



Nelson County Planning Commission Meeting Minutes June 22nd, 2022

Present: Chair Mary Kathryn Allen and Commissioners Chuck Amante, Phil Proulx, Jesse Rutherford and Robin Hauschner

Staff Present: Dylan Bishop, Director

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

Chair Allen amended the agenda to add review of proposed Willow Branch Subdivision.

Review of the minutes May 25th, 2022

Mr. Hauschner noted that he had not made the motion to recommend approval for SUP 633 and that it was Mr. Harman.

Mr. Amante made a motion to approve the May 25th minutes with the noted correction. Mr. Hauschner seconded the motion.

Yes:

Charles Amante

Phil Proulx

Robin Hauschner

Mary Kathryn Allen

Public Hearings:

1. Special Use Permit #657 – Conference Center

Ms. Bishop presented the following information:

Nelson County Planning Commission

To: Planning Commission

From: Dylan M. Bishop, Director of Planning & Zoning *DMB*

Date: June 22, 2022

Re: SUP #657 – Conference Center – Lovington Winery – 885 Freshwater Cove Lane

BACKGROUND: This is a request for a special use permit for a conference center use on property zoned A-1 Agriculture.

Public Hearings Scheduled: P/C – May 22; Board – July 12 (tentative)

Location / Election District: 885 Freshwater Cove Lane / West District

Tax Map Number(s) / Total acreage: 67-A-54 & 55 / 55.763 acres +/- total

Applicant/Owner Contact Information: William T. III & Shelley A. Riley, 885 Freshwater Cove Lane, Lovington, VA 22949, (347) 344-7535 / (816) 651-1534, bill@lovingstonwinery.com / shelley@lovingstonwinery.com

Comments: This property is currently home to Lovington Winery, a permitted farm winery that has been in operation since 2006. The current owners are proposing to construct a 2,048 square foot barn to be utilized primarily for wine storage and on-site wine sales. The secondary use requested is an event space for private groups including weddings and corporate meetings. Because the structure is proposed to be utilized for events, a Special Use Permit is required. A conference center is defined in the Zoning Ordinance as, “a facility for hosting public and-or private events, including but not limited to, weddings, receptions, social events or parties, workshops, and/or conferences, which is used as a venue for social cultural, recreational, and/or educational activities. Conference centers may include lodging accommodations.” Although there is no lodging located within the proposed structure, there is lodging available elsewhere on the property.

DISCUSSION:

Land Use / Floodplain: This property is zoned A-1 Agriculture and there are no floodplains. Surrounding zoning is A-1 Agriculture.

Access / Traffic / Parking: Comments from VDOT indicate that the current access will need to be upgraded to satisfy the requirements of a Moderate Volume Commercial Entrance under a VDOT Land Use Permit.

Utilities: Comments from the Health Department will be provided at the meeting.

Erosion & Sediment Control: Should total land disturbance for the project exceed 10,000 square feet, and Erosion & Sediment Control Plan would be required.

Comprehensive Plan: This property is located in an area designated rural and farming in the Comprehensive Plan, which “would promote agricultural uses and compatible open space uses but discourage large scale residential development and commercial development that would conflict with agricultural uses. The Rural and Farming District would permit small scale industrial and service uses that complement agriculture.”

Attachments:
Application
Plat
Site Plan
Zoning

Wes Roberts of 1091 Freshwater Cove Ln in Lovington is the applicant. He presented renderings of the proposed structure and explained that its main purpose would be to expand their tasting room. He noted that his family took over the property in August of 2021 and have seen their wine club increase by about 80%. They are also experiencing a lot more agritourism traffic post covid. He explained that they have a small indoor space currently and that most of their seating is outdoors. He noted that they would like to be able to have more seating indoors when the weather is poor. He explained that they also plan to have some wine club events and private events in the structure. He noted that VDOT is requiring them to widen their driveway by 2' on either side and acquire a sight line easement from their neighbor. He added that they have identified a septic site and are applying for well and septic permits.

Chair Allen opened the public hearing at 7:10.

Chair Allen closed the public hearing at 7:10.

Ms. Proulx made a motion to recommend approval of SUP 657 – Conference Center. Mr. Hauschner seconded the motion.

Yes:

Charles Amante

Phil Proulx

Robin Hauschner

Mary Kathryn Allen

2. Rezoning #658 – R-1 Residential to B-1 Business

Ms. Bishop presented the following information:

Nelson County Planning Commission

To: Planning Commission

From: Dylan M. Bishop, Director of Planning & Zoning *DMB*

Date: June 22, 2022

Re: REZ #658 – R-1 to B-1 – Hunter Woodson – 12 Variety Mills Road

BACKGROUND: This is a request to rezone property from R-1 Residential to B-1 Business to bring the existing nonconforming store use into compliance, and for a proposed office use for storage and “Santa’s Workshop.”

