

Mr. Lucas called the May 8, 2023 meeting of the Botetourt County Planning Commission to order at 6:04 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, Sr. 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 this request on May 23, 2023 at 6:00 PM 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, June 8, 2023.

Mr. Kidd motioned to approve the April 10, 2023 Planning Commission minutes as written.

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

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

Public Hearings

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 25-73.- 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. Lucas stated that the applicants of the Ikenberry SEP requested to formally withdraw this application. This request came after the advertising date and the case had been advertised in accordance with Section 25-523 of the County Code. He further stated, a vote of the Planning Commission would be required to accept the withdrawal, as he requested a motion.

Mr. Nicely motioned to accept the applicants' request to formally withdraw their application.

Mr. Kidd seconded, which was unanimously 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

Mr. Lucas announced the motion carried.

Blue Ridge District: The Botetourt County Board of Supervisors have authorized consideration of a citizen-initiated petition that requests amendments to the 2010 Comprehensive Plan's Sewer & Water Infrastructure Map #37 and the Future Land Use Map #9 in accordance with Chapter 25, Zoning, Division 6. Special Development Approvals, Section 25-581.3 Comprehensive plan amendment-Owner initiated and Section 25-581.4 Comprehensive plan amendment and review. The changes would extend an existing sewer and water service area along Blue Ridge Blvd between Coyner Springs Road and the Blue Ridge Pkwy which would connect three existing service areas together, and amend the future land use designation from medium density residential to commercial around several properties in the vicinity of the intersection of Blue Ridge Boulevard and Laymantown Road.

Mr. Lucas stated the petitioner of the amendments of the Comprehensive Plan, Four H Investments, LLC and Sheetz, Inc. requested that the public hearing on these Comprehensive Map amendments be delayed until the June Planning Commission meeting. Should the Planning Commission grant the request, this hearing will precede a currently scheduled public hearing for the rezoning and Special Exception Permit for the proposed Sheetz convenience store located at the corner of Laymantown Road and Route 460. He further stated this request came after the advertising date and the case had been advertised in accordance with Section 25-523 of the County Code, a vote of the Planning Commission would be required to accept the withdrawal. Mr. Pearson will provide additional information on this request.

Mr. Pearson stated the applicants requested to table the request until the June Planning Commission meeting, as he explained that the timing of the Transportation Impact Analysis played a role in this request.

Mr. Foster motioned to table the Comprehensive Plan's Sewer & Water Infrastructure Map #37 and the Future Land Use Map #9 text amendments until the June 2023 Planning Commission meeting.

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

Fincastle District: Eastern Appalachian Teen Challenge Inc., requests a change of conditions associated with a Special Exception Permit for a private school approved on October 23, 2007 in the Agricultural (A-1) Use District in accordance with Sec. 25-73.- Uses by special exception and Sec. 25-583. – Special exceptions of the Botetourt County Code to allow for the permitting of an identification sign. This 6.063-acre parcel is located at 4281 Botetourt Road, approximately 0.24 miles northeast of its intersection with Mary Alice Road (State Route 681), identified on the Real Property Identification Maps of Botetourt County as Section 48, Parcel 56.

Mr. Pearson read the request aloud. He displayed the zoning map as he explained that Agricultural (A-1) was the predominant zoning of this area, along with a small amount of Agricultural-Residential (AR) and Industrial. Mr. Pearson stated the private school Special Exception Permit was originally approved in 2007 with nine conditions. He summarized the current conditions and specified that this public hearing was due to the ninth condition that would not allow a sign. Mr. Pearson explained the applicant wanted to have a small ground identification sign as he displayed the proposed sign and placement provided by applicant. He further explained the would be angled and counted as one 24 square-foot, back-to-back sign. Mr. Pearson noted that the A-1 Use District allowed up to 40 square feet for a sign. He further noted the sign would have a ten-foot setback requirement from the property line. If approved, Mr. Pearson suggested modifying condition #9 to read, “Freestanding signage shall be limited to a twenty-four (24) square-foot ground sign.”

