



Nelson County Planning Commission
Meeting Minutes
August 23, 2023

Present: Chair Mary Kathryn Allen and Commissioners Mike Harman, Phil Proulx, Chuck Amante, Robin Hauschner. Board of Supervisors Representative Ernie Reed

Staff Present: Emily Hjulstrom, Planner/Secretary

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

Review of Meeting Minutes - June 29th, 2023

Ms. Proulx made a motion to approve the minutes from the June 29, 2023 Planning Commission Meeting. Mr. Hauschner seconded the motion.

Yes:

Mike Harman

Ernie Reed

Phil Proulx

Robin Hauschner

Mary Kathryn Allen

Chuck Amante

Public Hearings

SUP 998 – Vacation House

Ms. Hjulstrom presented the following information:

Nelson County Planning Commission

To: Planning Commission
From: Dylan M. Bishop, Director of Planning & Zoning *DMB*
Date: August 23, 2023
Re: SUP #998 – Vacation House in R-1 – 2617 Rockfish Valley Hwy

BACKGROUND: This is a request for a Special Use Permit to allow a vacation house use in an existing dwelling on property zoned R-1 Residential.

Public Hearings Scheduled: P/C – August 23; Board – September 12 (tentative)

Location / Election District: 2617 Rockfish Valley Hwy / Central District

Tax Map Number(s) / Total Acreage: 21-7-2A / 1.08 acres +/- total

Applicant/Owner Contact Information: Gretchen Rush, 2617 Rockfish Valley Hwy, Nellysford, VA 22958, 210-931-9892, gretchrush@gmail.com / Glenda MacNeil, 544 Creek Heights Drive, Midlothian, VA 23112, 804-920-2628, aresmom@yahoo.com

Comments: This property contains an existing single-family dwelling. The narrative provided by the applicants indicates that this is one owner's primary residence, and the other owner's part-time residence until she retires. They are requesting to utilize the dwelling as a vacation house, or short-term rental, 2-3 weekends per month.

Vacation House: A house rented to transients. Rental arrangements are made for the entire house, not by room...

Transient: A guest or boarder, one who stays for less than thirty (30) days and whose permanent address for legal purposes is not the lodging or dwelling unit occupied by that guest or boarder.

Section 5-1-5a of the Zoning Ordinance requires a Special Use Permit for a vacation house use in the R-1 Residential district.

DISCUSSION:

Land Use / Floodplain: This area is residential and commercial in nature, with some agricultural uses as well. Zoning in the vicinity is R-1 Residential, A-1 Agriculture, and B-1 Business. There are no floodplains located on this property.

Access / Traffic / Parking: This property is accessed by an existing entrance on Rockfish Valley Hwy. VDOT had no comments.

Utilities: The house is served by existing utilities.

Comprehensive Plan: The Nellysford area is designated as the County's only "Neighborhood Mixed Use Development Model." It is further identified as a "primary development area." This model supports a central gathering place able to fulfill the diverse needs and interests of nearby residents and visitors to the county, all within a focused, walkable, and identifiable place.

RECOMMENDATION: The approval of special use permits should be based on the following factors:

1. The use shall not tend to change the character and established pattern of development of the area or community in which it proposed to locate.
2. The use shall be in harmony with the uses permitted by right in the zoning district and shall not affect adversely the use of neighboring property.
3. The proposed use shall be adequately served by essential public or private water and sewer facilities.
4. The proposed use shall not result in the destruction, loss or damage or any feature determined to be of significant ecological, scenic or historical importance.

Attachments:
Application
Narrative
Plat
Zoning

Glenda MacNeil and Gretchen Rush of 2617 Rockfish Valley Drive are the applicants. They explained that they were there to request a Special Use Permit for a Vacation House to allow them to supplement their

income. Ms. Rush explained that they had been renovating their house since November after buying it in a state of disrepair. She added that she was retired and was working part-time at Albemarle High School. She explained that she had experience hosting her previous home on AirBnb when she would travel. She added that she had a wonderful experience doing it and hosted wedding parties, travelers, and family reunions. Ms. MacNeil explained that they would like to limit occupancy to four people because they only have one full bathroom. She added that they have discussed this with their next-door neighbors and have sent letters to their neighbors explaining their intentions.

