

Mr. Foster called the February 14, 2022 meeting of the Botetourt County Planning Commission to order at 6:00 PM, in the auditorium of the Botetourt County Administration Center in Daleville, Virginia.

PRESENT: Mr. Sam Foster, Chairman  
Mr. Steven L. Kidd, Vice-Chairman  
Mr. Hiawatha Nicely, Jr., Member  
Mr. Brandon Nicely, Member  
Mr. Tim Lucas, Member  
Mr. Billy Martin, Ex-Officio Member  
Mr. Mike Lockaby, County Attorney  
Mrs. Nicole Pendleton, Director of Community Development  
Mr. Drew Pearson, Sr. Planner  
Mr. Jon McCoy, Long-Range Planner  
Mr. Nick Baker, Code Enforcement  
Mrs. Laura Goad, Administrative Assistant

ABSENT: None

After Mr. Foster opened the meeting and welcomed those in attendance, he introduced Staff and Planning Commission members, and then read the procedures for the public hearing, noting that anyone wishing to speak should complete a "Request to Speak" form and give it to a Staff member.

Mr. Foster stated the Board of Supervisors would hear these requests on February 22, 2022 at 6:00 PM at the Botetourt County Administration Center.

Mr. Foster announced that the Planning Commission would meet in the Kroger parking lot for the next field review at 3:15 PM on Thursday, March 10, 2022.

Mr. Kidd motioned to approve the November 8, 2021 Planning Commission minutes as written.

Mr. B. Nicely seconded the motion, which was approved 5:0:0:0 for the following recorded vote:

YES: Mr. B. Nicely, Mr. H. Nicely, Mr. Kidd, Mr. Foster, Mr. Lucas  
NO: None  
ABSTAIN: None  
ABSENT: None

Mr. Kidd motioned to approve the December 13, 2021 Planning Commission minutes as written.

Mr. Lucas seconded the motion, which was approved 4:0:1:0 for the following recorded vote:

YES: Mr. B. Nicely, Mr. H. Nicely, Mr. Kidd, Mr. Lucas  
NO: None  
ABSTAIN: Mr. Foster  
ABSENT: None

Mr. Foster announced that Buttons Bluff LLC requested to withdraw their application, and since this was advertised, the Planning Commission needed to vote on whether or not to accept the request to withdraw.

Mr. Kidd motioned to approve Buttons Bluff LLC request to withdraw their application.

Mr. H. Nicely seconded the motion, which was approved 5:0:0:0 for the following recorded vote:

YES: Mr. B. Nicely, Mr. H. Nicely, Mr. Kidd, Mr. Foster, Mr. Lucas  
NO: None  
ABSTAIN: None  
ABSENT: None

Mr. Kidd motioned to withdraw their Comprehensive Plan amendment request.

Mr. Lucas seconded the motion, which was approved 5:0:0:0 for the following recorded vote:

YES: Mr. B. Nicely, Mr. H. Nicely, Mr. Kidd, Mr. Foster, Mr. Lucas  
NO: None  
ABSTAIN: None  
ABSENT: None

### **Public Hearings**

Amsterdam District: Melinda Ann Simpson requests a Special Exception Permit, with possible conditions, in accordance with *Sec. 25-583 Special Exceptions* and *Sec. 25-73. – Uses Permissible by Special Exception* to permit a private kennel for up to 20 dogs in the Agricultural (A-1) Use District on a 3.47-acre lot at 515 Etzler Road (State Route 672), Troutville, VA, and identified on the Real Property Identification Maps of Botetourt County as Section 87, Parcel 141A.

Mr. McCoy read the request aloud as he displayed the PowerPoint Legal Advertisement slide. He stated that Ms. Melinda Simpson was the founder of the Kindred Souls K9 Sanctuary, met with Staff, and submitted the application for a private kennel. Mr. McCoy further stated the property was zoned Agricultural (A-1), then displayed the zoning map, noting the nearby Botetourt Sports Complex, and explained that Ms. Simpson adopts animals senior and specialty dogs from the local animal shelter to give them a home setting, using the Kindred Souls K9 Sanctuary as a fundraiser to assist with costs for the dogs' care and provision. He also explained that Ms. Simpson would not accept dogs from the general population, only from the local animal shelter. He noted the waste was disposed of with normal trash; in the event of death, the dogs would be taken off-site for cremation; the home had a fenced in backyard approximately 300 feet from the nearest neighbor, and no animals would be kept outside of the home and would access the fenced-in backyard only for bathroom visits. Mr. McCoy displayed the aerial map noting the location of the fence. He said in the event Ms. Simpson was unavailable, she had a trusted friend to assist her with the care of dogs while she is on vacation. Mr. McCoy mentioned a positive comment from her neighbor and displayed photos from her property that were supplied with her application. Mr. McCoy brought up suggested conditions as follows if the SEP were to be approved: 1.

