

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 four (4) voting Commissioners present to establish a quorum.

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

Cecille Gaines of the Berkley Group stated that now that they've done a deep dive on each article of the ordinance, they would go through the whole thing at a higher level. She said that after this work session, they would go through next steps, including proceeding to a public open house, and the comment form currently on the web would remain live for a week after the open house. Ms. Gaines said they would convene for one more final joint work session to review public input and the ordinance before public hearings; the Commission would then make a recommendation, and the Board would vote on adoption.

Ms. Gaines stated that Article 1 establishes the County's legal authority to regulate land through zoning, establishes the official zoning map, and details the transition from the old ordinance to the new one, and there have been no changes to this article since they reviewed it in work session two. She said Article 2 details powers and duties of the relevant bodies and entities who administer the ordinance; it has the required enforcement and fee structure for the ordinance; and there have been no changes to this article since work session two. She said Article 3 has the requirements for zoning permits and applications, rezoning, special use permits, variances, etc., and the process for appeals and public hearings and notification requirements; there have been no changes to this article.

Mr. Reed asked about the single reference to the site plan review committee, specifically who that would be.

Ms. Bishop clarified typically, a site plan review committee consists of staff from various agencies, such as VDOT, the health department, emergency services, erosion control, building inspections, etc. — so that's something done administratively for a site plan review process.

Ms. Proulx noted that at one time, a Planning Commissioner was on that committee.

Ms. Bishop said her understanding was there has always been one, and they shifted to doing more virtual and internal meetings during COVID — with that rationale continuing because it's difficult to convene people from all the agencies that work in different regions. She said that's something they'll continue to do as the format, on a case-by case basis.

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Mr. Reed said that's mentioned on Section 269, Page 28 in Article 3. He asked if, because it's mentioned in the ordinance, they should define who would make up that committee.

Ms. Bishop responded that she didn't think that was necessary because it's going to be dependent on the project, and some agencies will be applicable, some won't.

Ms. Gaines reported that the next area of review is where changes begin to appear since the last work session. She stated that Article 4 contains the regulations and procedures for the primary zoning districts, including provisions that apply to all districts, district standards, and cluster development standards. She said the slide shows the primary districts and the changes since the last work session on Article 4. She stated the purpose of the RPC was changed, reflecting their intention to limit it just to Wintergreen. She said changes were made to steep slopes and critical areas based on information sent by the County, code review, and research; critical slopes were changed to "critical areas" to match the Code of Virginia and the building code. She said the purpose was expanded to include the protection of humans and the environment, especially concerning anything over a 10% grade not being accessible to emergency vehicles. She stated that ingress and egress for EMS and fire vehicles were added, along with land disturbance to the requirements, and a requirement was added to demonstrate that design limitations will be achieved.

Ms. Gaines stated that the standards for slope and critical areas were rewritten, and access language now includes the 10% grade limit for roads and driveways. Ms. Gaines said she recommends the County Attorney review the language to confirm it meets the County's best interests, particularly regarding emergency vehicle access. Ms. Gaines stated other changes in Article 4, many coming directly from this group, are found in the tables. She said A1 lot size was changed from 10 to 6 acres; A1 road frontage went from 200 to 150 feet; the R1 minimum lot size shifted from 2 to 1 acre; the R1 front setback changed from 50 to 35 feet; and the R2 accessory structure setback was reduced from 10 to 5 feet. Ms. Gaines stated that road frontages were reduced as shown on the slide, and all these changes were requests from staff and the Board and Commission.

Mr. Rutheford recalled that the Commission was going to discuss A1.

Ms. Proulx responded that this was where the six acres came in.

Dr. Ligon noted that they were going to discuss it the previous week, but that was canceled.

Ms. Proulx commented that she still liked the scale with the two acres and the other divisions, which they have discussed before.

Mr. Rutherford stated that he likes the sliding scale they currently have, and he would like to stay there with the potential of adding another two-acre subdivision. He noted that Ms. Bishop had a good solution to this.

Ms. Bishop explained that she and Cody Barker have been working on this and think that upping the R1 low-density residential as rural residential with the sliding scale would accomplish the same thing; then they could leave A1 at six acres.

Ms. Proulx said if you have 100 acres, you could do a lot of six-acre lots—which doesn't do much to protect agricultural areas.

