

NELSON COUNTY PLANNING COMMISSION
MEETING MINUTES
July 27, 2011

Present: Chair Philippa Proulx, Commissioners Michael Harman, Linda Russell, Michael Tapager, Emily Hunt, and Supervisor Connie Brennan

Staff Present: Fred Boger and Wanda Staton

Call to Order: Chair Proulx called the meeting to order at 7:30 P. M. in the Board of Supervisors meeting room, County Courthouse, Lovington.

Approval of Minutes – April 27, 2011 Commissioner Hunt made a motion to approve the April 27, 2011 minutes. Motion passed 4-0 with Supervisor Brennan and Commissioner Harman abstained.

Approval of Minutes – May 25, 2011 Commissioner Tapager made a motion to approve the May 25, 2011 minutes. Motion passed 5-0 with Supervisor Brennan abstained.

Approval of Minutes – June 22, 2011 (Deferred until Aug. 24, 2011 meeting)

Site Plan #2011-004 – Bold Rock Cidery, LLC (BOS approval not needed)

Mr. Boger reported, Russell Orrison PE, LS, representing property owner Mr. John Washburn, has submitted the final site plan for the Bold Rock Cidery to be constructed on a tract of land located on Rockfish Valley Highway south of Nellysford. The property is identified as Tax Map #21-9-1A. The project consists of a three story building with a gift shop and two apartments, a cidery for processing apples, and a restaurant. Mr. Boger stated that Mr. Orrison may have comments on the lighting and the signage for the project.

Mr. Boger stated that the site plan is basically complete with the exception of a few minor revisions. VDOT, Health Department and the Thomas Jefferson Conservation District Office have commented on the site plan. Staff recommends approval subject to final approval of the above agencies.

Mr. Russell Orrison, Civil Engineer for the project, answered questions from the Commissioners. Commissioner Russell asked about the overflow parking. He pointed to the overflow parking designation on the site plan. Commissioner Russell asked the amount of anticipated numbers of employees for any given shift. Mr. Orrison replied that there will be 3 or 4 employees at any shift.

Robin Washburn discussed the different types of signage they considered. They planned to use signage similar to the Boar's Head Inn. The sign would be located about 98 feet from the middle of the driveway going north on Rt. 151. Any other signs used would be directional, including handicapped and overflow parking and cautionary signs for safety.

Robin Myer, architect, discussed the lighting plan for the site. The lighting plan will be post type lights similar to Devils Backbone lights and will comply with the Starry Night Lights program. Various lights around the bridge and building will be of rustic design. The plan shows the location of the lights. The main sign will be lit from both sides.

Mr. Boger stated that there may be a problem with VDOT because a sign cannot be located on an adjoining parcel as shown on the site plan. Mr. Washburn said he could combine both parcels.

Chair Proulx asked about a building currently under construction but not shown on the site plan. Mr. Washburn stated that it is an agricultural building that will be used to store apples to be used for juicing.

She asked if he would add it to the site plan. Mr. Orrison agreed. Commissioner Russell suggested they ask VDOT if having the agricultural building on the parcel with the sign would be in compliance with their signage policy. Mr. Boger stated that the sign issue would need to be resolved with VDOT.

Chair Proulx opened the floor for public hearing. With no comments from the public, the public hearing was closed.

Commissioner Russell made the following motion:

The Nelson County Planning Commission approves Site Plan #2011-004 dated July 21, 2011 for Bold Rock Cidery, LLC to build a farm winery to produce hard apple cider, consisting of an enclosed apple juicing processing area, cider pub restaurant, gift shop, with parking and 2 apartments on property owned by John Washburn, located on Rockfish Valley Highway, Nellysford, Virginia, Tax Map #21-9-1 & 1A, and zoned Agricultural. This is subject to final approvals from the following agencies: 1)Health Department 2)VDOT 3)E&S Plan.

Commissioner Harman provided the second and motion passed 5-0 with Supervisor Brennan abstained.

