

Mr. Lucas called the March 13, 2023 meeting of the Botetourt County Planning Commission to order at 6:00 PM, in the Botetourt County Administration Center Auditorium in Daleville, Virginia.

PRESENT: Mr. Tim Lucas, Chairman  
Mr. Brandon Nicely, Vice-Chairman  
Mr. Steve Kidd, Member  
Mr. Sam Foster, Member  
Mr. Tim Snyder, Member  
Mr. Billy Martin, Ex-Officio Member  
Mr. Mike Lockaby, County Attorney  
Mrs. Nicole Pendleton, Director of Community Development  
Mr. Drew Pearson, Zoning Administrator  
Mr. Jon McCoy, Planner  
Mr. Nick Baker, Planner Mr. Matt Lewis, Code Enforcement  
Mrs. Laura Goad, Administrative Assistant

ABSENT: None

After Mr. Lucas 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. Lucas stated the Board of Supervisors would hear these requests on March 28, 2023 at 6:00 PM, here at the Botetourt County Administration Center.

Mr. Lucas announced that the Planning Commission would meet in the Kroger parking lot for the next field review at 3:15 PM on Thursday, April 6, 2023.

Mr. Kidd motioned to approve the February 13, 2023 Planning Commission minutes as written.

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

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

### **Public Hearings**

**Blue Ridge District: Mr. Myers P. & Jennifer L Myers request a Cabin or Cottage Special Exception Permit, with possible conditions, for the proposed use of a short-term rental, in the Residential (R-1) Use District in accordance with Sec. 25-123.- Uses permissible by special exception and Sec. 25-583. – Special exceptions of the Botetourt County Code. This 0.66-acre lot is located at 171 Eagle Ridge, Roanoke (State Route 1428), and is identified on the Real Property Identification Maps of Botetourt County as Section 108H(3), Parcel 45.**

Mr. McCoy read the request aloud as he displayed the zoning and the aerial maps. He stated that the Zoning Ordinance allowed a Cabin or Cottage short-term rental only by Special Exception in the Residential, R-1 Use District for less than 30 days at a time. Mr. McCoy further stated that 24-hour off-site management was required, and that information must be kept updated with the Zoning Administrator. Additionally, he stated that the maximum would be two guests per bedroom, no changes to the outside of the property would be allowed, adequate off-street parking was required and this property would be subject to the County noise ordinance. Mr. McCoy displayed an aerial view of home with the pool, and neighbors to the side. He then displayed the street views with off-street parking, and proximity to neighbors as he noted this property has public water and public sewer, with the Fire Department about three miles away. Mr. McCoy noted that Staff received concerns from neighbors, some of whom were here tonight.

Mr. Myers was present and spoke on his own behalf. He said he planned to rent this house for several weeks in the summer, it was his primary residence and he wanted to use this income to fund his vacations and pool chemicals. Mr. Myers said he was a landlord, wanted to be respectful to his neighbors, and neighborhood. He also said the people were more interested in staying in a home with family, there was a misconception that this would be a party house, and he had a list of rules.

Mr. Kidd verified with Mr. Myers that this was his primary residence, then asked how many people would stay here and who would look after the property while he was away.

Mr. Myers responded there would be a maximum of eight people, and his father-in-law in Bonsack would assist him.

Mr. Lucas wanted to know how often this would be rented.

Mr. Myers said it would be only while they were out of town, approximately two to four weeks per year.

Mr. Foster inquired about the screening process for guests as he noted the concern of noise and neighbors in a subdivision with houses close together.

Mr. Myers responded that Airbnb provided their own insurance and liability, and he had to have homeowners' insurance, plus social proof. He further responded there was quite a bit of room in their neighborhood, and anyone staying here should understand rules, quiet hours, and would have to sign an agreement.

Mr. Brian Reinard of Roanoke, and a Brookfield resident since May 1998, stated that he bought this property specifically because of the neighborhood, and the Covenants and Restrictions. He further stated they ensured no commercial purpose or hotel/motel. He stated his concerns of stays longer than two weeks, a lot of nearby kids playing with not knowing about the type of people of people staying there, and he would prefer not having an Airbnb.

Mr. Lucas asked Mr. Reinard if all homeowners had Covenants and Restriction.

Mr. Reinard said that he was told, "Yes." by the builder, and they were part of the deed.

Mr. David Hott of Roanoke, and a Brookfield resident, said that he had nothing against the Myers, but he was against this from the start. He mentioned a couple of tragedies in Florida, and did not want strangers in the neighborhood. Mr. Hott commented that they all knew each other, and having different people here was an opportunity for tragedy for the whole neighborhood.

