



Nelson County Planning Commission
Meeting Minutes
March 26, 2025

Present: Commissioners Mike Harman, William Smith, Phil Proulx, and Gary Scott; Board of Supervisors Representative Jessica Ligon.

Absent: Richard Averitt.

Staff Present: Dylan Bishop, Planning Director.

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

Review of Meeting Minutes

There were none presented for approval.

Other Business

- Battery Energy Storage Discussion

Ms. Bishop reported that at the Board of Supervisors meeting this month, there was some discussion about the proposed projects for CVEC at the Colleen and Piney River substations. She stated that after the Board reviewed the proposals, they requested that the Planning Commission reconsider amending the ordinance to allow for battery energy storage and rather treat these projects as an accessory used to the utility, due to the scale of the project and the fact that it's a behind-the-meter project and not a standalone commercial development to allow these projects to proceed as accessory use to public utility.

Ms. Bishop stated that should the Planning Commission agree to that, they would proceed with normal minor site plan process and would still be required to do a siting agreement with the Board of Supervisors, which would include financial incentives, training for fire department staff, etc. and that's a negotiation with the Board that is still part of this consideration.

Mr. Harman commented that this makes a lot of sense to him because this is strictly just for power companies.

Ms. Proulx asked what "behind the meter" means.

Ms. Bishop explained that they are storing the power onsite, then redistributing it themselves directly to the customers—whereas a commercial project like a solar farm is keeping it onsite and then selling it back to the utility.

Mr. Smith asked if this project is within the area for the substation, meaning that it's the Co-op's property.

Ms. Bishop confirmed that the Colleen site is within the fence compound; the Piney River site is a separate location on the back of the lot but still on the same lot as the substation.

Mr. Smith asked about the fire department training and whether the volunteer fire department has what they need for this, expressing concern about chemical fires if the batteries explode.

Ms. Bishop responded that those are two separate things: There's a \$10,000 financial incentive for payment, as well as training for local fire departments. She said the representative from LightShift has already reached out to local fire and EMS to get that process going.

Mr. Harman stated that they do need to update the ordinance in the future for battery storage, because it's eventually going to come before the County with a request for some commercial operation that needs battery storage; for instance, a small computer room or a hospital or a lab that needs battery backup. He asked what needed to come next.

Ms. Bishop stated that if there's general consensus, staff can proceed with that direction.

Mr. Harman made a motion to treat battery energy storage as an accessory to the utility in lieu of amending the ordinance. Mr. Smith seconded the motion.

Yes:

Jessica Ligon

Phil Proulx

Mike Harman

William Smith

Gary Scott

- Short Term Rental Discussion

Ms. Bishop stated that the Board of Supervisors approved a work order amendment to address the short-term rental ordinance first in their process revisions, and today they would review the recommendations from the Berkeley Group. She said the proposed text is formatted into the current zoning ordinance, which would be readdressed and reformatted during the full ordinance update process. She said the Berkeley Group will provide one round of text revisions, and the Board would either send it back to the Commission for changes or set a public hearing for it as is. Ms. Bishop said that public hearings would take place with the Planning Commission and then the Board, as required for all ordinance updates.

Ms. Bishop said a common theme she has heard is the need to establish a goal for what the ordinance is trying to accomplish. She said that while better regulations for short-term rentals can help manage this industry and its potential community impacts, incentives to rehabilitate existing housing, create housing, and other tools will be the primary drivers to promote and address affordable housing and availability—which will also be addressed in the full ordinance update process.

Ms. Bishop said the Nelson County and Tourism website maintains a full business directory of all licensed businesses in the County, so there is no need to pay for a separate site as it just links back to the business directory. She stated that the current transient occupancy tax (TOT) is 7%, one of the highest in the state, and the Commissioner of Revenue's office maintains the registry as required by the state. She said they report all new short-term rentals to her office monthly for zoning checks and also provide numbers monthly to the Board of Supervisors.

Ms. Bishop stated that the benchmarking localities used by their consultant—as discussed by staff and Board members—include Amherst, Bedford, Louisa, and Albemarle counties. She said IT staff is mapping all existing short-term rentals within the County, as requested by the Board of Supervisors, and that will be ready by their April meeting. Ms. Bishop said the R1 district typically has higher land-use intensity than the A1 district, with more traffic, ambient noise, and nighttime lighting, as well as smaller lots. She said full house short-term rentals may have less impact in residential zones than in agricultural zones.

