

Draft: 7/22/2020

Final 8/26/2020

**NELSON COUNTY PLANNING COMMISSION
MEETING MINUTES
July 22, 2020**

Present: Chair Mark Stapleton and Commissioners Mary Kathryn Allen, Ernie Reed, Chuck Amante, and Phil Proulx. Absent: Mike Harman

Staff Present: Dylan Bishop, Director and Emily Hjulstrom, Secretary

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

Review of the minutes January 22nd, 2020

Ms. Proulx made a motion to approve the minutes from January 22nd. Ms. Allen seconded the motion. The motion passed with a vote of 4-0 with one abstaining.

Yes:

Mark Stapleton

Phil Proulx

Chuck Amante

Mary Kathryn Allen

Abstain:

Ernie Reed

Ms. Bishop noted that the Planning and Zoning office has been closed to the public and remains closed at this time. She added that County Administration has been working on a plan for the office to open back up, but they aren't sure when that will happen yet. She explained that otherwise the office has been able to maintain normal operations and staff is available to the public via phone and email. She also congratulated Mary Kathryn Allen and Mike Harman for being reappointed to the Planning Commission.

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Public Hearings

Communication Tower #2020-01 – Class C – 7:05 pm

Ms. Bishop presented the following information:

Nelson County Planning Commission

To: Planning Commission
From: Dylan M. Bishop, Director of Planning & Zoning *DMB*
Date: July 22, 2020
Re: Class C Tower Permit #2020-01 – Verizon – 571 Phoenix Road, Arrington

BACKGROUND: This is a request for a Class C Communications Tower with modifications on property zoned A-1, Agricultural in accordance with §4-1-22 and §20-13 of the Zoning Ordinance.

Public Hearings Scheduled: P/C – July 22, 2020; Board – August 11, 2020 (tentative)

Location / Election District: 571 Phoenix Road, Arrington / South Election District

Tax Map Number(s) / Total acreage: 77-A-137B / 37.2 acres +/- total, 10,000 square foot lease area.

Applicant Contact Information: Euan Fuller, BCI d/b/a Verizon Wireless agent, 11608 Estes Anderson Way, Glen Allen, VA 23059; 804-510-6888; efuller@bci-mail.com.

Owner Contact Information: Michael W. Reese, P.O. Box 64, Arrington, VA 22922

Comments: The requested use is for a 195' galvanized steel monopole communications tower with a 4-foot lightning rod. The balloon test at the site was held on March 19th at 9:00am. Photo simulations provided by the applicant are attached with this report.

The applicants are requesting the following modifications in accordance with §20-20:

- **Height:** The maximum allowable height for a Class C Tower is 130 feet. The proposed tower is 195 feet in height, with a 4-foot lightning rod.
- **Fall Area:** The minimum distance from the tower's base to the property line is required to be 110% of the tower height for a metal monopole. The proposed fall zone is 120 feet from the base of the tower, and the proposed setback is approximately 124 feet from the nearest property line.
- **Number of Antennas:** Only three arrays are permitted with three antennas each. The applicant is proposing six antennas within each array.

The applicant has provided a Project Narrative, which discusses consistency with the Comprehensive Plan and outlines the justifications for the modifications requested.

DISCUSSION:

Land Use / Floodplain: This area is agricultural and residential in nature. The property does not fall within any 100-year flood plains.

Access and Traffic: There is a proposed 20' wide access/utility easement running from Phoenix Road to the lease area where the tower will be located. A VDOT low volume commercial entrance will be required.

Antennas: The monopole will be designed to support three antenna arrays installed in accordance with ordinance requirements.

Color: The applicant has proposed that the galvanized steel of the tower will reflect the backdrop of the sky.

Conditions: The final approving authority for this request is the Board of Supervisors. The ordinance states that the final approving authority shall approve the color of the tower and may impose other conditions upon approval. The Planning Commission may make recommendations to the Board of Supervisors regarding proposed conditions.

Comprehensive Plan: This area is not identified on the Future Land Use Map other than the generalized "Rural and Farming" designation, as is much of the County. The current Comprehensive Plan does not address communications towers/infrastructure. The application meets the guidelines established in §20-2 of the Zoning Ordinance outlining the purpose of the Communications Tower Ordinance including the importance of protecting the scenic nature of the County.

RECOMMENDATION: Should the Planning Commission recommend approval of this request, staff recommends the following conditions/modifications:

1. The tower shall be constructed according to the final approved site plan.
2. Allowed modification for height requirement of 195 feet, with 4-foot lightning rod.
3. Allowed modification for fall area setback of 120 feet.
4. Allowed modification for six arrays within each antenna.

Attachments:

Application
Narrative
Supporting Documentation
Site Plan
Photo Simulations from Balloon Test
Zoning Map
Comments

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Ms. Lori Schweller, an attorney with Williams Mullen, gave the following presentation:

Presentation

Ms. Schweller showed the three closest existing Verizon sites and explained that they are all about 2.5 miles from the proposed site. She noted that the closest colocation possibilities are too close to existing colocations. She noted that almost 60% of Americans no longer have a landline. She also noted that a citizen in Amherst had noted that 85% of emergency calls in Amherst are made from a wireless device. She noted that the engineer would certify that if the tower were to fail it would fall within the property line.

Chair Stapleton opened the public hearing at 7:17 PM.

Lynette Miles lives at 634 Variety Mills Rd, she asked how far the tower would be from her house. Ms. Schweller noted that the tower would be 437 feet from her house. Ms. Miles asked if it would be safe for the neighborhood and if it would make noise. She then explained that she was concerned about property values and asked where the property access would be.

