

**NELSON COUNTY PLANNING COMMISSION**  
**MEETING MINUTES**  
**October 28, 2015**

**Present:** Chair Philippa Proulx, Commissioners Mike Harman, Linda Russell, Mary Kathryn Allen, Robert Goad, and Larry Saunders (Board of Supervisors Liaison)

**Staff Present:** Tim Padalino, Director of Planning & Zoning and Stormy Hopkins, Secretary

**Call to Order:** Chair Proulx called the meeting to order at 7:00 P. M. in the General District Courtroom, County Courthouse, Lovingson.

**Approval of Minutes – September 23, 2015:** Chair Proulx asked if there were any suggestions/corrections to the meeting minutes (draft dated 10/15/2015).

Commissioner Russell noted that she has an issue with the following:  
Page 1 – Minor Site Plan for Mr. Phillips – 1<sup>st</sup> sentence – received a “complete” application on June 19<sup>th</sup>. Ms. Russell indicated that she does not believe the application was complete. She questions if the use of the word “complete” is appropriate, since the Ordinance states that all checklist requirements have to be met. She asked that Stormy Hopkins go back and listen to the recording from the meeting to determine if the term “complete” was used. If it was in fact used, an addendum will be added to the September 23<sup>rd</sup> meeting minutes (as reflected on the October 28<sup>th</sup> meeting minutes).

**Commissioner Harman made a motion that the September 23, 2015 minutes be approved as amended by Linda Russell. Commissioner Allen provided a second; the vote 5-0, with Mr. Saunders abstaining.**

**1. Special Use Permit #2015-10, #2015-11, #2015-12, #2015-13, and #2015-14 (“Spruce Creek Resort & Market” / Averitt)**

Mr. Padalino noted that on August 26<sup>th</sup>, Planning & Zoning staff received applications for five (5) Special Use Permits (SUP). The listed applicants are Mr. Richard Averitt IV and Mr. Dick Averitt III. The overall submittal includes the five (5) SUP, a Minor Site Plan, and a supplemental Portfolio.

Mr. Padalino further noted specific details of the five (5) SUP, the Minor Site Plan, and the SUP Portfolio (supplemental packet) as described in the Staff Report dated October 20, 2015 (see attached).

Mr. Padalino then noted the subject property’s location, characteristics, and other information. The property is located in the Nellysford area in the Central District; it is comprised of two (2) parcels on the west side of Rockfish Valley Highway; and further identified as Tax Map Parcel #21-A-35 and #21-A-36. The two (2) parcels total 98-acres of Agricultural (A-1) zoned property, with an area of General Floodplain overlay district (FP) along Spruce Creek. The subject property is currently undeveloped, and was formerly the location of Waynesboro Nursery.

Mr. Padalino noted that with regards to the “Future Land Use Plan” in the Nelson County Comprehensive Plan, Nellysford proper is identified as a “Mixed Use Village Development Model.” In addition, the South of Nellysford area is designated a “Rural Residential District Model,” which “would allow low density residential and compatible non-residential uses in rural areas where agriculture is not the predominant use.”

Mr. Padalino further noted that the Minor Site Plan drawings were prepared by Nelson Byrd Woltz Landscape Architects and contained seven (7) pages. The SUP Portfolio (supplemental packet) provides extensive details using both narrative and graphic format, and contains the project narrative. Details for both are described in the Staff Report dated October 20, 2015 (see attached).

Mr. Padalino then noted details of the review process to-date as follows:

- Applications were submitted on August 26<sup>th</sup>
- Site Plan Review Committee met on September 9<sup>th</sup>
- Applicants introduced their project to the Board of Supervisors (BOS) at the afternoon session on October 13<sup>th</sup>
- Planning Commission review and public hearings held on October 28<sup>th</sup>
- Board of Supervisors public hearings are being advertising for Thursday, November 12<sup>th</sup>

Mr. Padalino noted that the applicants are fully aware (if approval is granted), the next step would be to provide a Major Site Plan. The Major Site Plan process would include important details such as signage, lighting, landscaping, and other specifications and design details; as well as important regulatory details pertaining to VDOT, Health Department and others.

Mr. Padalino provided detailed comments from the Site Plan Review Committee meeting as detailed in the Staff Report dated October 20, 2015 (see attached).