Mr. Steven Meador of Roanoke and an adjoining property owner, brought a copy of the Covenants and Restrictions that everyone received with their deed. He noted the swimming pool was about five feet from his property line, and that the only reason people would rent was most likely the pool. Mr. Meador stated his concern, further noting that he bought the house brand new.

Mr. Len Rausch of Roanoke, and two doors away, reiterated other comments, saying there was no place here for the short-term rental. He said he was worried about property value, who would stay there, and using this as a stepping stone to do this full-time since Mr. Myers said he was already a landlord. Mr. Rausch stated the pool was right on the fence line, he could see it, and neither he nor his father-in-law could watch these people full time. He further stated that a house was personal, and he saw this as a very negative thing, as he appealed to the Planning Commission's sense of what was fair. Mr. Raush said he did not think this financial endeavor would affect Mr. Myers' income, but if approved, it would open the door for a lot worse for no good reason.

Mr. Lucas asked Mr. Myers if he was familiar with the Covenants and Restrictions.

Mr. Myers said the he found out about them after he applied for this request. He said he did not know before, and he heard the concern now.

Mr. Kidd asked Mr. Myers whether or not he knew about the Covenants and Restrictions.

Mr. Myers said he did not know.

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

Mr. Foster stated that he had a problem with short term rentals in subdivisions, where houses were close together, noting a couple had already been turned down in a residential subdivision. He further stated that he was currently opposed and wanted to hear what others had to say.

Mr. Nicely stated that he did not think this was the right location for a short-term rental. He questioned who would enforce even if approved with conditions. He further stated the County could not enforce covenants, and this was a really well done neighborhood.

Mr. Kidd stated that the County did not enforce Covenants and Restrictions, and that needed to be cleared up before making a decision. He further stated he could not support this without knowing.

Mr. Lucas reiterated the need for clarification on Covenants and Restrictions, stating that he was not in support until it was cleared up.

Mr. Snyder had no comment.

After questioning from Mr. Foster, Mr. Lockaby responded there was no problem with tabling this request and that both the Zoning and Subdivision Ordinance stated it was not the responsibility of the Planning Commission to enforce Covenants and Restrictions.

Mr. Foster indicated that that he was not sure that issue of Covenants and Restrictions should be a priority to discuss. He stated he was more interested in the short-term rental in a subdivision with close proximity of houses together.

Mr. Foster motioned to forward the short-term rental special exception permit on the property of Mr. Dan and Jennifer Myers, with a recommendation for denial on the basis that the requirements of Section 25-583 of the Zoning Ordinance have not been satisfied due to concerns of short-term rental, and R-1 zoning in a small lot subdivision.

Mr. Nicely seconded, which was approved 5:0:0:0, with the following recorded vote by roll call:

|          |   |
|----------|---|
| YES:     | Mr. Nicely, Mr. Foster, Mr. Lucas, Mr. Kidd, Mr. Snyder |
| NO:      | None  |
| ABSTAIN: | None  |
| ABSENT:  | None  |

**Fincastle District: Ikenberry James T et al (Virginia Blasting Services Inc., applicant) requests a Special Exception Permit, with possible conditions, for a storage yard in the Agricultural (A-1) Use District in accordance with Sec. 72.- Uses by special exception and Sec. 25-583. – Special exceptions of the Botetourt County Code. An existing gravel road is on adjacent parcel TM #73-45 for proposed access to this 141.142-acre tract. The gravel road fronts on Blacksburg Road (State Rt. 630) and is 0.1 miles west of its intersection with Shavers Farm Road (State Route 670). The properties are identified on the Real Property Identification Maps of Botetourt County as Section 73, Parcels 9 and 45.**

Mr. McCoy read the request aloud as he displayed the zoning map. He read the Zoning Ordinance definition of storage yard as “a yard area in which materials, equipment and/or vehicles used for construction, excavating or similar activities are stored, kept and/or maintained.” Noting that Virginia Blasting Services, Inc. intended to store civil explosives on a quarter-acre portion of the property on Tax Map 73-9, with tax Map 73-45 to provide access on an existing gravel drive. Mr. McCoy stated that Virginia Blasting Services used these explosives for the construction projects and was fully licensed by the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives to store and use such explosives.

Mr. McCoy stated that both properties were zoned Agriculture, A-1 as the majority other nearby properties, except for the Agricultural Residential (AR) properties. He said the property was approximately 141 acres of primarily wooded terrain, with agricultural uses closer to Blacksburg Road. Mr. McCoy pointed out a small waterway on right side of property, and that there were no structures on property.

