



Nelson County Planning Commission
Meeting Minutes
October 23, 2024

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

Staff Present: Dylan Bishop, Director

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

Review of September 25, 2024 – Planning Commission Minutes

Ms. Proulx made a motion to approve the September 25, 2024 Planning Commission minutes. Mr. Hauschner seconded the motion.

Yes:

Mike Harman

Ernie Reed

Mary Kathryn Allen

Phil Proulx

Robin Hauschner

Abstain:

William Smith

Ms. Bishop presented the following information:

Nelson County Planning Commission

To: Planning Commission
From: Dylan M. Bishop, Director of Planning & Zoning *DMB*
Date: October 23, 2024
Re: SUP #2400239 – Dwellings in B-1 – 622 Front Street

BACKGROUND: This is a request for a special use permit for dwellings on property zoned B-1 Business.

Public Hearings Scheduled: PC – October 23; BOS – November 14 (tentative)

Location / Election District: 622 Front Street / East District

Tax Map Number(s) / Total Acreage: 58B-3-2 / 5.37 acre +/- total

Applicant/Owner Contact Information: Jesse & Alexandra Lopez Low / 4526 Turkey Sag Road, Shadwell, VA / 434-996-9681, jllopezlow@gmail.com / 831-229-8070, amlopezlow@gmail.com

Comments: The owners are proposing to renovate an existing structure at 622 Front Street, to be utilized for mixed use: two long term residential rental units, and commercial space for lease on the lower level. The property previously held a Special Use Permit for a dwelling, which has expired after more than 2 years of vacancy.

DISCUSSION:

Land Use / Floodplain: This area is primarily mixed use in nature. Zoning in the vicinity is B-1 Business and R-2 Residential. There are no floodplains or streams located on this property.

Access / Traffic / Parking: Per Section 12-7-3, this area is exempt from minimum off-street parking requirements.

Utilities: The Service Authority is aware of the proposal, and the applicant will be required to comply with NCSA requirements prior to issuance of a building permit.

Comprehensive Plan: This property is located in Lovington, which is designated as a *Community Hub* by the Nelson 2042 Future Land Use Map. The core concept is to “prioritize regional scale development, redevelopment, and infill within Lovington to protect the rural landscape, ensure more efficient and effective provision of community services, bolster economic development, and improve quality of life.” Primary land use types include all types of housing, mixed use units, commercial, professional and offices, among others.

Relevant planning guidelines in this area include preserving existing structures while allowing for a mix of uses, fostering development of a variety of housing types, and encouraging infill development and retrofitting of existing buildings.

Recommendation: The Planning Commission should recommend approval of SUP #240239 for a dwelling units in B-1 Business at 622 Front Street to the Board of Supervisors.

All applications for Special Use Permits shall be reviewed using the following criteria:

- a. The use shall not tend to change the character and established pattern of development of the area or community in which it proposes to locate;
- b. 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;
- c. The proposed use shall be adequately served by essential public or private services such as streets, drainage facilities, fire protection and public or private water and sewer facilities; and
- d. The proposed use shall not result in the destruction, loss or damage of any feature determined to be of significant ecological, scenic or historic importance.

Attachments:
Application
Narrative
Site Plan
Zoning
Aerial

Ms. Bishop noted that the acreage shown on the staff report is incorrect, and should be approximately 0.13 acres. She noted that the only comments she received from the public were an email exchange (provided to the Planning Commission) with Trish Becker (owner of Mountain Mama's), as well as a call from an adjoining landowner who was in support of the proposal.

Ms. Proulx noted that they could recommend conditions for SUPs and asked for recommended language on restricting the use of the units as short term rental units.