Ms. Bishop said two definitions are proposed: a short-term rental of a dwelling, meaning a full home rental by any owner; and a short-term rental of a dwelling as a homestay, where rooms are rented out while the owner occupies the residence as their primary home during rental periods. Ms. Bishop said the use permissions by district would include both current and proposed standards; currently, a vacation house is permitted by right in agriculture and by right in R1 residential if the majority of the lot is also zoned A1, otherwise requiring a special-use permit; R2 requires a special use permit and is by right in the special enterprise and B1 districts for existing dwellings.

She said that under the proposed changes, the homestay rental—where the owner occupies the residence while renting rooms—would be by-right in conservation, agriculture, both residential districts, and the service enterprise district. She said a full home rental, not a primary residence, would require a special-use permit in A1 due to possible greater rural impacts and would not be permitted elsewhere. She stated that the current zoning map reflects gray as A1 agriculture, peach as Wintergreen, green as C1 conservation, and yellow pockets along Village hubs and in Afton, with residential uses zoned close to the road and agriculture behind that usage, essentially with a dual zoning situation.

Ms. Bishop said the proposed use standards for all short-term rentals, whether by right or special use, require a property management plan including local contacts, permitted guest numbers, parking, and locations of fire extinguishers and smoke alarms. She said the recommendation is no more than one dwelling per parcel for short-term rentals, but staff recommends allowing an option for one additional, so two dwellings on one lot could be rented. She said noise levels should not exceed 60 decibels at the property line; no events with non-guests are allowed without a special-use permit; prohibition of RVs, buses, and travel trailers, with tents and non-permanent structures added for clarity; vehicles must be parked in designated areas per the property management plan; compliance with health and building codes, including affirmation that septic systems are pumped every three years; and stipulation that homestay owners must reside at the property at least 180 days per year and occupy it during rentals.

Ms. Bishop stated that recent state code requires by-right use for renting rooms if the owner lives in the home. She said staff recommends a third definition for a short-term rental where the owner is the primary resident but is not required to occupy the property during rental periods, with documentation such as a driver's license or utility bill as proof. She noted an additional recommendation for allowing short-term rental of a second dwelling on the same lot where the owner is the primary resident of the main dwelling, noting that two-acre minimum per dwelling means this would only apply to larger parcels.

Ms. Bishop stated that she recommends the homestay option as by right in business districts to encourage mixed-use development in commercial areas, in line with the Village Overlay concept. She stated that the Commissioner of Revenue currently reports registrations to her office and maintains the registry, but the draft ordinance has this reversed, so she advises clarifying this point.

Mr. Harman asked if the state is now mandating that some of these be granted by right.

Ms. Bishop confirmed this and clarified that this only pertains to ones that are owner occupied.

Ms. Proulx commented that she likes the third option/definition, but she does not like the terminology on “dwelling,” “short-term rental,” and “homestay,” which she finds confusing. She suggested changing the definitions so it’s very clear which is owner occupied and the other being a separate building. She also stated that she doesn’t agree with the notion that there is less impact on R1, as the impact on the residential area is as high or higher than on R1.

Mr. Harman agreed that this can be confusing, and they need to get a handle on it from the beginning, including having public hearings on it.

Ms. Proulx pointed out that this doesn’t limit homestays but just helps regulate them, and her understanding is that any in existence would be grandfathered.

Ms. Bishop confirmed that existing properties would be grandfathered.

Mr. Harman commented that the distance between houses seems to be important and would make it easier to be acceptable to the community.

Ms. Bishop noted that these parameters came from benchmark localities, and the Berkeley Group has emphasized that Nelson can do whatever it wants with these.

Mr. Harman said he felt this would be hard to manage, and the whole-house rental would likely be the most problematic and have the most issues, not the owner-occupied properties. He added that if the owner isn’t going to manage the property, the agent should be nearby.

Mr. Harman stated that he would like to separate A and B right out of the gate, because the homestay properties are not going to necessitate the requirements that the whole-house rentals will.

Ms. Bishop said the list Berkeley has proposed for the use standards would apply to all short-term rentals—by right or special use—the latter of which would provide extra leeway for additional conditions.

Mr. Smith asked if the term “homestay” was universal.

Ms. Bishop responded that it came largely from how other localities in the region are treating these and how they have them defined, but there are other ways to name these—partial rental, owner-occupied rental, etc.—to make the language clearer.