Public Hearings Scheduled: P/C – May 22; Board – July 12 (tentative)

Location / Election District: 12 Variety Mills Road / South District

Tax Map Number(s) / Total acreage: 77-A-120A / 2.065 acres +/- total

Applicant Contact Information: Hunter Lee Woodson, 1931 Variety Mills Road, Arrington, VA 22922, (434) 907-4970, hunterissanta16@icloud.com

Owner Contact Information: Virginia Purvis, 1931 Variety Mills Road, Arrington, VA 22922 / Martha Marrs, P.O. Box 111, Lovingson, VA 22949, (434) 263-4261 / Doris Stintson, 5212 Meadow Creek Road, Wingina, VA 24599, (434) 260-4855

Comments: There is an existing convenience store at this property that has been open since long before the Zoning Ordinance was established. The applicant is requesting to rezone this property from R-1 Residential to B-1 Business. This would bring the existing nonconforming use and structure into current compliance, and allow the applicant to use a proposed structure as office space and for Santa’s Workshop. There were no proffers submitted with this request.

DISCUSSION:

Land Use / Floodplain: This property is zoned R-1 Residential and there are no floodplains. Surrounding zoning is R-1 Residential and A-1 Agriculture, with some M-1 Industrial in the area as well. Uses in the vicinity are commercial, residential, and agricultural.

Access / Traffic / Parking: Comments from VDOT will be provided at the meeting.

Utilities: Comments from the Health Department will be provided at the meeting.

Comprehensive Plan: This property is located in an area designated Secondary Light Industrial. The Light Industrial development model combines both industrial uses and an activity center of residences, shops, and amenities that support the nearby industries, all within a walkable, clearly defined area.

The activity center offers uses in support of industry. Single family and multifamily residences provide a diversity of affordable housing types. Commercial uses include convenience stores, restaurants, a neighborhood scale grocery store, drugstores, banks, and hardware stores. The commercial establishments serve not only the employees of the industries, but the truck drivers who are needed to support the industries and the families who reside in the activity center. Appropriate civic uses include parks, churches, recreation fields, and, over time, a school or branch library.

Attachments:
Application
Plat
Zoning

Hunter Woodson lives at 1931 Variety Mills Rd in Arrington and is the applicant for this project. He explained that he is the president/owner of Blue Ridge Christmas Cottage. He explained that they used the activity center at Calvary Baptist Church last year but that they are looking to expand and have a more private location for families.

Mr. Amante asked if the parcel was split zoned. Ms. Bishop noted that this is a GIS error and that the entire lot is zoned R-1 and is proposed to be fully rezoned to B-1.

Chair Allen opened the public hearing at 7:17.

Chair Allen closed the public hearing at 7:17.

Mr. Hauschner made a motion to recommend approval of Rezoning 658– R-1 to B-1. Mr. Amante seconded the motion.

Yes:

Charles Amante

Phil Proulx

Robin Hauschner

Mary Kathryn Allen

3. Special Use Permit #659 – Campground (One Site)

Ms. Bishop presented the following information:

Nelson County Planning Commission

To: Planning Commission

From: Dylan M. Bishop, Director of Planning & Zoning *DMB*

Date: June 22, 2022

Re: SUP #659 – Campground (One Site) – Fluharty – 2975 North Fork Road

BACKGROUND: This is a request for a special use permit for a campground use for one tent site on property zoned A-1 Agriculture.

Public Hearings Scheduled: P/C – May 22; Board – July 12 (tentative)

Location / Election District: 2975 North Fork Road / West District

Tax Map Number(s) / Total acreage: 17-A-16 / 2.945 acres +/- total

Applicant/Owner Contact Information: Charlotte Hudson & Scott Fluharty, 225 Turkey Mountain Road, Amherst, VA 24521, (434) 420-2374, cfluharty@kw.com

Comments: This property currently contains a single family dwelling that the owners utilize as a weekend home for recreational activities. The owners are requesting to construct a 192 square foot platform to place a 120 square foot canvas tent to be utilized as a short term rental.

DISCUSSION:

Land Use / Floodplain: This property is zoned A-1 Agriculture and there is Approximated Floodplain (Zone A) located on this property. Surrounding zoning is A-1 Agriculture.