Jesse Lopez Low, 4526 Turkey Sag Road, Keswick, VA, wants to do two residential apartments on the second and third floor levels, and maintain commercial space on the first floor. Mr. Huaschner asked if the access was interior or exterior. Mr. Low noted that there was exterior access. Mr. Harman asked if there was a third floor and how it would be used. Mr. Low confirmed it would be one of the apartments. Mr. Smith asked if there were any plans to remediate the water issues. Mr. Low indicated they dug a trench and sealed the wall where the water was coming, and plan to build drainage off the back and replace the gutters. Mr. Smith asked what the plans for the basement are. Mr. Low indicated it would be for commercial rental; they would renovate it and get it cleaned up before they rent it out. They have preferences such as café or market. Mr. Reed asked how they plan to address parking for the units and customers of the business. Mr. Low indicated that street parking options were available, acknowledging that it is tricky and could take up street spaces, and that they are actively working towards better solutions. Mr. Harman asked if parking was available on Pleasant Street; Mr. Low indicated he wasn't sure but could be a potential solution he plans to look into. Mr. Smith confirmed that the owner/applicant would not be running the business. Mr. Harman confirmed that the owners would not be living there.

Chair Allen opened the public hearing at 7:09 PM

Chair Allen closed the public hearing at 7:09 PM

Ms. Proulx noted she thinks it is a good idea and doesn't have a problem with it as long as it is restricted to no short term rentals. Ms. Allen asked how long the original SUP had been expired for. Ms. Bishop acknowledged that it had likely been quite some time. Mr. Harman indicated that the building needs a lot of work. Mr. Hauschner asked Mr. Reed what the Service Authority status is for water and sewer. Mr. Reed indicated that there is capacity for something like this but are actively working on expanding the system. He noted that there is a Lovington project currently going on and should have a good wastewater system without the flooding problem. Mr. Hauschner asked if the SUP was approved and there was a moratorium on additional connections in Lovington, would the owner be protected and permitted to connect. Mr. Reed indicated that it shouldn't be a problem. Mr. Smith thanked the applicant for taking a chance on Lovington and its revitalization; he noted that it needed it 20 years ago and even more so now. He noted that the adjoining property owner has concerns regarding the water issue in the basement. Ms. Proulx noted that she wasn't sure if this contingency would be under the Planning Commission's approval. Ms. Bishop noted that the SUP was for the land use aspect, and the Building Inspections office would deal with any required building permits and remediation of these issues prior to a Certificate of Occupancy being issued.

There was some discussion on the language for a condition regarding restriction of short term rentals. Ms. Bishop asked if the Planning Commission wanted to discuss this with the applicant. Mr. Low noted that the plan is for long term residential units, not short term rentals and doesn't want to deal with all

that's associated with. Ms. Allen noted that the application indicated a minimum lease of one year. Mr. Low noted that as an applicant he would prefer to have as many uses as possible, however short term rentals were not their intent and had no problem with this condition. Ms. Proulx noted that the property owner could apply for an amendment to the SUP in the future.

Ms. Proulx made a motion to recommend approval of SUP #24-0239 for dwellingsinB-1 at 622 Front Street with the following condition:

- 1. The dwelling units shall not be utilized as short term rentals.**

Mr. Harman seconded the motion.

Yes:

Phil Proulx

Mike Harman

Robin Hauschner

Ernie Reed

Mary Kathryn Allen

William Smith

Other Business:

Discussion on Short Term Rentals

Ms. Bishop noted that since we are redoing the ordinance, she had reached out to BG for any recommendations. They provided two of the ordinances from the packet for review, and Ms. Bishop noted that she had worked on the Amherst STR ordinance while she was employed there. She noted that these are along the lines of what Nelson might consider, and that the Board of Supervisors at their retreat had expressed interest in updating the STR portion of the ordinance earlier rather than later in the update process. She noted this was on the agenda for discussion, and asked for guidance and discussion on how to move forward.

Ms. Proulx and Mr. Hauschner noted that they had not reviewed these ordinance, but confirmed they were in the packet that was emailed out. Ms. Bishop noted that she will confer with each Commissioner to determine how they would prefer to receive the meeting packets.

Mr. Reed indicated that it would be a good idea to agree on what the primary goals of the ordinance would be so we know what outcome we want to figure out the best way to get that done. These goals are articulated in the comprehensive plan, but if there is agreement on what the ordinance should accomplish it should be easier to go from there.