Mr. Lucas wanted to know the reason for not allowing the sign.

Mr. Pearson replied that the applicant didn’t propose any at the time, and that had since changed.

Mr. Harley Cox of Eastern Appalachian Teen Challenge was present to speak to this request. He said he had nothing to add, and that he would answer questions.

Mr. Lucas opened the public hearing.

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

Mr. Nicely motioned to forward the change of conditions on the property of Eastern Appalachian Teen Challenge Inc., with a recommendation for conditional approval as presented on the basis that the requirements of Section 25-583 of the Zoning Ordinance have been satisfied.

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

Mr. Lucas announced the motion passed.

The Botetourt County Board of Supervisors propose text amendments to amend the zoning ordinance

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to add the proposed new uses of electric vehicle charging station, private and electric vehicle charging station, public as permitted land uses, along with associated definitions, regulations and permitting requirements for each as follows: *Chapter 25, Zoning, Article II . - District Regulations Generally* to add each type of charging station, as either permitted when meeting supplemental regulations or by special exception permit when meeting supplemental regulations within each zoning use district; amend *Article VI. – Definitions* to add definitions specific to charging stations; amend *Article IV. – Supplemental Regulations, Division 1. – Use Regulations* to add supplemental regulations specific to charging stations that includes the purpose and intent of the ordinance, the applicability of the regulations to existing and proposed charging stations, general requirements that apply to all charging stations, development standards that apply to each type of charging station, application requirements, and amend *Sec. 25-431. – Accessory uses and structures; parcel limitations to charging stations, private when meeting supplemental regulations under residential, commercial, and industrial accessory structures.*

Mr. Pearson read the legal advertisement aloud. He displayed a slide illustrating the reasons for this text amendment, such as an increased use of electric vehicles, convenience stores and retailers using the larger scale chargers that look more like other fuel stations, and the growth of electric fleet vehicles. Mr. Pearson stated that Botetourt needed to be prepared. He explained that the convenience store definition included the use of fuel, as he reviewed types of charging stations. Mr. Pearson stated the Level One AC, was for home use; Level Two AC, Phase 1 AC was also for home use, neither of these provided a lot of charge; and Level Three, was the DC Fast Charge. He noted it appeared more like a gas pump, was tied into a transformer for retail use. Mr. Pearson explained these amendments were to prepare Botetourt for increased demand, define charging stations based on whether they were provided for private use or public use. He discussed where each level would be allowed based on the type of charging station, and whether charging station would be a permitted use or Special Exception Permit in each use district. Mr. Pearson further discussed the general and specific requirements. He stated EV charging stations would be added to district regulations, supplemental regulations, and definitions. Mr. Pearson mentioned that the convenience store definition was revised to include EV charging station, and made the public and private definitions and uses clear. He talked about the supplemental regulations of purpose and intent, such as hotels adding EV charging stations. Mr. Pearson remarked mentioned that Tesla approached County about Sheetz on Catawba Road and why that would not work due to their lack of parking spaces. He further remarked that they might apply to do this at a nearby shopping center. Mr. Pearson described size of equipment with EV charging, such as transformers and how it would affect adjacent properties, such as residential uses, and screening. He stated that if passed, EV charging stations could not encroach into residential areas. Mr. Pearson further stated that applicability, and general requirements that would apply to all electric vehicle charging stations, as he displayed a chart where these would be allowed either as a private use, public or public with a SEP. Mr. Pearson state that Level One would be only a private use; Level Two would be allowed in both public and private use. He explained that he wanted to look at public use as either permitted or by SEP. He explained that a good way would be to have the SEP approach, depending on number of parking spaces, with percentage and number of spaces for Level Two for small businesses. They would not have to do a SEP unless the business wanted to do more than 5%, which would trigger a SEP.

Mr. Kidd suggested taking a hard look at Agriculture as permitted use for electric tractors, commenting that he has heard about electric tractors.

