

NELSON COUNTY PLANNING COMMISSION
MEETING MINUTES
June 25, 2014

Present: Chair Philippa Proulx, Commissioners Linda Russell, Emily Hunt and Mary Kathryn Allen

Absent: Commissioner Michael Harman

Staff Present: Grant Massie, Planner and Stormy Hopkins, Secretary of Planning & Zoning

Call to Order: Chair Proulx called the meeting to order at 7:01 P. M. in the General District Courtroom, County Courthouse, Lovingson.

Approval of meeting minutes: The Commissioners requested the following revisions:

Page 2 – last paragraph, 2nd sentence: still unclear to **“not provided”**.

Page 3 – 1st paragraph, last sentence, beginning with The Applicant / change photosims to **“photo-simulations (photosims)”**.

Page 3 – 2nd paragraph, 1st sentence: change to read: improved coverage and improved data. to read **“improved coverage and improved data transmission.”**

Page 3 – 3rd paragraph, beginning with Valerie Long, last sentence: change to read: a few vantage points to **“a few vantage points, from which the tower can be seen.”**

Page 6 – BOS Referral... / 2nd paragraph, 2nd sentence: change (ii) to **“(2)”**.

Page 5 – 3rd paragraph, 7th line down: remove sentence Commissioner Russell indicated that the email in reference was sent back on March 20, 2014.

Page 8 – Update on Rockfish... / 3rd paragraph, 1st sentence, beginning with Chair Proulx: change our to **“or”**.

Commissioner Allen made a motion that the meeting minutes from the May 28, 2014 meeting be approved as amended; the vote was 3-0. Commissioner Hunt abstained from the vote.

1. Consideration of Proposed Amendments to Nelson County Zoning Ordinance, Article 4 (Agricultural District (A-1) – “Lots Allowed and Area Regulations”:

Chair Proulx opened the public hearing at 7:08 p.m.

Mr. Allen Hale, 3130 Laurel Road, Shipman, VA: Mr. Hale stated the he has been a land surveyor in Nelson County for forty years. He noted that he is a Board of Supervisors (BOS) member, where this matter has been previously discussed.

Mr. Hale noted that two main issues bother him, with regards to not allowing two-family detached dwellings on a minimum of two acres in the Agricultural (A-1) District. One is that the larger lot size requirements result in greater expenses for a homeowner. He stated that overall the two acre minimum is a good compromise, but the County governs the potential for land development by limiting the number of lots that can be created on a parcel of land. For example, if a single family dwelling is on two acres and meets the septic and drainage field requirements, a house could be built with ten bedrooms or more; whereas, two family detached dwelling would not be permitted, even though in most cases it would have less than six

bedrooms. As a result, Mr. Hale considers the requirement that two family detached dwellings have a minimum of four acres is very discriminatory towards lower income family needs.

The second and main point that Mr. Hale made is that the BOS sent this issue by referral to the PC as a result of so many things happening in this County, with a specific request from Nelson County Community Development Foundation (NCCDF) to build duplexes on a minimum of two acres, rather than a minimum of four acres. Mr. Hale stated his opinion that the PC recommendation for the BOS to make a special exemption for the NCCDF did not seem to be a good solution.

Commissioner Russell asked if Mr. Hale would elaborate as to why he thought Mr. Payne's interpretation that one could use another means to achieve affordable housing was not a good solution. Mr. Hale stated that he feels he would not want to limit this to any one entity; and that if a commercial developer wanted to do the same thing as the NCCDF and found it to be economically feasible, he would favor that.. Commissioner Russell asked if Mr. Hale's reference to a "commercial developer" is in relation to affordable housing or just housing in general. Mr. Hale stated that in his opinion, duplexes are by definition, affordable housing.

Chair Proulx closed the public hearing at 7:12 p.m.

Chair Proulx indicated that she had a couple of comments on the way the words that came to the PC were stated. She noted that there is nothing that limits the size of the duplex in the proposed amendment. She noted that Mr. Krieger refers repeatedly to two bedroom duplexes, but that the recent referral does not address the size of the duplex. She believes that the proposal the PC made with "distinct relief" to anyone who came forward with a proposal that seemed to be in the best interest of Nelson County's health, safety, or welfare; which could be interpreted as low income housing. That was not specific to the NCCDF, but for anyone who met the criteria could have fallen under that category and not an exemption as such. Chair Proulx stated that she personally feels this is not the way to go and it's open to too much abuse, in terms of density in the county. Chair Proulx indicated that she likes the idea that a Special Use Permit (SUP) be submitted for duplexes on two acres. This would allow the PC to view each on an individual basis to see how it would fit into the community.

Commissioner Hunt stated that she feels by using a SUP, the Commission could end up setting a precedent that they may not want to, and that would be subject to challenge; but that she also agrees with Chair Proulx statements. Commissioner Hunt referenced the letter from George Krieger (see attached), stating she found it interesting that, "the Health Department approve septic permits based on the number of bedrooms and average daily water usage." She indicated that this could be a way to permit the property as to what could be allowed. Chair Proulx stated that she believes Mr. Keiger's argument is that if there is not sufficient septic capacity then the Health Department would not approve it.

