

NELSON COUNTY PLANNING COMMISSION
MEETING MINUTES
April 27, 2016

Present: Chair Philippa Proulx, Commissioners Mike Harman, Linda Russell, Robert Goad and Tommy Bruguere (Board of Supervisors Liaison)

Absent: Commissioner Mary Kathryn Allen

Staff Present: Tim Padalino, Director of Planning & Zoning and Stormy Hopkins, Secretary

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

Approval of Minutes – March 23, 2016:

Commissioner Russell questioned if “disclaimed” is the proper word that should be used on page 3, number 3. It was decided that “disclaimed” would be replaced with “stated.”

Commissioner Harman made the following motion:

I move that the minutes for March 23rd, 2016 be approved. Commissioner Goad provided the second; the vote 4-0 with Mr. Bruguere abstaining.

Other Agenda Items:

- 1. Rural Long Range Transportation Plan:** Mr. Padalino noted this was a project that is managed and administered by the Thomas Jefferson Planning District Commission (TJPDC). He then noted that there were two guests present tonight, Mr. Wood Hudson and Mr. Nick Morrison.

Mr. Morrison and Mr. Hudson addressed the Commission. Mr. Morrison stated that they were there to give a brief update on the Rural Long Range Transportation Plan which “serves as a guide for making transportation related decisions, as well as analyzing the networks that are in our rural localities, so it complements the transportation plans that we have in the urbanized area in Charlottesville and Albemarle County.” He further noted that they have been working with the Rural Technical Advisory Committee to update the Rural Long Range Transportation Plan that was last done in 2010.

Mr. Morrison and Mr. Hudson then explained that they have been “analyzing safety related issues, crash data from Virginia Department of Transportation (VDOT), congestion, access, economic development, as well as environmental impacts of potential projects which fits into this House Bill 2 (HB2) methodology of prioritizing transportation projects in a really transparent way.” Mr. Morrison also noted that by using this methodology from the state level, he hopes that it will improve the competitiveness of projects being requested by localities. It is their hope to be able to run a scoring matrix (that is similar to what the state is using) to have a prioritized project list that will help localities understand how their projects might score in terms of receiving state funding. He concluded by noting, “we’ve completed that data analysis and we’ve been going through the existing projects that are in the past 2010 plan, seeing if there are projects that are in our data analysis that have not been identified and adding those. Moving forward, we’ll start getting more in-depth with the prioritization process, but we are in the preliminary stages. We want our localities to be involved in the process from the beginning.” Mr. Hudson added that they want to solicit feedback to see if they are on the right track; and that they want to know if there are projects that are on the list that are not identified, or perhaps should be prioritized ahead of others. He concluded by stating that the TJPDC wants to make sure “this document is responsive to the needs of who we serve.”

Mr. Hudson pointed out that “these regional plans that are done across the state by planning districts, work with rural localities. All of these plans feed into what is called VTRANS, which is the state’s transportation priorities plan.” He noted that with the “shrinking” transportation funding at the state level, it is critical that projects now be contained within these regional planning documents in order to compete for transportation funds. This especially applies to what they referred to as HB2, which is the new six-year improvement plan funding and prioritization mechanism.

Mr. Hudson and Mr. Morrison then provided responses to the following questions and comments from Commissioners:

1. *What is a visioning list?* Projects that are on more of a long-term horizon versus those on a mid-term horizon in terms of their needs and how well they stack up against other projects. This is a first-cut draft to provide organization to a large list of projects that previously did not have any order.
2. *What do the number on the chart correspond to?* That corresponds to a map color code that identifies the type of deficiency; there is no ranking. There is a Map Key that identifies the projects’ deficiency type.
3. *Is there a priority list and was there one in 2010?* There was never a priority list, it was a large unprioritized list of projects. TJPDC will prioritize the list. It is a quantitative model based on the requirements in HB2 which takes into account safety, congestion, economic development, accessibility, and land use.
4. *Is it possible to be on a high priority list and be a long-term project where VDOT would set aside funds each year?* They are not sure but can check into that.
5. *How will priorities be ranked between localities?* They will not be ranked and prioritized between localities – only prioritized within localities. In other words, each locality will have a separate prioritized list of projects that are only ranked against other projects within the same locality.
6. *Has thought been given to how the pipeline will effect VA664 (Beech Grove Road) from VA 151 (Patrick Henry Hwy) to Blue Ridge Parkway?* This has not been factored in, but they will take a look at it and incorporate it into the analysis.
7. *In looking at numbers 29-32 (in the chart) and matching those up to what is shown on the map, they do not match up. Also, #31 indicated I-66, it should be I-64.* There is incorrect numbering in the map. This is a preliminary document, and revisions are necessary.
8. *On the map, is there a reason why the red line (for Rt. 151) goes from the northern county line, down Rt. 6 west and stops at the project at Beech Grove; is there no need there or is it shown incorrectly?* The data was pulled from the Route 151 Corridor Study using a data matrix; there wasn’t a clustering of accidents. It was noted that when looking at congestion, it looks at not only current average annual daily traffic but also uses a projected model from VDOT out to 2040. Most of the networks within the county fall within an average to below average annual daily traffic volume. They are happy to include that corridor in this project list and extend it.
9. *There is confusion with #8 – VA 151 from VA 151 to VA 56; why is it listed this way?* That project description was taken directly from the 2010 plan. They will review and revise the description as necessary.
10. *Adial Road between Rt. 6 and Nellysford is not listed.* They will look into that area.