Mr. Pearson replied that Level Two would not be adequate for an electric tractor, that it could be permitted under Private A1, for Level Three, and the motion would need to be changed, noting "Private in A-1".

Mr. Nicely questioned if this would still be exempt by the state if a bonified farm.

Mr. Pearson said he was not sure how that would work, Staff would definitely look at it, and this would certainly cover it.

Mr. Foster wanted to know if electric fuel would replace gas pumps.

Mr. Pearson responded that he would argue that you could, and that he thought more would be added. He commented that he read an article that stated there were only 1-2% electric vehicles on roads, but with the federal government incentives, there would be more and more requests to accommodate. Mr. Pearson further commented that Tesla and others were always looking for new sites.

Mr. Pearson discussed general requirements, such as setbacks based on the use district, preventing encroachment into required landscaping areas, preventing encroachments upon sidewalks, and determining whether charging stations would be allowed as permitted or SEP uses, while indicating the approval process for each type of charging station. Mr. Pearson explained Level One was more of an accessory use, with no additional site plan for home or business use. He further explained that Level Two, would be permitted at someone's home or fleet vehicles for business, and once they go over five charging spaces, a SEP would be required, although site plan approval would not be required on Level Two, and they would need electrical work, and to meet setbacks. Over that, a SEP and full site plan review would be required. Mr. Pearson stated that a Level Three, if it was for the private use of an occupant of that property and by right, no additional parking spaces required, then a normal site plan would be required. If public and over 5%, a SEP and full site plan would be necessary.

Mr. Snyder asked Mr. Pearson to go back to the slide with charging times. He asked that given the amount of time it would take to charge a vehicle, if there was any consideration for what people to do while vehicle their vehicle was being charged, along with the possibility of people waiting in line.

Mr. Pearson answered that people could go to websites and plan their charging ahead of time, and that typically, the charging stations were not stand alone, they were usually put in a mall, where there were things for them to do. He commented that the Industry had taken care of some of that aspect.

Mr. Snyder mentioned an hour charging time with possibly three waiting at one time. He further mentioned that we needed to think about that aspect before considering a SEP.

Mr. Lucas opened the public hearing.

Mr. Shannon Turner of Roanoke said he had heard about time, traveling, and aesthetics but not safety. He questioned the safety aspect, how to stop a kid from messing with it, and if the charging stations would be attended. He said he was not for or against this, but wanted safety addressed.

Mr. Kidd responded that would be more of a building safety issue from electrical permits and inspections.

Mr. Pearson also commented that charging stations would definitely need an electrical permit, and that the National Electrical Code would be looked at. He said that some things, such as not allowing charging stations to be placed across pedestrian pathways, proximity to the carwash, etc. would be covered under the National Electrical Code.

Mr. Kidd spoke of the quickness of changes, and the wireless charging would be coming soon.

Mr. Pearson said the he had seen a little bit of language with the forthcoming technology that would be comparable to the Level Three charger. While he said he hoped that would be accommodated under Type Three and just not plugged in, he definitely expected similar equipment without the cord. However, he stated that we could not wait to figure that out later and needed to go ahead and change the ordinance now.

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

When Mr. Lucas how often the National Electrical Code changed, Mr. Kidd it was every one to three years, and Mr. Nicely noted that Virginia was a little slow to address it.

Mr. Kidd brought up the need to look at Level Three in Agriculture, and that someone would do this only because they needed it, and not everybody would do it due to cost. He stated this needed to be permitted in Agriculture A-1.

Mr. Nicely suggested only properties in land use, and not just in A-1; Mr. Kidd agreed, as Mr. Foster brought up the quantity of A-1 properties.

Mr. Lockaby said he was not sure whether if we wanted to put this on the Commissioner of Revenue, and he would have to think on this.

Mr. Nicely talked about the need to verify of legitimate farm use, and there were times in the past that the Building Department had to make sure property was in land use to qualify for Agricultural buildings, and had to make sure the property was in land use.

