Virginia:

AT A CONTINUED MEETING of the Nelson County Board of Supervisors at 5:00 p.m. in the former Board Room located on the third floor of the Nelson County Courthouse, in Lovingston, Virginia.

Present: J. David Parr, West District Supervisor – Chair
Ernie Q. Reed, Central District Supervisor – Vice Chair
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
Grace E. Mawyer, Director of Finance and Human Resources
Dylan M. Bishop, Director of Planning and Zoning

Michael Harman, West District Planning Commissioner
Gary Scott, South District Planning Commissioner
Richard Averitt, Central District Planning Commissioner
William Smith, East District Planning Commissioner
Philippa Proulx, North District Planning Commissioner

Absent: Thomas D. Harvey, North District Supervisor

I. CALL TO ORDER

Mr. Reed convened the Board of Supervisors meeting at 5:00 p.m. with four (4) Supervisors present to establish a quorum. Mr. Harvey was absent.

Mr. Harman convened the Planning Commission meeting at 5:00 p.m. with five (5) voting Commissioners present to establish a quorum.

II. JOINT WORKSESSION WITH PLANNING COMMISSION ON ZONING AND SUBDIVISION ORDINANCE UPDATES.

Rebecca Cobb, Deputy Director of the Planning Department for Berkeley Group, introduced herself and Cecille Gaines, Senior Planner with Berkeley Group, who would be taking over for Chris Musso as project manager for the County's updates.

Cecile Gaines stated that they were on the last two articles, 8 and 10, and she would be going back over things and finishing up. Ms. Gaines said Article 8 is mostly new, except for parking and loading and signs. She said the lighting standards in Division 8-2 include recommendations from the International Dark Skies Association, and those standards include nighttime safety, utility lighting, security, productivity, and commerce. She said they minimize light trespass, obtrusive light, and glare; help to curtail light pollution; reduce sky glow; preserve the nighttime environment for astronomy, wildlife, and enjoyment of residents and visitors; and ensure security for people and property. She noted that there is a list of exemptions, with some of those listed on the screen and the full list is in Section 8-2-2. She stated that types of lighting that are exempt from these standards include state and federal types of lighting such as FAA lighting, agricultural, temporary, holiday and decorative lighting, official flags, athletic fields, and some residential uses.

Ms. Gaines confirmed that these standards apply to new developments and new subdivisions, and there is a lighting plan required for any site plans and zoning use permits as part of the approval process. She said shielding is required to prevent glare and light trespass; hours of illumination are included to limit the illumination and protect neighborhoods; and color temperature, type of lighting, and illumination levels prevent glare and night blindness. She said there are height limitations of 30 feet in industrial districts and 20 feet in all other districts, and the ordinance does require uniformity of lighting within a project site along with canopy lighting.

Ms. Gaines stated that all landscaping and screening standards are new, with the purpose of protecting the visual character and the natural environment, protecting safety and privacy, helping to control erosion, and promoting economic development. She noted that it requires buffers between districts with differing intents and densities, with parking lot landscaping, frontage landscaping along Route 151 and Route 29 in the corridor overlay districts. She said this section requires preserving existing trees and vegetation and provides for proper planting and maintenance of trees and plant materials. Referencing Page 10, 834B.4, Ms. Gaines

read that landscaping materials "should be sustainable, biologically diverse, and tolerant of an urban environment with emphasis on trees and plants native to Virginia and the region," and asked the Board to consider whether they wanted to change the "should" to a "shall." She clarified that "urban environment" in Nelson's case means elements such as landscaping/planting at a gas station or a strip mall, etc.

Mr. Rutherford said from a development standpoint when working with landscaping, what grows best isn't usually native, such as autumn olives that grow quickly. He said the same was true with evergreens, and this wasn't something they were necessarily going to monitor—so they should leave the language as "should."

Mr. Reed commented that it would concern him a lot more that the materials were not invasive, and that should be a "shall."

Dr. Ligon mentioned that holly, autumn olive, blueberry, and Bradford pear are all technically invasive.

Ms. McGarry suggested that they start with emphasis on non-invasive trees and plants native to Virginia and the region.

Ms. Proulx expressed concern with "should" as not being enforceable.

Mr. Rutherford said he was okay with leaving it as should.

Mr. Scott said he didn't know who would be enforcing it anyway, and he hoped they would not use County resources to go around and enforce people's bushes.