Commissioner Russell indicated that she had a letter from Tom Eick from the Health Department in which he states that the number of bedrooms as well as the soils determines the size of the septic system. She indicated that the Health Department usually requires 100% reserve in addition to the initial system. Commissioner Russell stated that many years ago, the Health Department was considering expanding their requirement from one acres to two acres because a lot of systems in the County were failing. The County took on the responsibility of building systems to help those individuals out. This was extremely expensive to the tax payers of the County. Around this same time, Rural Nelson, came up with numbers to show what the County would look like if built-out based on the Zoning Ordinance, and the total number of people was sizeable and not something that anyone wanted this County to become. Between the soils in the County and what the County would look like if it was built-out, the two acres became a good compromise. Commissioner Russell stated that, in her opinion, this amendment as proposed includes so much more than just affordable housing; and she would prefer to see Mr. Payne's solution, which would be specific for anyone applying for affordable housing. Commissioner Russell feels the SUP could also be a compromise.

Commissioner Allen stated that she tends to agree with Mr. Krieger's summary in the last paragraph. She understands that four acres is a lot. Chair Proulx stated that this is a County wide issue and not just community foundation construction.

On a motion made by Commissioner Russell, she stated that the Planning Commission has received a proposal from the Board of Supervisors to hold a public hearing to amend Section 4-2-1a, which would allow single and two family detached dwellings on two acres referred by the Board of Supervisors for the Planning Commission to hold a public hearing and recommend a course of action. The Planning Commission has previously met, reviewed a more restrictive request, which limited the reduction of area to two bedroom and one bathroom units per two unit building. Chair Proulx has responded for the Planning Commission on May 7th. The Board of Supervisors has again referred that we have held a public hearing and have made the decision to recommend to the Board of Supervisors that we do not recommend approval of this amendment for the following reasons:

1. We are concerned about the residential density and possible future relaxation of similar density requirements that could increase future build-out totals for the entire County.
2. We are concerned that the A-1 district is becoming a catch-all with very little focus on the ordinance's description of this district. The description reads, *"this district is designed to accommodate farming, forestry, and limited residential use. While it is recognized that certain desirable rural areas may logically be expected to develop residentially, it is the intent, however, to discourage the random scattering of residential, commercial, or industrial uses in this district."*
3. We are concerned that the proposed amendment is too broad, though it might work very well for the NCCDF, it might not be appropriate for all scenarios. This limited focus is not generally considered a very good principle of zoning.
4. The proposal is not easily enforceable.
5. The County has been advised that it has other means to achieve the desired result of encouraging affordable housing, which is the stated goal of the Board of Supervisors, the Comprehensive Plan, and of course this Commission.

However, if the Board wishes to proceed along these lines, we suggest that they consider a Special Use Permit be added to the Zoning Ordinance in the Agriculture District, which would allow four bedrooms, per two family detached dwellings on less than four acres.

A second was offered by Commissioner Hunt; the vote 4-0.

Mr. Massie asked, as a point of clarification, if within the motion that the PC did not want to accept the recommendation from the BOS. The PC stated that is correct, they are not recommending the proposed amendment.

2. Consideration of Proposed Amendments to Nelson County Zoning Ordinance, Article 2 (Definitions) and Article 4 (Agricultural District A-1) – "Agricultural Operations":

Chair Proulx opened the public hearing at 7:38 p.m.

Mr. Al Weed of 1362 Fortune's Cove Lane, Lovingston; owner and operator of Mountain Cove Vineyards, the oldest winery in VA. Mr. Weed stated that he was there to speak to the Definitions that are being proposed. He stated that he was working from a memorandum that went to the BOS, dated April 24, 2014, that Mr. Hale gave him a couple of weeks. Mr. Weed made two points in regards to an Agricultural Processing Facility and a Major Agricultural Processing Facility. The first point being the 10,000 square feet of enclosed space; he suggested that an amendment be added to be devoted to food processing, due to the fact that a farm can have a lot of enclosed space that does not have anything to do with the actual processing of food. The second point being the owned or controlled by the operator of the facility; he stated there are wineries in the agricultural district that do not produce any of their own crops, but fall under the agriculture

definition because they sign a lease and this is becoming a big problem due to the fact that there are a lot of wineries that are abusing that provision. The issue with this is that one that produces their own crops, can't compete with those that are solely buying the grapes. Another point that Mr. Weed makes is in regards to the Restaurant definition where it states, "Mobile points of service are deemed to be restaurants". He stated he will not do a wine event unless he has food, nor should anyone else who is serving alcohol. Mr. Weed asked if he were to have a food truck come to his winery would he need to have a Special Use Permit (SUP). Mr. Weed indicated that we should encourage operations in A-1 zones that are agricultural based and that provide income and jobs in the agriculture areas but to be consistent with reasonable regulations.

Chair Proulx stated that one of the things that she has questions about with the proposed amendments is what changes are from the new State Code and where the PC has flexibility and where it does not. Commissioner Russell clarified that what Mr. Weed was referencing for the "mobile points of service" is taken directly from the Virginia Code 35.1.1.