Mr. Padalino concluded by providing staff's evaluation and recommendation(s) based on the four (4) evaluation criteria (Zoning Ordinance Article 12, Section 3-2) that must be considered with all SUP applications. The opinion of Staff is that the proposed project, as detailed in the application materials, seems to be satisfactory relative to all four (4) evaluation criteria (details described in the Staff Report dated October 20, 2015-see attached). Therefore, the Planning & Zoning Director recommends approval of Special Use Permits #2015-10, #2015-11, #2015-12, #2015-13, and #2015-14.

Chair Proulx noted she had concerns (as follows):

1. SUP #2015-11: asking for a "banquet hall" and a banquet hall does not allow for lodging. The application specifically stated that they would like to build a banquet hall and does not reference a conference center.
2. SUP #2015-14: is for a remote location wine tasting facility and she is not sure if that is consistent with the ordinances definition for "farm winery, remote location". She believes that is specifically for the use of a winery and not another facility (discuss further after applicants speak).

Mr. Padalino noted that in regards to #2015-11, "banquet hall" is referred to in the narrative explanation as part of the conference center. He further clarified that the request is pursuant to §4-1-13a "conference center."

Richard Averitt: Mr. Averitt stated that, "*he was one (1) of two (2) partners in the Rockfish Valley Investments LLC, spearheading this project.*" He noted that this project is the result of a dream that began in the fall of 2013. Mr. Averitt provided background information on the concept of the proposed project. He noted that his and other family members purchased property and then moved to the county in 2003; they fell in love with the county and its natural beauty. He further noted that he was "*surprised that there weren't more opportunities for people to come and just appreciate the natural environment.*" He also noted that, "*in many ways, the Rockfish Valley and Nelson County are being treated on the East Coast the way people think of Napa Valley on the West Coast.*"

Mr. Averitt noted that, "*this was a place that was by itself a destination. We heard more and more that people are looking for accommodations here.*" He further noted that one way would be to build accommodations. He then

noted, *“what if you created a place that you come to Nelson County for, and then from there, [you] were able to explore all the fabulous other opportunities in our community.”* He noted that he has a background in the restaurants industry (he built four), and he is deeply passionate about it and has enjoyed it. He stated, *“what if we built a place that was anchored by a world-class restaurant that capitalized on the foods and beverages and things that are produced right here in our sort of community and the area around us, and built an experience that celebrated all that that implied.”* He then stated that, *“the concept then became, what would be required; what other things would you need; how would we develop that; how would we make this a resort that could compete with certainly The Little Inn at Washington (although a different kind of project), but also with Blackberry Farm in Walland, Tennessee and with Post Ranch Inn in Big Sur. A place by itself where people say, I want to go there.”*

Mr. Averitt then pointed to various areas on the Site Plan slide and talked about each. He noted that this subject property is the location of the old Waynesboro Nursery, where there are rows of mature trees that still remain. He indicated that some of the cabins would be *“nested along the edges of that environment”* with trails connecting the cabins. Some of the cabins would be focused on the ravine down to Spruce Creek; some would be nested at the back of the field with the idea that they would be sunk low to the ground; some would be handicap accessible; and some would be built on the edge of a steeper ravine and would be *“treehouse like.”*

The concept of the lower area would be used for the events facility (accommodate 100-125); the open pasture land can be used for tents for larger events; and the market (place for wineries to offer wines for tasting and sales). There would also be a boutique/market area as well for grocery items – ideally for local farmers to grow/market their business. He further noted that some **areaa** area would be without vehicular access, and visitors would use paths. If someone were visiting the spa or restaurant, they would be greeted by a host or valet, who would take them to the resort area by an *“electric vehicle of some configuration.”* He concluded by explaining the concept of a service entrance, and noting that they have an easement that comes off of Route 627, but he doesn't believe that is a required access; if that's the case [not required], they will not use Route 627. He also noted that in addition to the proposed new entrance onto Route 151, there would be a single exit on to Horizons Village Road.

Zuzana Ponca, Nelson Byrd Woltz Landscape Architects: Ms. Ponca noted that she is the project manager. She further noted that this is a disturbed site because it was the former Waynesboro Nursery; it is not a pristine forest. She added that the nursery trees give an interesting character to the site. She then noted that they plan to keep the remnant trees and re-establish a native plant landscape. They also plan to keep the existing trees to use as a vegetative buffer along Horizons Village Road. They want the place to remain special and private. She further noted that the parking is designed to be built incrementally.