Chair Allen opened the public hearing at 7:08

Paul Davis of 2514 Rockfish Valley Hwy explained that this property was located on a little over an acre in Residential zoning and sandwiched between other dwellings. He added that it was a long-tenured family home until the older owners passed away. He explained that the current owners prior to learning that they were in violation, had advertised and rented the buildings, campers, house, and tent sites. He explained that it was his understanding that the home was the only thing attached to a septic system. He added that they operated like a campground similar to Special Use Permit 516. He quoted Dylan Bishop from the Board of Supervisors hearing for that permit:

“Ms. Bishop noted that currently, Planning treats tiny homes like any other dwelling, and anything classified as a dwelling by the statewide building code could be rented out as a short-term rental. Ms. Bishop stated that the definition of a campground was any place that was used for transient camping where compensation was expected in order to stay in a tent, travel trailer, or motorhome, and required the provision of potable water and sanitary facilities. Ms. Bishop then noted that the definition of a travel trailer was a vehicular portable structure built on a chassis designed as a temporary dwelling for travel, recreational, and vacation uses. She stated that did not include mobile homes or manufactured homes. She noted that her office had been getting a lot of inquiries on tiny homes and similar uses. Ms. Bishop noted they had two options, a dwelling per the statewide building code, or a manufactured home regulated by HUD; or a travel trailer on wheels regulated by the DMV that would never be classified as a dwelling. Ms. Bishop explained that based on the County’s definition where compensation is expected to stay in a travel trailer, for transient lodging, the proposed special use permit would fall in the campground definition.”

He explained that the applicants are good neighbors and that his concerns are not personal.

Phillip Purvis of 509 Meghan Ln in Shipman. He explained that he was for property rights but that the county just adopted a new ordinance where you have to have two acres of land in order to build a home. He explained that he was in favor of Special Use Permits for hardships. He added that Special Use Permits are getting out of control in Nelson County. He was opposed to varying from the ordinance that the county had adopted. He was against adding more Special Use Permits along Route 151.

Donna Small is of 2757 Rockfish Valley Highway. She explained that approving this could begin a dangerous trend in the county. She asked how the County could monitor that only 4 people would stay in the vacation house.

Chair Allen closed the public hearing at 7:14

Mr. Amante asked where Ms. Rush would stay when the house was being rented. Ms. Rush explained that she would stay at Ms. MacNeil's home in Richmond. She explained that when she moved to the area she was told that Nellysford was unincorporated and that she was coming from Texas where unincorporated means you can live free. She added that they became aware that they would need to go through certain steps to become compliant. She explained that they were staying in the camper but that they had been made aware by the County that it is not allowed in their R-1 (Residential) zoning. She noted that directly across the road is A-1 (Agricultural) zoned property as well as behind them where a Vacation House is permitted by right.

Mr. Harman asked if they understood this was not a Special Use Permit for a campground. Ms. Rush confirmed that they understood. Mr. Harman asked if they had multiple campers on the site at one point. Ms. Rush explained that they had their own camper, a traveling nurse who stayed for 2.5 months, and a friend who stayed for two weekends.

Mr. Amante asked if there it was only their camper on the property now. Ms. Rush and Ms. MacNeil confirmed that only their own camper was on the property and that they would not be staying in it. Ms. Macneil added that she was a teacher and big on rules. She explained that they don't have tent sites or anyone staying in sheds but that they did have three instances of campers staying on the property.

Mr. Amante asked about the three sheds. Ms. Rush explained that the previous owner had three sheds right next to the house and was using them as a workshop. She added that they had moved the sheds further back from the house. Ms. MacNeil added that they also fenced in the yard for their dogs.

Ms. Proulx noted that the residential zoning does continue on the other side of the Auto Parts Store and Office. She added that the reason for a Special Use Permit was to give the ability to determine on a case-by-case basis. Ms. Proulx added that that whole section could be turned into vacation houses. She noted that the houses were very close together and with the potential for further vacation houses, she did not think it was a good idea.

Mr. Amante noted that it was a good point that they don't want to set a precedent. He added that sometimes he looks at the zoning and doesn't understand why it was laid out that way. Ms. Proulx noted that a lot of what was existing likely happened before zoning regulations came into play. Mr. Amante added that at least this lot isn't split-zoned. Ms. Proulx noted that the Special Use Permit might be appropriate in a residential area with less density but that this area is pretty dense for Nelson County.

Mr. Reed noted that what sets this application apart from most other applications for a Vacation House was that this was a primary residence and will continue to be but with the allowance of using it as a Vacation House when they aren't there. He added that this is the relationship that he and his wife have where they each have their own home. When she stays with him she rents her house out on AirBnB. He added that in Charlottesville they are considering whether they should not allow transient occupants in any residential areas, but possibly with an exception where it is a primary residence. He added that he doesn't see how it violates any of their four criteria with it not being a new construction and being a primary residence.