Ms. Schweller explained that there would be no noise other than the generator that would run occasionally for testing purposes or if the electricity goes out. She noted that it is very quiet and she wouldn't expect Ms. Miles to be able to hear it. She noted that there would be no lights on the tower at all. She explained that it is extremely rare for a monopole to fail and that an engineer evaluates it under many conditions. She added that the FCC regulates wireless facilities and that in the 90's they developed a set of standards that have been adopted to ensure public safety. She noted that these facilities have hundreds to thousands of times less radio emission than what is allowed by the FCC.

Chair Stapleton asked how often someone would be visiting the site. Ms. Schweller noted that about twice a month a technician will visit the site to check on things and that construction takes about 6 weeks. Ms. Allen asked if the other arrays are built in advance. Ms. Schweller noted they only add an additional array when they have an agreement with another company in place. Ms. Allen asked why it needed to be 195' tall. Ms. Schweller noted that this area has very poor coverage and this is needed to cover as much area as possible. Mr. Reed noted that the graveyard is 123' feet from the tower, he asked if it was in the fall zone. Ms. Schweller noted that it would not be. Ms. Bishop noted that a letter from an engineer showing that it would fall within 123' would be adequate.

Ms. Miles noted that the radiation can be harmful. Chair Stapleton explained that apparently there would be no impact at her house from the radiation. Ms. Schweller encouraged everyone to check reliable sites like the FCC or WHO for information on towers. She noted that to her knowledge there is no study that shows these facilities cause any damage. She noted that a baby monitor in your house would be far more radiation than this tower. She noted that this would provide all services that Verizon provides except for 5G.

Afred Weaver lives at 810 Variety Mills Rd. He noted that he is also concerned about the radiation. He wanted to know how much extra service they are going to get. He added that he is about 1/4 mile from the proposed tower site. Ms. Schweller noted that he would certainly get service from the tower if he uses Verizon.

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Ms. Hjulstrom then read the following comments from Michael Hodgson:

Michael Hodgson

PO Bo 8
Arrington, VA 22922
434-263-4218
mhodgsona@gmail.com

July 16, 2020

County of Nelson
Planning and Zoning Dept.
P.O. Box 558
Lovingsston, VA 22949

Dear Ms. Bishop,

I'm writing in reference to the hearing on Mr. Reese's application for permission to have a 199 foot Verizon cell tower built on his property. First, I would like to state that we, my wife and I, own and use a cell phone and we also are Verizon shareholders. We have concerns with the method used by Verizon in selecting the site for the tower and with the negative effect the tower will have on the property values of the surrounding homes.

When I first learned of the proposed tower I wrote Verizon and shortly thereafter I received a phone call from a Verizon employee. I asked the Verizon employee how Mr. Reeves' property was selected for the tower, since I could find not one other property owner in the area who had been contacted by Verizon concerning a tower. I was told that Mr Reese, a retired Verizon employee, had contacted Verizon through their website stating his desire to have Verizon lease his property for the installation of a cell tower. Clearly, Verizon has shown no due diligence in its site selection process. It went straight to Mr. Reese's property, showing no concern for the effect this decision would have on the surrounding Nelson County homeowners.

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Verizon increases its bottom line; Mr. Reeves has a lease probably valued at 10's of thousands of dollars per year; and the surrounding Nelson County homeowners have the value of their property decreased by approximately 20% according to numerous real estate studies.

I suggest that the Planning Commission refuse this application and that Verizon undertake a comprehensive site selection process that includes giving priority to areas with no or little nearby residential housing. This will insure that the new tower will have minimum impact on the value of surrounding properties.

Sincerely yours,

Mike and Clare Hodgson

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Chair Stapleton closed the public hearing at 7:37 PM.

Ms. Allen noted that the county needs the coverage and that she wishes she had this coverage where she lives. Mr. Reed noted that the BOS has prioritized getting service to underserved areas and that this would fit that goal. Mr. Amante noted that he didn't have an objection to this particular tower but that when the Planning Commission reviews the Comprehensive Plan they should take rising density into account.

Ms. Allen made a motion to recommend to approval of Class C tower #2020-01 Verizon to include the recommendations of the tower should be constructed according to the final approved site plan, dated February 24, 2020. Also, to include the following modifications and conditions:

- **The tower shall be constructed according to the final approved site plan.**
- **Allowed modification for height requirement of 195 feet, with 4-foot lightning rod.**
- **Allowed modification for fall area setback of 120 feet.**
- **Allowed modification for six arrays within each antenna.**

Mr. Amante seconded the motion.

Yes:

Mark Stapleton

Phil Proulx

Chuck Amante

Ernie Reed

Mary Kathryn Allen

Rezoning #2020-01 – R-1 to A-1 – 7:20 pm

Ms. Bishop presented the following information:

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Nelson County Planning Commission

To: Planning Commission

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

Date: July 22, 2020

Re: Rezoning #2020-01 – R-1 to A-1 – Dan & Terri Tatarka – 279 Avon Road, Afton

BACKGROUND: This is a request to rezone property from Residential, R-1 to Agricultural, A-1 to allow a farm brewery use.

Public Hearings Scheduled: P/C – July 22, 2020; Board – TBD

Location / Election District: 279 Avon Road / North District

Tax Map Number(s) / Total acreage: 6-A-45 / 2.29 acres +/- total

Applicant Contact Information: Dan & Terri Tatarka, 279 Avon Road, Afton, VA 22920, 434-270-0404

Comments: Currently the property is home to Wild Man Dan Bed and Breakfast, with a small-scale brewery operation that is only open to guests of the BNB, as well as a small-scale wholesale bakery operation. Additional meeting space above the current structure is currently being constructed to accommodate guests of the BNB, and potentially utilized for the farm brewery operation. The applicants are proposing the rezoning from R-1 to A-1 to allow the conversion of the current brewery operation to a farm brewery use that is open to the public. According to the applicants, approximately an acre of this property is used for agricultural crop production. Although this property is adjoined by R-1 zoning, the A-1 zoning district is also consistent with the zoning on other parcels in the vicinity.