Mr. McCoy displayed the aerial map, noting the wooded area, the proposed storage yard area next to a copse of trees for the two 8 feet x 8 feet x 20 feet Conex magazines. He further noted the containers resembled shipping containers, were classified as “Type 2 explosives magazines.” Mr. McCoy said that Federal regulations required Type 2 magazines be bullet, weather, fire, and pest resistant, as well as ventilated and the doors must be constructed with one-quarter inch thick steel and lined with at least two inches of hardwood to achieve the bullet resistance and they must be situated for adequate drainage. He

described the requirement for a combination of locks, such as two mortise locks, two padlocks, a combination of two or other types of locks. The property would be subject to regular inspections by the state fire marshal and ATF, and also the property owner would be required to physically inspect the magazines at least every seven days. Mr. McCoy called attention to Page 51 of the information package, regarding a table showing federal regulations of explosives storage, and the required distances away from inhabited buildings. At the maximum storage weight of 20,000 pounds allowed by the company's license, inhabited structures must be 975 feet away. He displayed a slide showing the nearest inhabited structure to the location of the magazine would be approximately 1,076 feet away. Mr. McCoy stated the intent would be to store no more than 7,000 pounds at the property.

Mr. McCoy read the following suggested conditions:

1. Substantial conformance to the sketch plan submitted with the revised application dated December 16, 2022 and received February 21, 2023.
2. The applicant is limited to no more than two 8 feet x 8 feet x 20 feet storage magazines.
3. The SEP approval shall not exempt the development from meeting the requirements of the Botetourt County Noise Ordinance.
4. All other specifications and general provisions shall be met as required by the Botetourt County Zoning Ordinance and in no instance shall the zoning conditions exempt a project from any local, state or federal development requirements, except where allowed by the Zoning Ordinance.

Mr. McCoy stated the applicant would need to submit a site plan if approved and that Staff received an email from adjacent an adjacent citing safety, declining property value, and a change of agricultural uses as objections.

Mr. Foster confirmed with Mr. McCoy that 1,000 feet was the minimum distance to a property owner, as he asked if there were other property owners close to 1,000 feet.

Mr. McCoy responded there were property owners, noting the property lines closer than the 900 feet, and it was his understanding that federal regulations limited the actual storage in the magazines to 925 feet away from inhabited buildings, and these were the ones where the applicant was asked to work up a diagram showing they were within the federal regulations.

When Mr. Foster asked what would happen if someone built on any other properties, Mr. McCoy responded that he could not comment if someone built another structure.

Mr. Lucas wanted to know if it would cause a problem if someone built another building on their own property.

Mr. McCoy said he did not have that information, and that he could not comment.

Mr. Mark Pace, President and Owner of Virginia Blasting Services and E. C. Pace, spoke regarding this request. He said he noticed that he and his company shot explosives on every parcel around this facility in the past eight months. Mr. Pace explained the reason for this request is that explosives can only be stored on property zoned Agriculture or Industrial. He further explained he looked for an area that had enough distance and didn't have any buildings. He stated the explosives were separate, with stick product

that would not ignite in one, and that technically fertilizer was much more dangerous than stick product. He said the other container would hold caps and fusers were non-electric, and they would actually set off the explosives. Mr. Pace said these were on a non-el explosive permit, and everything in there could not be set off unless done specifically by their feedline, and computer-based products. Mr. Pace said he understood the concern and the thought process, and that neighbors thought this was a bad thing. He explained that would have only two drivers, and two people only who were licensed ones to get the explosives and leave. Mr. Pace further explained that the trucks were lined with 5" steel and wood, as federally mandated, and they had to let the fire marshal and ATF know the roads and when they were driving, and when they returned. He stated they kept very detailed records, and the state fire marshal and ATF consistently watched them, as they should. Mr. Pace said this central location was needed so they could pick this up on time to avoid moving explosives for hours and hours to get to the job.

Mr. Lucas asked where the explosives were currently stored.

Mr. Pace responded they were currently stored in Franklin County, although there were explosives around, but they had to have their own storage boxes.

Mr. Foster wanted to know if there were any property owners within the 1,000 feet limit.

Mr. Pace said according to the drawing, and when he personally looked at the site, no, there were not any property owners that he knew of, as he emphasized roads and buildings, and the need to look at this more closely.

Mr. Lucas asked if there were other locations he had evaluated.

Mr. Pace responded that this one suited the best because it was down in a hole, he looked for growth around it because he did not want site lines of buildings if at all possible. He further responded that he was going by the guidelines, and the state had to approve the location.