The private kennel shall be limited to no more than twenty (20) dogs. 2. Noise generated by the dogs shall not violate provisions of the Botetourt County Noise Ordinance.

Mr. Foster wanted to know if a new property owner would be able to use this SEP, if approved.

Mrs. Pendleton responded that yes, a new owner could have a private kennel here, but not a commercial kennel, which would be a different Special Exception Permit.

Mr. Lucas asked if this was specific for elderly dogs, or just up to 20 dogs.

Mr. McCoy replied that the applicant was present to speak to her request.

Mr. Foster opened the public hearing

Ms. Simpson wanted to know if the Planning Commission had any questions for her, as she stated she only wanted to deal with older or hospice dogs.

H. Nicely asked Ms. Simpson how she started.

Ms. Simpson replied that she did SPCA fostering for awhile and realized that older dogs have a hard time getting adopted.

***There being no one else to speak, Mr. Foster closed the public hearing.***

Mr. Lucas stated that he looked forward to seeing something like this, mentioned that if the dogs were kept indoors, age would not be as much of a concern.

Mr. Kidd stated that he felt like this was good, as he questioned what would happen if the land was sold, and there was an outdoor kennel.

Mr. Foster suggested putting in a condition regarding outdoor kennels.

Mrs. Pendleton commented they could do a condition that limited or prohibited outdoor runs.

Mr. Kidd noted conformance to the plan as a possibility.

Mrs. Pendleton noted, "Substantial conformance to the plan as shown."

H. Nicely brought up his visit to the property. He stated it was nice, well kept, and fenced, as he commended Ms. Simpson for the work she was doing.

Mr. H. Nicely motioned to forward the request for a private dog kennel, with possible conditions, with a recommendation for conditional approval on the basis that the requirements of Section 25-583 of the Zoning Ordinance has been satisfied with the following conditions:

1. The private kennel shall be limited to no more than twenty (20) dogs.

2. Noise generated by the dogs shall not violate provisions of the Botetourt County Noise Ordinance.
3. Substantial conformance to plan included with the application.

Mr. Kidd seconded, which was unanimously approved 5:0:0:0, with the following recorded vote:

YES: Mr. B. Nicely, Mr. H. Nicely, Mr. Kidd, Mr. Foster, Mr. Lucas  
NO: None  
ABSTAIN: None  
ABSENT: None

Amsterdam District: Joel F. & Rietta L. Plante request a rezoning of a 4.26-acre parcel, with possible proffered conditions, from the Agricultural Rural Residential (AR) Use District to the Agriculture (A-1) Use District for agricultural uses, and a Homestay, Short-Term Rental, in accordance with *Sec. 25-581.- Zoning map amendment—Owner initiated.* and *Article II, Division 1. – Agricultural (A-1) Sec 25-72 (20).- Permitted Uses* of the Botetourt County Code. Located at 50 Ottaway Road, Troutville, this parcel is identified on the Real Property Identification Maps of Botetourt County as Section 101B(4), Parcel 24.

Mr. Baker read the request aloud and displayed the zoning map. He stated there was a mix of properties nearby with A-1 to AR and B3 zoning, plus seven single-family homes nearby. He displayed an aerial map and described the placement of this rezoning request. He stated the applicant requested to use one spare bedroom for Homestay short-term rental, which was not allowed in the AR Use District.

Mr. Foster opened public hearing, commenting that no one signed up to speak.

Mr. Plante was present to speak on his own behalf. He stated that he had one extra bedroom and bathroom, and he would rather that it be used. He further stated it would only be rented out a couple of days at a time.

Mr. Lucas asked how he would advertise, and the venue.

Mr. Plante answered that he would use something such as Air bNb and would promote the Appalachian trail.

***There being no one else to speak, Mr. Foster closed the public hearing.***

Mr. Lucas noted there was plenty of space on property.

Mr. H. Nicely motioned to forward the Agricultural (A-1) rezoning request for agricultural uses and a Homestay, Short-Term Rental, with possible proffered conditions, with a recommendation of approval to the Board of Supervisors on the basis that the requirements of Section 25-581 of the Zoning Ordinance has been satisfied.