DISCUSSION:

Land Use / Floodplain: This area is residential and agricultural in nature. Zoning in the vicinity is R-1 and A-1, with one parcel zoned B-1. There are no 100-year floodplains on this property.

Access / Traffic / Parking: Property is accessed from Avon Road between Rockfish Valley Highway (Route 151) and Tanbark Drive. According to a letter provided by VDOT, the use will require a VDOT commercial entrance. The applicants are currently working towards providing the requested analysis for further review.

Utilities: The property is currently served by private well and septic. Comments provided by the Health Department indicate that the previous owners had a repair drainfield installed in the area denoted "Additional Parking" on the plat.

Proffers / Conditions: Proffers submitted by the applicant are attached with this report.

The Planning Commission may accept and recommend, and the Board of Supervisors may accept or impose, reasonable conditions upon the approval of the rezoning request. The criteria for conditions associated with rezoning are below:

- (a) The rezoning itself must give rise to the need for conditions.
- (b) All conditions shall have a reasonable relation to the rezoning.
- (c) No condition shall include a cash contribution to the County.
- (d) No condition shall include a mandatory dedication of real or personal property for open space, parks, schools, fire stations or other public facilities except those provided for by law.
- (e) No condition shall include payment for or construction of off-site improvements except those otherwise provided for by law.
- (f) All conditions shall relate to the physical development or physical operation of the property.
- (g) All conditions shall be in conformity with the County's comprehensive plan.
- (h) No condition shall be used for the purpose of discrimination in housing.

Comprehensive Plan: This property is located in an area designated rural residential in the Comprehensive Plan, "which would allow low density residential and compatible non residential uses in rural areas where agriculture is not the predominant use. Clustering of residents further protects rural areas."

RECOMMENDATION: The approval of requests should be based on one or more of the following factors:

- 1. Good Zoning Practice
- 2. Public Necessity
- 3. General Welfare
- 4. Convenience

Attachments:

Application

Narrative

Proffers

Plat / Site Plan

Zoning Map

Home Occupation Permits

Comments

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Ms. Allen asked what the existing nearby commercially zoned parcel was. Ms. Proulx noted that the parcel has not been used as industrial in 44 years.

Ms. Bishop also noted that the additional parking is not required.

Ms. Bishop explained that typically rezoning from R-1 to A-1 is a downzoning but that in Nelson County the minimum lot size is the same for both zones. She noted that it could be argued that A-1 has higher intensity uses than R-1 would allow. She noted that staff is considering this a lateral or upzoning.

Daniel and Terri Tatarka live at 279 Avon Rd. Mr. Tatarka stated that they have been there for 5 years operating as a Bed and Breakfast. He explained that they initially wanted to be a home brewery but state regulations were changed. He noted that they came to the board and they allowed them to have a production brewery for their guests. He stated that now they would like to allow members of the public in and incorporate produce from their property into the beer.

Chair Stapleton opened the public hearing at 7:57 PM

Ms. Hjulstrom then read the following public comment from those that were not able to attend:

7/16/2020

Mail - ehjulstrom@nelsoncounty.org

Rezoning #2020-01-R1 toA1 -7:30pm

Kimberly Mayo <kmayo18@ymail.com >

Wed 7/15/2020 11:41 AM

To: Emily Hjulstrom <ehjulstrom@nelsoncounty.org>; Dylan Bishop <dbishop@nelsoncounty.org>;

I am emailing you for my father, Coy W Anderson, who owns the property next door. Please make sure the septic system will accommodate this venture, as we have had numerous issues with this before. it was previously approved only for a bedroom residence and the other building for an office.

Thank you in advance for letting us know all Health department issues been investigated/approved.

Sincerely,

Kim Anderson Mayo

Ms. Tatarka noted that when they purchased the property they installed a new septic system for the bed and breakfast that accommodates 25 People. She noted there are 5 rooms in the Bed and Breakfast (serving 10 people in total) and that they are only open weekend. She added that the current system already has the capacity for the increase in use that they are proposing.

Chair Stapleton closed the public hearing at 8:00 PM.

Ms. Proulx noted that this is a rezoning and that the Planning Commission has no control after it is rezoned because they can do anything by-right. She noted that in her opinion it is a higher intensity use

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that they are asking for. She explained that if the Tatarkas were to sell the property then any agriculture use would be able to go there by right. She noted that there are Agricultural properties around but that they are residential in use. She added that she thinks that their proposal is too large for the property that they have. She noted that the adjoining neighbors might not be here because they were notified that the property was being rezoned but not why. She stated that she also sees this as spot zoning and worries about the welfare of the whole community.

Ms Allen noted that the entrance would be right across from the church and that they planned to use the church for overflow parking when needed. Ms. Proulx noted that this means that people would be walking back and forth across the road.

Mr. Amante stated that when he read the application, it sounded like they wanted to do 10-gallon batches only to guests of the Bed and Breakfast. Ms. Allen explained that that was what they currently had but they would like to be open to the public. Mr. Amante asked if it could be done as a Special Use Permit. Ms. Bishop noted that it had to be rezoned because there is no Special Use Permit in residential (R-1) that allows it.

Ms. Bishop noted that the county can impose conditions on the rezoning. Mr. Amante noted that from everything he has heard they have a good reputation in the neighborhood. He added that Ms. Proulx had a good point that once it is rezoned you cannot take it back. Ms. Allen noted that they could ask the applicants to proffer to remove the uses they do not want to be allowed. Ms. Proulx noted that the other commercial property nearby was the Afton Service Center.