The following questions were asked by the Commissioners:

1. Discuss access by delivery people and guests who drive in the lower tract and want to get to the upper tract and it is January; how would that be handled? Mr. Averitt noted that there are a number of options and they are not clear at this time, but the vehicles that will be used will be resort vehicles and not a private vehicle.
2. Will there be access for emergency vehicles? Mr. Averitt noted they will build the main road to specifications (from VDOT and Fire Department) that will make it accessible for emergency vehicles. Ms. Ponca noted that this needs to be studied further. They intend to use the pond for emergency purposes. The road is going to be sized to accommodate fire trucks. Mr. Averitt noted that delivery trucks will arrive at times that are consistent with their needs, so that they do not disturb the guests. The restaurant would not be a high volume environment (50-60 diners one time or sitting per night).

3. Will the cottages have cooking; where will guest have breakfast? Mr. Averitt noted the cottages would not, but perhaps breakfast would be provided in the banquet hall or in conjunction with the tea house.
4. Will this project be phased, building the lower tract first? Mr. Averitt noted that phasing is unclear at this time. It is primarily a function of investment and capacity. Ms. Ponca noted that they want to remain conscientious.
5. Where does the pipeline go through? Mr. Averitt noted that it would go through the pond and through the center of the property.

Chair Proulx opened the public hearing at 7:45 PM.

Toni Ranieri, Nelson County resident: Ms. Ranieri stated that, *"My concern is that we too frequently rezone agricultural and forestal property for other uses. These lands are much more valuable than we tend to treat them. They are not only the lands on which we can meet our basic needs for food, but they are the lands that help maintain healthy air and water quality. They are also the lands that do not cost the taxpayer as much in services provided such as roads, electricity, schools, and trash facilities. They also contribute to a higher quality of life for residents."*

Ms. Ranieri then stated that *"I know we have rezoned in the past and it has been beneficial to us but that does not mean that doing more of the same is in our best interest. When some is helpful, it does not necessarily mean that more is helpful. I've seen plenty of communities that were once beautiful and healthy communities become undesirable because of improperly controlled growth. I've also seen communities that have done a good job of designing for and controlling growth. So far we have done a good job and I'd like to keep it that way. We do not have to say yes to every request for rezoning from agriculture."*

Ms. Ranieri further stated that, *"The mall being proposed is a major endeavor. We should look at the impacts on traffic and safety. I can't see how we couldn't widen Route 151 to accommodate this. We should look at the impact on water resource, on air quality, on demand for electricity, and on public services that will need to be provided. We should also look at the long term impacts. We should also consider that someday this business will be sold to someone else who may want to use it more intensely for business. Without strict limitations they will assume they have the right to do so. I've certainly learned how we can inadvertently obligate ourselves to development that we would not choose to have. In the case of the ammunitions warehouse being built so close to a school and densely populated neighborhood. I was told that we could not stop it because of the rezoning to industry that had been established earlier for a much more benign industry."*

Ms. Ranieri concluded by stating that, *"Yes, we want jobs and tax revenue, but we can be deliberate about how to do that. We do not need to put all our eggs in one basket, into tourism. Our children do not always have to have jobs in tourism. It may be a better industry than some, but how much do we need? In comparison, farming looks quite attractive. It may be that today small farms cannot make a living from farming because of competition from industrial farms, but we all hope that will change and I would like Nelson County to not only be ready for it, but be a part of trying to bring about that change. Someday we will see that our most valuable resources are our natural resources such as farmland and forests."*

Nancy McClain: Ms. McClain noted that she owns property that adjoins the proposed project. She then noted that she thinks the project looks lovely and that it will probably be well done. She asked how many people go to the Nelson County market, and thinks it's for those with higher incomes. She doesn't support the proposed project in any way.

Neal Showstack: Mr. Showstack noted that he has been a resident for about thirty-five (35) years. He indicated that he is not in favor of this development. He then noted that he feels as though 100-acres of agricultural property would be lost and putting a lot of strain on the water system. He further stated that, *"if this project goes through, there are thirty-six (36) cottages that are going to be having thirty-six (36) septic tanks overlooking a very clear stream. It's going to bring a lot more pollution into the Valley because of the traffic. Is this what we want to*

*present, do we want to be a nice home friendly warm place or do we want to be Napa, Breckinridge, or something like this. In terms of me going to a banquet hall or convention there, I don't see it benefiting very many members of the community, other than the for-profit industry that is trying to do this. I would love to see a non-profit agricultural forestal thing happening in that area and not a thirty-six (36) cottages and septic tanks, and a small 4,000SF retail store; please don't do this."*

Commission Russell asked Mr. Showstack if he lived near this facility and if it would affect him personally. Mr. Showstack noted that he lives within two (2) to three (3) miles.