Mr. Kidd seconded, which was unanimously approved 5:0:0:0, with the following recorded vote:

YES: Mr. B. Nicely, Mr. H. Nicely, Mr. Kidd, Mr. Foster, Mr. Lucas  
NO: None  
ABSTAIN: None  
ABSENT: None

The Botetourt County Board of Supervisors have authorized the consideration of proposed text amendments to Chapter 25 of the Botetourt County Zoning Ordinance, as follows: Article VI. – Definitions, Section 25-601. Definitions, to amend the existing definition of Convenience store and add a definition for the proposed use: Convenience store, highway; Article II. – District Regulations Generally, Division 11. Business District B-2, Section 25-243. Uses permissible by special exception, to add the proposed use Convenience store, highway that would be permitted through granting only by special exception permit and subject to supplemental regulations; Article IV. – Supplemental Regulations, Division 1. – Use Regulations, to add standards under which the proposed use Convenience store, highway use would be permitted; and Article IV. – Supplemental Regulations, Division 3. – Parking, Section 25-473. – Required off-street parking and loading spaces, to amend the parking requirement for the use of Convenience store and to add a parking requirement for the proposed use Convenience store, highway. A draft of the proposed text amendments is available online or by contacting the Planning & Zoning Office.

Mr. Pearson read the request aloud as he welcomed Mr. Lucas to the Planning Commission and greeted other members.

Mr. Pearson noted this was similar to the current convenience store definition, except this was designed to accommodate large trucks like tractor trailers. He noted the last convenience store approved was Sheetz, that also had a SEP for a car wash. He said the current convenience store definition currently did not allow for high flow diesel, as he mentioned the truck stop and truck complex definitions. Mr. Pearson explained that truck complex had amenities such as showers, etc, and fell under industrial use districts. He further explained that truck stop did not provide for other amenities for the convenience of truck drivers, and basically contained high flow diesel and truck parking. Mr. Pearson commented that Truck Stop was a defined use, but not listed in any use district. He further commented that this petition was trying to accommodate language for high flow diesel and truck parking. He continued with reading the legal ad, as he displayed the definitions. Mr. Pearson explained the existing definition for convenience store was outdated, and proposed to amend and update convenience store, then add convenience store, highway in the definitions and in the B-2 business district, as a use by Special Exception Permit; add convenience store, highway, in the Supplemental regulations, add Section 25-447, convenience store, highway, requiring 1. Must be within a half-mile radius of I-81, 2. Minimum lot size 10 acres, 3. High flow commercial diesel dispensers, parking for commercial trucks, parking spaces designed for commercial trucks and buses shall not be located within the front yard, updated parking requirements for convenience store spaces, and new parking requirements for convenience store, highway. Mr. Pearson discussed four areas where this might take place, and displayed parcel interchange analysis' for Exit 168, Exit 162, Exit 156, and Exit 150. He noted the supplemental regulations tied to the interchanges. Mr. Pearson displayed the half-mile shaded area for Exit 168, stating the white parcels were not 10 acres, red properties would still require a SEP, while green properties in A-1 and FC would require rezoning, plus a SEP. He explained that Exit 162 showed primarily A-1 zoning, that would require rezoning with a SEP. At Exit 156, Mr. Pearson said any tract would require rezoning plus the SEP. He stated the current Brughs Mill convenience store would not qualify, but they could add to the property and rezone it, with the SEP. At Exit 150, Mr. Pearson mentioned that some property was B-2 but did not meet 10-acre requirement. Should this text

amendment move forward, Mr. Pearson said there would be an opportunity if the Planning Commission did not want to see this use at Exit 150, because the Gateway Overlay District could be structured to prohibit the use.

Mr. Lucas requested clarification regarding vehicles parking beside or behind the convenience store.

Mr. Pearson explained that how this happened a lot in residential districts, explaining the difference between setbacks based on the front yard versus the front yard setback. He further explained that the ordinance did not regulate the orientation of the building and that the front setback would be measured from the front line of the convenience store building to any public road frontage and that the high-flow diesel and truck parking would not be allowed in these areas.

Mr. Foster asked about the difference between what we're discussing and Pilot.

Mr. Pearson replied that they were similar in nature, although Pilot would be classified as a nonconforming use under today's zoning ordinance. He further replied there was not a category or use district that allowed truck parking and high flow diesel in association with a typical convenience store, and the text amendment would basically combine a convenience store and truck stop use into the proposed use Convenience store, highway.

Mr. Foster asked about overnight parking, that now the ordinance would not preclude hours of operation or parking of tractor trailers, noting the difficulty to do if facility open 24 hours, 7 days per week. He also asked if the old truck stop had a mechanism for running trucks.

Mr. Pearson noted that would be a very hard thing to regulate under the zoning ordinance.

Mr. Kidd wanted to know about defining an area this could go in and defining the level of road service upon completion.