Ms. Proulx questioned if they could have any proffers that related to how the brewery is run. Ms. Bishop noted that one of the things that the applicants proffered was the operation hours of the property to cut off at 7 PM. She added that she thinks it could be allowed because it relates to the physical property.

Mr. Amante made a motion to postpone discussion of Rezoning 2020-01 R-1 to A-1 until the next meeting on August 26th, 2020. Ms. Proulx seconded the motion.

Yes:

Mark Stapleton

Phil Proulx

Chuck Amante

Ernie Reed

Mary Kathryn Allen

Special Use Permit #2020-01 – Extended Stay Campground – 7:35 pm

Ms. Bishop presented the following information:

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Nelson County Planning Commission

To: Planning Commission

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

Date: July 22, 2020

Re: SUP #2020-01 – Extended Stay Campground – Alex Johnston – Tye River Road

BACKGROUND: This is a request for a special use permit to allow extended stay camping for a single travel trailer on property zoned A-1 Agricultural.

Public Hearings Scheduled: P/C – July 22, 2020; Board – August 11, 2020 (tentative)

Location / Election District: Tye River Road / South District

Tax Map Number(s) / Total acreage: 91-A-4D / 10 acre parcel

Applicant Contact Information: Alex Johnston, 214 Ridgelawn Place, Lynchburg, VA 24503, 407-414-0648

Comments: This is a vacant property zoned A-1 Agricultural. The applicant is requesting to permanently place a single travel trailer on the property for the purpose of renting it out to transient lodgers for up to 6 months at a time.

DISCUSSION:

Land Use / Floodplain: This area is agricultural and residential in nature. There are no 100-year flood plains on the property.

Access and Traffic: The property is accessed by a private entrance from Tye River Road, and is adequate to support the proposed use. Should the applicant wish to expand in the future, the entrance would require modification and relocation to satisfy a VDOT commercial entrance. The applicant has indicated that they plan to have only one travel trailer.

Utilities: The property will be served by private water and septic systems. The owner will need to secure construction permits through the private sector, since this is not a primary place of residence.

Conditions: The Planning Commission may recommend, and the Board of Supervisors may impose, reasonable conditions upon the approval of the special use permit. Staff recommends the condition of limiting the extended stay campground to one site.

Comprehensive Plan: This property is in an area designated as Rural and Farming on the current Future Land Use Plan.

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

Should Planning Commission recommend approval of this request staff recommends the following condition:

1. Extended stay campground is limited to one site as indicated on the site plan.

Attachments:

Application

Site Plan

Comments

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Ms. Johnston noted that she is applying for the Special Use Permit to be able to comply. She added that she served as a vice chair on a Planning Commission for many years and just wants to make sure she is doing the right thing. She noted that her and her husband's goal was to put a tiny home there. She explained that they would like to visit there as a getaway and would like to be able to rent it to others when they are not there.

Ms. Allen asked if you could see into the property from the road. Ms. Johnston noted that you would not be able to see the travel trailer.

Chair Stapleton opened the public hearing at 8:22 PM.

Donna Hogston lives at 4365 Tye River Rd. She noted that she is concerned with the renting aspect of the application. She asked if it was going to be a camper. Ms. Johnston noted that it is 30' long and 10' wide and in the style of a cabin home. She noted that her intention is to use it as their own getaway but also to be able to rent it as an Air BNB on occasion. Ms. Hogston noted that she wants to give the benefit of the doubt and that she has no issue with the proposed use.

Judy & Barry Tucker live in Madison Heights. They own the property next to the property in question. They are confused why this is being called a campground. Ms. Bishop explained that it is logistical because of the definitions in the zoning ordinance. She noted that they will have the condition that they only are allowed one camper. Ms. Tucker asked if it would be on well and septic. Ms. Johnston confirmed that it would be. Mr. and Ms. Tucker noted that this application would be ok with them.

Chair Stapleton closed the public hearing at 8:29 PM.

Ms. Proulx asked who would be on site checking in on the campground. Ms. Johnston noted that they would have security cameras on the property and that her mom lives in Lynchburg and she herself lives part time in Lynchburg.

Ms. Allen made a motion to recommend approval of SUP #2020-01 Campground with the condition it is limited to one campsite as shown on the site plan.

Ms. Proulx seconded the motion.

Yes:

Mark Stapleton

Phil Proulx

Chuck Amante

Ernie Reed

Mary Kathryn Allen

Special Use Permit #2020-02 – Artist Community – 7:50 pm

Ms. Bishop presented the following information:

Draft: 7/22/2020

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Nelson County Planning Commission

To: Planning Commission

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

Date: July 22, 2020

Re: SUP #2020-02 – Artist Community – Kassam-Adams – Laurel Lane/Meadow Drive

BACKGROUND: This is a request for a special use permit to allow an artist community on property zoned A-1 Agricultural.

Public Hearings Scheduled: P/C – July 22, 2020; Board – August 11, 2020 (tentative)

Location / Election District: 360 Laurel Road (Woods Mill area) / Central District

Tax Map Number(s) / Total acreage: 46-3-12, 46-3-2A, 46-3-1, 46-3-11A, 46-3-14 /
167.73 +/- total acreage of parcels

Applicant Contact Information: Shahir & Nancy Kassam-Adams, 360 Laurel Lane, Lovingson, VA 22949, 215-300-1569

Comments: These properties are heavily wooded and contain multiple existing structures and features including a residence, several other buildings, trails, streams, and river frontage. No new structures are proposed with this request; only existing structures are proposed to be rehabilitated and repurposed. The proposed retreat program would serve 1-4 resident artists at a time for 1-6 week residencies.