Ms. Gaines suggested that they leave it as "should" in the general plan and "shall" in the landscape plan.

Ms. Gaines stated that on Page 14, it says if there are 10 or more spaces, landscaping is required, and she wanted them to make a decision as to whether they're comfortable with that number. She noted that 10 spaces is an industry standard for triggering landscaping.

Mr. Smith said that he would be comfortable with 20 spaces, given the size of many small businesses.

Ms. Cobb stated that it varies greatly among localities, with stormwater being the biggest issue.

Ms. Gaines noted that it's technically based on square feet of frontage.

Cody Barker said the problem is that a lot of business owners over time aren't as interested in the upkeep of landscaping, and it can be pretty challenging to enforce from the code aspect. He said if the tree dies and they decide to remove it, it automatically puts the site in violation, and the only way they would be able to show the County they are in compliance is to hire someone like an arborist to prove something else killed it.

Dr. Ligon said that as a business owner, you make someone plant a tree and then put asphalt around it—and in 20 years, they're having to replace the asphalt because of the roots of the tree, then you have branches falling onto people's cars, which is a liability for the business. She emphasized that it's a lot put on the business owner; it's not just a tree.

Ms. Gaines presented a slide showing landscaping standards and highlighting that the purpose is to provide shade, screen views, and mitigate stormwater runoff. She noted the provision for parking areas of greater than 10 spaces, and the provision that the grass areas "shall be maintained in good condition," and that "any dead or dying plants shall be removed and replaced." She said it does not apply to off-street parking for single-family homes, duplexes, triplexes, quadplexes, or for parking garages or multi-level parking structures.

Mr. Averitt commented that for small businesses, 20 spaces feels right to him, and he wondered how this applies differently in zoning areas—and properties zoned industrial should have a different set of considerations.

Mr. Harman commented that he likes the number 30 better than the number 10, because if you think about the small business owner, they cannot afford a lot of landscaping.

Ms. Bishop said that based on the site plans she has seen since she has been here, she thinks 30 is fair.

The Board and Commission agreed to use 30 spaces as the triggering mechanism.

Ms. Gaines reported that all street standards are now in Article 8 instead of being in both, which would be easier for staff. She said that street standards are provided for easements, street alignment, street angle and layout, reserve strips, street widening, service drives, public street design, alleys, and private streets.

Ms. Gaines reviewed the standards for public versus private streets, streets that are built to VDOT standards versus streets that are not. She explained that street construction and maintenance, especially private streets, can cause a lot of problems for people, because people buy homes not knowing that they're in charge of paying for the street maintenance. She said that homeowners associations get freaked out about how much it's costing to upkeep the roads, so they end up going to the County and asking them to take over the private streets and maintain them; they want to minimize those risks. She said the content presented was taken from Nelson's cluster development language in the existing ordinance, but Berkley feels like the County should consider requiring the private streets be constructed to state standards in case of eventual adoption into the state highway system. She said they would thus remove A through C in that section and replace it with a statement requiring that they be built to state standards. She noted that there's A, B, and C, and then class 1 private streets, class 2 private streets—and they could replace all of this with just a statement that they be built to VDOT standards, which are on the VDOT website and controlled by VDOT, with them setting those standards.

Mr. Rutherford asked who would inspect the standard, as it wouldn't be VDOT.

Ms. Gaines responded that it would be whomever inspected the class 2 street currently.

Mr. Rutherford said you build it to the VDOT standards, with a lot of subdivisions built that way, but 25 years later, if they don't maintain their drainage systems and sediment ponds, it becomes more difficult to manage. He said when you purchase a property, you're signing with whatever road maintenance agreement has been recorded; developers are already required to do that, to produce some type of road maintenance that goes with the deed forever.

Mr. Averitt said he agreed that the County shouldn't take over any roads that aren't up to VDOT standards, and private roads should have to meet that criteria if they are handed over.

Mr. Scott stated that counties like Augusta will require you to get an outside consultant to establish that.

Ms. Gaines commented that she's not entirely confident on what they have here because it didn't come from a solid spot in the County's existing ordinance; it came from the cluster subdivision because that was all they could find.

Mr. Reed commented that he is happy with the way it's already worded, but the burden of proof is on the applicant to demonstrate that this is how it is at the time they receive approval. He pointed out that VDOT is really good about saying they are not going to take a road over.

Ms. Proulx agreed, adding that it's not just up to the County.