Ms. Bishop responded that the six acres comes from agricultural land use, so if it is a true ag lot, you could do a large development at six acres but would still have to meet all other requirements.

Ms. Proulx asked why they wouldn't just keep the sliding scale for A1, and Mr. Rutherford commented that he would much rather keep it.

Dr. Ligon said the thought was that the sliding scale was challenging for staff, and when they don't set defined rules, it muddies the waters even further. She emphasized that if they have a sliding scale in agricultural, it really screams that they are going to get residential in the middle of that area.

Ms. Proulx commented that it would only be small amounts.

Mr. Rutherford said they would be better off with just the definition of rural as opposed to agriculture, because the reality is most of their agriculture is never used for agriculture purposes. He said unless they're planning on swapping 70% of their map with the new R1 concept, he would hate to put the A1 in that and

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take that gamble, as they don't know what A1 is going to look like in terms of implementation. Mr. Rutherford emphasized that his district has had no issues with the sliding scale in the A1 concept.

Ms. Proulx noted that other localities manage scale, and this is not a new concept.

Ms. Bishop commented that if that is what the Board decides to do, the staff would have to figure out a way to implement some kind of tracking system, which ideally would have existed from the onset.

Ms. Proulx reiterated that they did not have to reinvent the wheel, as other localities have these structures.

Dr. Ligon asked Mr. Rutherford if his idea is that he just doesn't want to have to rezone anything.

Mr. Rutherford responded that it had nothing to do with that, as he was open to rezoning. He said the reality is it's hard to imagine what the map would look like with A1, and there is a lot of 151 that would like to be in A1 in some regard, with that demographic being who they are catering to with the six acres.

Dr. Ligon said she didn't see it that way at all.

Mr. Rutherford stated that the last election cycle and comprehensive planning showed that they wanted larger lot sizes and less development; so for him, the sliding scale has been successful and has preserved a lot of rural character. He added that it has also allowed purchases of two acres intermittently.

Ms. Proulx said she agreed with him completely on this aspect, and it seems to have worked well for the whole County. She acknowledged that it did require a level of having to track.

Mr. Reed stated that he is in favor of the six acres—one acre for dwelling and five for land use—and it makes sense to him throughout the entire County, not just along 151.

Ms. Proulx emphasized that they are talking about the agricultural zone overall.

Mr. Reed said the best agricultural opportunities, or certainly the most, are in the other districts.

Mr. Rutherford said with a flat six-acre minimum, you could do as many lots as that would allow—so 60 acres would be 10 lots, whereas the sliding scale would be four or five. He said the biggest issue he had with this concept is that he didn't know where A1 was going.

Mr. Averitt commented that they make the decision though, from what he understands.

Ms. Bishop said for zoning ordinance purposes, they should think less about where it would affect these areas geographically and more about the different types of uses characterized: agricultural, residential, industrial, commercial.

Mr. Rutherford said it's hard to separate those two, and there are people running hobby farms on four acres.

Ms. Bishop said that will all come out in the mapping process when the areas are actually evaluated based on what current uses are there and what district they fit, so there's a lot more value. She emphasized that they would be evaluating what's on the ground, what fits those areas, and where the County wants them.

Ms. Proulx pointed out that when a rezoning starts happening, the County is going to be up in arms if they start trying to change people's zoning in a way that they don't want to see it changed. She said that if they start prescribing this, they could run into some pretty heavy opposition depending on exactly what is being proposed.

Mr. Reed said that by and large, the areas are going to maintain the same character that they have in the current map.

Mr. Rutherford commented that 90% of their map will be subjected to six-acre lot minimums.

Ms. Proulx mentioned the person who wants to retain most of their property but needs to sell off two acres.

Mr. Averitt said, unless they apply for a rezoning.

Ms. Proulx responded that they're going to have a hard time rezoning one two-acre lot; that's just not good planning practice, and in the scenario she's considering, they're not going to want to rezone their whole 100 acres or 60 acres.

Ms. Bishop said the future land use map and the comp plan also give a little bit of better guidance as to what areas are going to be and what types of zoning—the village overlays, the rural areas are all considered there.