An artist community is defined as “a facility that provides resident artists with artist community residencies in a rural setting. An artist community includes art studio(s), exhibition and presentation space(s), and temporary lodging accommodations for resident artists; and includes the accompanying office(s), kitchen and food service(s), communal space(s), and maintenance area(s) to service the resident artists and staff.”

Resident artists are “professionals who create new work in literary, visual, musical, theatrical, dance, and other forms, as evidenced by their education in said fields, training, and expenditure of time in their studio endeavor, regardless of whether they make their living by it.”

DISCUSSION:

Land Use / Floodplain: This area is agricultural and residential in nature. There is flood plain present on the east side of the property where the river is located, however all existing structures and proposed improvements shall take place outside of this area.

Access and Traffic: The property is ultimately accessed from Laurel Lane, which is a not a state-maintained roadway. Although no improvements are required by VDOT, the agency has indicated that the proposed use will increase traffic volume along both Woods Mill Lane and Old Ridge Road. Currently Woods Mill Lane is substandard to today's requirements.

Utilities: The property is served by existing private water and septic systems. Should Building Inspections require a review of the septic system for building permit purposes, an Onsite Soil Evaluator (OSE) would need to perform the review.

Conditions: The Planning Commission may recommend, and the Board of Supervisors may impose, reasonable conditions upon the approval of the special use permit. Section 4-1-46a outlines the following limiting factors for an artist community:

- Minimum property size of twenty (20) acres;
- Maximum floor area of forty thousand (40,000) square feet (cumulative/all facilities);
- Maximum of twenty-five (25) resident artists at any time with each resident artist being limited to a maximum duration of ninety-five (95) consecutive days;
- Maximum of fifteen (15) public events per year (monthly open houses/open studios and infrequent fundraising events);
- Existing structures are adaptively reused (as applicable) and new structures are designed to be compatible with rural character of surrounding area;
- Restrictions on future division of the property.

Section 4-1-46a Conditions	Applicant Response	Staff Recommended Conditions	Comments
Minimum property size of 20 acres	Property is +/- 167 acres		
Maximum floor area of 40,000 square feet (cumulative / all facilities)	Floor area will be well under this limit	Maximum floor area of 10,000 square feet (cumulative / all facilities)	Reducing the maximum amount of floor area gives the applicant some room to expand without drastically expanding the use or increasing traffic
Maximum of 25 resident artists being limited to a maximum duration of ninety-five (95) consecutive days	- Retreat program: 1 to 4 artists / writers / scholars / activists in residence (1- to 6-week residencies) - Small group programs for 1 day to 1 week, encompassing day programs & limited overnight stays	Maximum of 12 resident artists being limited to a maximum duration of 95 days	By limiting the number of resident artists permitted at a time, the potential traffic impact could be reduced
Maximum of 15 public events per year (monthly Open Houses/Open Studios and infrequent fundraising events)	Anticipate few public events – certainly fewer than 15 per year	Maximum of 12 public events per year	Reducing the number of public events from 15 to 12 is consistent with by-right social temporary events in the A-1 District, and reduces traffic impact.
Existing structures are adaptively reused (as applicable) and new structures are designed to be compatible with rural character of surrounding area	Rehabbing and repurposing existing structures and footprints with minor additional site amenities. All structures will be compatible with the rural character of the surrounding areas.		
Restrictions on future division of the property		No future divisions.	There are currently 5 separate parcels

Comprehensive Plan: This property is in an area designated as Rural and Farming on the current Future Land Use Plan.

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

Should Planning Commission recommend approval of this request staff recommends the following revised conditions:

1. Maximum floor area of 10,000 square feet (cumulative / all facilities), excluding the existing dwelling, pool house, and building located on parcel #46-3-12, which shall be for private use by the owners.
2. Maximum of 12 resident artists being limited to a maximum duration of 95 days
3. Maximum of 12 public events per year.
4. No future divisions on the subject properties.

Attachments:

Application

Narrative

Site Plan

Floor Area Chart

Comments

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John Meany lives at 223 Fox Horn Lane in Charlottesville, VA. He noted that the applicants were unable to be there due to a family health issue and that he is the landscape architect for the project. He noted that his clients are willing to accept the recommendations from the Planning Commission. He explained that there is a gravel road to their neighborhood and that the traffic count numbers are more for the existing brewery that is nearby. He noted that their project should not add a significant amount of traffic. He added that they have been contributing to the maintenance of the road for the past 15 years and are willing to do what it takes to maintain the rd.

Mr. Stapleton opened the public hearing at 8:40 PM

Darcy Baker lives at 600 Laurel Ln in Lovingston. She noted that the Kassam-Adams have bought a lot of the land around them. She explained that she is not representing the HOA but is representing several neighbors. She added that their neighborhood is a dead-end gravel road where everyone feels safe to walk their dogs. She explained that there is already a lot of traffic and when you pass another car you have to pull off to the side and scratch your car. She stated that 1-4 people would be ok but if they are allowing 12-25 people that would be a lot. She noted that the application seems vague and has a lot of potential expansion that concerns her. She questioned why all the parcels owned by the applicants were on the application. She asked about social media coverage and noted that another neighbor is concerned about the area being targeted for development. She noted that she is confused what is going on with the property and if the Common Grounds Collaborative is the same as the youth program and/or the artist community. She noted that a neighbor googled the collaborative and saw that it looked like a wonderful like a wonderful organization but that it is international

Ms. Baker also presented the following:

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I absolutely love the idea and design of the collaboration Nancy and Shahir Kassam-Adams would like to build. Sincerely, it sounds wonderful and I will be a supporter of it. However, I would prefer it not be on this private, dead end, non-state road(s). It is currently a very safe neighborhood/area for us, our son and dog to run and bike around, and it is nice and quiet, very peaceful. There is very little traffic as the lane dead ends at the river, and the only offshoot of the road is also a dead end (Meadow Dr). Only residents and guests have any reason to come down to this little hollow of sorts. The privacy with just a few neighbors, all spread out, is what all of us moved out here for.