Mr. Nicely inquired about ATF approval, if they had looked at this, and fencing.

Mr. Pace replied that the ATF also had to approve this, they had to have GPS location and boxes, and put the information into state records. Regarding fencing, Mr. Pace said that fencing was not required around the actual boxes, due to padlocks, and there were only two key holders. He commented that the ATF had not seen this yet and wouldn't until it was approved by the County.

Mr. Kidd wanted to know how it would be handled if one of the properties built new structure built on it within 900 feet.

Mr. Pace answered that the ATF or state fire marshal had to make that call. He said the distances had to do with the amount of explosives, and that it could go down to 500 feet and keep 7,000 pounds. Mr. Pace noted if it was something for someone to live in, they would have to relocate.

Mr. Foster stated the need to protect the public.

Mr. Lucas asked about the type of damage that 7,000 pounds of explosives could cause.

Mr. Pace said he was not sure how it would ignite, but if ignited, with way berms were built, the explosion would go up, also out and extremely loud. He mentioned using 1,000 pounds, 19 feet deep, in a 50'x30' area, and that they could shoot 1,000-3,000 pounds per day.

Mr. Pace discussed a reference to the Oklahoma explosion. He said theirs was quick, confined explosion designed to break rocks, and they only used stick product, at roughly 9 pounds per stick.

When Mr. Snyder asked if they had a Plan B if this was not approved, Mr. Pace responded there was not a Plan B.

Mr. Snyder wanted to know how a new homeowner would know this facility existed, with the potential danger, and what would prohibit the Ikenberrys from reducing the property size.

Mr. Pace responded that the ATF did not want them to advertise, and that the ATF did not want people to know the location.

Mr. Snyder confirmed that a new homeowner could move in and not know a storage facility was 1,000 feet away.

Mr. Snyder asked about the type of constraints on this property if SEP were approved and this facility was installed.

Mr. Pace said nothing would constrain the Ikenberrys' use of their property, and the two boxes would have zero effect on their current work.

Mr. Snyder noted they could not reduce the footprint of their property due no longer meeting the 1,000 feet marker, which Mr. Pace acknowledged.

Mr. Snyder questioned the amount of 7,000 pounds stored with approximately 3,000 pounds per day used, and moving explosives in and out on a regular basis.

Mr. Pace said that Mr. Snyder was correct, but they supplemented their explosives with Austin Powder, and this would be backup or extra for Virginia Blasting.

Mr. Snyder asked Mr. Pace to describe their truck.

Mr. Pace responded that the Ford F350 had a box built by Tread, and looked like refrigerator style box on the back of the truck.

Mr. Paul Phillippe of Fincastle, stated that he and Mr. Pace were friends, and that he was concerned that this would be incompatible with the nice homes in the neighborhood. He further stated that he and his wife bought and built because of the neighborhood and the way it was developed with the farm was very compatible, and he did not want this in his back yard. Mr. Phillippe gave the Planning Commission some brochures from FEMA, raising an alarm if lightning were to strike. He noted the evacuation zone at 1,000 pounds was 1,700 feet; and 4,000 pounds required 2,700 feet. He cited concerns such as safety, neighborhood, and resale value. Mr. Phillippe further noted the county between Daleville and Fincastle was developing, and asked why jeopardize the development for this, noting the Franklin County storage

facility.

Mr. Ed Fritz of Fincastle, commented that his house registered at the 1770 feet mark, and there were four more houses not shown on the map and he wanted to know about that. He further commented that the newest one was built further back than the 1450 feet line, and the map was incomplete.

Mr. Marty Wiegand of Fincastle expressed his appreciation for the questions and notices, then seconded everything his neighbors said. He noted this property had been for sale at other times. Mr. Wiegand asked if this company could then decide to buy this property and put others of these [explosives] on it. He stated that he had a moral responsibility to tell a buyer about this if he sold his property.

Ms. Mary Neil of Fincastle, commented that whether this was hidden or they tried to hide it, they had an obligation to let people know, as she agreed with other speakers.

Mr. Mark Pace stated that he had been in business a long time, and decided to pull this request. He further stated he did not want to create undue stress for the Ikenberrys, as he thanked the Planning Commission.

Mr. Kidd asked Mr. Pace about the effect of getting hit by lightning.

Mr. Pace answered that this was non-electric, and lightning would not set it off.

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

Mr. Nicely motioned to accept applicant's withdrawal.