Mr. Rutherford said he didn't think anybody necessarily disagrees in where they're seeing R1, R2, and R3 populate. He said they're talking about the other 60%, the big one. He said if they enacted the six-acre minimum, there would be many nonconforming lots, which there already are, and they would make an astronomical number of nonconforming lots. He added that many smaller lots zoned in the 50s and 60s are not necessarily agriculture in nature.

Ms. Bishop noted that in R1, they still have provisions for residential agriculture, whereas right now if you're zoned R1, the County doesn't allow chickens or anything; with this ordinance in R1, you still can have residential agriculture.

Mr. Rutherford asked how similar this is to the Buckingham version, where their C1 zoning requires a primary dwelling before someone can build a barn.

Ms. Bishop responded that Nelson does that as well, and a person must have a residence or a bona fide agricultural use.

Mr. Rutherford asked if an ag permit would apply in the R1 sense.

Ms. Bishop responded that it would not.

Ms. Gaines asked for clarification as to what they are proposing for R1 and the sliding scale.

Ms. Bishop replied that she and Mr. Barker would like to see R1 go back up to two acres.

Mr. Rutherford said if there's a place to do small acres, it would be Shipman, Schuyler, and Lovington.

Ms. Bishop pointed out that village overlay was different than rural residential, which is what they are discussing here, and the blue parts of the map she presented were parcels above and below 10 acres.

Mr. Averitt asked if they would have the map in conjunction with the ordinance to vote on.

Mr. Rutherford replied that they have to pass this, then do the map.

Ms. Bishop explained that the comprehensive plan was phase one, the ordinance is phase two, and the land use map is phase three.

Ms. Ford commented that when they start rezoning properties, people get very upset—whether it's just out of fear and concern or not understanding what is changing and what's happening. She said this is why they want to ensure they have a better ordinance to use and adopt, without it being derailed by a map change. She said similarly, if they feel like a change in acreage is going to derail this and cause public opposition, that needs to be part of the consideration as well.

Mr. Reed said it would be good to see what the public says, and they have to give them something to push up against—which is the whole purpose of the public process.

Mr. Rutherford said that is completely fine, and he would hate to see this be one of the things that really derails how they draw the map. He added that it was his hope that the Planning Commission would have had the opportunity to work this out in a work session, which he recalled was the intent, but he understands that schedules were a factor.

Mr. Scott asked if the Berkley Group has experience with any other counties that are close as far as that much percentage in agriculture, where they are trying to decide on the size.

Ms. Ford responded that there is a locality that is in the same situation and is currently debating scaling or set acreage.

Dr. Ligon said the great debate is what they're trying to make things affordable, and the other debate is maintaining the rural character.

Mr. Rutheford and Ms. Proulx stated that the sliding scale does the best job of that.

Mr. Averitt said the problem as he understands it is that somebody chooses the sliding scale, splits off two acres, and sells it; then some number of years later, they do the same thing again, so they don't have a good way to track what hasn't been done on a single lot.

Ms. Bishop said it hasn't been tracked in the past, and staff has to pull previous plots to see when they were designated and allocated. She said this is why staff likes six acres for A1 and two acres for R1; whether or not they want to do sliding scale for one or both of those, staff will serve at the pleasure of the Board.

Ms. Gaines emphasized that they have a brand new comp plan that the County is on board with, so they definitely want to use that for guidance here and use that future land use map to guide the new zoning map.

Mr. Reed stated that maintaining the rural character seemed to be the main objective; affordability was not.

Ms. Bishop commented that it's worth keeping in mind that there are a lot of other provisions and tools in this new ordinance that work toward accomplishing other goals of preservation and affordability, adaptive reuse of structures and properties etc. So in her mind, it all kind of works together.

Ms. Proulx asked about a subdivision in Albemarle, just before you get to Nelson on 151, and whether anyone knew the size of those lots.

Staff confirmed that there was a minimum two-acre lot size.

Ms. Proulx asked how they could get past the six acre vs. two acre conversation.

Mr. Rutherford responded that if they want to leave it at the six acre and then just have the public rally, he is okay with that.

Ms. Bishop said Ms. Gaines would be pulling up the future land use map from the comp plan.

Mr. Harman asked how important the five-acre tax structure is for Nelson.