We look out for each other and love the fact that we know most/all of the cars that come down here and feel safe knowing that random people are not driving by. Most people don't even know about our little neighborhood, which increases our safety and privacy that much more. If this "Community" is allowed to happen, it will no longer be an undiscovered quiet gem of a place. It will no longer be as safe on the roads with substantially increased traffic. We will have less peace and quiet with the increased traffic and sounds, dirt from the cars on the road, people looking for a place they've never been to before, and may have a hard time on the narrow, hilly gravel county roads (Old Ridge Rd, Laurel lane, and Meadow Drive).

If the number of people on their grounds could be up to 25 people at a time, though most likely more (?) for the up to 15 "events (?)" each year, plus the cars of all of the staff/program runners. I feel this would NOT be "little impact to the neighborhood and roads" but "a high impact" instead. Especially if the participants are kids. This could mean that the parents of 25 kids drive in to drop them off, then leave. Then they return at the end of the day, and leave again, that means as many as 25 cars driving through our neighborhood 4x each day the program lasts. We live on the corner of Laurel In and Meadow Drive and would see all of the traffic 2x pretty close. This greatly impacts the peace and quiet, safety on the roads, wear and tear on the roads, and exposes our private area to the public. And if up to 12 additional people could be staying overnight, more and more traffic. More and more impact. Don't forget the staff who will also be around, or/or house cleaners, maintenance, lawn work, etc. There is a lot left pretty broad in the proposal as well, which makes me nervous.

Nancy and Shahir have a private long driveway and would in fact have light impact (won't hear or see the traffic), but the rest of us live near/on the roads: Old Ridge, Laurel lane, and Meadow Drive and surely will be impacted. One thing that could help would be if the entrance was at/through their personal property so the traffic would not have to go down the rest of Laurel lane and Meadow Drive at least. There would be less of an impact if the entrance went through there, on the 7 properties below past their driveway, which is at the top of Laurel lane. Otherwise all of the traffic would pass the additional 6 of the properties, the 7th being past the proposed community at the end of Meadow Drive.

I was supportive of the idea when Nancy and Shahir shared their plans with us. But as the conversation continued, they began talking about building a pavilion, having a series of trails throughout the neighborhood, possibly adding the one on our property, groups of people, etc., I began to feel more nervous. I do not want people I do not know walking through or on the trails on my land. I did share this and was assured by Shahir they would not, but people are often tempted, even if they see a sign stating it is private.

Life kept me away and distracted, but upon reviewing all of the literature provided now I must say I feel concerned and anxious. I worry that the very nature of our special place, as acknowledged, and the reason we love it so much, will be lost forever. If there were as little as 1 person every few days for a

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few days, that still adds up to MANY different people and cars staying in our area, driving the roads which are not state maintained, and require a lot of work. The roads are only 1 car wide in most areas, causing one car to need to pull aside to let the other go by. These little private roads are not meant for this increase in traffic. Please consider these concerns. I want to be sure Nancy and Shahir know these written concerns are not personal at all. We are not trying to be a pain, but are sincerely concerned that this will have a negative impact on where we have chosen to spend the rest of our lives.

Darcy Baker
600 Laurel Lane
Lovington, VA
434-882-0703

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Mark Catron lives at 178 Starvale Ln in Shipman. He noted that he lives on the backside of this property and he is more here to represent the people that own the farm between he and the applicants. He noted that his concerns are for the road because it will need maintenance if traffic increases. He questioned how they would be able to fit enough parking spaces where the main house is. He noted that the area is now very rural and does not want a commercial property to be placed in the center. He noted he supports the project but wants the Planning Commission to investigate it further.

Ms. Hjulstrom then read the following public comments from those that were not able to attend:

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7/21/2020

Mail - ehjulstrom@nelsoncounty.org

Proposed Artist Community - Laurel Lane and Meadow Drive

James Marshall <jim773bev@gmail.com>

Mon 7/20/2020 2:32 PM

To: Emily Hjulstrom <ehjulstrom@nelsoncounty.org>; Darcy Baker <darbake@gmail.com>;

Hello Ms. Hjulstrom: We would like to address some concerns on the proposed Special Use application from Nancy and Shahir Kassam-Adams for their properties on Laurel Lane and Meadow Drive.

We have owned our property since 1981 with a small cabin until around 2000, at which point we became full time residents. While many things have changed during that time period, all new development has been residential, single family houses.

Most of our concerns have been covered in a letter to you from Darcy Baker, so we will not repeat them but simply state that we support her concerns. We would like to emphasize her concerns about support personnel (cleaning, laundry, food prep, maintenance of buildings and grounds, program leaders, etc.), as these have not been addressed in the application.

In addition to Mrs. Baker's concerns, we would like to add the following:

In looking at what is permitted by the County under this Special Use Permit, five properties have been combined, even though only two are affected initially:

First, Parcel 46 3 12 where Kassam Adams reside and have a small horse barn which will be repurposed for a Pavillion, and second, Parcel 46-3-14 which has the log home and will be repurposed as a dwelling for artists, writers, activists. Our concerns are that, even though the initial change of use is below what is allowed by the county, will there be a limit on what can be done in the future? For example, could the number of guests be increased by simply adding living space in the basement level or by converting other outbuildings or adding new structures elsewhere on those two parcels.