Heidi Reid: Ms. Reid noted that she is a neighbor of this project. She indicated if the other access road was used, the proposed project would "hug" her property. She then noted that she is in favor of the project and thinks what the family is doing is development, which she "definitely has to think hard about, especially in Nelson County because it is beautiful. I love hiking where there is nothing there. But, this kind of development is sustainable development, in the sense that they are using a landscaping firm that uses sustainable practices that is going to plant things that are going to enrich the environment and is going to clean up Spruce Creek. As a resident that lives on Spruce Creek, I pick up trash out of Spruce Creek, running down it, and if they're there, they're going to be doing that. They don't want their lovely cabins looking down on a polluted creek. There's a lot of reasons why I agree with this project, so please, think carefully."

Aubrey McClain: Mr. McClain noted that he is not opposed to the development but he is "concerned with the tasting room. I think we have enough drunks on the highway in Nelson County already that endanger our folks greatly." He asked, "Where Richard's going to obtain the water for the pond because that was terminated a number of years ago when Mr. Quillen had the property?" He then asked, "How the endangerment of the pipeline is going to affect the property?" Mr. McClain stated that, "I was standing on top of that ridge there when the earthquake hit. I thought a big barn that I had built, a very substantial building, was going to come apart, it literally shook. I am probably the only person that you are ever going to talk too or ever going to see who was standing in Iran, when the Russian-Iranian pipeline burst. I am a helicopter test pilot. I flew down,[but] you could not get within a half a mile of that area. The heat turned the soil into liquid and it flowed just like a river. Should that happen in a development, with people there, it would be catastrophic. So I think a lot would depend on where the pipeline does go through or does not go through, because if you have a disaster like that, it is unbelievable. I think one of our Deputy Sheriff's gave testimony the other day that the ground shook under his feet from twenty or thirty miles away. But I was within a half a mile of the burning pipeline in Iran and I can tell you, it is nothing short of a major disaster. Mr. McClain concluded by asking about the access to 151: "I would like to know how many access roads are going to be coming out onto 151; and how far from the creek are the cabins going to be built and the sewer systems?"

With no further comments given; Chair Proulx closed the public hearing at 7:56PM.

Chair Proulx noted that for clarification purposes, the request is not for a rezoning; the land is agricultural and it will stay agricultural. The request is for a SUP to do certain activities on certain agricultural land.

Chair Proulx asked the applicant to come forward and address the following questions that were raised during the public hearing:

1. Where would the water for the pond come from? Mr. Averitt noted that the pond (in the past) had been filled by Spruce Creek, and it continues to do so when Spruce Creek runs high. Mr. Averitt then noted that he believes it was constructed as an irrigation pond during the days of the Waynesboro Nursery. He

further noted that there is a trench that runs from Spruce Creek to the pond. He also noted that the challenge is that the pond does not currently hold water, and it would need to be rebuilt in order to be functional. Ms. Ponca noted that one way that they intend to manage stormwater is to direct it into bio-swales. The pond is one of the locations into which the stormwater runoff would be directed.

2. How many proposed entrances would there be on Route 151? Mr. Averitt noted that there will two-way traffic entering and coming out the main entrance on Route 151. The intent is to have as much of the daily active traffic feed out on to 151.

The Commissioners, Staff, and the applicant discussed the issue of the wine tasting venue; if the “farm winery permanent remote retail establishment” definition is suitable; and who would need to apply for the SUP. It was determined that the County Attorney’s opinion is needed on this matter, and defer SUP #2015-14 until the next PC meeting.