Ms. Bishop explained that you cannot get land use taxation without a minimum, but that is a separate thing that just drove the recommendation.

Ms. Gaines said they could vote on this now and see how that falls, or they can take the ordinance to the public as written and see what the feedback is; then at the final joint work session, they can talk about whether they want to change the lot size.

Mr. Rutherford said he's fine with taking this to the public at six acres, but they just need to be prepared to dilute a lot of discussions since they haven't figured it out.

Mr. Averitt said everyone did a lot of work to figure out the long-range plan for the community, and if they don't do anything to establish guardrails for the future, they negate all that work and leave it up to chance.

Mr. Rutherford stated that they ran into the same discussion in 2001, which is why the sliding scale came into existence, and he felt it kept Nelson rural while aiding affordability by allowing two-acre lots.

Mr. Averitt commented that they are introducing some new density opportunities that have never existed in the county, which sets up a whole new set of possibilities.

Mr. Rutherford reiterated the notion of taking the six acres out into the public.

Mr. Harman said it would be nice to see what the public thinks of it, and he agreed with Mr. Averitt that this provides more options than they had before.

Mr. Averitt said he is challenged because he wants to ensure the opportunity for affordability, and the “picking winners and losers” part of rezoning is a very difficult aspect of this process.

Mr. Parr said he has not heard as much discussion about the landowner who owns 500, 1,000, or 1,500 acres and how this is going to impact them. He said there is the buyer and the affordability piece, but the seller is of equal concern. He said he could envision an unintended consequence of a six-acre minimum diluting the value or the sale price that they can get — where six acres might be worth this much, but since the buyer can only afford three acres, they may have to sell the six acres for a lower price to get a buyer.

Ms. Gaines said in that kind of scenario, it's typically a rezoning. I

Ms. Proulx pointed out that it would only be if they wanted to rezone the entire property; if they just want to keep their property rural and sell off two-acre parcels, they can't rezone those two-acre parcels.

Mr. Parr stated that there is the possibility someone has a farmhand that's worked on the family's farm for the past two generations, and the owner want to break off two acres so they can put a nice manufactured home for them on the corner of the farm. He emphasized that those are the types of things he didn't want them to unintentionally prevent.

Ms. Bishop asked if it would be prudent to have several scenarios to get public engagement on for this piece.

Ms. Proulx responded that she felt it would be, as it wasn't going to be very obvious if they just take a few statements.

Ms. Ford said they can do boards and people can sort of vote, so they can see very clearly where those votes are.

Ms. Rutherford said there are 14,000 people in this County, and they're all not going to agree with what is done. He added that if they satisfy 30%, he will be impressed.

Mr. Reed emphasized that they really need to answer to the comp plan.

Ms. Gaines reported that Article 5 is overlay zoning districts, which are regulations and procedures for the overlays within the County and include the general floodplain district, the village overlay, the Route 29 corridor, and the Route 151 corridor. She noted that changes have been made according to direction given during and after work session three. She explained that for the village overlay district, the permitted and prohibited uses were revised for clarity, with a list of uses by special use permit added. She said these are ways they're also increasing housing options, which hopefully bring down costs for people: Multifamily dwelling, fuel center, hotel, recreation, entertainment, indoor, garden center, medical office, and vehicle service repair would be allowed by special use permit. She said they added public cemetery, short-term rental, and smoke/vape shop to the list of prohibited uses. She noted that for the Route 29 corridor, boundaries are 500 feet on either side of Route 29, except in a section of Lovington where it's only on one side of the road, and the corridor runs from the Albemarle County line to the Amherst County line.

Mr. Reed asked about the maximum structure height provisions in Article 4, in R3, which is 45 feet but in Village Overlay is 35 feet with an increase to 45 feet based on setbacks. He said this was the difference between a three- and four-story building, and he wondered if a four-story building was appropriate in the Village Overlay, in either that district or R3.

Ms. Bishop said she didn't mind keeping it in R3 but wouldn't mind taking it out of Village.

Mr. Averitt said if they want to encourage density, they need to accommodate places that have some height.

Mr. Rutherford said they have to go vertical if they want to encourage density.

Dr. Ligon noted that mixed use with business and residences above it would require some height.

The Board and Commission agreed to leave the height provisions as they were.