Proposed Zoning Amendment- Definitions: Wildlife Rehabilitation Center

Mr. Boger stated that staff was in favor of approving the addition of Wildlife Rehabilitation Center to the ordinance. He stated that this facility could provide the next level of care for animals that come from the Wildlife Center of Virginia in Augusta County. The facility would be used only for Virginia native wildlife and not other types of animals like tigers.

Chair Proulx opened the public hearing and with no comment from the public, the public hearing was closed.

Ms. Nathou Attinger, wildlife rehabilitator, stated she was federally and state licensed. She said the National Wildlife Rehabilitation gives out suggestions on cages and sizes and their guidelines are followed by rehabilitators. National Wildlife Rehabilitation Association does not license but provides continuing education which one must obtain to be licensed. Commissioner Russell suggested that the National Wildlife Rehabilitation Association be taken out of the definition as being a regulator.

Commissioner Russell made the following motion:

The Nelson County Planning Commission recommends to the Board of Supervisors the adoption of the following proposed amendments to the Ordinance:

ARTICLE 2 DEFINITIONS; Wildlife Rehabilitation Center: A facility whose purpose is the care, rehabilitation, and release of orphaned and injured Virginia native wildlife. Wildlife rehabilitation centers are regulated by the U.S. Department of Interior, Fish and Wildlife Service, and the Virginia Department of Game and Inland Fisheries and must be supervised by a wildlife rehabilitator with valid permits from each of these agencies.

ARTICLE 3, CONSERVATION DISTRICT,C-1; Section 3-1-a Uses-Permitted by Special Use Permit only, subsection 3-1-17a is amended to read as follows: Wildlife Rehabilitation Center

Article 4, AGRICULTURAL DISTRICT, A-1; Section 4-1-a Uses-Permitted by Special Use Permit only, Subsection 4-1-43a is amended to read as follows: Wildlife Rehabilitation Center

Commissioner Harman provided the second and motion passed 5-0 with Supervisor Brennan abstained.

Request for Minor Site Plan Waiver/Central Virginia Wind Energy-Dan Boyle

Mr. Boger stated that he received a request from Dan Boyle, Central Virginia Wind Energy to waive a minor site plan requirements for a wind turbine. Mr. Boger stated that he had the information he needed without the site plan but wanted the Planning Commission's approval to waive the site plan requirements.

Dan Boyle stated that he was requesting the waiver because the property is 170 acres. The turbine Extended tower height is 151 feet and the foundation is 21' x 21'. Both are well within the fall zone required by the Ordinance. He is going to submit the engineered drawings as soon as the turbine is approved. Commissioner Russell asked if he was going to ask for a waiver for the guyed wires and he stated no.

Mr. Boger suggested that the Planning Commission consider whether it would be establishing a precedent. Chair Proulx stated she doesn't have a problem with waiving the site plan since it's a large tract of land and the wind turbine is not close to property lines.

After discussion, Commissioners agreed by consensus to authorize staff to waive the minor site plan. Mr. Boyle will provide the engineering drawings, height of the wind turbine, and the path of utility lines.

Exception to Subdivision Ordinance- Lawrence Dewey, Jr.

Mr. Boger presented a letter and 2 plats from Lawrence Dewey, Jr. In 1973 a survey showed that Mr. Dewey had a 50' outlet from his property. Mr. Dewey had the property resurveyed in 1997 and the second survey showed that he didn't have a 50' outlet. Mr. Dewey wants to divide the property and is asking for a variance from the 50' requirement to 35' due to the faulty survey.

Chair Proulx stated she was not in favor of a variance in this case. She firmly supports the 50' right-of-way requirement and feels a 35' right-of-way is not sufficient. She suggests that Mr. Dewey consider a boundary line adjustment. Commissioner Russell stated that the problem was correctable without an exception. Commissioners agreed by consensus to recommend denial of the request.

