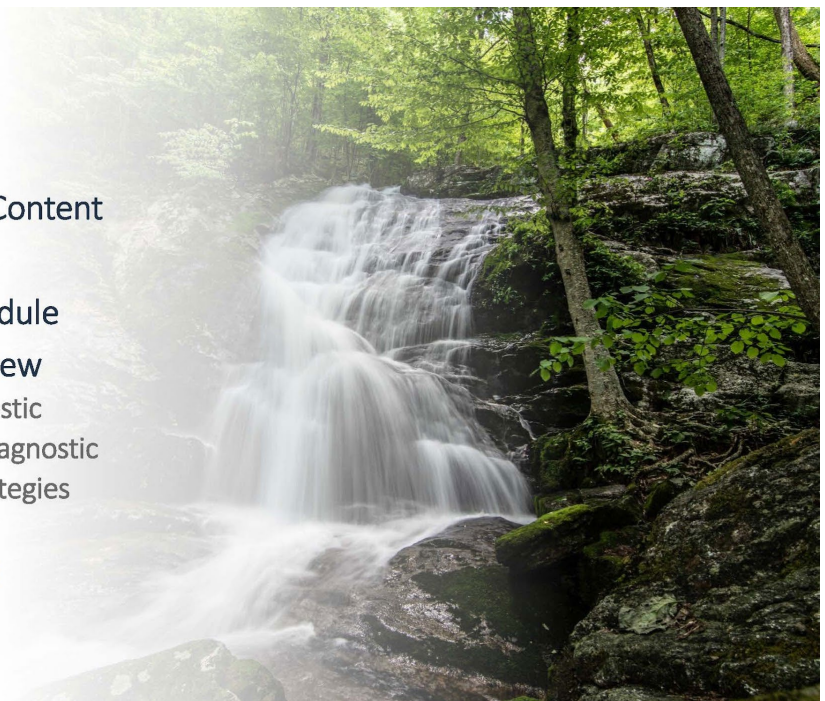
Nelson County Zoning and Subdivision Ordinance Update

Planning Commission and Board of Supervisors
Joint Kickoff Meeting
August 28, 2024



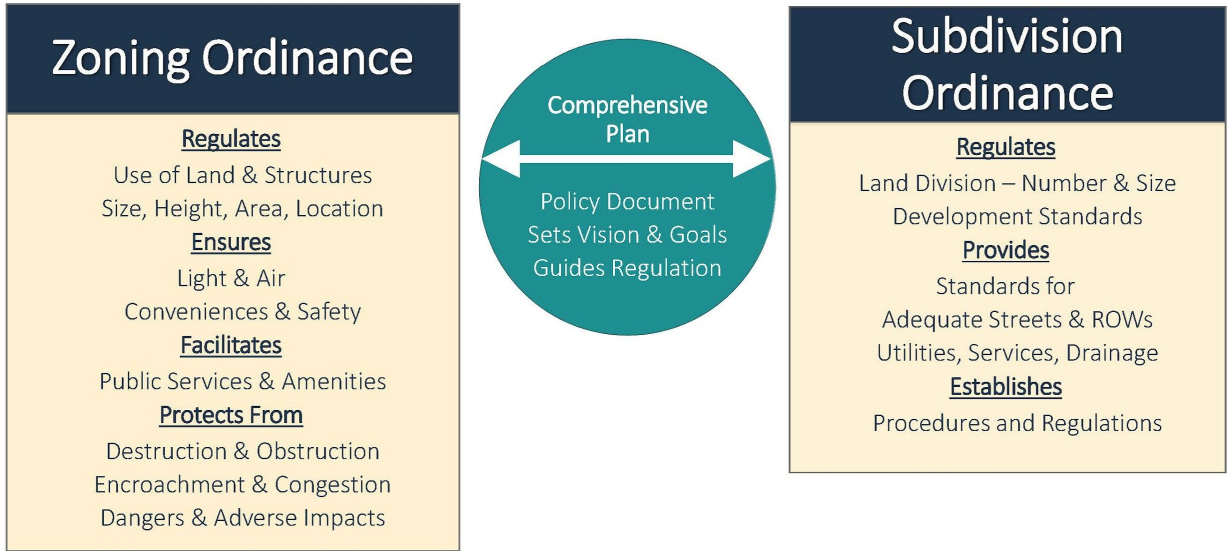
Agenda

- Ordinance Purpose and Content
- Project Intent
- Project Overview & Schedule
- Land Use Evaluation Review
 - Zoning Ordinance Diagnostic
 - Subdivision Ordinance Diagnostic
 - Comprehensive Plan Strategies Diagnostic
- Community Engagement
- Next Steps
- Keys to Success