Mr. Pearson stated that when a request involved a comprehensive plan map amendment, a Traffic Impact Analysis is required, however, the zoning ordinance does not require such for a rezoning alone, and that the County could consider adding a supplemental regulation for a TIA for this use. After giving Mr. Kidd an example, Mr. Pearson said that in a lot of cases, VDOT could not require any road improvements beyond the frontage of the property. If a TIA was required as a condition of the SEP request for the use and the TIA concluded that the use would cause negative impacts to the public streets, then the Planning Commission and Board of Supervisors would be able to mitigate the impacts in the form of conditions upon the SEP approval.

Mr. Kidd stated there needed to be some way to get a level of service that could be put in there so that we would know what to expect. He further stated he was trying to avoid issues of the old truck stop that are with Pilot station today, as he brought up one exit ramp across a bridge with 90-degree curve. Mr. Kidd said he agreed with the traffic study, because he did not know how many trucks went across per hour, as he noted both his concern and that of Board of Supervisors member Mrs. Amy White. He then asked about truck traffic and level of service that that exit would have, and if there was any way to define that.

Mr. Pearson responded that the TIA was the best way to address the concern, then the Planning Commission and Board of Supervisors would have the basis to consider the level of service prior to the establishment of the use, and conditions to mitigate any concerns.

Mr. Foster opened the public hearing.

Jon Puvak, attorney at Gentry Locke in Roanoke spoke on behalf of his client. He stated that Mr. Pearson outlined the process, he and his clients were aware this would be a SEP, and not by-right. Mr. Puvak further stated his client did not build truck stops, and they did not mind doing a TIA. He commented VDOT would require an approved commercial entrance have it and if the level of service was F, it would not get approved.

Mr. Kidd asked if they had met with VDOT yet.

Mr. Puvak responded they would meet with them tomorrow.

Ms. Cheryl Hines of Buchanan stated her opposition to high flow fuel, heavy commercial development impacting traffic, safety concerns, and the developer proposing a 24/7 operation. After questioning if there was adequate information and plans, Ms. Hines said approving text amendments seemed premature, and requested the Planning Commission do responsible development.

Ms. Arlene Boyd of Buchanan, stated that she was a local business owner located near Sheetz. She said there was too much traffic at Sheetz, she couldn't leave doors open, even during Covid, because fuel fumes were overwhelming. She said that more traffic meant more accidents, and this was a rural environment at Exit 162.

Mr. Tim Mitchell of Buchanan, stated similar concerns, saying this was the camel's nose in the tent to change the character of the area.

***There being no one else to speak, Mr. Foster closed the public hearing.***

Mr. B. Nicely stated these text amendments would address concerns of what we've heard, and under the power of the SEP, the Planning Commission could dot their I's and cross their T's.

Mr. Kidd noted serious concerns. He stated this was another tool in the toolbox, and he did think we're not at the final stage, that Mr. Pearson had done a lot of work, the Planning Commission definitely needed to add the TIA requirement to the Supplemental Regulations. Mr. Kidd further stated he was looking for safe and efficient ingress and egress, and was not against commercial use at that site, commenting that site was valuable for commercial development. Whatever we look at, Mr. Kidd said this would be one thing to go there.

Mr. Lucas said he was not necessarily for or against, that they needed to define this, put their hands around something we could say yes or no to, and basically have the opportunity to address some of those things. He stated he did not see adding this as a by-right use, and the Planning Commission had the ability to do traffic, environmental impacts. Mr. Lucas said he was ok with the proposed text amendments, but not ready to jump on anything that comes up, and he did not want large traffic shifts. He also said he was not opposed to progress, although they needed to make sure they were not extending further out into the county, and if anyone had a plan, look at it individually.

Mr. H. Nicely stated there were a number of issues to forbear in the future at Exit 162. He agreed this area was ideal for commercial development, and they would do their jobs.

Mr. Foster stated he was not opposed to the text amendments, and suggested a limitation of 50 trucks.

Mr. Kidd responded that he was not sure they could limit and regulate the number of trucks.

Mr. Pearson commented there was no application to view at this point, and the site would dictate the number of trucks.

Mr. Lucas said he was ok with traffic studies.

Mr. Kidd stated that was his suggestion to go forward. He noted the applicants had a meeting with VDOT tomorrow, and asked Mr. Puvak if they would return and speak with the Planning Commission next month.

After further discussion, Mr. Puvak noted he and his client would not have a complete answer from VDOT in time for the meeting.

Mr. Foster said that he understood the Planning Commission would be in favor of the text amendments with previous comments to add the TIA to supplemental regulations, and Mr. B. Nicely's remarks.