Mrs. Pendleton stated that terminology had changed to “farm exempt” and there were three sets of code (Commissioner of Revenue, Building and Zoning) to consider.

After further discussion, Mr. Lucas suggested putting private use on all A-1.

Mr. Lucas motioned to add Agricultural (A-1) for private Level Three and to forward the electric vehicle charging station text amendments with a recommendation for approval on the basis that the requirements of Section 25-581 of the Zoning Ordinance have been satisfied.

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

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

The Botetourt County Board of Supervisors propose text amendments to amend the zoning ordinance to add small-scale, minor-scale roof, minor-scale ground and utility-scale solar energy facilities as permitted land uses, along with associated definitions, regulations and permitting requirements for each as follows: *Chapter 25, Zoning, Article II . - District Regulations Generally* to add each type of solar facility, as either permitted when meeting supplemental regulations or by special exception permit when meeting supplemental regulations within each zoning use district; amend *Article VI. – Definitions* to add definitions specific to solar energy facilities; amend *Article IV. – Supplemental Regulations, Division 1. – Use Regulations* to add supplemental regulations specific to solar energy facilities that includes the purpose and intent of the ordinance, the applicability of the regulations to existing and proposed solar facilities, general requirements that apply to all types of solar facilities, development standards that apply to specific types of solar facilities, community meeting requirements for minor-scale ground or utility-scale solar facilities, application requirements specific to minor-scale ground and utility-scale solar facilities, considerations on issuing special exception permits, requirement of annual report for minor-scale ground or utility-scale solar facilities, requirement of notice for change in ownership of minor-scale ground and utility-scale solar facilities, a requirement of a surety for decommissioning of utility-scale facilities when no longer in use, and amend Sec. 25-431. – Accessory uses and structures; parcel limitations to change the use of solar power panels to small-scale solar energy facilities when meeting supplemental regulations under residential, commercial, and industrial accessory structures.

Mr. Baker read the legal advertisement aloud. He provided clarity on the solar energy facilities amendments regarding district regulations, Supplemental Regulations in Sections 25-431, 25-447, and 25-601, Definitions. Mr. Baker reviewed general requirements of building and zoning for any scale. He then went over the Purpose & Intent, Applicability, General Requirements, Districts Permitted, Development Standards (Setbacks, height, buffer, etc.), Community Meeting and Application Requirements, Considerations on Issuing SEPs, Annual Report, Notice of Change in Ownership and lastly Surety for Decommissioning. On the next slide, there were no changes to the types of solar, and Mr. Baker noted that Small Scale was changed to up to 40 kW, minor scale would be less than 5 MW to supplement electrical needs, and utility scale would be over 5 MW, ground mounted only. He further noted that some of the definitions had been adjusted, as he displayed zoning districts where solar would be permitted either by-right or by SEP, saying this part remained unchanged since April. Mr. Baker told the Planning Commission that Development Standards were mostly the same, and buffer standards slightly changed if there was no barrier, and the buffer had been reduced from four rows of trees to two rows of trees. He brought up the amended pollinator standards, saying that once established, mowing of the pollinator habitats shall occur between the first and last day of winter in order to reseed these areas, as he crediting county attorney Mike Lockaby for the revision based on research.

As Mr. Kidd confirmed research with Mr. Baker, he stated the winter was not the best time for reseeding.

Mr. Baker asked for Mr. Kidd's recommendation, and to differentiate between reseeding and pollinators.