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

|          |   |
|----------|---|
| YES:     | Mr. Nicely, Mr. Foster, Mr. Lucas, Mr. Kidd, Mr. Snyder |
| NO:      | None  |
| ABSTAIN: | None  |
| ABSENT:  | None  |

**Buchanan District: Rachel Moss requests a private kennel Special Exception Permit, with possible conditions, in accordance with Sec. 25-73. – Uses Permissible by Special Exception and Sec. 25-583 Special Exceptions of the Botetourt County Code to permit a private kennel for up to 10 dogs in the Agricultural (A-1) Use District. This 4.67-acre lot is located at 2502 Pico Road (State Route 625), Buchanan, VA, and is identified on the Real Property Identification Maps of Botetourt County as Section 65(9), Parcel D.**

Mr. Baker read the request aloud as he displayed the zoning map. He stated all adjacent properties were zoned Agriculture, A-1 in nature. He noted that a private kennel was defined as keeping more than four dogs greater than six months in age. He displayed the aerial map as he gave the Planning Commission background information for this SEP request. He explained that the property owner was issued a Notice of Violation by Community Development in October 2022 for the number of dogs on the property. He further explained more than four dogs were observed on the property, the violation remained outstanding, and the majority of the dogs were owned by Mr. John Underwood. Mr. Baker stated that Animal Control had received excessive barking complaints since 2017, and Mr. Underwood received



multiple citations for too many dogs, the care of dogs, noise and roaming nature. He further stated that he and Mr. Lewis had observed 14 dogs, and the property owner was to make several site improvements to avoid future issues. Mr. Baker noted that the County received a total of seven public comments, all in opposition; comments pertained to noise, waste disposal, living conditions, and roaming. He mentioned that Staff also received a petition with 28 signatures from area residents, requesting denial due to noise, dogs roaming and chasing animals on other properties. Mr. Baker described the dogs as three house dogs, and seven dogs for hunting, as he displayed the structure that Mr. Underwood planned to attach seven new dog house structures to this, and to build a separate septic. He noted that Ms. Moss said she would send the Health Department approval, and it has not been received it at this time. He further noted the opening would face away from Pico Road, and they did not propose any additional lighting or signage. Mr. Baker displayed the white dog house, a burn barrel for a dog house, noting that dogs were running freely on the property.

He then read the following suggested conditions, if approved:

1. The private kennel shall be limited to no more than ten (10) dogs, with no more than seven (7) dogs boarded outdoors.
2. Noise generated by the dogs shall not violate provisions of the Botetourt County Noise Ordinance.
3. No kennel shall be located within 100-foot from any residence other than that of the kennel owner.
4. The private kennel shall be served by a septic system approved by the Health Department.
5. The private kennel shall be served by seven 8 feet x 4 feet kennels to house the outdoor dogs and shall be located in the rear yard as shown on the sketch included with the application.

Mr. Baker noted that if approved, any changes to this would require a change of conditions.

Mr. John Underwood spoke on his own behalf. He stated that his dogs run loose, and after living in several locations, he had never been in trouble for his hounds barking, until the other day. Mr. Underwood explained that one of his dogs was chained and barking because he took her back after finding her previous owner abused her, and the dog now had a good home with someone else. He further stated that while his dogs ran around, they were never not taken care of, and that he bought two sacks of dog food at \$45 each per week. He said there was never a ticket for him not taking care of his dogs, as he explained how he was cited once because his dogs did not have water. He said he had never been issued a ticket for barking. Mr. Underwood said they lived in hound holler with 60-80 hounds in one mile on their road. He acknowledged the problem of dogs running loose as a problem. Mr. Underwood said he was trying to build \$12,000 soundproof kennels, he had already installed an electric fence to keep the dogs inside the fence, he wouldn't stand for a barking dog. He commented that he needed six dogs to hunt bear, and two to hunt coons, and his wife had three house dogs as a reason for the number of dogs. Mr. Underwood further commented that two of her dogs were not well, and would not be replaced after they passed away. He disputed that he had roaming dogs during the code enforcement visit. Mr. Underwood said the three house dogs were allowed outside, and did not leave the property during that time.

When Mr. Lucas asked if he talked with the Health Department, Mr. Underwood responded that the Health Department, said he did not have to use a septic and would use a compost barrel.

Mr. Lucas asked about new structures for the dogs.

Mr. Underwood replied that they were going to spend \$7,000 on them last July, but they were unable to do that. He said they would build the dog houses as soon as this was approved. Mr. Underwood said his wife purchased four collars and a unit for the dogs.