Ms. Allen asked what the short term rental percentage was in the County. Ms. Proulx noted that the information is being skewed because of WTG. Mr. Reed noted that Maureen Kelley has this information available and there was some discussion on the types and numbers of short term rentals. Mr. Reed noted that the data was separated by areas such as Afton, Roseland, etc.

Ms. Allen noted the county needs to be able to help with providing places to live that are affordable, although people generally don't like the term "affordable housing." She noted that she doesn't want to discourage people from buying property, but have to figure out how to control STRs versus housing for people who want to live here. Ms. Proulx noted that many of the STRs in Afton used to be long term rentals. Ms. Allen agreed that it's cheaper to buy property and STRs are more profitable here than other places which drives up other property costs. Policing and enforcing this is difficult; how is it done – the compliance issue has not been solved. Mr. Harman noted that lack of staff could be part of the issue to deal with the volume of STRs in the County. Ms. Proulx noted that the County receives a lot of taxes from this industry. Mr. Hauschner referenced the implementation of the registry requirement helping. Ms. Bishop noted that the rental platforms remit taxes directly to the locality with no breakdown of who is paying individually. Mr. Reed noted that the implementation of the registry has helped with identifying those individuals. Mr. Reed indicated one of the critical goals should be a means for enforcement. He noted that we currently don't have staff for such enforcement, but thinks it's possible that the BOS may want to include enough funding for another position on a full or part time basis to deal with enforcement issues, possibly for the Building Inspections Department as well. He believes that if we did have someone in charge on enforcement it would pay for itself. Ms. Allen noted that it is unlikely a Property Maintenance Code would be adopted. Ms. Proulx clarified what type of enforcement was being discussed. Ms. Bishop noted that there are other avenues that can be considered such as incentivizing redevelopment, reducing taxes for long term rentals, and are trying to figure out if and how amending the short term rental ordinance would help. Mr. Proulx referenced a previous inquiry about the Rockfish Ranch project, and potentially limiting the number of STRs. Ms. Bishop noted that all that can be found in the Zoning Ordinance is a definition for "vacation house" and that it is a by-right use in the A-1 District. She noted that with any inquiries for short term rentals, the Planning & Zoning Department has been advising people against pursuing new STRs to ensure that developers don't try to "get in under the wire." Ms. Proulx asked if the density of one dwelling per 2 acres was a factor. Ms. Bishop confirmed that although there is a limit on the number of lots that can be created, there is no limit on the number of dwellings per lot. When there are 3 or more dwellings on one lot, a Major Site Plan is required, but a vacation house is a short term rental of a dwelling. Ms. Bishop noted that there are many considerations – you can limit the number of dwellings per lot, however we're also trying to increase housing availability such as accessory dwelling units (ADU), which by definition are additional dwellings on one lot, so there is a balance that must be achieved. Ms. Allen confirmed that there are separate provisions for family subdivisions. Ms. Proulx speculated that separate definitions for residential dwellings versus short term rentals could be beneficial and limiting the number of each. Mr. Reed noted that overlay districts limiting the number of STR permits issued could be an option as well. He acknowledged that there are many nuisances to this topic. Ms. Allen noted that this could create more work which is where having additional staff would benefit. There was more discussion on compliance and enforcement. Mr. Harman asked if the state had guidance on STRs. Ms. Bishop noted that there was legislation passed this year preventing new ordinances prohibiting short term rentals where the dwelling is owner-occupied. She noted that Charlottesville discussed requiring up to 4 proofs