**Commissioner Russell made the following motion:**

**I make a motion that the Planning Commission recommend to the BOS approval of the application by the Rockfish Valley Investment LLC, represented by Richard Averitt III (owner) and Richard Averitt IV (owner and applicant) to create the Spruce Creek Resort and Market to be located on Route 151 in Nellysford, Tax Map #21-A35; and Tax Map #21-A-36; this is composed of a total of 98.21-acres, which will be corrected on the Site Plan before it goes to the BOS. The details of which are:**

1. SUP #2015-10 is approved for a neighborhood retail store;
2. SUP #2015-11 for a conference center in the form of a banquet hall and lodging facilities to accommodate weddings, etc.;
3. SUP #2015-12 for an activity center in the form of a small spa; and
4. SUP #2015-13 for a restaurant on the upper tract of the property. ~~shown on the Minor Site Plan dated August 28, 2015, and in the Supplemental Portfolio narrative.~~

**Shown on the Minor Site Plan dated August 28, 2015, and in the Supplemental Portfolio narrative.**

The Planning Commission has determined that this application complies with all the criteria in Article 12, Section 3-2 as well as the Comp Plan as it refers to the designated area of the south of Nellysford as a Rural-Residential District.

Furthermore, the Planning Commission asks that Staff take the lead to correct all County maps and records with respect to the shape and size of Tax Map Parcel #21-A-35 and #21-A-36.

The Planning Commission is tabling SUP #2015-14 until legal advice is received.

Commissioner Allen provided the second; the vote 5-0, with Mr. Saunders abstaining.

**Other Agenda Items:**

1. Referral of amendments from BOS – Bed and Breakfast Uses – R2015-66:

The Commissioners and Mr. Padalino discussed each of the proposed amendments in detail. Changes were made as follows:

1. Dwelling: remove “apartment houses”.
2. Boardinghouse, tourist home: remove the definition.
3. Tourist home: remove the definition.
4. Transient lodging: add “less than” thirty (30) days or less.

**Chair Proulx made the following motion:**

**I make a motion to request Staff advertise for public hearing for the next scheduled meeting on November 18, 2015 ~~meeting~~. Commissioner Allen provided the second; the vote 5-0, with Mr. Saunders abstaining.**

**2. Referral of amendments from BOS – Temporary Events, Festival Grounds, and Out-Of-Door Accessory Uses – R2015-68:**

The Commissioners and Mr. Padalino discussed each of the proposed amendments in detail. Changes were made as follows:

1. Definitions: Out-of-Door, Accessory Use – add “s” to Door
2. Under 23-2-E-2: keep “A Festival Grounds Special Use Permit shall be automatically reviewed at a public hearing conducted by the Board of Supervisors every five (5) years after the initial issuance, after which hearing the Board may renew, revoke, or modify the terms and conditions of the Special Use Permit in accordance with Article 12, Section 3 “Special Use Permits.”
3. Make sure the capitalization for Special Use Permit and Temporary Events are all consistent.
4. Under 23-3-A; item #6: change shall to “may” in the last sentence.
5. Add “Service Enterprise (SE-1)” heading to page 6.

The Commission asked Staff to get clarity from Mr. Payne (County Attorney) on the following:

1. Festival Grounds definition and Section 23-2-C-2, regarding the following: “Contiguous parcels under the same or different ownership or control may be aggregated to attain the minimum acreage.”
2. Why number of attendees and size of property are not tied together.

Commissioner Russell noted that she thinks having 1,000 is too many unless it’s based on the property size; and 10,000 is also too high, and would like to see it much smaller.

**Commissioner Russell made the following motion:**

**Commissioner Russell made a motion that Staff request a three (3) month extension, which will be March for a recommendation from the Planning Commission on Resolution R2015-68.**

**Commissioner Harman provided the second; the vote 5-0 with Mr. Saunders abstaining.**

Staff Updates:

Mr. Padalino reported on the following:

1. Barry Wood’s Minor Site Plan for a “limited farm brewery” is going through some revisions and he is working with VDOT and the Health Department.

Draft: 11/9/2015  
Updated: 11/16/2015

2. F.P. Phillips “Wintergreen Brewery” – the Site Plan is not ready; and both VDOT and Health Department have not received the requested information.

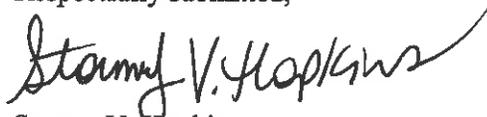
Mr. Padalino noted if the Commissioners **has** have specific questions about the “farm winery permanent remote establishment”, they should be provided to Staff and could then be shared with the County Attorney.

**Board of Supervisors Report:** Mr. Saunders did not give a report.

**Adjournment:**

At 9:30 P.M. Commissioner Allen made a motion to adjourn; vote 6-0.

Respectfully submitted,



Stormy V. Hopkins  
Secretary, Planning & Zoning