Ms. Gaines said in the Route 29 corridor, they added a list of uses to special-use permit uses: commercial stable, educational facility, general office, hotel, large store, medical office, RV marking, maker space, and transportation services. She referenced the new corridor overlay district for 151, which applies 500 feet on either side of Route 151, and stated that she corrected Rhue Hollow Road and two uses for special use: maker space and EV charging station. She said they are requiring VDOT standards for new roads just in the overlay, and vehicular access and circulation standards to restrict access points to 151, with access roads to cut down on curb cuts.

Ms. Gaines presented a matrix showing all allowable uses within the County and which district they're allowed in and whether they're by right or special-use permit in each of those districts. She said it provides the reference to Article 7 for specific uses, and the changes since work session four are in red text in the use matrix. She clarified that the overlays are left off the matrix because the uses are listed in their individual sections, and no changes were made unless the Board and Commission had requested them.

Mr. Reed asked if CAFOs were by right in A1 or could be special use permits.

Ms. Gaines confirmed that they could not be SUPs because they are by right in agriculture.

Mr. Rutherford asked if multifamily manufactured housing was still an opportunity for R2 and R3 because it's a new product that isn't provided for here. He also asked how the County is defining attached.

Ms. Gaines responded that it's in Article 11 with all dwelling types, and he is basically talking about a manufactured duplex. She said she wasn't sure why that wasn't already in R3 but should go there.

Ms. Ford noted that regular duplexes were allowed under R2 and provided for in that section.

Ms. Gaines stated that for Article 7, use performance standards, these are for specific land uses to mitigate potential externalities that may affect health, safety, and welfare of the surrounding area and community; they apply to both by right and special use. She said in the case of a special use permit, the Board can add additional standards, but they have to follow the standards in Article 7 as a base, then you can add more onto an SUP. She stated that since work session 4, they deleted the honey bee regulations; the minimum lot area per horse was removed from commercial and private stable; and "manufactured home park" was changed to "manufactured home community."

Ms. Gaines reported that the biggest changes were to short-term rentals, and they drafted it for three different types of short-term rentals: Homestay is the one where you live onsite, you're there all the time, and you rent out part of your property as a short-term rental, but you don't leave when you have guests there; the hosted stay is similar, but it can be either the primary resident or a designated resident manager who's present during the rental periods, or if you own parcels next to each other, you live on one parcel and have a short-term rental on the one next door, with a maximum of two short-term rental units per lot; and the unhosted stay is operated by someone who lives in the County but doesn't live on the property that's being used as the rental.

Ms. Proulx commented that the first item under Operation Owner Occupancy, A1, Section 739.A.1, could be removed: "In no case shall a short-term rental be operated be operated by a property owner whose primary residence is outside of Nelson County." She said it seems to be covered by saying people have to be in residence or have a manager. She also questioned whether the unhosted stay should remain, from a legal standpoint.

Mr. Averitt said he didn't think it would work to say there should be no unhosted stays in the County, and the intent was to prevent people who swoop into the County and buy up a bunch of properties and basically run a distributed hotel franchise here. He said they don't want to block someone who lives in the County or has a vacation home here in the County legitimately renting out their other property. He said if they want to achieve that goal, they need to look at a limit of number of units, but the challenge there is if you put everyone in a single LLC.

Ms. Gaines suggested looking at these in terms of the districts that these uses are allowed in, so they have the unhosted stay only as a special use permit; the homestay is by right in C1, A1, R1, R2, R3, RPC, and SE1, and the hosted stay is A1, R1, and SE1; the unhosted, which is when the owner doesn't live here, is only by SUP in A1, R1, and SE1.

Ms. Proulx commented that Albemarle does not allow for unhosted stays.

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Mr. Barker said enforcement is the issue, and they're going to be there no matter what. He said as staff, they don't like the idea of an unhosted stay, and they want to ensure if there is a home built in Nelson County, somebody occupies it.

Ms. Gaines said while existing short-term rentals would be grandfathered, these new standards would apply to all short-term rentals: They have to be registered, and they have to show two forms of verification of their primary residence. She noted that there would be a right for the County to inspect them if they suspect a violation or if someone complains.

After further discussion, the Commission and Board agreed to keep the unhosted stay and remove the language about them being a Nelson County resident.