Mr. Baker stated that lighting would comply with the zoning ordinance standards, and a community meeting would be required, plus the requirements and standards. He further stated that language had been changed from five miles to one mile, and that Decommissioning had the most changes. Regarding Decommissioning, Mr. Baker stated that the wowner must notify the zoning administrator within 10 days of discontinued operations; owner/operators were responsible for returning the site to its original state

within 12 months of discontinued operations; if notification was not provided by the current owner, the facility shall be considered abandoned when it failed to operate for more than one year without the written consent of the zoning administrator; the county would have discretion to determine what proportion of the system is inoperable for the system to be considered abandoned; the surety for decommissioning ensured facilities would be removed appropriately; and costs of decommissioning must be updated every five years. Mr. Baker continued that overall goals were to meet an increased demand of siting of solar energy facilities that would serve the growing demand for renewable energy, plus the State goals to achieve carbon neutrality by 2050. He noted adoption of this ordinance provided a means of responsible community development.

Mr. Foster stated that he had received letters from different companies that wanted to buy or rent his property. He asked how that affected decommissioning.

Mrs. Pendleton responded that a legal and bonding agreement would be binding upon the party that filed, and that any transfer to a new owner still had to meet requirements and regulations.

Mr. Lockaby stated that most typically a farmer would own the land, the developer would have a ground lease.

Mr. Snyder acknowledged and appreciated change in the small scale kilowatts to allow a home to be powered.

Mr. Lucas referenced Page 5 regarding reseeding versus planting season, noting that it did not have to be the same as the pollinator, as well as another another section that did not specifically say winter.

After further discussion about Item J under application requirements, and Item B talking about planting season, Mr. Kidd stated that he understood pollinator habits, it was a point of interest, and to leave it as-is.

Mrs. Pendleton commented that the type of approach was to apply dates to the dormant season.

Mr. Kidd responded that his concerns were alleviated, and he was ready to vote on this tonight.

Mr. Lucas opened the public hearing

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

Mr. Foster stated this was a good plan, and he could approve it as-is.

Mr. Nicely stated he had no issue with it.

Mr. Lucas stated that we needed to put something in place and we could continue to look at it.

Mr. Baker acknowledged assistance from Mr. Matt Lewis and Mr. Jon McCoy.

Mr. Kidd stated there was some wording in there as far as what could be approved or not approved, more restrictive wording in other areas that seemed a little stringent, and he understood defendability. He further stated the need to give owners a fair shake in trying to comply with viewshed, as he brought up

the wind ordinance, noting there was more teeth here to turn it down.

Mr. Snyder had no comment.

Mr. Foster said he saw this as not so different between a cell tower, and utility scale wind.

Mr. Baker commented that the viewshed language was similar to cell tower, wind, and saw mill language, and it was to provide clarity about what they needed to do.

Mr. Kidd responded that he could not argue with what had been said.

Mrs. Pendleton stated the context was to minimize the viewshed, and the wording was related to the study, and not in a place where the Board of Supervisors shall deny based on viewshed, noting this was almost identical to cell towers language.

Mr. Lucas motioned to forward the solar text amendments with a recommendation for approval on the basis that the requirements of Section 25-581.1 of the Zoning Ordinance have been satisfied.

Mr. Nicely seconded, which was approved 4:1:0:0, with the following recorded vote:

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

Other business

Mr. McCoy stated the Botetourt County received notice of receiving the inaugural Holzheimer Economic Development Award by the Virginia Chapter of the American Planning Association award to be presented in July.

Mrs. Pendleton then acknowledged Mr. McCoy's many accomplishments by announcing that he would be the recipient of the American Planners Association "Foxhound Award for Distinguished New Professional" at the July 2023 conference.

Mr. Kidd brought up the he and Mr. Pearson discussed a regulation that did not allow more than three garage doors on private garage. He stated that he would like for Mr. Pearson to look at and see if we can have it changed.

Mr. Pearson commented that the ordinance had been changed regarding the building size, and thought this part had been revised, but it was not. He further commented Staff should do amendment for this.

On motion by Mr. Kidd and seconded by Mr. Lucas, the Planning Commission requested a text amendment to correct the limitation of three garage doors on a private garage, 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

Adjournment

There being no other business, on motion by Mr. Kidd at 7:50 PM, seconded by Mr. Foster, which was approved 5:0:0:0, the Planning Commission adjourned with the following recorded vote:

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