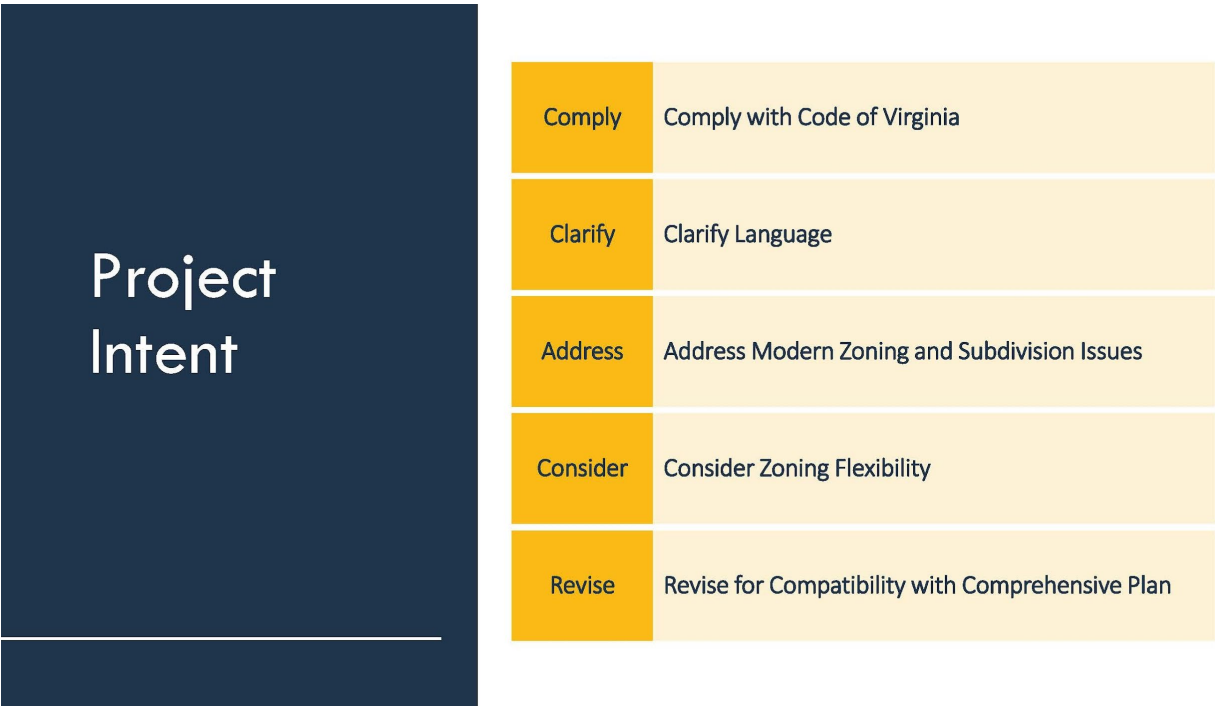


Mr. Musso explained that the purpose of the meeting was to understand the project, discuss the Land Use Report and next steps, and identify challenges and goals.

Ordinance Purpose and Content



Mr. Musso explained that the recently adopted Comprehensive Plan was a policy document that guided the regulatory Zoning and Subdivision Ordinances. A subdivision ordinance was how a community regulated the division of land while the Zoning Ordinance regulated uses and structures on the land.



Mr. Musso explained that the purpose of the project was to update and modernize Nelson County’s Zoning and Subdivision Ordinances.

Project Overview & Schedule



***See Attachment A: Meeting Schedule**

Mr. Musso noted that there would be three phases to the project: investigation, development, and adoption. He added that the diagnostics could be found in the Land Use Evaluation. He noted that the investigation phase concluded with public engagement. He added that they would be able to utilize public feedback from the Comprehensive Plan update as well. He explained throughout the drafting process there would be a Crosswalk that would allow for easy comparison of the draft and existing ordinances. He added that the draft would then be shared at an open house for public input before returning for a pre-adoption work session. He noted that the ordinance could be adopted during the winter of 2025/2026, making it a 22-month process.