Mr. Barker said the other thing he urged them to do is to think about any emergency situation that could occur, which is the other big reason they want a registry in the first place, so they know everybody's had an inspection. He said they need to ensure there is a working fire extinguisher and smoke alarms, but it's hard to arrange a building inspection with someone who is never there.

Mr. Reed commented that because they have Wintergreen, which is full of unhosted stays and legal unhosted stays, it would make sense to get rid of unhosted stays for the rest of the County and make the grandfathered ones non-transferable.

Mr. Rutherford said you can't make them non-transferable; if you have a non-conforming use, you have to prove the two-year threshold.

Mr. Reed said that makes sense, and going to the comp plan, they want to have access for long-term rentals and single families in the County.

Dr. Ligon said she wanted them to consider that this is one of the main incomes for the County, and she would like to know where they would make up the TOT money if that decreases based on these actions.

Mr. Rutherford commented that they are arbitrarily picking a bunch winners and losers right out of the gate, and at least the special use permit gives someone a reasonable shot.

Mr. Averitt stated that it's not typical to rent an Airbnb and have the owner on the property with you.

Ms. Gaines said it's more common in cities, and the shared houses are usually cheaper.

Mr. Averitt said there are a lot of people in this County who count on supplemental income from their short-term rentals because Nelson is a tourism County.

Mr. Rutherford clarified that they are really just debating the requirement for a special use permit for unhosted.

In a straw poll, the Board and Commission agreed to keep unhosted in and enact requirements for it.

Ms. Bishop suggested adding SUP criteria and use standards in the ordinance for unhosted stays, instead of making it an SUP with conditions.

Ms. Gaines said they would add them in Article 7 to unhosted stay rather than two special use permits and put in more automatic standards, then the special use permit can add more standards depending on where it is.

Ms. Proulx said she had a question about "underutilized" in the context of the section on adaptive reuse.

Ms. Gaines explained that they had adaptive reuse in the ordinance, but they didn't have it in Article 7, so this is a new section to provide standards. She said this establishes standards for conversion or redevelopment of existing at-risk buildings, converting them into residential or mixed residential and commercial uses. She noted that there are standards for a site plan; they have to retain and reuse the original structure, preserving the original character, and it can be residential or mixed use. She said it has to be at least 50% residential; additions to the building are limited to 40% of the original floor area; and any new accessory buildings are permitted if the administrator determines that the number, type, scale, and uses within the new buildings is compatible with the existing building.

Ms. Gaines noted that there are incentives to incentivize this use, including that non-conformities can remain; a new loading zone would not be required; new parking would only be required for any expansion. She said multifamily is permitted by right in any districts that allow this use; density bonuses are available in rural and

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central villages or service center with adequate water and sewer, and it also permits 60% additional building footprint or floor area when it includes affordable housing or certified green building.

Ms. Gaines said these would be allowed as a special use in A1 and R1, and by right in R1, R3, RPC, B1, B2, and SE1. She said Berkley recommends that the County keep track and monitor how well the incentives are working to see if they may want to tweak the incentives in the future based on feedback and input from usage.

Ms. Proulx reiterated her question about “underutilized.”

Ms. Ford said they had hoped the words around it would provide clarification.

Ms. Gaines responded that it wasn’t defined and could be changed if necessary.

Ms. Bishop said the definition for an adaptive reuse project states: “The conversion of an existing building, regardless of its original use, into one or more residential units applies only when original structure is retained and substantially reused, rather than being demolished and replaced, may include redevelopment as a fully residential or mixed-use structure with commercial and residential, and may include existing accessory structures.” She said regardless of the building, this, like all the other purpose and intent sections, gives them more ways to back it up.

Ms. Gaines said “underutilized” was probably a better word than “blighted.”

Mr. Averitt said in combination with the definition, “underutilized” could remain and was likely sufficient.

Mr. Rutherford recalled a previous discussion under which they would allow short-term rentals as part of an adaptive reuse project, without a special use permit.

Ms. Gaines suggested allowing all three short-term rentals without an SUP in an adaptive reuse project.

Ms. Gaines stated that they also had requested a new use category: resort.