Mr. Brian Snare of Buchanan, stated that last July he and his wife bought tax map 65-108, about a half-mile from this property. He further stated that generally he supported one's freedoms and rights, and Mr. Underwood shouldn't infringe on his property rights. Since July, Mr. Snare said that many times he observed dogs on their property, and that last month the dogs chased their cows, and the following day, they were back. He asked what would happen if the dogs killed their calves, noting that would be a \$5,000 loss. He then brought up his concern for his daughter's safety, as he asked the Planning Commission to deny this request.

Ms. Barbara Whare of Buchanan read her letter to the Planning Commission, citing constant barking, dogs running deer on their property, and numerous uncorrected violations. She also said they should not use compost on a vegetable garden from carnivores. Ms. Whare said there were too many hounds as she asked the Planning Commission to deny this request.

Mr. Underwood responded that he raised his hounds in his house with his children, and they would never harm a child or person. He further responded his dogs weren't the only ones that barked, as he questioned why anyone would have a dog that did not bark with a strange car in their yard. Mr. Underwood stated that he sold the dog that chased the cow to solve that problem.

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

Mr. Foster stated he had no comments, that everything was in the report.

Mr. Lucas stated that in looking at the report on how many different people had problems with this, as he wondered about the property improvements.

Mr. Underwood requested to speak again, and Mr. Lucas explained the public hearing was now closed.

Mr. Snyder stated he had no further questions.

Mr. Kidd stated that he was sympathetic, and that he wanted to table this for 30 days and give Mr. Underwood a chance to get the electric fence going, even though this had been going on since November 2022.

Mr. Kidd asked Mr. Lockaby about the length of time to table a request.

After further discussion, Mr. Lockaby suggested tabling until the April public hearing, instead of the number of days.

Mr. Kidd stated that if we could get this cleared up by giving extra time, that would be fine, and if not, he knew where the vote would be headed, as he asked Mr. Nicely for his opinion.

Mr. Nicely stated that he liked the idea of tabling to give them the opportunity to improve the property. He further stated that Mr. Underwood was obviously devoted to his animals, getting along with his neighbors was very important to work out, and he was ok with a little more time.

Mr. Foster noted one of the last kennels approved had a plan that addressed all of the issues including barking, fencing, a run for the dogs, and inside at night. He stated he was ok with tabling this request if these things were addressed, and if the work could not be done in this time frame, he did not think this should be approved.

Mr. Lucas stated his concerns with the number of dogs, and dogs running around, and said he was willing to table this for 30 days or until the next meeting, with dogs being at correct limit with correct structures, as he brought up his concern with roaming dogs. He further stated that dogs could not see the property line, but with the fence in, and making sure the new structures contained the dogs and did not chase deer, cows.

Mr. Snyder stated he had no problem with man and his dog. He further stated the discrepancy was between the dog owner and his neighbors, and he was in favor of granting this opportunity.

Mr. Lockaby stated that the April meeting date should be used, instead of 30 days.

Mr. Kidd motioned to defer the private kennel special exception permit, with possible conditions, on the Rachel Moss property, until the April 10, 2023 Planning Commission meeting.

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

Mr. Lucas stated that the Planning Commission needed to see improvements on the property, on dog behavior as Mr. Kidd brought up improving their relationship to neighbors. Mr. Lucas further stated he would not want to approve a SEP to allow the extra dogs if they're not being taken care of, with conditions that had been set out.

|          |   |
|----------|---|
| YES:     | Mr. Nicely, Mr. Foster, Mr. Lucas, Mr. Kidd, Mr. Snyder |
| NO:      | None  |
| ABSTAIN: | None  |
| ABSENT:  | None  |

As Mr. Kidd told Mr. Underwood April 10, 2023 would be the next meeting, Mr. Underwood stated that he wanted to wait until they were in favor of this before he spent \$5,000-7,000.

Mr. Lucas reiterated that he would have to do these things for them to approve the request.

Mr. Lucas then moved to the next item for the work session.

After further discussion, Mrs. Pendleton stated the work session was not a public hearing and any comments taken would be at the pleasure of the Planning Commission.

By general consensus, the Planning Commission recessed at 7:47 PM before beginning the work session.

By general consensus, at 7:59 PM, Mr. Lucas called the Planning Commission meeting back to order.

### **Other business**

The Planning Commission then conducted a work session regarding renewable energy text amendments [PowerPoint attached], led by Mr. Baker.

Mr. Kidd asked about a paper copy of the presentation; Mr. Baker said he would send that this week.