Land Use Evaluation Review

1. Overview
2. Zoning and Subdivision Ordinances
3. Next Steps
4. Conclusion

- Appendix A: Zoning Ordinance Code of Virginia Diagnostic Matrix
- Appendix B: Subdivision Ordinance Code of Virginia Diagnostic Matrix
- Appendix C: Comprehensive Plan: Diagnostic: Implementation Strategies

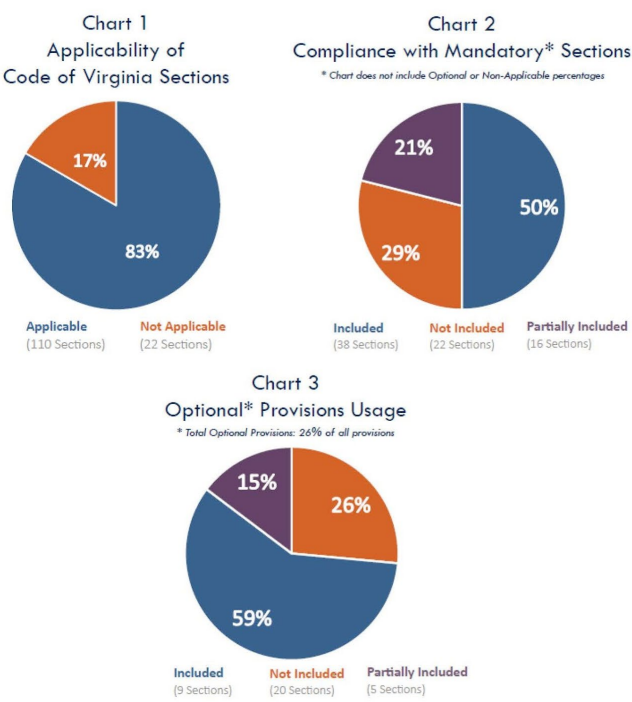
Land Use Policy Evaluation

Nelson County, Virginia
August 28, 2024

***See Attachment B: Land Use Policy Evaluation**

Mr. Musso noted that the packet was broken down into 4 sections with 3 appendices. He explained that it was a summary of key findings from their diagnostic of the Zoning Ordinance, Subdivision Ordinance, and Comprehensive Plan Strategies. He added that their recommendations were guided by requirements from the Code of Virginia, past experiences with peer localities, and planning best practices. He noted that the overview discussed the purpose and scope of the diagnostics and detailed how they were completed. He explained that the first two appendices were recommendations based on the Code of Virginia while the last appendix was based on the strategies from the Comprehensive Plan.

Diagnostic Review – Zoning Ordinance



Diagnostic Review – Zoning Ordinance	Update	Update to align with Code of Virginia
	Organize	Reorganize and consolidate articles
	Consider	Consider adopting optional provisions
	Incorporate	Incorporate additional and/or clarified provisions
	Consolidate	Consolidate uses into broad categories
	Modernize	Modernize and streamline uses

Mr. Musso explained that of 132 Zoning Ordinance related code sections in the Code of Virginia, only 110 applied to Nelson County. He noted that Chart 2 showed the breakdown of compliance for those 110 code sections. He explained that the key takeaway was that the ordinance was only 50% in full compliance with the Code of Virginia. He added that there were 34 additional and optional provisions and showed the breakdown of their inclusion in Chart 3. Mr. Musso reviewed their general findings from the Zoning Ordinance listed in the above slide. He added that combining the ordinances into one document would allow better readability for administrators and citizens.