Ms. Bishop clarified that this was a result of the discussion they had when someone had multiple projects they wanted to do; for example, when Devil’s Backbone applied, they had four or five special use permit requests—so this would encompass a full project as one SUP as opposed to one for a venue, one for a campground, one for the restaurant, etc.

Ms. Gaines said they could have a resort with a retreat within it.

Ms. Gaines also stated that data centers were only allowed by SUP in the industrial district, M1. She said provisions in the new proposed ordinance include changing the viewshed analysis from 1,000 to 1,500 feet; encouraging air-based systems, cooling systems as opposed to water; and increasing the setbacks from 100 to 200 feet. She said for utilities, they added that data centers shall be located on property with a power station or an existing transmission line or immediately adjacent to a property or easement with a power station or existing transmission line; no new offsite transmission lines shall be constructed for the data center; and no data center shall be built until evidence is given as part of the application that the owner has been approved by the utility company. She said they also added a requirement for annual noise testing.

Ms. Gaines commented that she lives in Roanoke, and there’s a big data center issue going on there right now, so she has been watching that and trying to think of ways they could have been better protected—as it is threatening their water supply.

The Board and Commission agreed that requiring transmission lines and air-based cooling systems would likely hinder data centers from moving forward.

Ms. Gaines said that additional changes under Article 7 included removing the storage container standards, removing minimum lot area from accessory dwellings, and adding category 3 temporary events for really big events like Lockn, which does require a temporary event permit and an SUP. She noted that the SUP automatically gets reviewed every five years, so the Board could vote down the SUP after five years and not allow it anymore, and it’s limited to a maximum of six consecutive days. She noted that the use permissions there are by right in A1, B1, B2, and SE1.

Ms. Ford said when this is an SUP, they can always add conditions and tailor them to what they want.

In discussing recent events that had a high noise level, Mr. Reed said there's a note about having amplified sound regulated by the County Code instead of the zoning administrator. He said Page 77 says, "The County should consider changing...the amplified sound shall be regulated by the County Code, Chapter 8, Article 2, noise control. This would shift the noise enforcement from the zoning administrator to law enforcement."

Ms. Bishop said that's currently how it already is.

Ms. Gaines said it has those limitations, but it's up to zoning to enforce it. She said if they change that to say they have to follow the noise ordinance, then it becomes a law enforcement matter; if the neighbors call at 2 a.m., they can call the police, and the police can enforce it.

Mr. Harman said the police don't know how to work the noise meters, and they refuse to learn.

Ms. Gaines asked if they wanted to change that so that it's all following the noise ordinance instead of having separate hours in the zoning ordinance?

Ms. Bishop noted that they were just talking about the by-right events that are not part of the special use permit, like if someone has a category one or two event.

Ms. Gaines suggested that it should be the same across the ordinance instead of having different hours for different uses.

Ms. Bishop suggested that Article 3 say, "Amplified sound shall be regulated by SUP condition," because that's the only way that event is allowed anyway.

Ms. Ford clarified that for Category three, they will change it to say that it's by the SUP conditions; for the other two, the noise ordinance will apply.

Ms. Gaines said Article 8 pertains to community design standards for lighting, landscaping, walls and fences, streets, bikeways and sidewalks, parking and loading, and signage.

She noted that there have been a few changes since work session five: For parking lot landscaping, the trigger that requires this landscaping in the parking lots went from 10 to 30; at 30 parking spaces, there is a requirement to provide shade, screening and stormwater mitigation; they added a maintenance responsibility to private streets, prohibited feather signs; sign setbacks were added and simplified to 15 feet; and all open space requirements are now in division 8-8.

Ms. Gaines said that Article 9 is nonconforming uses, and this covers legally protected status to land uses, lots and structures that are conforming with the existing ordinance, but may not conform to the new ordinance. She noted that this is controlled by state and federal code, and there have been no changes to this article. She said in the subdivision ordinance, the only change was changing planning commission to administrator per the state code changes.

She stated that definitions added since the last work session were highlighted in green in the ordinance, and they revised the definitions on the screen according to their request. She said the only use that was deleted was that trade person service because they had felt like home occupation would cover that.

Ms. Proulx said the other short-term rental things other than bed and breakfast refer to 30 days as temporary, and bed and breakfast just says, "provides temporary lodging." She asked if that should state under 30 days.