Other than those two parcels, there are three others which are included in the proposed Special Use Permit - 46 3 11, 46 3 1, and 46 3 12. The only change indicated for those properties is shown as a walking/hiking trail network. In the future, can more building, meeting places, etc. be added to these properties?

Signage: Are any signs proposed to help visitors find the facilities on this proposal? If so, these should be specified, along with location. Also, are any signs, fences, etc proposed to keep visitors from wandering onto adjacent properties and who would provide them?

Finally, on Parcel 46 3 12, there is an existing barn that fronts on Laurel Lane. It was originally built for a previous owner, Christopher Darby, as an art building for multi-media art work. He later sold the property to the Kassam-Adams. This building could be converted to become a part of the Common Ground Collaborative either as dormitory style housing or for group activities. Is this possible under this Special Use Permit or would it be necessary for them to go back to the county for approval?

In closing, we are greatly concerned that the proposal will not be limited to the stated number of visitors, events, etc., but could be expanded further in the future, without having to go through any approval by the county.

We have asked Darcy Baker to let our concerns be known at the Planning Commission hearing,

Thank you,

Beverly and Jim Marshall
773 Laurel Lane
Lovingston, VA 22949 Telephone: 434-945-0152 or 945-0153

cc: Darcy Baker

Draft: 7/22/2020

Final 8/26/2020

7/16/2020

Mail - ehjulstrom@nelsoncounty.org

RE: Permit for Artist community permit in Woodsmill subdivision.

Dylan Bishop

Fri 7/10/2020 9:40 AM

To: John Holland <JHolland@dominionaviation.com>;

Cc: Emily Hjulstrom <ehjulstrom@nelsoncounty.org>;

Good morning John,

Thank you for providing your comments via email. We will add this to the packet for Planning Commission to review at the meeting. Please let me know if you have any questions.

Thanks,

Dylan M. Bishop, CZA, CFM

Director of Planning & Zoning

[Nelson County Department of Planning & Zoning](#)

Mailing: [P.O. Box 558, Lovingston, VA 22949](#)

Physical: [80 Front Street, Lovingston, VA 22949](#)

(434) 263-7091



From: John Holland <JHolland@dominionaviation.com>

Sent: Friday, July 10, 2020 7:17 AM

To: Dylan Bishop <dbishop@nelsoncounty.org>

Subject: Permit for Artist community permit in Woodsmill subdivision.

Ms. Bishop

I have read the permit for a proposed " Artist Community " in Woodsmill subdivision of residences. The proposal that is put forth is for a group home for youth and adults. There will be no oversight on who lives (up to 25 at a time plus youths) in our neighborhood to live besides that of the Kassam's. The community group they wish to build is commendable but it is not something I wish for my neighborhood. I do not wish to live my life around frequent festivals and/or fund raisers. Not to mention the wear and tear on the neighborhood road which is gravel and not maintained by the state or the Kassam's alone. A group of 25 individuals plus youth plus how many individuals would come for the festivals/fundraisers is not fair to the residents of the neighborhood who have to live here and maintain the road. I hope the supervisors would reject this application.

Thank you

John Holland

Draft: 7/22/2020

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7/21/2020

Mail - ehjulstrom@nelsoncounty.org

Re: SUP 2020-02

Marjorie Feiner <margefeiner@gmail.com>

Mon 7/20/2020 10:34 AM

To: Emily Hjulstrom <ehjulstrom@nelsoncounty.org>;

Dear Emily,

I have read the application and the supporting documents and I've also talked to Nancy and Shahir. My number one concern is security. I have no objection to 1 - 4 people using the old Headley house. However, I am concerned about a group of 25 people, some of whom may be children, having events up to 15 times per year. That is both a lot of traffic on our private road and a lot of strangers in our quiet neighborhood. I think I could be comfortable with smaller groups and less frequent events.

Another concern is the fact that Nancy and Shahir are not full-time residents. I would want to know that anyone staying here has been vetted. How will that be done? They indicated that they would have to hire someone to maintain and care for the property. I would need to have the name of that person and the ability to contact them 24/7 in case of an emergency or security concern.

I will be very uncomfortable with non-residents or their guests' frequent use of the road. The road itself is privately maintained. As it is, it is a constant challenge to keep in decent shape. In addition to car traffic the road is also used for walks by me and my dogs and by many of my neighbors. Extra traffic will generate extra dust, new potholes and change the nature of the neighborhood. I don't see anywhere in the application a plan to upgrade and maintain the road.

I realize that I can't control what anyone else does with their property. However, this plan very much affects the use of my property. I moved here from Albemarle County when I became an empty nester. I chose this property for its privacy, security and quiet. Hopefully this project will not impact my home more than minimally. I think that with a few changes, ie: the size and frequency of events, a supervisor on site or nearby, and extra road maintenance, that goal can be achieved.

Best regards,

Marjorie Feiner
[772 Laurel Ln](#)
[Lovingston VA 22949](#)
434-263-6452
margefeiner@gmail.com

On Mon, Jul 13, 2020 at 1:50 PM Emily Hjulstrom <ehjulstrom@nelsoncounty.org> wrote:

Hi Marge!

Attached is the application for SUP 2020-02 for the Artist Community. Please send any comments that you would like the Planning Commission to consider to me.

Thanks!

-Em

Emily Hjulstrom

Nelson County Planning & Zoning

80 Front St. Lovingston, VA 22949

Phone: 434-263-7090

Draft: 7/22/2020

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7/21/2020

Mail - ehjulstrom@nelsoncounty.org

Fax: 434-263-7086

[1584971999711]

Mr. Stapleton closed the public hearing at 8:54 PM.