Diagnostic Review – Zoning Ordinance	Improvement	Result
	Code of Virginia references and recent amendments	Compliance with Code of Virginia
	Clear process details for zoning actions	Clarity for applicants and administration
	Tables and graphics of regulations	Readability and easier administration
	Reevaluate districts and refine district standards	Flexibility and user-friendly Ordinance; Achieve Comp Plan Goals & Strategies
	Create a Use Matrix	Better readability and easier administration

Diagnostic Review – Zoning Ordinance	Improvement	Result
	Reorganize and improve use standards	Readability and accessibility; compatibility with Comprehensive Plan Goals & Strategies
	Review and update definitions to ensure every land use/term has a clear accompanying definition	Internal consistency; readability; avoid interpretation issues
	Modernize uses to align with today’s economy and provide flexibility	Ease administrative burden; business-friendly; easy to introduce new beneficial land uses.
	Incorporate and refine design standards (lighting, landscaping, signs, etc.)	Ease administrative burden and beautify the community

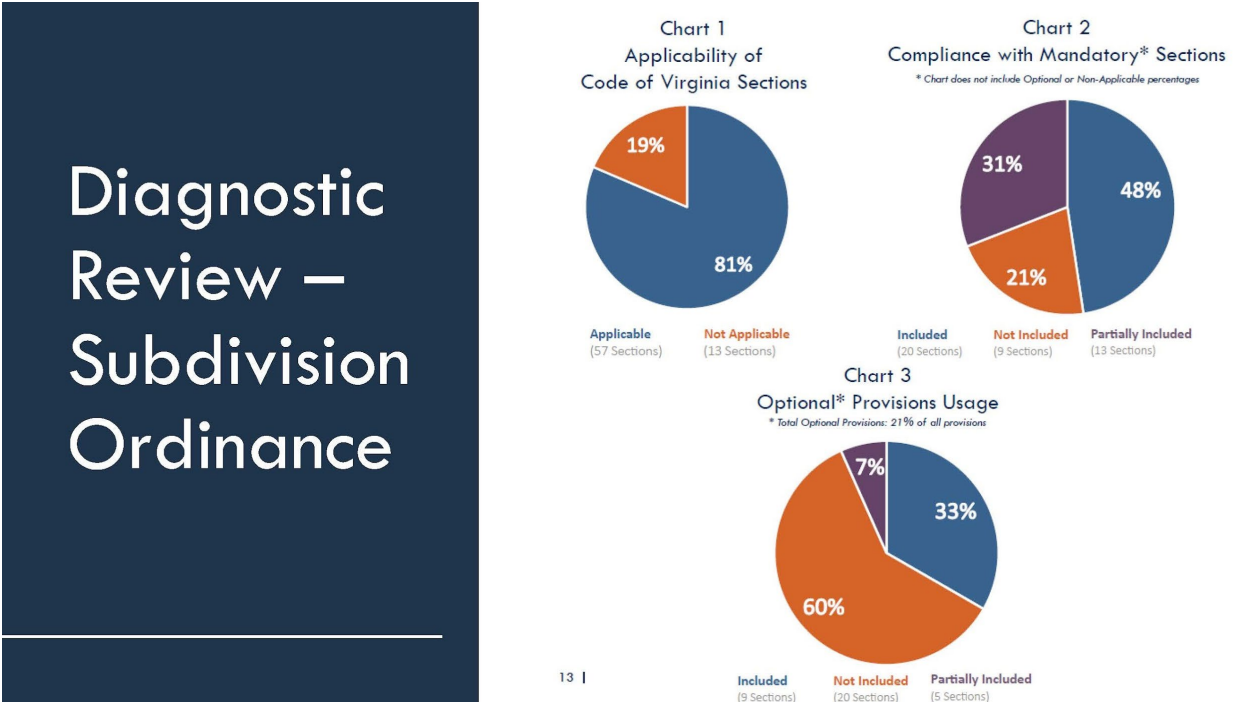
Mr. Musso then reviewed some of the specific recommendations (above) for updates to the Zoning Ordinance. He explained that their top priority should be ensuring compliance with the Code of Virginia. Mr. Amante asked if he could have an example of an undefined use. Ms. Hjulstrom noted that there were several.

Mr. Musso noted that use standards would be a set of standards that applied to a specific byright use. Mr. Musso explained that when a SUP is very common and has common conditions, it could become a byright use with use standards.

Ms. Proulx asked what would happen if an applicant was not able to comply with a use standard. Mr. Musso noted that it would be treated as a zoning violation. Ms. Proulx asked if applicants could get exemptions from use standards. Mr. Musso noted that this could be allowed administratively on a case-by-case basis.