Access / Traffic / Parking: Comments from VDOT will be provided at the meeting.

Utilities: Comments from the Health Department will be provided at the meeting.

Comprehensive Plan: This property is located in an area designated rural and farming in the Comprehensive Plan, which “would promote agricultural uses and compatible open space uses but discourage large scale residential development and commercial development that would conflict with agricultural uses. The Rural and Farming District would permit small scale industrial and service uses that complement agriculture.”

Should Planning Commission recommend approval of this application to the Board of Supervisors, staff recommends the following condition:

1. Only one tent site is permitted.

Attachments:

Application
Plat
Zoning
Floodplain

Ms. Proulx asked what the applicants would be able to do if the approval was not conditioned to be one site. Ms. Bishop noted that they would still need to come back if they made a substantial change to what was approved.

Chair Allen opened the public hearing at 7:20.

Chair Allen closed the public hearing at 7:20.

Mr. Amante made a motion to recommend approval of Special Use Permit 659 – One-Site Campground with the condition that there be one tent site. Ms. Proulx seconded the motion.

Yes:

Charles Amante

Phil Proulx

Robin Hauschner

Mary Kathryn Allen

Other Business:

1. Willow Branch Subdivision

Ms. Bishop explained that a subdivision typically doesn't come to the Planning Commission if it is less than 11 lots. She explained that this is an 8 lot subdivision now but it is Phase 1 of a larger plan that includes potential for future phases.

Ms. Allen asked if this would come back for more approval. Ms. Bishop explained that it would only come back if something was changed or if they were doing an additional phase. Ed Willman of 223 Warwick Ln in Lynchburg is the surveyor for the project. He noted that the size of the current proposal is about 118 acres.

Ms. Proulx noted that the lot shape at lot 4 with the road split is odd. Mr. Willman noted that the land owner was trying to retain the original home site by forming the lot that way.

Ms. Proulx made a motion to approve Willow Branch Subdivision – Phase 1. Mr. Amante seconded the motion.

Yes:

Charles Amante

Phil Proulx

Robin Hauschner

Mary Kathryn Allen

2. Proposed Zoning and Subdivision Ordinance Updates

Kennels

Ms. Bishop presented the following information:

Memo

To: Board of Supervisors
From: Dylan M. Bishop, Director of Planning & Zoning *DMB*
Date: June 14, 2022
Re: Proposed Zoning Ordinance Update – Kennels / Potential New Use – Assistance Dog Facility

The Planning & Zoning Department has received two separate inquiries regarding permitting for a commercial kennel and a service dog facility as the primary use of property. These proposals are attached with this memo, which both propose to locate along Route 151. To facilitate and process these proposals, staff is seeking feedback regarding a potential update to the current definition for “Kennel,” a potential new use for “Assistance Dog Facility,” as well as its use classification in A-1 and SE-1 Districts.

CURRENT:

“Kennel: A place prepared to house, board, breed, handle, or otherwise keep or care for dogs, cats or similar small animals for sale or in return for compensation.”

Currently a by-right use in the A-1 (Agriculture), SE-1 (Service Enterprise), and M-2 (Heavy Industrial); indoor kennel in connection with a veterinary hospital is by-right in B-2 (Light Business).

Not a Special Use Permit in any other district.

PROPOSED OPTIONS:

1. Update current definition of “Kennel” to align with State Code and County Code.

“Kennel: Any establishment in which five (5) or more canines, felines, or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or showing.”

Keep current by-right status in A-1 (Agriculture), SE-1 (Service Enterprise), and M-2 (Industrial). Add as by-right use in B-1 (Business).

2. Introduce new use “*Assistance Dog Facility*” and associated definitions. Add as a Special Use Permit (SUP) in A-1 (Agriculture), SE-1 (Service Enterprise). Add as by-right use in B-1 (Business) and M-2 (Industrial).

“*Assistance Dog Facility*: Any organization that provides services such as breeding and training of assistance dogs, and educational and training programs to clients, including lodging facilities.”

“*Assistance Dog*: A generic term for a guide, hearing, or service dog specifically trained to do three or more tasks to mitigate the effects of an individual’s disability. The presence of a dog for protection, personal defense, or comfort does not qualify that dog as an assistance dog.”

“*Client*: An individual who has been accepted by an Assistance Dog Facility to receive an assistance dog. This individual could be accepted and waiting for a dog, undergoing team training, or have completed team training.”

Definitions and research through Assistance Dogs International, Inc. (ADI), a worldwide coalition of accredited not-for-profit programs that train and place Assistance Dogs.