Ms. Gaines noted that they could also require a maintenance plan, with the applicant submitting a maintenance plan for how they're going to maintain it.

Ms. Bishop said she was going to suggest this as well, and she asked if the Commission and Board liked a provision for a private road for 3–10 lots, and a VDOT-standard road for 11 or more lots, which would qualify as a major subdivision by ordinance standards.

Mr. Harman asked about the provision of 21 lots having to go through VDOT if any one of those lots is under five acres.

Ms. Bishop said she was fine with taking that out.

Ms. Gaines said that makes it much simpler, and they could just say that major subdivisions have to have roads built to VDOT standards; anything else does not.

Ms. Gaines said for the bikeway and sidewalk standards, she is referencing a strategy pulled from their comp plan, which says it's a strategy "to support expanded greenway trail networks and ensure that the trail network connects to key public destinations, such as parks, libraries, schools, and community centers, as well as private developments and other trail systems, including regional trail networks." She noted that in Section 8-5A on page 27, it requires that subdivisions construct either bicycle lanes on collector and arterial streets, or they can build off-road bikeways, shared use paths, or sidewalks in their subdivisions. Ms. Gaines stated that in B, it states that if a subdivision's land falls within the comprehensive plan designated bikeway areas, the developer may construct a bikeway and dedicate it to the County. She asked the Board and Commission to consider if they want to change that to a requirement, presenting the greenways and trail map from the comp plan. She stated that it's a lot easier to require developers to put a piece in when they are putting in a subdivision, noting that this pertains to subdivisions that have their land in one of the bikeway areas.

Mr. Rutherford asked if an applicant could get a waiver for this.

Ms. Bishop responded that this particular provision says “may,” so it doesn’t mean they have to.

Ms. Gaines noted that there was a similar plan in the Roanoke Valley 25 years ago—and it’s almost all built out now, which has been done section by section by four different jurisdictions.

Mr. Reed suggested that it be required for major subdivisions, because they would be talking about something that's larger scale and something that's going to have some use internally as well as externally.

Dr. Ligon noted that they would already have to be constructing to VDOT standards.

Ms. Proulx added that it would be easier to put in a bike lane.

Mr. Parr asked where the lines were derived, as it was unlikely that people were biking on some of these roads.

Ms. Gaines said that regarding parking and loading, the next section establishes standards for off-street parking and off-street loading; it provides ways to reduce parking spaces, such as shared parking spaces. She noted that there's a bicycle parking credit to reduce the number of vehicle spaces one has to provide; there's a reduction or increase in required spaces for certain things someone might want to do with their parking lot, and it also provides design standards. She clarified that it would apply to a new development required to put in off-street parking, but it's not going to apply to people who are already in operation.

Ms. Bishop mentioned that she and Mr. Barker would be going through the entire ordinance before their final work session, so they could provide recommendations to the Commission and the Board.

Ms. Gaines stated that the next category relates to signs and sign regulations, which have been brought into compliance with the Code of Virginia and with the Reed v. Gilbert case law. She noted that allowable sign sizes have been modified based on zoning districts, and the overlay district standards will supersede the underlying districts in those overlays. She said the purpose is to enhance the visceral environment of the County, provide adequate business signage, provide safe streets and sidewalks, prevent excessive signage, ensure that signage is maintained, and offer ways to measure this. She added that some signs are permitted by district, and she confirmed that political signs and banners are considered temporary signs.

Ms. Gaines noted that there is a long list of prohibited signs on page 44, pointing out signage that is too close to the parkway, public forests and parks, cemeteries. She noted that roof signage is not allowed to be above the roof line or the parapet; you can't attach signs to inoperative vehicles or paint them on cliffs, rocks, trees, on utility poles and similar items, or across a public right-of-way or obstruct motorists or pedestrians. She said they can't mimic official traffic signs or be flashing, revolving, or beacons, or mimic emergency services signage and balloon signage. She said that signs exempt from the standards include governmental signs, flags up to 24 square feet, any signs not visible from the right-of-way, small signs that are less than three square feet or four feet high, temporary signs, window signage that's less than 10 percent of the window area, memorial plaques and cornerstones, and then nameplates that are less than two square feet.

Ms. Gaines reported that Article 10, Subdivisions, compiles and reorganizes the content from both the existing zoning ordinance and the subdivision ordinance—which would all be in the zoning ordinance now. She said the existing subdivision ordinance would be repealed, and the subdivision code will be contained in Article 10 of the new ordinance. She noted that the standards expand upon and update the regulations in the existing subdivision ordinance and ensure compliance with the Code of Virginia.