Ms. Proulx noted that one of the differences between their situation and Mr. Reed's was that when they are away from the property they will be in Richmond 1.5 hours away. Mr. Hauschner added that this Special Use Permit would stay with the property and future owners could use it as strictly a vacation house. He added that a Special Use Permit approved a few houses down has had an impact on the area.

Chair Allen agreed that her issue with Special Use Permits was that they stay with the property and not the owner. Mr. Amante noted that the Special Use Permit would expire if the use lapsed for a period of two years or more. He added that when the Comprehensive Plan is done he wants to work on the Zoning Ordinance. He added that he would be in favor of bigger blocks of residential zoning.

Mr. Hauschner noted that people's homes are going to be picked off for vacation houses or businesses. He explained that it was currently a livable structure that was applying for a use that stopped the house from being used as a long-term residence. Chair Allen added that they do have a housing problem in the county that they need to work on.

Mr. Harman made a motion to recommend approval of SUP 998 for a Vacation House. Mr. Reed seconded the motion.

No:

Phil Proulx

Robin Hauschner

Mary Kathryn Allen

Chuck Amante

Yes:

Mike Harman

Ernie Reed

The Planning Commission failed to make a motion with a vote of 4-2.

SUP 1005 – Campground

Ms. Hjulstrom presented the following information:

Nelson County Planning Commission

To: Planning Commission
From: Dylan M. Bishop, Director of Planning & Zoning *DMB*
Date: August 23, 2023
Re: SUP #1005 – Campground (one site) in A-1 – 2617 Rockfish Valley Hwy

BACKGROUND: This is a request for a Special Use Permit to allow a one site campground use on property zoned A-1 Agriculture.

Public Hearings Scheduled: P/C – August 23; Board – September 12 (tentative)

Location / Election District: 2601 Falling Rock Drive / South District

Tax Map Number(s) / Total Acreage: 86-A-36B / 2.0 acres +/- total

Applicant/Owner Contact Information: Luke & Caitlin Hoge, 824 Lyndhurst Road, Waynesboro, VA 22980, 703-489-7436 / 516-508-8978, lucasryanhoge@gmail.com / caitfoley7454@gmail.com

Comments: This property contains an existing single-family dwelling that is utilized as a by-right vacation house, or short-term rental. The narrative provided by the applicants indicates that they own a camper that they are requesting to utilize as a short-term rental while their family lives in the existing dwelling.

DISCUSSION:

Land Use / Floodplain: This area is residential and agricultural in nature. Zoning in the vicinity is A-1 Agriculture. There are no floodplains located on this property.

Access / Traffic / Parking: This property is accessed by an existing entrance on Falling Rock Drive. VDOT had no comments.

Utilities: The house is served by existing utilities. The owner has been in contact with the Health Department – a licensed soil evaluator will be required to permit a cleanout to hook the camper to.

Comprehensive Plan: This property is located in an area designated Rural and Farming on the Future Land Use Map, 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. Protection of usable farmland should be encouraged.

Clustering of any new development in areas of a site without prime or productive soils will enhance the protection of prime or productive soils for future agricultural uses.”

RECOMMENDATION: The approval of special use permits should be based on the following factors:

1. The use shall not tend to change the character and established pattern of development of the area or community in which it proposed to locate.
2. The use shall be in harmony with the uses permitted by right in the zoning district and shall not affect adversely the use of neighboring property.
3. The proposed use shall be adequately served by essential public or private water and sewer facilities.
4. The proposed use shall not result in the destruction, loss or damage or any feature determined to be of significant ecological, scenic or historical importance.

Attachments:
Application
Narrative
Site Plan
Zoning

Ms. Hjulstrom noted that staff recommended that two conditions be added:

1. There shall be one site.
2. The unit shall be provided by the property owner.

Ms. Hjulstrom added that the applicant may need to change the location of the camper on the site plan before it was approved but that they could add a condition that the campsite meets setbacks.

Luke Hoge of 2601 Falling Rock Dr in Arrington is the applicant. He explained that the purpose of the SUP was to rent their single camper on their property while they reside in the home. He explained that it was for one site and he would be utilizing his own camper. He added that he did not want more than four people staying in the camper. He explained that he and his wife have two kids and another one on the way and don't want to be disturbed any more than their neighbors do. He added that this would help them with their camper payment and mortgage. He explained that this could appeal to workers in the area as well as tourists. He added that the camper's potential relocation depended on an OSE evaluating the site to locate the drain field. He showed an alternate location behind the house that would meet setbacks. Mr. Hoge noted that he agreed with the proposed conditions from staff.