3. Amend current definition of “*Kennel*.”

“*Kennel*: A place where the primary use is to house board, breed, handle, groom, train, or otherwise keep or care for dogs, cats or similar small animals for sale or in return for compensation. Kennels may include associated facilities necessary to support the operation including but not limited to office space, meeting space, and temporary lodging accommodations exclusive to those clients training with the animals.”

Remove from by-right use in A-1 (Agriculture) and SE-1 (Service Enterprise), add as Special Use Permit (SUP) in A-1 (Agriculture) and SE-1 (Service Enterprise). Keep as by-right use in M-2 (Industrial). Add as by-right use in B-1 (Business).

Existing kennels, and kennels as a secondary use in conjunction with a dwelling (home occupation) remain permitted by-right.

Staff recommends that the Board of Supervisors direct the Planning Commission to review and hold a public hearing on either:

1. Options #1 and #2 or;
2. Option #3 or;
3. Request PC recommendation.

Attachments:

“Three-Dog Retreat” Proposal

Excerpts from Service Dogs of Virginia Proposal (full presentation available upon request)

Ms. Bishop explained that she is presenting two scenarios, either adopting both Options 1 and 2 or adopting Option 3 on its own. She explained that she presented both proposed kennel applications to the Board of Supervisors along with the three options and that the Board referred it back to the Planning Commission for a recommendation.

Ms. Allen asked what the thoughts were on adding it as by right in A-1. Ms. Bishop noted that it is already by right in A-1, SE-1, and M-2 with the current definition.

Mr. Hauschner asked if someone had 5 or more dogs associated with a dwelling if it would be by-right. Ms. Bishop noted that the only time it would come to the Planning Commission is if it were over 5000 sq ft. Mr. Amante asked what reason there might be to not choose Option 3. Ms. Bishop noted that some people felt that it should align with County Code and Animal Control definitions but that in her opinion it was not unusual. She explained that Option 3 included related uses and made all kennels a Special Use Permit that would require individual review. Ms. Bishop added that kennels accessory to a Single Family Dwelling would be a Home Occupation and would still be by-right.

Ms. Proulx made a motion to bring Option 3 of the proposed Kennel Ordinance Update to public hearing at their meeting on July 27th, 2022. Mr. Hauschner seconded the motion.

Yes:

Charles Amante

Phil Proulx

Robin Hauschner

Mary Kathryn Allen

Fmaily Division from Trust

Ms. Bishop presented the following information:

Memo

To: Board of Supervisors
From: Dylan M. Bishop, Director of Planning & Zoning
Date: June 14, 2022
Re: Proposed Subdivision Ordinance Updates – Family Division from Trust and Fire Code for Subdivision Roads

Family Division from Trust

The Planning & Zoning Department sometimes receives questions regarding the requirements for family divisions of land. There are protections that the state provides to reduce the requirements for family divisions, as opposed to subdivisions of land for sale. For example, the minimum lot size requirement for a subdivision is 2 acres, while a family division only requires one acre.

State code allows localities to adopt an ordinance that would permit family divisions of land to beneficiaries of trusts. The purpose of this ordinance update and public hearing is to reflect state code and allow family divisions to be gifted to beneficiaries of a trust.

Section 3-2(A)(4) of the Nelson County Subdivision Ordinance

“A single division of a tract or parcel of land for the purpose of sale or gift to a member of the immediate family of the property owner if the property owner agrees to place a restrictive covenant on the subdivided property that would prohibit the transfer of the property to a nonmember of the immediate family for a period of five (5) years. Any parcel thus created having less than five (5) acres shall have a right-of-way of no less than thirty (30) feet wide providing ingress and egress to and from a dedicated recorded public street. Only one (1) such division shall be allowed per family member, and shall not be for the purpose of circumventing this ordinance. For the purpose of this subsection, a member of the property owner's immediate family is defined as any person who is a natural or legally defined offspring, stepchild, spouse, sibling, grandchild, grandparent, or parent of the owner. It shall be noted on the plat and in the deed that this is a family division of property pursuant to this subsection.

Vehicular access serving a family division when the access serves more than two (2) parcels, including the parent tract, by initial or subsequent division of land shall have the following certification on the plat before approval:

"The streets in this subdivision do not meet the standards necessary for inclusion in the system of state highways and will not be maintained by the Department of Transportation or the County and are not eligible for rural addition funds or any other funds appropriated by the General Assembly and allocated by the Commonwealth Transportation Board."