Mr. Morrison and Mr. Hudson indicated that they would be happy to share their data and maps with the Commissioners, so that the process is transparent and so that the Commissioners are able to see what TJPDC’s decisions are based on. They further noted that they will come before the Commissioners again as the project progresses to get additional feedback.

**2. Proposed Amendments to Zoning Ordinance Article 10 - (General Floodplain District FP):
(referral made at 12/8/2015 BOS meeting; PC review continued from 3/23/2016 PC meeting)**

Mr. Padalino noted this is a continued meeting of the referred amendments regarding Article 10 – (General Floodplain District FP).

Mr. Padalino provided an update on the overall review process to date, and on procedural issues moving forward. He noted that May 6th marks the 100-day deadline for the review process. Per State Code, the Planning Commission (PC) has to conduct a public hearing before voting on formal recommendations to the Board of Supervisors (BOS). He then noted that the PC can request an extension from the BOS to continue their review. Mr. Bruguere indicated that, speaking for the BOS, he does not believe an extension would be an issue due to the fact that it these amendments represent a complex subject, and there is a lot of new material that has come from the state.

Mr. Padalino noted that the Commission will eventually need to make recommendations on the following types of issues: minimum requirements to meet the regular standards contained in the state model ordinance; higher standards; minor housekeeping/editorial changes; and the issue involving the use of the term and procedure of Special Use Permit (SUP) for floodplain development. He indicated that Mr. Phillip D. Payne, County Attorney, was present to discuss the issue of Variances versus SUPs; how our ordinance is constructed; and how that may differ from the model in some ways.

Mr. Phillip Payne, County Attorney: Mr. Payne noted that the structure of the floodplain ordinance comes from the federal government, and the language comes from the federal regulations. He noted that he does not know where the term SUP came from when the floodplain ordinance was being amended. In the model ordinance a “zoning permit” is used to track how zoning permits are issued for all zoning districts. Under the model ordinance, structures are permissible in the underlying districts (A-1) provided they can meet the floodplain standards. He then noted that under the model ordinance a “variance” is hardship based but that it must also meet all the floodplain standards. Variances have to do with physical attributes of a project (setback, size of lot, etc.), and is a way to relieve someone from being unable to use the land. He further noted that under our current ordinance, the standards that are to be applied in determining whether to issue a SUP, or not, are the same for a variance, so they appear to be one in the same.

The Commissioners and Staff had the following questions/concerns/comments:

1. *Mr. Bruguere asked, in the floodplain ordinance, a SUP is almost a variance?* Mr. Payne indicated that it was because the standards in a model ordinance are for a variance. The County added a SUP and imposed the same standards. Except, the variance requires showing undue hardship and the SUP does not.
2. *Is it correct that the storage of gas on a farm, which is specifically ruled out in the “storage of hazardous materials,” would not be allowed in the floodplain, even though in the underlying (A-1) it is permitted?* Mr. Payne indicated that whatever is in the standards governs because the overlay is going to “trump” the underlying zoning district regulations where there is a difference. Mr. Payne referenced Section 10-17 “Permitted Uses in the Floodway Districts.”
3. *Is the existing floodplain ordinance considered an overlay district?* Mr. Payne indicated that it is. Mr. Padalino noted that it is established as an overlay district per Section 10.8B “Overlay concept”.
4. *The term “zoning permit” is used in the model ordinance and “Special Use Permit” is used in the county’s ordinance; does that suggest that a SUP is not required but a variance is? Or is the section about when a variance is necessary when unrelated to floodplains?* Mr. Payne indicated it is not. The variance procedure in the model ordinance is taken directly from code of federal regulations. It is