Mrs. Pendleton stated this fell in line with amendments to include supplemental regulations, such as with utility scale wind, where the county can require additional documents to be submitted for SEPs for certain uses, and even though this potential scoping would trip TIA, but not all would, as she suggested putting this in Supplemental Regulations or the SEP.

Mr. Kidd motioned to forward the proposed text amendments regarding Convenience Store, highway with a recommendation of approval to the Board of Supervisors on the basis that the requirements of Section 25-583 of the Zoning Ordinance has been satisfied with the revision that a *Traffic Impact Analysis* shall be required to be submitted as part of the special exception permit application.

Mr. Lucas seconded, which was unanimously approved 5:0:0:0, with the following recorded vote:

YES:	Mr. B. Nicely, Mr. H. Nicely, Mr. Kidd, Mr. Foster, Mr. Lucas
NO:	None
ABSTAIN:	None
ABSENT:	None

Mr. Foster announced this concluded the public hearings.

### **Other business**

Mr. B. Nicely nominated Mr. Kidd for Chair, and Mr. Lucas for Vice-Chair.

Mr. Foster seconded, which was unanimously approved 5:0:0:0, with the following recorded vote:

YES:	Mr. B. Nicely, Mr. H. Nicely, Mr. Kidd, Mr. Foster, Mr. Lucas
NO:	None
ABSTAIN:	None

ABSENT: None

The Planning Commission then considered the 2022 Planning Commission Bylaws, with the addition of electronic meetings. Mr. Kidd noted that a member had to be sick, and would be allowed two electronic meetings maximum per year.

Mr. H. Nicely motioned to approved the 2022 Planning Commission Bylaws.

Mr. B. Nicely seconded, which was unanimously approved 5:0:0:0, with the following recorded vote:

YES: Mr. B. Nicely, Mr. H. Nicely, Mr. Kidd, Mr. Foster, Mr. Lucas  
NO: None  
ABSTAIN: None  
ABSENT: None

Mr. McCoy commenced the second Comprehensive Plan work session. He gave a project update, discussed the tentative schedule, explained the consultant's work (Renaissance Planning), who provided mapping support, a mapping template, and who had developed an online hub similar to the county's new website. Mr. McCoy noted they would develop a public engagement tool to supplement previous community engagement, as he described upcoming public outreach efforts.

Mrs. Pendleton brought up community facilities and infrastructure.

Mr. McCoy talked about Arts, Culture History; Natural Environment; the Local Economy; plus new chapters of the Comprehensive Plan, and explained the next steps.

Mr. Lucas suggested checking with local colleges for information, plus map for the state historical marker signs.

Mr. H. Nicely mentioned that the Historical Society had resources, and he saw two glaring absences of assets. He stated there was no community center to bring 200-250 people together for social, educational or cultural activities, noting that now only the high schools or this facility could be used and none could handle that many people or the ability to serve meals. Mr. H. Nicely stated the county needed some amenities of a conference center, and this would be important for all schools. Second, Mr. H. Nicely stated that Lord Botetourt had no place for kids to play tennis because they could no longer use Hollins University. He further stated that students either had to go to Waldron Park in Roanoke County or they could not practice.

Mr. McCoy stated he would note that and have members review the chapters before they were presented.

Mr. Foster stressed the need to make sure to cover the entire county.

Mr. McCoy then discussed natural environment, the local economy and next steps. He mentioned virtual public meetings, incorporating feedback, working with VDOT to conduct an Exit 150 interchange intermodal planning to redesign, median work at gateway crossing, and VDOT conducting studies.

Mrs. Pendleton stated her appreciating for Mr. McCoy's work on this. She also mentioned Mr. Baker's

recent participation in the budget process, and that he had presented his first project tonight.

Mrs. Pendleton then mentioned that Mr. McCoy and Mr. Pearson were collaborating on the Gateway Crossing Corridor Overlay, plus OIPI and asked the Planning Commission if they wanted to take another look at the overlay.

Mr. Kidd replied, "Yes".

Mrs. Pendleton respond that Staff could do a snapshot next month. She then welcomed Mr. Lucas and expressed her appreciation for his willingness to serve.

**Adjournment**

There being no other business, on motion by Mr. B. Nicely at 7: 36 PM, seconded by Mr. H. Nicely, which was approved 5:0:0:0, the Planning Commission adjourned with the following recorded vote:

YES:	Mr. B. Nicely, Mr. H. Nicely, Mr. Kidd, Mr. Foster, Mr. Lucas
NO:	None
ABSTAIN:	None
ABSENT:	None