Mr. Hale stated that at any time there is a public hearing, as a matter of procedure, the amendments under consideration should be available to the public. Chair Proulx indicated that Staff would be made aware of this for future hearings. Commissioner Russell noted that the amendments were advertised and they are on the County website as well.

Chair Proulx closed the public hearing at 7:50 p.m.

Commissioner Russell made a motion that the Planning Commission table a decision on the proposed amendments to the Zoning Ordinance with respect to Agricultural Operations as per the Resolution from the Board of Supervisors R2014-31 to be discussed at the Planning Commission's regular July meeting.

A second was offered by Commissioner Allen; the vote 4-0.

Other Business:

1. Minor Site Plan #2014-001 – Rockfish Valley Inn & Suites / Christopher Sonne, PE (Applicant) and Todd Rath (Owner): Mr. Massie indicated that the comments that were made during the Site Plan Review meeting had been taken into consideration and completed by Mr. Rath, as requested. Staff recommended the approval of the Site Plan.

Todd Rath: Mr. Rath indicated that he believes everything has been met as discussed during the Site Plan Review meeting.

Commissioner Russell indicated that the owner needs to sign the application. Commissioner Russell stated that on the Site Plan dated June 18, 2014, there are no utility (electric, telephone and cable) easements shown and that is a part of the approval of a Minor Site Plan and the PC does not have the information. Mr. Rath indicated that he is in the process of talking to the Co-op about that. He noted that the County Broadband Authority has agreed to move the fiber out of the septic field. He noted that they installed it without his approval of the location. Mr. Rath noted that the electrical company does not have a deeded easement on to the property. He wants to work with the electric company to put the lines underground.

Chair Proulx and Commissioner Russell stated that the Minor Site Plan Checklist requires that the location of all existing and proposed utilities and easements and that is not checked off on the list. Mr. Rath indicated that the utilities are shown on the Site Plan. Commissioner Russell stated the easements were not shown and stated she does not know the County's legal position and does not feel she can approve it.

Mr. Massie indicated that it does occur from time to time where utilities are put in, especially long ago, and the companies just do it. If in fact there is no easement for the existing utilities and Mr. Rath gets the utilities changed, then an easement will be established. Mr. Massie indicated that he does not know how Mr. Rath can show an easement until he's had that negotiation with the companies. Mr. Massie suggested for the

existing utilities, Mr. Rath get the engineer to make a note that there is no easement. Mr. Rath indicated that in the Notes section of the Site Plan, number 14 does indicate that there are no easements.

Commissioner Russell asked if Mr. Rath would be adding any air conditioning units; and if he planned on using the existing sign. Mr. Rath indicated they would be replacing those units that are there and not adding any others and that he would be using the existing sign. Mr. Rath also noted that he would be adding six more bushes to the landscaping that was not shown on the Site Plan provided to the PC.

Commissioner Russell indicated that the zoning would have to be shown for the adjoining property owners on the Site Plan. Commissioner Russell asked about the employees; how the Inn would be operated; and parking. Mr. Rath indicated that he plans to sub-contract the cleaning staff and the main focus of the Inn would be on wedding parties and events and would not be a walk-in service establishment. Mr. Rath indicated that at a maximum there would only be 10 vehicles at the Inns full capacity. Commissioner Hunt asked at its capacity, how many can it accommodate. Mr. Rath indicated that there are accommodations for 18 people.

Commissioner Russell asked if the lighting and landscaping will be provided before final approval. Mr. Rath indicated the lighting is shown on the Site Plan. Commissioner Russell indicated that the size, look, and the extension of the lights needs to be show. She is very concerned about the lighting due to the fact that the property is Zoned B-1 but is surrounded by Agriculture Zoning and residential use; indicating that the lights cannot interfere with traffic. As indicated on page 3 of the Staff Report prepared by Mr. Padalino, "an approved landscaping and sight lighting plan shall be obtained in conjunction with the Building Permit." Commissioner Russell stated these plans need to be submitted to the Planning Office.

Commissioner Allen made a motion that the Planning Commission accept Site Plan #2014-001, Rockfish Inn & Suites based on the Site Plan dated June 18, 2014, with the following conditions:

- 1. A landscape design plan be sent in for a final approval; and the lighting plan to be included along with pictures so the PC will know what is being provided.**
- 2. Names on the zoning needs to be provided and the zoning of those adjacent to the property.**

A second was provided by Commissioner Hunt; the vote 4-0.

2. Major Site Plan #2014-002 – Duane & Lisa Blakeslee (Applicant/Owner): Property located at 2781 Adial Road, Faber; further identified at Tax Map Parcel #33-A-8; consisting of 200.43 acres; zoned Agricultural (A-1). Chair Proulx indicated that there has been some discussion and determination that the application as an intentional community is not appropriate. The applicant is planning to build cabins to use as rental properties, not as long term dwelling units. Chair Proulx indicated that she and Mr. Massie spoke with the applicant and they will be submitting a Special Use Permit for a motel for the July meeting.

Adjournment:

At 8:33 P.M. Commissioner Hunt made a motion to adjourn.

Respectfully submitted,



Stormy V. Hopkins
Secretary