- applicable to a variance issues (setback, size of lot, etc.). Presumably it could deal with the design of the structure.
5. *Can you clarify if the model ordinance requires a variance for all floodplain development similar to the way our ordinance currently requires a SUP for all floodplain development? Or is the section in the model ordinance pertaining to variance there only for instances in which a variance comes in to play on the merits of a particular property?* Mr. Payne stated that the variance requirement in the model ordinance does not pertain to all situations, only to situations involving cases of hardship.
 6. *In the model ordinance, does the Planning & Zoning (P&Z) Director make the decision if the application meets the standards of Article 10 and if so, the permit is issued?* Mr. Payne stated that was correct.
 7. *If the zoning director denies a permit, what's the process?* Mr. Payne noted the applicant would go before the Board of Zoning Appeals (BZA) for a variance.
 8. *Would it be a recommendation that SUP be removed from Article 10?* Mr. Payne suggested that it should be removed and replaced with zoning permit as the model ordinance suggests.
 9. *In the model ordinance, it allows the BZA to refer an application to an engineer or other qualified party; can the shared cost philosophy be added?* Mr. Payne indicated that he had not researched the matter. He further noted that such cost-sharing is allowed, and indicated that he believes it can be done.
 10. *In (proposed) Article 10.15 (E) "Higher Standards and Critical Facilities" it views activities that would require special regulations...would this include something like a pipeline that would go over a river that would be used for transport and what would the standards be in such a case?* Mr. Payne indicated that he would have to investigate underground lines in the floodplain areas. Mr. Padalino noted that Department of Conservation and Recreation (DCR) distributed two statewide memos specifically addressed to the localities that were in the path of the proposed Atlantic Coast Pipeline (ACP). To Mr. Padalino's knowledge and memory, the first memo stated that the floodplain management regulations would not apply if they were to tunnel underground before reaching the floodplain boundary; and the second memo then offered a revised conclusion that if a pipeline crosses any area in or underneath the two-dimensional boundaries on a floodplain map, it is subject to the floodplain management regulations that a county has adopted.
 11. *Is there a problem with using the term "transport"?* Mr. Payne indicated that the unintended consequences need to be thought about and that he does not have an answer at this time. He will look into this.

Mr. Padalino then addressed the Commission, referencing the March 14th Staff Report and providing an overview of proposed amendments by issue and by affected sections. He then asked the Commissioners if they had recommendations for the proposed amendments. The Commission discussed the proposed amendments and agreed to keep them all as written (as detailed in the Staff Report dated March 14, 2016 – see attached).

- Amendments intended to bring existing ordinance into compliance with model ordinance;
- Increase freeboard from existing 12" requirement to 18" requirement;
- Define "critical facilities" and prohibit them in all Special Flood Hazard Areas (SFHA);
- Restrict "hazardous materials" and fuels in all Special Flood Hazard Areas;
- Limit land uses in the Floodway to only non-structural uses;
- Modify the requirements for when the Base Flood Evaluation needs to be identified and included on subdivision plats; and
- Restrict the placement of fill in all Special Flood Hazard Area (SFHA).

It was noted that the capitalization needs to be consistent throughout the ordinance for Special Flood Hazard Areas (SFHA). Mr. Padalino indicated that he would make the changes where needed.

Chair Proulx noted that she would like to see another draft of the proposed amendments before the next meeting. Mr. Padalino indicated that he would get an updated version of the proposed amendments to the Commissioners.

Commissioner Harman made the following motion:

I make a motion the Planning Commission request from the Board of Supervisors an extension of 100-days from the May 6, 2016 to provide recommendations on Article 10 (“General Floodplain District FP”). Commissioner Russell provided the second; the vote 4-0 with Mr. Bruguere abstaining.

Other Business:

Mr. Padalino noted that the TJPDC is assisting with the Rockfish Valley Area Plan (RVAP). The TJPDC is currently working on revising about twenty-four (24) maps and a public survey. An Ag Working Group was established as part of a grant requirement. A meeting of the Ag Working Group was held on Monday, and a lot of good comments were received from that meeting during the review process. A work session will be held with TJPDC staff tomorrow to address the review comments that were received on Monday. There is a lot of interest in the project.

Board of Supervisors Report: Mr. Bruguere provided the following details:

1. No action was taking on the M-1 District proposed amendment. The one individual has some issues that need to be resolved before a recommendation will be made. The BOS feels whatever recommendation is made needs to fit everyone.
2. The BOS adopted the “Farmers Market,” “Roadside Stands,” and “Bed & Breakfast” amendments.
3. There is a Citizen Working Group that is reviewing the proposed “Temporary Events” amendments.

Adjournment:

Commissioner Harman made a motion to adjourn at 8:56 pm; vote 5-0.

Respectfully submitted,



Stormy V. Hopkins
Secretary, Planning & Zoning