Chair Allen opened the public hearing at 7:44 PM

Troy Nicks of 1923 Falling Rock Dr. is about $\frac{3}{4}$ of a mile from the property. He explained that he was not here to speak in opposition but to ensure that the use could not expand in the future. He added that some long-term residents had the concern that they could end up with a larger campground with the approval of this Special Use Permit. He requested that one more condition be added to state that it would be rented occasionally.

Kyle Truitt of 2707 Falling Rock Dr. is an adjoining neighbor. He added that he is not here to object to the Special Use Permit but to share his concerns about the future use of the property. He added that he had no concerns if the conditions were added.

Paul Davis of 2514 Rockfish Valley Highway noted that the Special Use Permit staying with the property could be a mess and a sticking point. He asked if something could be added to expire the Special Use Permit if the property changed ownership.

Troy Nicks of 1923 Falling Rock Dr. noted that there was a difference in his mind between a condition that runs with the property vs. the owner and a condition that states "The unit shall be provided by the property owner." He explained that he did not care who owned the property as long as the conditions were enforced.

Phillip Purvis of 509 Meghan Ln. noted that approving this application could set a precedent. He asked if the Planning Commission wanted everyone in the county to be able to do this.

Chair Allen closed the public hearing at 7:50

Ms. Proulx explained that the nature behind a Special Use Permit going with a property is due to the decision being in regards to the property and not the owner itself. She added that she did not think they

could add a condition that made the Special Use Permit expire if the property owner changed. Chair Allen added that there are different by right uses in R-1 and A-1.

Mr. Harman questioned what Mr. Nicks meant by “occasional renter.” Ms. Hjulstrom noted that she thought he was referring to no one staying there long-term. She explained that a campground is transient by definition and that campers would be limited to 30-day stays.

Ms. Proulx made a motion to recommend approval of SUP 1005 with the following conditions:

- 1. There shall be no more than one site, and the unit shall be provided by the property owner**
- 2. The location of the site shall meet property setbacks**

Mr. Harman seconded the motion.

Yes:

Mike Harman

Ernie Reed

Phil Proulx

Robin Hauschner

Mary Kathryn Allen

Chuck Amante

Other Business:

Ms. Hjulstrom noted that the Open House for the Comprehensive Plan update would be on August 29th at the Nelson Center.

Board of Supervisors Report:

Mr. Reed noted that SUP 986 was deferred for a month due to him not being present and having staff recommend an alternative condition. He added that he attended a citizen-called open forum that focused on the UDA technical support application, traffic safety, and development in Nellysford. He explained that he and Mr. Hauschner did their best to honestly and openly give information about how the application transpired and that a UDA could help accomplish what the citizens are asking for. Chair Allen asked if they had any other support with them. Mr. Reed explained that he wasn't looking for support but to try to speak to the facts, background, and intentions. Ms. Proulx added that there was a video clip posted online where Jeri Lloyd made a nice statement about how people can go to public meetings and make their voices heard. Mr. Reed added that public involvement is a part of the process.

He added that he was on a call earlier in the day with VDOT representatives about the UDA. He explained that their decision on whether they would be providing technical support would come in

about a week. He added there are certain things that a UDA could do to help them accomplish what the citizens are asking for. He noted that multimodal transportation would be difficult to achieve without it.

Chair Allen noted that she had attended a meeting brought together by citizens of the Wingina/Norwood area with Jerry West of the Parks and Rec Department about the 300-acre Sturt Park that was donated to the county. She explained that it had a deed that explained the family's expectations of the land. Ms. Allen explained that citizens in the area were not completely supportive of there being a park there due to traffic concerns, the proximity to hunting clubs, and the entrance not being locked at night. She added that some of the citizens would like to see the county involve some of the citizens in that area in the planning of the park. Mr. Harman asked where the park was located. Ms. Allen noted that it is in Wingina. She added it could provide outreach programs for the schools as well as other benefits to the county.

Mr. Harman made a motion to adjourn at 8:03 PM. Mr. Amante seconded the motion.

Yes:

Mike Harman

Ernie Reed

Phil Proulx

Robin Hauschner

Mary Kathryn Allen

Chuck Amante

Respectfully submitted,



Emily Hjulstrom

Planner/Secretary, Planning & Zoning