of primary residency. Ms. Allen confirmed that if a property with an approved SUP changed property owners, the SUP carries with the property and the establishment period does not restart. Ms. Bishop also confirmed after an inquiry from Ms. Proulx that the BOS can put a time limit of no less than 3 years on a SUP. Ms. Proulx noted that there are some instances for certain uses where this could be beneficial. If the County were to adopt this by ordinance, they could establish the option for this time period and could be less restrictive, but not more. This provision can be included as a condition to a SUP. Ms. Allen noted she would like to see balance in where people are trying to live and it being affordable based on their income. Mr. Hauschner noted that incentivizing long term dwelling units was of interest, and could it be feasible to decrease the acreage or density requirements based on long term versus short term rentals. Ms. Proulx noted that she is staggered by the high price of land available, which at those prices would not encourage a developer to pursue affordable housing. Mr. Smith noted that affordable housing is a hot topic for everyone across the country right now, and STRs have had an impact on its availability. He noted it would be important to find a happy medium with our booming tourism industry, and need to find a happy medium between commercial operations with higher requirements and short term rental of a dwelling. Ms. Bishop noted there was a similar issue in Amherst with food trucks versus restaurants. Ms. Bishop referenced the allowable lot right chart in the Zoning Ordinance, and noted that it could be used to also limit the number of dwellings per lot. Ms. Allen noted she was supportive of property rights. Ms. Proulx noted that she didn't think putting a band aid on this aspect of the ordinance would be beneficial earlier on in the full update process. Ms. Allen noted that no one could have anticipated the impacts of 2020 on the market. Mr. Hauschner noted that enacting something quickly could help retroactively, and that lack of enforcement should not be a factor. The difficult question is, what should be enacted now to address this? Ms. Allen noted that the community and neighbors will report. There was some consensus that we should wait to address this through our full Zoning and Subdivision Ordinance updates. Mr. Hauschner asked if we could discuss enacting provisions for ADUs. Ms. Bishop noted that ADUs are not regulated separately or differently than any other dwelling. She explained that with ADU ordinances include aspects such as the size being smaller than the primary dwelling. Ms. Proulx noted that how ADUs are utilized should be considered as well. Mr. Reed reiterated that the BOS discussed this at their retreat, and strongly encouraged the Planning Commission to consider looking into this further. Ms. Bishop noted that she is there for support and needs a consensus on how to proceed. Mr. Reed noted there is a benefit to at least establishing some definitions for the terminology discussed, so that everyone is working on the same understanding. Ms. Bishop indicated that she would contact the Berkley Group regarding their input on how to pursue a potential update concurrently with the ongoing full ordinance update. Ms. Bishop confirmed that many localities in the state are having the same issues which was clear at her Rural Planning Conference. There was consensus that Ms. Bishop will contact Berkley Group about a potential work order amendment and follow up.

Ms. Proulx had some comments on the current bylaws. Page 3 under F, notification requirements have recently changed and this should be updated. Page 4, under "Regular Meetings," had questions about hearings for site plans and public hearings. She noted that the bylaws state that cases shall not be called after 11pm, perhaps should change to 10pm. Page 7... order of individual items, item 4. Item 7, closing public hearing. Ms. Proulx noted that she had heard when an agenda item is continued, the public hearing must also be continued. Ms. Bishop noted that should would review these items and follow up.

Ms. Bishop noted that Renaissance Ridge is on the agenda for the November 20 meeting, and confirmed that the regular meeting date was scheduled a week earlier than normal due to the Thanksgiving Holiday.

Board of Supervisors Report:

Mr. Reed notes that the BOS approved schematics for new DSS building. The BOS voted to allocate funding towards TJPDC's housing study. He noted that the county revised the lease of Registrar's office to get more space in the basement. The Sheriff requested replacement of body cams and a new position to focus on local speed enforcement, which were passed. Davenport has been giving BOS advice and has an agreement with them to assist with debt service in capital planning.

Ms. Allen thanked Ms. Proulx for serving as the Planning Commission representative on the BZA. Ms. Allen's term after approximately 10 years will be over in November.

Mr. Hauschner asked if Wild Rose Solar application was still planned to go to the BOS at their November 14 meeting. She confirmed that there would be public hearing for the SUP request as well as the siting agreement.

Mr. Smith noted it is an honor and privilege to be serving on the Planning Commission and looks forward to working with them. He noted that he knows everyone on the Commission loves Nelson as much as he does and hopes to leave it in a better condition.

Mr. Hauschner motioned to adjourn the meeting at 8:18 PM. Ms. Proulx seconded the motion.

Yes:

Phil Proulx

Mike Harman

Robin Hauschner

Ernie Reed

Mary Kathryn Allen

William Smith

Respectfully submitted,

A handwritten signature in cursive script that reads "Dylan M Bishop".

Dylan M. Bishop, CZA, CFM

Director of Planning & Zoning