Diagnostic Review – Zoning Ordinance	Improvement – Specific Land Uses	Result
	Telecommunications: Update to include applicable Code of Virginia requirements	Ensure compliance with Code of Virginia
	Accessory Dwelling Units: Consider permissions and standards; include definitions	Internal consistency; clarity and readability; avoid interpretation issues
	Green Infrastructure: Allow for innovative approaches to infrastructure and better connectivity to natural environment.	Address specific goals and strategies of the Comprehensive Plan.
	Short-term Rentals: Review and reevaluate standards.	Control overdevelopment and protect sensitive areas and housing market.

Mr. Musso then reviewed specific land use examples (above) where the ordinance was either out of compliance or there was a recommendation for a best practice. He noted that telecommunications regulations change on an annual basis in the Code of Virginia.



Diagnostic Review – Subdivision Ordinance	Update	Update to align with Code of Virginia
	Organize	Reorganize subdivision ordinance as an Article in Zoning Ordinance
	Consider	Consider adopting optional provisions

Diagnostic Review – Subdivision Ordinance	Improvement	Result
	Update preliminary plat requirements	Ensure compliance with Code of Virginia
	Include provisions for the vacation of plats	Ensure compliance with Code of Virginia
	Include validity of plats	Ensure compliance with Code of Virginia
	Update performance bond partial release allowances	Ensure compliance with Code of Virginia
	Consider requiring Environmental Assessments and remediation plans	Reduce environmental impact of large-scale development
	Expand cluster subdivision (density zoning) regulations	Address goals and strategies of Comprehensive Plan

Mr. Musso then reviewed some of the specific recommendations (above) for updates to the Subdivision Ordinance. Mr. Musso noted that a preliminary plat could only be required for subdivisions of 50 lots or more. He added that the State Code of Virginia required that final site plans be valid for 5 years or more. He noted that the performance bond partial release allowance would need to be raised from 80% to 90%. He explained that requiring Environmental Assessments and remediation plans was optional but that he recommended it. He added that cluster subdivision recommendations were in compliance with the State Code of Virginia but should be addressed for compliance with the Comprehensive Plan.

Mr. Rutherford asked if they could mandate environmental reviews. Mr. Musso confirmed that they could. Mr. Rutherford explained an Environmental Review (1 or 2) would involve hiring a third party to investigate the environmental history of a property. Mr. Musso noted that it would need to be included in the ordinance for the county to be able to require it. Mr. Rutherford added that if the job was big enough, DEQ could require it. Ms. Proulx added that it would be a good idea to include environmental review in the ordinance for smaller issues, such as old gas tanks.

Diagnostic
Review –
Comp
Plan

Strategy Text:	Action to be Taken in ZO + SO Update:
Chapter 3 Shaping Community Character	
ive energy standards to ensure the adopted acter and the interests of the community.	<ul style="list-style-type: none">Allow for accessory solar and wind energy facilities to primary land uses to include both rooftop mounted and ground mounted solar, up to an appropriate size to both serve the community and protect rural landscapes.
itive energy on private development through he Code of Virginia permitted solar tax nd commercial small-scale solar installations.	<ul style="list-style-type: none">No land use regulation action required.
ees for residential solar installations.	<ul style="list-style-type: none">Adopt a fee schedule ordinance with reduced fees for solar energy permits.
gy-efficient lighting and investigate outdoor light acts of over-lighting, glare, and light pollution.	<ul style="list-style-type: none">Create lighting design standards that apply to new developments in each Zoning District.
g and development provisions to update parking ge permeable paving and other materials that nwater.	<ul style="list-style-type: none">Consider a reducing the number of required parking spaces, found in Section 12-7-6 of the Zoning Ordinance, and allowing pervious and semi- pervious materials such as open joint pavers, reinforced grass grids, within Section 12-7-8D. Establish a minimum number of parking spaces to trigger improved surface lots (i.e. lots of 8 spaces or more require an improved surface).
ions to require the placement of shade trees native plants in all commercial and institutional	<ul style="list-style-type: none">Modify the regulations of Section 12-7-8L to apply to any parking lots that meet a minimum size threshold. Include provisions that require the planting of native trees and shrubbery, as approved by the Administrator.Create landscaping design standards that apply to all industrial and commercial properties. Buffer landscaping should be required in setback areas and should identify how much space must be landscaped. Ensure that all landscape includes only native trees and shrubbery. Modify existing landscaping requirements to refer to this new landscaping design standard section.