Insert the following paragraph:

In addition to the foregoing provision, a single division of a lot or parcel of land held in trust for the purpose of sale or gift to a member of the immediate family, as defined above, who is a beneficiary of such trust. All trust beneficiaries must (i) be immediate family members as defined above, (ii) agree that the property should be subdivided, and (iii) agree to place a restrictive covenant on the subdivided property that would prohibit the transfer of the property to a nonmember of the immediate family for a period of 15 years. Notwithstanding the provisions of clause (iii), the Planning Commission may reduce the period of years prescribed in such clause when changed circumstances so require. Upon such modification of a restrictive covenant, a locality shall execute a writing reflecting such modification, which writing shall be recorded in accordance with Virginia Code § 17.1-227.

Other components for discussion include:

1. Access Width: The required width of the right-of way for family division lots which are less than five acres. Currently the required minimum width is 30 feet; State Code 15.2-2244 indicates "that all lots of less than five acres have reasonable right-of-way no less than 10 feet or more than 20 feet providing ingress and egress to a dedicated recorded public street."
2. Minimum Lot Area: In the A-1 (Agriculture) District, Section 4-2-1a indicates that "for family subdivision lots, the minimum lot area shall be one acre per dwelling unit." The minimum lot area for all other A-1 (Agriculture) lots is two acres. By allowing a reduction in the minimum lot area to one acre for family subdivisions, this allows the creation of nonconforming lots.

State Code Reference:

§ 15.2-2244.2. Subdivision of a lot of property held in trust for a family member. — In addition to §§ 15.2-2244 and 15.2-2244.1, a locality may include in its subdivision ordinance provisions permitting a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family, as defined in § 15.2-2244, of beneficiaries of a trust, of land held in trust. All trust beneficiaries must (i) be immediate family members as defined in § 15.2-2244, (ii) agree that the property should be subdivided, and (iii) agree to place a restrictive covenant on the subdivided property that would prohibit the transfer of the property to a nonmember of the immediate family for a period of 15 years. Notwithstanding the provisions of clause (iii), a locality may reduce or provide exceptions to the period of years prescribed in such clause when changed circumstances so require. Upon such modification of a restrictive covenant, a locality shall execute a writing reflecting such modification, which writing shall be recorded in accordance with § 17.1-227. The locality may require that the subdivided lot is no more than one acre and otherwise meets any other express requirement contained in the Code of Virginia or imposed by the local governing body. (2011, c. 141.)

Ms. Bishop noted that they have added that all trust members must be immediate family members, agree that the property be subdivided, and place a 15-year restrictive covenant. She added that they are

currently not in compliance with state code in regards to access width. It is her recommendation that access width be changed to 10', 15', or 20'. She added that minimum lot area for family divisions is 1 acre and that they can change it to 2 acres. Ms. Proulx noted that she would prefer 2 acres.

The Planning Commission requested that Ms. Bishop return with a draft that has a 15-year restrictive covenant, a 20' access width, and a 2-acre minimum.

Comprehensive Plan Update:

Ms. Bishop noted that the Board of Supervisors had approved a resolution recommending approval for three Smart Scale applications. She noted that two of them have been applied for several times. She explained that the applications are for the intersections of Routes 6 & 151, Route 151 & Tanbark, and Route 29 and Front St. She explained that flyers/information are being distributed and that stakeholder and public engagement sessions are planned for July 13th & 20th and August 3rd.

Board of Supervisors Report:

Ms. Bishop noted that the Board approved SUP 577 Two-Site Campground, SUP 603 Signs, SUP 611 Automobile Graveyard Class C. The Board also approved SUP 633 Outdoor Entertainment Venue with the following conditions:

- The maximum number of attendees at any event shall not exceed 150 and shall be the total daily number of attendees permitted each day.
- There shall be no amplified sound after 8:00 p.m. on Sunday through Thursday or after 10:00 p.m. on Friday and Saturday.
- Lighting shall be directional and glare shielded to prevent light pollution onto neighboring properties, roadways, and the dark night sky.
- Applicant shall secure and maintain an Annual Permit from VDOT for a signage and traffic control plan prior to any events.
- The existing tree buffer shall be maintained.
- A maximum of 25 events per year is permitted.
- Events shall be limited to one day (i.e. no multi-day events.)

Ms. Proulx made a motion to adjourn the meeting at 8:00 PM. Chair Allen seconded the motion.

Yes:

Charles Amante

Phil Proulx

Mary Kathryn Allen

Robin Hauschner

Respectfully submitted,

A handwritten signature in black ink that reads "Emily Hjulstrom". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Emily Hjulstrom

Planner/Secretary, Planning & Zoning