Individual Septic Systems

Mr. Boger reported that within a month 4 subdivisions had been reviewed that result in large acreage divisions. The current Ordinance requires perk tests be done on lots divided. A Board member brought it to the attention of the Board of Supervisors and they are requesting the Planning Commission review the Section 4-4 Water and Sewer, item D, "Individual Septic System" 3) Exceptions to the above provisions:
a. The residue (the remaining portion) of the original lot is twenty (20) acres or larger.

Commissioner Russell stated that if the lot size was reduced to possibly 10 acres or less, then that could almost double the number of lots that might not be buildable. Soils work would indicate whether the lot was buildable and would therefore be more valuable to the owner, the buyer and the County.

Mr. Boger suggested that if the lot that is being divided off is greater than 20 acres then soils work would not be required. Commissioner Russell disagreed with the suggestion because she stated that you would not know what type of price to ask for the land since you wouldn't know if the lot was buildable or not. Chair Proulx stated that there is an assumption from the purchaser that the lot being divided would be a buildable lot.

After further discussion, there was a consensus from the Commission that no changes are warranted at this time. Chair Proulx asked staff to draft a response to the Board of Supervisors and Mr. Steve Carter and send email to Commissions for any comments before sending final to the Board of Supervisors.

Zoning Provisions

Mr. Boger reported that the General Assembly has passed a law requiring localities to allow temporary care facilities. Mr. Boger stated the Code of Nelson needs to be amended to include the Section 15.2-2292.1- Zoning provisions for temporary health care structures.

After discussion the Commission perceived that there are conflicting statements in the new state law and asked Mr. Boger to consult with Mr. Payne, county Attorney for a legal interpretation.

Mr. Boger stated that there is also a request to include accessory apartments. Mr. Boger stated that the accessory apartments are allowed as long as the property has 4 acres.

Subdivision Ordinance

Mr. Boger requested a deferral on the discussion of the Subdivision Ordinance until the next scheduled meeting, August 24, 2011. Commissioner Russell suggested that the Commission develop some type of mechanism to reduce the number of driveways that enter into a public highway. She cited the example near Oak Ridge where there were 8 or 20 lots with driveways connected directly to the public highway. She stated she would like to see a subdivision have to provide an interior road and make the Home Owner's Association responsible. The Commission, having previously supported this idea, asked Mr. Boger to draft language to be considered in the Subdivision Ordinance revision.

Board of Supervisor liaison report- Connie Brennan

Supervisor Brennan stated that she appreciated Mr. Boger investigating other properties for the Gladstone Rescue Squad Communication Tower.

Supervisor Brennan reported that the Rezoning for the parcels near Vito's was not acted on because the adjoining property owners were not notified prior to the public hearings. Mr. Boger questioned whether this rezoning would have Supervisors approval because they want the individual property owners to come and ask for rezoning on their property. Mr. Boger stated that the rezoning should have some written agreement that may be problematic if they decide to continue with the rezoning process. Some of the Board members want more than just a post card signed. Chair Proulx stated that she felt the Commission should redo the process and make sure the adjoining property owners are notified to have the parcels near "Vito's" rezoned to Business, B-1. The Commission concurred.

Supervisor Brennan reported that there was concern about the Communication Tower Ordinance that she and Mr. Joe Dan Johnson had been assigned to work on it. She stated there are a lot of changes on the Class I and Class II towers. She said there was conversation whether or not administrative approval should be given for communication tower in Wintergreen. Mr. Boger stated that Wintergreen acknowledged that they are subject to the County Ordinance regarding towers.

Other Discussion

Commissioner Russell wanted to know the status on the Hardee's property at Swannanoa. Mr. Boger stated he thought it was on hold but would check on it.

Adjournment

Commissioner Harman made a motion to adjourn. Motion passed 5-0 and meeting adjourned at 9:20 p.m.

Respectfully submitted,
Wanda Staton
Planning and Zoning Secretary