She recapped their input as inclusion of the stipulation that any whole-home rentals should be through special use permits; clarification of the language and terminology for the definitions, with the third definition added; addition of requirements such as distance between; and addition of tents and temporary lodging to the recreational vehicle section.

Commissioners also indicated that they liked the Amherst ordinance language and provisions.

Ms. Bishop noted that their changes would take away any short-term rental being permitted by right at A1 to only allowing owner-occupied or primary owner, and any whole home rental would be by special use permit. She said this limits it in that capacity but is not implementing a cap or percentage, although Board Chairman Ernie Reed has suggested limiting the number of short-term rentals. Ms. Bishop said that IT was working on a map to establish how many currently operate.

Dr. Ligon recalled the current number as 800.

Ms. Proulx asked if that included Wintergreen.

Ms. Bishop responded that it was important to note they do not include Wintergreen in land use.

Dr. Ligon pointed out that the Board has considered the 800 number to include Wintergreen, with the majority of rentals overall being on the mountain or at the base of it.

Ms. Bishop said that Chairman Reed had also wanted a provision that only Nelson County property owners would be able to have these.

Ms. Proulx said she was not sure that would be legal.

Mr. Smith stated that he had tried to find the legal parameters in the state code.

Mr. Scott asked if Mr. Reed's recommendation was for a charter or franchise system.

Ms. Bishop responded that she recalled his proposal for a lottery system where it rotates around, but she is not a fan of caps or these types of restrictions.

Dr. Ligon said that Mr. Reed's opinions seem to be the most restrictive, and she and other Board members have consistently reminded everyone that tourism is Nelson's primary economic driver. She emphasized that they do not want to cut their income, which has been a problem. She said they chose decades ago to prioritize tourism—and she has grave concerns about property rights for people who have decided to invest here and about cutting this income before they have something to replace it. Dr. Ligon also mentioned that there are many, many Airbnbs, as the public has noted in numerous meetings.

Ms. Bishop said that about 22% of jobs in Nelson are supported, which is higher than Virginia Beach.

Mr. Scott stated that he looks at Augusta, Appomattox, and Amherst, which have been able to have industry alongside tourism—but Nelson has put all of its eggs in one basket and needs to continue on the path it chose until that changes. He said that hopefully in the future, they will coax some industry in so that younger people will move here for jobs and be able to buy a house.

Mr. Smith commented that Nelson County has an agricultural history, and he has been farming in the County for 30 years. He said his concern is the person who comes in and buys a house and acreage just to get rental income, and this is having an impact on lower-end housing because investors come in and snap up properties with cash before a homebuyer's application can even be processed.

Dr. Ligon said that smart money is always moving, and if short-term rentals cease to become lucrative, those owners are moving on. She noted that a lot of the rundown properties in the area have been fixed up because of Airbnb, but if they are no longer viable as rentals, they will be sold.

Ms. Bishop pointed out that the Virginia attorney general had opined that if a property is zoned agriculture and is a Bonafide operation, with activities viewable by the public, a short-term rental must be by right as an agritourism activity—so that's some incentive for farmers with little or no red tape. Ms. Bishop emphasized that this is formatting regulations into their current ordinance, and as they move through the full ordinance update, they're going to get into the other many factors pertaining to housing.

Ms. Proulx commented that said there are complexities around regulating, tracking, and ensuring safety with these properties, and there are some questionable places being rented for this.

Dr. Ligon said if they are safe and appealing, that is never bad for the County's perception.

Ms. Proulx agreed but said she has struggled with the balance of individual property rights versus imposition to neighboring properties.

Dr. Ligon pointed out that the benchmark localities Berkeley used do not have tourism as their primary income, and she was curious about counties where it is the number one source.

Ms. Bishop responded that Bedford and Louisa were selected because they had a lot of tourism.

Mr. Smith noted that Bedford also has some industry.

Mr. Scott asked about Floyd County.

Ms. Bishop said they could look at additional counties.

Dr. Ligon agreed with Floyd as being comparable, along with Bath County, with both lodging/tourism and the age of their population, as well as breweries.

Mr. Scott agreed that Floyd has a lot of breweries.

Ms. Bishop said they stipulated four localities for the consultants, but staff could use others.

Mr. Harman asked how the County knows when someone is renting out a bedroom.

Ms. Bishop responded that they are supposed to register with the Commissioner of Revenue, and platforms such as Airbnb and VRBO collect all the taxes and remit them in a lump sum. She said they are still trying to work this out at the state level because a lump sum doesn't differentiate by owner, but Nelson requires people when they file to indicate what they've remitted for their taxes.