Mr. Musso noted that the above chart could be found in Appendix C. He explained that the chart addresses every strategy in the Comprehensive Plan and paired them with the appropriate actions to take in the Zoning Ordinance. He added that this was his recommendation for what could be done to address each strategy.

Diagnostic
Review –
Comp Plan

Improvement	Strategy #
Incorporate and refine community design standards (landscaping, lighting, noise, signs, etc.) and incorporate green infrastructure principles.	3.1, 3.4, 3.5, 3.6, 3.9, 3.15, 3.17, 4.11, 6.3, 6.4, 6.14, 6.15
Allow for alternative housing options such as multi-family and accessory dwelling units.	3.14, 5.1, 5.2, 5.4, 5.5, 8.29
Standards for new development to include interconnectivity, shared use trails, and recreation amenities.	3.7, 3.16, 4.6, 4.7, 4.9, 4.10, 5.11, 8.33
Overlay zoning districts such as village, mountain ridge district, tourism development district.	5.14, 6.1, 6.17, 6.20, 6.22, 6.24, 7.7

Mr. Musso noted that there were a total of 33 strategies to cover in the update. Mr. Reed asked if they would get an update at the end of every legislative session to see if they needed to review anything. Mr. Musso noted that they are usually updated through the American Planning Association and that he could try to keep the county updated. Ms. Proulx asked if overlay districts could be included in the Zoning Ordinance. Mr. Musso explained that they could and explained that an overlay district would sit on top of existing zoning. Mr. Musso added that rezonings and a new zoning map would not be a part of this process. He added that people could opt-in to rezone as a part of the process or the county could initiate a mass rezoning at any time. He explained that in this project they would establish the regulations to allow the county to apply overlay zoning in the future.

Mr. Reed asked whether the types of overlay districts they could create were mandated by the Code of Virginia. Mr. Musso noted that some overlay districts are specifically mentioned in the Code of Virginia but that new overlay districts could be created by a locality. Ms. Bishop noted that in Amherst they have a Route 130 overlay district for no signage and increased setback requirement. Mr. Musso noted that it was a great example of not mapping a zoning district but instead tying it to an existing land mark.

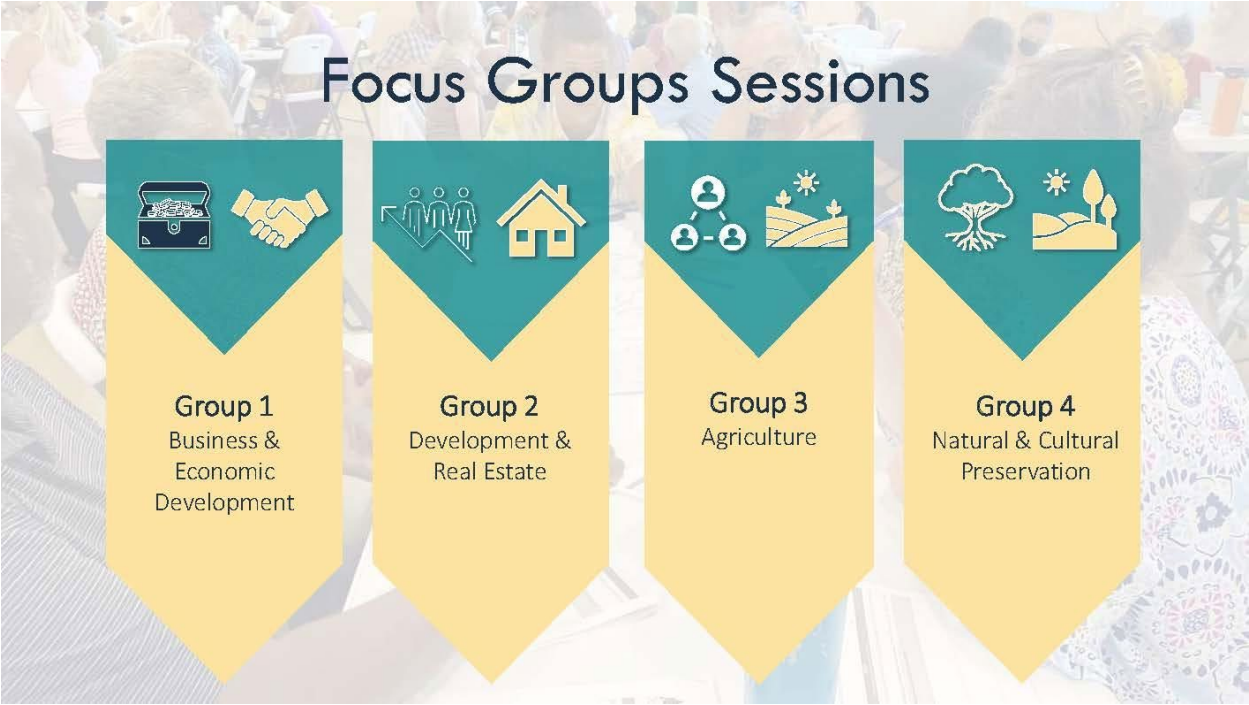
Discussion: Land Use Ordinance Evaluation report and diagnostics