Ms. Bishop clarified that in 7.31 bed and breakfast, it does say, "Guests may stay no longer than 30 consecutive days."

Ms. Ford shared some ordinance review tips. She said she heard remarks about being prepared to read all 300 pages, or however many pages the document contains. She stated that she likes to show the group this overview because it assists with review and helps connect different sections without reading every page. She said, for example, when referencing Article 7, it is difficult to remember what was noted in Article 5 or 4, and this approach is helpful. She said they have provided resources such as the summary change memo, which highlights major changes, and the editor's notes at the bottom of the document. She stated the group should continue to refer to those notes, but also remember that the articles work together.

Ms. Ford said there are various scenarios the group can work through, and this method applies to any situation. She stated if someone has a current permit or application under consideration, they should test it against the new ordinance to see the outcome. She said the topic is not intended to derail the meeting, but since short-term rental is a hot topic, it is useful to see its application in the ordinance and the requirements involved. Ms. Ford said for short-term rentals, one should begin with Article 6 to review district permissions. She stated that, for example, if considering a homestay, it is allowed by right in certain districts. She said if someone knows the zoning of a parcel in their community, such as R1, a homestay with a resident would be by right, and a hosted stay would also be by right. She stated that an unhosted stay would require an SUP, and in the R2 district, short-term rentals are not permitted.

Ms. Ford said the next step is to review the use standards, referring back to the matrix table, which directs users to the relevant section. She stated that by consulting section 7-3-9, users can identify use standards and see specific requirements for a hosted stay. She noted the slides were not her creation and did not know why one was blank.

Ms. Gaines said the occupancy is determined by state building code and septic permits. She stated that obtaining a County business license is necessary. She said registration is required, as previously discussed, and the County must be allowed to inspect the dwelling upon request or if a possible violation is reported. Ms. Gaines stated that general standards apply to the use, including providing parking for guests and following standards for revocation, suspension, or cancellation of registration, as well as penalties.

Ms. Gaines said Article 4 is relevant only if a new dwelling is being built. She stated Article 8 does not apply to an existing single-family home, so there are no applicable standards for that use. She said Article 3 applies only if hosting a short-term rental in a district that requires a special use permit, describing that as the hypothetical hosted stay scenario. Ms. Gaines stated that for a hotel development scenario, Article 6 should be consulted to determine which districts allow hotels. She said there are no use standards for hotels, but certain districts require a special use permit, which is outlined in Article 3. She stated that if the hotel is in the B1 district, it is permitted by right. Ms. Gaines said it is important to read the district purpose and standards, including those specific to B1, and that Article 8 contains requirements for new development. She stated the process involves reviewing relevant articles and standards, then consulting Article 3 for information about the pre-application meeting, application process, and site plan process.

Ms. Gaines said the change summary document includes a table showing all strategies in the comprehensive plan being implemented with the new ordinance, spanning about three pages. She stated that the rewrite addresses many comprehensive plan strategies and encouraged the group to recognize their swift implementation and commitment.

Ms. Bishop noted that they would have an annual review of the comp plan, with an annual report brought forward in the spring.

Ms. Gaines said if they are feeling unsettled about any of it, they can always amend the zoning ordinance.

Ms. Gaines said if they have additional comments regarding this work session, they should get those to staff by the 24th and then to Berkley by the 31st. She stated that they had originally planned the public open house for January 20 but would need to set a new date for that since this meeting was pushed back.

Ms. Bishop suggested another work session in January with the new Board of Supervisors member, then the public open house in February.

Ms. Gaines suggested having the public open house on February 25 since they already had that on the calendar, from 4:30 p.m. to 6:30 p.m. at the Nelson Center.

Ms. Proulx suggested having an automatic snow date advertised.

Ms. Bishop said after the public open house, they would have another joint work session with the Berkley group on March 25.

Mr. Reed said he could not attend that date but was available the following week, April 1st.

Ms. Bishop noted that the next Planning Commission meeting would be three weeks after that.

III. OTHER BUSINESS AS PRESENTED

There was none.

IV. ADJOURNMENT

The Planning Commission adjourned its meeting at 7:11 p.m.

The Board of Supervisors adjourned its meeting at 7:11 p.m.