Dr. Ligon said that in the Board's proposed FY26 budget, there is money for software that makes tracking and policing easier for the Commissioner of Revenue. She said that it will ensure that even people who aren't using those rental platforms will show up with their checks.

Ms. Bishop said that part of the initial goal when they initially started talking about raising the occupancy tax was to not raise it for people who are already paying it and doing the right thing.

Ms. Proulx noted that the County has been levying transient occupancy/lodging tax for 15 or 20 years now, and the rate became 7% last July.

Ms. Bishop stated that she had forwarded an email from Maureen Kelly that further details the TOT.

Ms. Bishop said she would provide an update on everything at their next meeting.

- Proposed Overlay Districts

Ms. Bishop said that at their last joint work session with the Board, they ran out of time and were not able to discuss zoning districts or overlays, but she was asked to present this to the Board at their March 11 and would briefly review that presentation and the Board's recommendations, then solicit feedback.

Ms. Bishop reported that several comprehensive plan strategies stood out, including evaluating current zoning district densities and adjusting them to allow for additional housing in appropriate areas such as Lovingston and Colleen. Ms. Bishop said other strategies included discouraging ridgeline development to protect scenic viewsheds, supporting tourism while being mindful of over-tourism, diversifying tourism assets to distribute traffic, and preventing negative impacts to local quality of life.

Ms. Bishop said R3 was intended to address increased housing availability and diversity in areas such as Lovingston and Colleen, which are community hubs; create opportunities for a larger mix of housing types, including single-family homes, townhomes, condos, and multi-family apartments; better accommodate residents at different income levels and life stages, with higher density, reduced lot sizes, taller structures, and bigger buildings; and promote walkability, connectivity, and access.

Ms. Bishop said that Mountain Ridge Overlay is designed to protect natural assets and would include strict district and use standards to preserve landscapes, prevent erosion, and protect viewsheds. Ms. Bishop stated that the County's reliance on tourism, recreation, and conservation made this a critical tool in balancing development with environmental stewardship.

Ms. Bishop said that Village Overlay would integrate guidelines for rural villages found in the comprehensive plan, providing a mechanism to map these areas on the zoning map and further aligning with the future land use map. Ms. Bishop said the six rural villages are Arrington, Faber, Gladstone, Piney River, Schuyler, and Shipman. She stated that the overlay would establish zoning regulations tailored to the distinct character and needs of the villages—differentiating them from the current A1 and R1 designations—which would allow for a broader range of uses, including mixed use.

Ms. Bishop said this would also foster increased residential densities and village-specific design standards, facilitating context-sensitive growth while preserving community character. Ms. Bishop stated that each area has its own identity and was once a thriving community, and they hoped for a return to that vitality. She said support could come through small-scale commercial uses for local needs, walkability, and a village aesthetic.

Ms. Bishop reported that the future land use map process started with areas having steep slopes over 20%, then added high conservation value and flood zone—resulting in the base layer of the future land use map, as noted in green.

Ms. Bishop said other options considered were the Route 29 Corridor Overlay Districts, which would focus on directing development and preventing overdevelopment in sensitive areas. She stated that this would encourage tourism-related businesses by lowering barriers to entry, designate certain uses by right within the overlay, allow more lot coverage and flexibility in development standards, and introduce enhanced design standards to ensure new development maintains local character and aesthetic. She noted that architectural landscaping requirements could promote a visually cohesive, high-quality environment, reinforcing a positive first impression for visitors.

Ms. Bishop said the Route 151 Corridor Overlay District was discussed with a similar focus on managing development rather than promoting it, and stricter land use controls would emphasize preservation in an already well-developed area with a high concentration of businesses. She said restrictions would be introduced on certain development types, ensuring growth management and infrastructure capacity. Ms. Bishop stated that regulations could include limiting types of uses, reducing lot coverage and building footprints, increasing setbacks and lot sizes, and implementing more stringent use standards.

Ms. Bishop said that the County received a Growth and Accessibility Planning Technical Assistance Grant through the Office of Intermodal Planning and Investment in 2023 to develop a Nellysford Area Growth Management Plan (NAGMAP). She stated that due to community pushback, the County was required to withdraw from the award. Ms. Bishop said staff intends to reapply for the grant this fall, allowing for a separate, dedicated planning process in 2026 for Nellysford that would include public engagement and hearings for feedback, as well as a small area plan. She noted that the plan was already drafted and ready to go, and that the grant issuer has indicated there was no reason it shouldn't be approved again.