Mr. Baker noted that solar was a growing industry as he opened his presentation. He stated that part of the Purpose and Intent for the proposed text amendments was due to the state goal of becoming carbon neutral by 2050. Mr. Baker said that Staff had several inquiries, and unless solar was an accessory use, it was not a permitted use. He then displayed some public utility language that would be revised to make a more consistent ordinance.

Mr. Kidd wanted to know if this was basically private or commercial.

Mr. Baker replied that each zoning use district currently had some language regarding public utilities, and was confusing because solar was not listed, therefore, neither a permitted use nor a SEP use. He further replied Staff was taking steps with this ordinance to address that.

Mrs. Pendleton commented that this was similar situation as to when we did the transfer station because there was a lot of overlap and we were taking the opportunity to make it clearer for people, especially with technology changes since the ordinance was adopted.

Mr. Baker displayed the structure of solar ordinance, and focused on the purpose. He read each definition of solar, small; solar minor; solar utility scale.

Mr. Lucas asked how a small business could supply their own solar. Mr. Baker responded that required a SEP as he displayed the zoning districts where that would be allowed. He then displayed examples of each category and discussed the kW and MW for the three types, and where they could be placed from residential to commercial to utility scale.

Mr. Baker displayed and discussed development standards, including setbacks. Mr. Foster asked about setbacks, and someone putting a system on their roof. Mr. Kidd noted the need to look at wording, then questioned the amount of setbacks with buffering.

Mr. Baker responded that information was found through the American Planning Association, other localities of similar size in Virginia with an adopted ordinance and reasonable success with reasonably different views. He further responded that after attending a seminar, he noticed that some localities used a 300 feet setback instead of a 150 feet setback.

Mrs. Pendleton asked if each use had the same setbacks, as she stated the need to dig into that a little bit

more.

Mr. Baker said the small-scale would have to meet setbacks due to being an accessory use; and minor and utility-scale would have to meet the 150 feet setback.

Mr. Foster brought up the need to make a distinction, noting that it would be hard to put something in a subdivision on a roof.

After further discussion with Mr. Lucas, Mr. Baker said the Planning Commission and Board of Supervisors might require additional setbacks and taller vegetative buffering, and the ordinance would give some leeway to adjust things. He also said this language followed the SMART program standards, and the Planning Commission would have the power to recommend waiving or alternative vegetative screening for buffering.

Discussing other parts of the proposed text amendments, Mr. Baker discussed the high points of the community meeting that would be required for minor and utility scale before the SEP in order to receive feedback and what the Board could request of the applicant. He touched on the standard application requirements for the Special Exception Permit, siting, solar study requirements, Commission Permit required by §15.2-2232, significant sites, and then discussed decommissioning requirements.

Mr. Lucas confirmed this was a type of insurance policy for the County.

When Mr. Snyder asked how these were inspected today, and what would be required of building inspectors, Mrs. Pendleton commented that a lot of inspections were done by third-party inspectors.

Mrs. Pendleton also commended Mr. Baker, Mr. Lewis and Mr. McCoy for their contributions to these text amendments.

Mr. Nicely recalled a seminar held here at Greenfield for building officials and inspectors regarding solar.

Mr. Lucas asked if there were others to speak.

Mr. Baker introduced Mr. Alex Fox, Sr. Account Executive, and Mr. Eric Stevens, Sr. Development Engineer, of TotalEnergies Renewables USA. He explained their interest in Botetourt County with their intent to sell solar to the Dominion grid.

Mr. Kidd confirmed with Mr. Baker that the goal was to get in-depth language and supplemental regulations that were just reviewed to the Board of Supervisors by May 2023.

Mr. Baker remarked that May 2023 was the goal, and the supplemental regulations to be adopted had just been reviewed, and would be added to certain zoning use districts.

Mrs. Pendleton acknowledged the need to provide text, as she brought up the possibility of another work session to review material prior to the public hearing.

Mr. Lucas asked Mr. Fox and Mr. Stevens if they had a chance to look at some of these regulations.

Mr. Fox said they worked for Work for TotalEnergies Renewables USA, a multi-energy oil and gas company, and had been developing a couple projects in Buchanan. He explained the projects would fall under utility scale (small) to take advantage a specific Virginia program, the Community Solar Program. Mr. Fox further explained that the electricity would feed directly into the grid from these facilities, and it would be for sale to residential homeowners, and small commercial businesses in the community so they could own shares in the community solar farm, and get a savings on their electric bill, specifically serving people with low to moderate income.

Mr. Fox said that after working in many states on their solar ordinances, there were concerns that they wanted to address. He remarked that they looked forward to getting the draft, and that they routinely did things like decommissioning, and there would be common concerns that they wanted to address.