Mr. Reed asked if there were any things the Planning Commission had jurisdiction over that would have to come before them for a decision.

Ms. Bishop responded that this is all taken out of the equation.

Ms. Gaines explained that a major subdivision is 12 or more lots; minor is 3 to 11 lots; and a single subdivision is just making two lots out of one. She noted that family subdivisions are for family members of the parcel owner. She also stated that a preliminary plat is optional if it's less than 50 lots and required for more than 50 lots—and those are now administrative review and approval, which was also part of the state code change. She said this also addresses HOAs and their ownership and maintenance of common areas unless they're dedicated to the County; minor subdivisions of 3 to 11 lots also have an HOA to own and maintain common areas unless they decide to dedicate it to the County; a preliminary plat is optional, a final

plat is required, and all of that is through administrative review and approval. She stated that no preliminary plat is required for a single subdivision, with the final plat required with administrative approval.

Ms. Gaines said the purpose of family subdivisions is to promote the ability of family members to live near each other, mutually care and support each other, and preserve family lands. She noted that immediate family does have a definition, which is in the definitions article and also in state code: a natural or legally defined offspring, stepchild, spouse, sibling, grandchild, grandparent, or parent of the owner of the land. She stated that the grantor must own the land for five years before they can gift any of it, and then that grantee has to own it for five more years before they can sell it.

Ms. Gaines explained that the five-year provision is something they can change—and Berkely has seen it as low as three and as high as 15, which is the maximum. She said the five years is basically 10 because someone has to own it for five before they can give a piece away to a family member; they also have to own it for five more before they can sell it out of the family.

Mr. Averitt asked if the only difference in splitting parcels off was the minimum lot requirements.

Ms. Gaines confirmed that family subdivisions are less restrictive, with the benefits being lower lot size requirement and reduced road requirements.

Ms. Gaines stated that design requirements provide for how subdivisions are designed and managed, and most of what is drafted here is new content, with the content from the existing subdivision ordinance incorporated and footnoted in the document. She said requirements are that the land has to be suitable for development, and there are obligations related to flooding as well as lot characteristics such as shape, dimension, orientation to the street, and stem lots. She said there are standards for utilities and providing for utilities, obligation of improvement that pertains to how the roads, etc. are paid for. She added that there are provisions from state code for forming homeowners associations and for property marker monuments. She reminded them that all the street, bikeway, and sidewalk standards are now in Article 8 rather than being both in 8 and 10.

Mr. Reed noted that on Page 7 under C, it says the Board of Supervisors can determine that a circumvention has occurred in a family subdivision; he asked if it is appropriate for the Board to be the one that's making that decision, or if that is also an agent scenario.

Ms. Cobb explained that this is similar to the BZA process, so if someone comes in and asks Ms. Bishop a question about what the ordinance says, she provides a determination—and if that person disagrees, they can appeal to the BZA. Ms. Cobb said Item C does the same thing, with Ms. Bishop “ruling” that they are circumventing the ordinance, and then the landowner taking their proof to the Board of Supervisors.

The Commission and Board discussed whether this should go to the BZA instead to be more consistent with other appeals.

Ms. Bishop noted that there's a section that says nothing shall prevent the owner or developer from filing for an appeal from the BZA.

Mr. Harman asked if the Supervisors can overrule the BZA.

Ms. Bishp responded that only a judge can do that.

Mr. Rutherford stated that this is if the Board of Supervisors sees something concerning and can directly intervene, but only in this specific instance—and typically when something is brought to their attention by neighbors or other affected.

Ms. Bishop explained that there have been scenarios before where she has made a determination and has to send written notification to all adjoining landowners; for example, if she has to make a formal determination on a family subdivision and approves it, all the neighbors get a letter. She noted that the neighbors can then appeal that decision to the BZA, and adjoining landowners have 30 days to appeal any decision. She also mentioned that the County doesn’t currently have any codes about zoning determinations, and this is something she would look into later on.

Regarding guarantees, Ms. Gaines explained that these establish the type, amount, and release of guarantees required for public and other site-related improvements; this division streamlines and reorganizes content from the existing ordinance and ensures Code of Virginia compliance.