Ms. Bishop stated that Berkeley Group recommended the R3 and Mountain Ridge Overlay districts; staff had to pick three out of five and thus selected R3, Mountain Ridge, and Village Overlay. Ms. Bishop stated that the Board of Supervisors chose the R3 residential, Village Overlay, and Route 29 Corridor Overlay and requested an elevations map to determine areas with regulatory ridgelines.

Ms. Bishop explained that regulatory ridge lines have elevations of 2,000-plus feet with an elevation of 500-plus feet to the closest adjacent valley floor. She said 20% are steep slopes, and 35% are critical slopes, which will be addressed separately in the ordinance rather than as part of the Mountain Ridge Overlay. Ms. Bishop emphasized that steep and critical slopes are already being addressed.

Ms. Bishop referenced an elevation map, noting that orange-red color denoting elevations of 2,000 feet or higher. She stated that the future land use map's dark green areas with hatch lines represent permanently protected landscapes, national forest, conservation easements, and Wintergreen Resort. Ms. Bishop said those areas align closely, with some pockets in Montebello being sensitive rural areas but not permanently protected landscape.

Ms. Bishop said the Board determined that the Route 29 Corridor Overlay would be more beneficial to the County overall because incentivizing development along 29 could also potentially disincentivize development along the Route 151 corridor. She said they wanted to leave the Mountain Ridge Overlay for future consideration, and if the Planning Commission agrees with those choices, Berkeley Group will be notified and proceed with drafting, then present those drafts at the joint PC-BOS session on April 23.

Ms. Proulx stated that she would like to make a pitch for the Route 151 Overlay, as it is one of the biggest problem areas of the County due to traffic and other impacts; if that went into place, it would help push development into Route 29—which she did not feel they could achieve just by incentivizing 29. She asked what the rationale was behind choosing three and if costs were a factor.

Ms. Bishop said they have scoped out three.

Dr. Ligon explained that the discussion at the Board of Supervisors meeting included hope for grant funding for a specific study of 151, then ordinance changes later on down the line.

Ms. Bishop clarified that the study area was from Tuckahoe Antiques all the way to Spruce Creek.

Ms. Proulx said that leaves a lot of 151 uncovered and unaddressed, and the North District did not have representation in these discussions. She asked what the cost was for an additional district.

Ms. Bishop confirmed that it was \$2,500.

Ms. Proulx said that did not strike her as exorbitant, especially since much of the County's money comes from that road. She also noted that it is a primary entrance to the County with a beautiful view at Critzer's Farm. She reiterated her support to add \$2,500 for the 151 corridor overlay.

Dr. Ligon stated that she did not want to stifle investment in Piney River because they're on 151.

Ms. Proulx clarified that the area stops at 664 at Brent's Mountain.

Ms. Proulx made a motion to add the 151 Corridor Overlay District as a work order amendment for a fourth overlay. Mr. Scott seconded the motion.

Yes:

Jessica Ligon

Phil Proulx

Mike Harman

William Smith

Gary Scott

Ms. Bishop pointed out that they got a free \$100,000 to do this, and it didn't seem equitable to spend a lot more money on it when the community didn't want it in the first place.

Mr. Scott asked what was meant by "community" in this context, and whether it was just a vocal minority.

Ms. Proulx said her understanding was that it was mostly some folks in the Nellysford area.

Board of Supervisors Report

Dr. Ligon reported that a lot of what was discussed was mentioned here today. She said there was a debate on the 151 corridor, but she agreed that they were not well represented.

She said there was concern about the battery storage discussion, and she would continue to forward any Planning Commission issues with that back to them.

She also reported that they had held a joint meeting with the School Board and continued to revise the budget.

Upcoming Scheduled Meetings

- Continue to April 23, 2025 at 5:00 p.m. for Joint PC/BOS Work Session
- Regular Planning Commission Meeting to Follow at 7: 00 p.m.

Ms. Proulx made a motion to continue the meeting until April 23, 2025 at 5:00 p.m. for a joint meeting with the Board. Mr. Smith seconded the motion.

Yes:

Jessica Ligon

Phil Proulx

Mike Harman

William Smith

Gary Scott

Respectfully submitted,



Dylan M. Bishop, CZA, CFM

Director of Planning & Zoning