Mr. Lucas asked about the decommissioning time frame.

Mr. Fox replied that they typically went to 40 years, and that most systems produced 90% power after 25 years. In terms of decommissioning, Mr. Fox explained that they returned the land to its original, natural state to the greatest extent possible, they were able to take everything out of the ground, material such as silicon would be recycled, and there was not a lot of concrete.

Mr. Kidd wanted to know the property size for 5 MW.

Mr. Fox answered they had one on 20 acres, and another that's not a full 5 MW would be on 12-15 acres.

Mr. Snyder asked if they had ever had to decommission anything yet.

Mr. Fox responded that he had not been involved, and they were guaranteed the tariff for 25 years. He further responded that they would probably continue the lease on the land far beyond that.

Mr. Snyder asked if they had experienced where the equipment had outlived its life.

Mr. Stevens stated that he had been involved in decommissioning projects. He explained that he had seen projects come to the end of life, such as ground systems and roof installations on industrial warehouses, box stores, and data centers. He said that the box store typically took time to remove the existing system, reroof, and then replace the system with another 15-year program.

After questioning from Mr. Lucas, Mr. Stevens noted if this was a load facility, customer-owned warehouse environment, they monetized and collected benefits over the first term and wanted to continue the application.

Mr. Fox said that in terms of pulling the aluminum out of the ground, it was a known quantity to them as to what it would take and could be estimated into the cost.

Mr. Stevens commented that for the decommissioning process, all the steel would come out, as well as fencing, racking, concrete, transformers, electrical equipment, meters, poles, infrastructure that typically provided connection to the grid. He further commented that the only thing left would be underground conduits (PVD, 40-schedule), although the line would be pulled out, then abandon the conduits.

Mr. Snyder questioned zoning offsets and buffer zones and whether or not the for confirmed setbacks

and equipment might depend on the angle of sun as he requested comments on setbacks.

Mr. Fox responded that the 150 feet would be ok, and that only concern with setbacks would be for visual impact. He further responded that if next to abutters property, as he advocated a shorter setback. Mr. Fox said there were times that there could be a 150 feet setback without screening, and it would be more visible than with appropriate native conifers. While he advocated a shorter setback, he recognized that the Board of Supervisors would have the ability to set conditions. Mr. Fox said they were sometimes limited on space due to complying with Virginia Department of Environmental Quality, especially with wetlands, because of getting pinched from both sides. Mr. Fox said that 150 feet might make sense in a certain circumstance, or perhaps 50 feet with appropriate screening, recognizing that would be up to the Board.

Mr. Stevens noted that a wooded area might have to have trees removed, because tree lines shading the system brought down the overall output.

Mr. Lucas thanked them for their time.

Mrs. Pendleton brought up the need to also explain utility definitions, in addition to other renewable energy things.

Mr. Nicely wanted to know if there would be an opportunity to cut back on the setbacks with additional screening.

Mrs. Pendleton responded that sounded like really good feedback, and Staff needed to look at these comments.

Mr. Pearson gave a brief update on the Harvest at Blue Ridge request. Mr. Pearson stated that a revised submittal had been received, and the applicants still had comments to be addressed. He further stated that Staff was waiting on a letter of concurrence from VDOT for the traffic impact analysis, and also a letter from the Western Virginia Water Authority was needed before advertising for public hearing. Mr. Pearson commented that the application was still not complete, a hearing date had not yet been set, and that more road details within the development were needed with details to support the type of roads. Mr. Pearson brought up the table in the TND ordinance specifying the average daily trips per day and the type of road required for that right-of-way. He further commented on the need for details that that they seemed to underrate the type of roads. As an example, Mr. Pearson stated his request for requested detailed cross-section on private roads, along with building material. Mr. Pearson said the note on the plan said to check a particular book. The book indicated road construction material of grass, crushed seashells, to wood. Mr. Pearson explained specific information needed to be shown on the plan. He mentioned that the applicants still had issues with VDOT concurrence and WVWA verifying supply. Mr. Pearson further mentioned an upcoming meeting, and that once the application was deemed complete, it could be scheduled for a public hearing.

### **Adjournment**

There being no other business, on motion by Mr. Lucas at 8:47 PM, seconded by Mr. Kidd, which was approved 5:0:0:0, the Planning Commission adjourned with the following recorded vote:

YES: Mr. Nicely, Mr. Foster, Mr. Lucas, Mr. Kidd, Mr. Snyder  
NO: None

ABSTAIN: None  
ABSENT: None