- Are there questions about the land use report?
- Are there issues that are important to the community that were not captured in the diagnostic?

Mr. Reed asked if an overlay district could apply to a master plan that had already been approved. Mr. Musso noted that an overlay district would apply to whatever portion of the master plan area it included. Ms. Bishop questioned if Mr. Reed was specifically talking about Wintergreen's Master Plan and noted that it might be different in that case.



Mr. Musso noted that they would be having one public workshop and four focus group sessions. He added that they had already received a lot of guidance from the community during the Comprehensive Plan update. He explained that the public workshop would be similar to the public workshops in the Comprehensive Plan update.



He noted that the four focus groups would involve specific stakeholders key to the topics. Mr. Rutherford noted that there should be two open houses, one for each side of the county. He added that there could be one for the Route 151 area and one for the other side of the county. He explained that the two groups have their own concerns. Ms. Bishop noted that this would require a work order amendment to add a session for \$3400. Chair Allen noted that they should go ahead and add another public workshop. Mr. Rutherford added that this would give the opportunity for different issues to be heard.

Mr. Musso added that the website used for the Comprehensive Plan will be updated to include the Zoning Ordinance Update. He explained that they would continue to receive public engagement through the website.

Ms. Proulx noted that many people did not understand the Zoning Ordinance. She asked how they could get useful feedback from the public. Mr. Musso noted that they generally start off the public workshops by walking the public through the basics of what a Zoning Ordinance was. He added that having county and Berkley group staff there to answer questions was also helpful.

Mr. Reed asked if they had a clear form and format for the focus groups. He noted that during the Comprehensive Plan update, there were people who were highly involved and could be valuable in the focus groups. Ms. Bishop explained that the focus groups were small and targeted towards industry professionals. Ms. Proulx asked if there could be observers at the focus groups. Mr. Musso noted that focus groups were generally not open to the public and they encouraged staff and county representatives to stay away as well. He explained that this allowed for the most honest feedback from people who were using the Zoning Ordinance regularly, such as developers, real estate agents, etc. Ms. Proulx noted that it felt like special interest groups getting an advantage over the larger community. Ms. Bishop noted that the results of the focus group would be shared. Mr. Reed asked if it was a conflict of interest for anyone on the Board of Planning Commission to participate. Mr. Musso noted that it was not a conflict of interest but that it was discouraged.

Mr. Rutherford noted that topics could get political or skewed and he could go both ways on how he felt about the focus groups. Ms. Hjulstrom noted that she sat in on some of the focus groups from the Comprehensive Plan update, such as the group for community centers, and was impressed with how productive the conversation was. She added that this would allow professionals (surveyors, real estate, developers, etc.), that county staff worked regularly with, to address issues they ran into with the Zoning Ordinance.



Discussion: Project Priorities & Goals

- *What do you **like** about the Zoning/Subdivision Ordinances?*
- *What do you **dislike** about the Zoning/Subdivision Ordinances?*
- *Do you have any new zoning items you would like added to the Ordinance?*
- *Are there any other zoning or subdivision issues that are important to discuss?*

Mr. Amante noted that he liked the tabular format of the proposed ordinance in comparison with the format of the existing ordinance.

Mr. Harman noted that he found by right uses to be confusing. He noted that they should look into where they should and should not apply. Mr. Rutherford noted that by right was important, that people could not purchase property without knowing what they had the right to do on it. Ms. Bishop noted that they added a definition of “by right” to the Comprehensive Plan and that it would be included in the Zoning Ordinance. Chair Allen noted that by right can be very broad in some areas and not in others. She explained that a by right use could fit well in a Gladstone property that would not fit in a Rockfish property of the same zoning.