Ms. Gaines reported that these divisions outline the required elements on plats, review timeframes, and approval and disapproval actions; they incorporate recent state code changes that reduce the review timeframes and remove the Planning Commission from the approval and disapproval process. She said these are general requirements, approval before sale, the subdivision name, separate ownership, changes to plats, preliminary plats, final plats, vacation of plats, and then enforcement violation and fees.

Ms. Gaines states that this brings them to the end of Article 10 and asked if there were any questions.

Mr. Rutherford noted that they went back to the drawing board on lot size minimums and asked if they had ever held a work session on that.

Ms. Gaines responded that they had not held one, and this was something requiring more direction from the Board and Commission.

Mr. Reed noted that in Article 10, Page 15, under Monuments, permanent Monuments A, that language also says, “Approval of final plats by the Planning Commission.”

Ms. Gaines assured him that Berkley would go through all of that and edit accordingly.

Ms. Gaines stated that there are a few outstanding items to discuss in addition to those they will be addressing later. She said for the 151 corridor overlay, Article 8 already now contains the buffer and frontage landscaping standards, walls and fences, sidewalk standards, bicycle parking, and sign standards for the 151 corridor; however, they have not yet established the corridor in Article 5, and she would draft that for them—but she needed to get direction from them first. She explained that she needed them to determine the boundaries of the overlay from beginning to end, and then whether you want it to go 250 or 500 feet.

She referenced the future land use map from the comp plan and asked if they wanted it to go end to end from Afton down to the Piney River boundary.

The Commission and Board mentioned Rue Hollow as a start/end point, just past Devil’s Backbone.

Ms. Proulx said someone had raised the notion that the other side—the West District—would also need to be brought into the overlay district, and she wondered if they wanted to do that now or stop at Rue Hollow.

Mr. Averitt stated that there are a few cideries down there and more in the plan, so it’s moving in that direction, with this area emerging as the next area for the continued agritourism run down 151. He said the question is whether they address that now for the next 20 years and decide whether the standards should be different on one side of Brent’s Gap versus another.

Ms. Bishop commented that with Brent’s Gap upward, there are fewer topography challenges.

Mr. Rutherford noted that it’s also in the floodplain, and the topography would also provide natural limitations.

Dr. Ligon said she didn’t think the traffic would be as big of an issue because this isn’t an arterial connection to Waynesboro.

Ms. Proulx said there would be traffic coming up from Amherst and Lynchburg though.

Mr. Averitt stated that the question is whether they are designing the 151 overlay for traffic considerations or for more of a design aesthetic and development consideration; he emphasized that the next phase of development would be down there, and the question was whether they want that to happen.

Mr. Rutherford said the big difference is there is County water and sewer there, and the County at one point put infrastructure down there for a reason—with flatter topography there versus going north. He commented that it would likely take 15-20 years, as it did with Afton before Blue Mountain. He added that they would be writing the next comprehensive plan and could address it that way.

The Board and Commission agreed that the Rue Hollow to Afton (the Albemarle boundary) seemed to make sense at this point.

Ms. Bishop mentioned that they could also revisit this through amending the zoning ordinance, adding that she would add this to the internally accessible GIS system so they could see where the boundary lies.

Ms. Gaines said that the 29 Overlay District is 500 on each side, and she wasn't sure if they would follow that for this one.

Ms. Bishop said she would like to discuss this at their September Planning Commission meeting along with other topics they have not fully addressed.

Ms. Proulx stated that she would like to limit future access points in that overlay corridor, as that has been a significant issue. She also said the road is too dangerous for people to ride bikes.

Ms. Gaines responded that this plan reflects off-road bike trails.

Ms. Bishop reviewed the calendar for additional meetings and work sessions, with all comments slated to be sent to the Berkley Group by the end of October. She emphasized that some topics, such as short-term rentals, would take some time. She confirmed that she would email dates for those meetings as well as the open house and public hearings.

III. OTHER BUSINESS AS PRESENTED

There was none.

IV. ADJOURNMENT

At 6:37 p.m. Mr. Averitt made a motion to adjourn and continue the Planning Commission meeting to September 24, 2025 at 5:00 p.m. Mr. Scott seconded the motion, which passed unanimously (4-0) and the meeting adjourned.

Mr. Parr moved to adjourn the Board of Supervisors meeting. Mr. Rutherford seconded the meeting, which passed unanimously (4-0) and the Board of Supervisors adjourned their meeting at 6:39 p.m.