Ms. Proulx noted that most things in the county are agricultural by default. Ms. Allen noted that what was agricultural in one area of the county may not be the same elsewhere. She added that they needed to be careful to not get too specific but that they would need to walk a fine line. Mr. Rutherford noted that this was a predecessor to having overlay districts. Ms. Proulx noted that people would be upset if they changed zoning. Ms. Proulx did not think that an overlay district would affect people in the same way as a zoning change. Ms. Bishop noted that this is why they reviewed the Comprehensive Plan first so that specific areas could be evaluated. Mr. Musso noted that they could fall back on the Future Land Use Map when looking at zoning changes.

Mr. Amante asked if new zones could be created. Mr. Musso noted that they could. He explained that they could create an R-3 zoning district. Mr. Amante clarified that he was asking if you could create a new category of zoning. Mr. Musso explained that they could and used the example of having a rural zoning district in addition to an agricultural district. Mr. Amante asked how the state would be able to regulate if they created a new type of zoning. Mr. Musso noted that they could the state did not regulate what zoning districts had to be called. He noted that certain types of districts, such as agriculture, did have specific regulations in the Code of Virginia. Mr. Amante noted that he was not in favor of creating a new zoning district and was hoping that there would be more standardization. Mr. Musso noted that zones would fall under one of the standard categories regulated by the Code of Virginia.

Ms. Proulx noted that there were some inconsistencies within the RPC zoning district on the same page. Mr. Musso noted that they see that regularly with older Zoning Ordinances.

Mr. Reed asked if design standards could be used in the form of overlays. Mr. Musso noted that he would recommend keeping them as design standards and regulating them on a district-by-district basis. He gave the example of signage potentially being permitted along Route 29 but not through the village of Lovingston. He explained that an overlay district would come in where the zoning is the same but the area required different design standards.

Next Steps

- ☒ Joint Kickoff Work Session
- ☐ Public Workshop – October TBD
- ☐ Focus Groups – October TBD
- ☐ Work Session 1: Public Engagement Summary and Table of Contents Crosswalk – December 18
- ☐ Draft Ordinance
- ☐ Work Sessions 2-6 – Feb. 2025 through Oct. 2025
- ☐ Public Open House and Review – Nov. 2025
- ☐ Pre-Adoption Worksession – December 2025
- ☐ Final Revisions
- ☐ Public Hearings & Adoption – Feb. & March 2026

Mr. Musso reviewed the update schedule (above). He noted that he was working with staff to set dates for community engagement. He added that they would need to add a public workshop and might need to shift some dates.

Ms. Proulx asked if they would get the materials ahead of time. Mr. Musso confirmed that he would try to get the materials out two weeks ahead of the meetings.

Keys
To
Success

- Engage from start to finish
- Inform and listen to constituents
- Get input from staff
- Communicate with stakeholders
- Stay involved and do your homework!



Contacts



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Cecile Gaines, Senior Planner
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Mr. Musso asked the Planning Commission and Board to stay engaged from start to finish of the project, inform their constituents, convey their concerns to staff, and attend the work sessions.

Mr. Rutherford asked if they would need to amend the contract. Ms. Bishop noted that she would reach out to the Berkley Group to get a work order amendment to bring to the next regular Board of Supervisors meeting.

Mr. Rutherford made a motion to adjourn the meeting at 5:09 PM. Mr. Parr seconded the motion.

Yes:

- Jesse Rutherford
- Thomas Harvey
- David Parr
- Ernie Reed

Ms. Proulx made a motion to continue the meeting to the regular 7 PM Planning Commission meeting on September 25th in the General District Courtroom at 5:09 PM. Ms. Allen seconded the motion.

Yes:

Robin Hauschner

Phil Proulx

Mary Kathryn Allen

Mike Harman

The meeting adjourned at 5:10 PM

Respectfully submitted,

A handwritten signature in black ink, reading "Emily Hjulstrom". The signature is written in a cursive, flowing style with a long horizontal line extending from the end of the name.

Emily Hjulstrom

Planner/Secretary, Planning & Zoning