Ms. Allen noted that there is not a lot of detail about what the project is. She asked if guests would be living there for up to 6 weeks at a time. Mr. Meany confirmed this. Ms. Allen asked what they would be doing at the site. He explained that they would be living there with their families and working on their art. Ms. Allen asked how many buildings are currently on the property. Mr. Meany noted that 360 Laurel Ln is the main house and a pool house with an additional existing building used for storage. He added that there is an abandoned barn below and a residence/small cottage and two sheds. He added that there is a small structure that they wish to use as a studio.

Ms. Allen asked if it would be 1-4 people allowed at a time or 1-4 families and where they would be staying. Mr. Meany noted that it could be an artist and their family or it could be three individual artists. He explained that they would be staying at 73 Meadow Dr where there would be 3 bedrooms.

Mr. Amante asked how many events were allowed by-right in A-1. Ms. Bishop noted that the limit is 300 people for 12 events a year by-right but that the Planning Commission can impose additional conditions. She added that she recommended a max floor area of 10,000 sq ft, the applicants are currently at 4738 sq ft so that only gives them about 5000 sq ft for additional structures.

Ms. Bishop recommended that they can make a condition with a maximum of 12 guests at a time as opposed to 4 artists.

Mr. Amante noted that he wanted to see a definition of what activities constitute art from the County Attorney. Mr. Amante quoted from the application "Small group programming may be initiated or lead by Common Ground, or by external groups who share Common Ground goals and vision and apply to use the grounds and its facilities for indoor and outdoor activities." He added that this is a group with an agenda and that he wants to know what constitutes art.

Ms. Allen asked if the youth programs were only for day programs, she noted that this would increase the traffic more than just residencies. Mr. Amante asked if there are any artist communities currently in the County. Ms. Allen explained that they had an artist community try to come into the County 3-4 years ago and that is when it was added to the Zoning Ordinance. She added that that artist community never ended up being developed in the county.

Ms. Proulx noted that this SUP would apply to all the parcels and that they are currently individual. She is concerned that one parcel can be separated and retain the SUP. Ms. Bishop noted that the parcels without buildings are a part of their trail system and that the SUP would be for all the parcels together. She noted that she and the County Attorney had discussed having a condition that the applicants combine the parcels.

Mr. Stapleton asked if the applicants would be able to come to the August 26th meeting. Mr. Meany noted that the applicants should be back in Virginia by then and should be able to come to the meeting.

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Ms. Allen made a motion to move SUP #2020-02 Artist Community to the next Planning Commission meeting on August 26th, 2020. Mr. Reed seconded the motion.

Yes:

Mark Stapleton

Phil Proulx

Chuck Amante

Ernie Reed

Mary Kathryn Allen

Mr. Reed asked if the County Attorney has come to any Planning Commission meetings. Ms. Bishop noted that he can come to the meeting at their request.

Special Use Permit #2020-03 – Office – 8:05 pm

Ms. Bishop presented the following information:

Draft: 7/22/2020

Final 8/26/2020

Nelson County Planning Commission

To: Planning Commission

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

Date: July 22, 2020

Re: SUP #2020-03 – Office – Harry Powell & Sara Aldridge – 371 Altamont Lane

BACKGROUND: This is a request for a special use permit to allow an artist community on property zoned A-1 Agricultural.

Public Hearings Scheduled: P/C – July 22, 2020; Board – August 11, 2020 (tentative)

Location / Election District: 371 Altamont Lane / Central District

Tax Map Number(s) / Total acreage: 48-A-6 / 93.41 +/- acre parcel

Applicant Contact Information: Harry Powell, 4011 Stagebridge Road, Shipman, VA 22971, 434-987-3546 / Sara Aldridge, 5 Altamont Lane, Faber, VA 22938, 434-531-9240

Comments: This agricultural property currently contains an existing dwelling, storage shed, and approximately 12,000 square foot building that was previously used for agricultural processing. The applicant is proposing to utilize the existing building as office space for small professional, research and engineering companies. No new structures or additions are proposed as part of this request.

DISCUSSION:

Land Use / Floodplain: This area is agricultural and residential in nature. There are no 100-year flood plains on the property. The existing building will require a change of use from the Building Inspections Department.

Access and Traffic: The property is accessed by Altamont Lane, from Irish road. The entrance will be required to be upgraded and relocated in order to meet VDOT's current commercial entrance requirements. The applicant is working with VDOT to accomplish this.

Utilities: The property is served by existing private water and septic systems. Should Building Inspections require a review of the septic system for building permit purposes, an Onsite Soil Evaluator (OSE) would need to perform the review.

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Conditions: The Planning Commission may recommend, and the Board of Supervisors may impose, reasonable conditions upon the approval of the special use permit.

Comprehensive Plan: This property is in an area designated as Rural and Farming on the current Future Land Use Plan.

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
Comments

Draft: 7/22/2020

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Harry Powell & Sarah Aldridge live at 4011 Stage Bridge Rd Shipman and Altamont Ln in Faber, respectively. He noted that the property is about 1.5 miles off Route 29. He noted that the building was used for manufacturing agriculture equipment from 1971 to the end of 2000 and after that it has been used periodically. He noted that at its peak it had 30 employees and 3-4 tractor trailers. He explained that now they would like to have the space for offices/engineering/light manufacturing for 4-5 people to be working there.

Chair Stapleton opened the public hearing at 9:16 PM.

Raymond Cook lives at 6894 Bear Creek Rd. He noted that he is the fire chief at Faber and this property is right behind the fire department. He noted that he has few objections to the project.

Chair Stapleton closed the public hearing at 9:17 PM.

Ms. Bishop added that she received three phone calls from people, all in support of the project.

Mr. Amante made a motion to recommend approval of SUP 2020-03 Office. Ms. Proulx seconded the motion.

Yes:

Mark Stapleton

Phil Proulx

Chuck Amante

Ernie Reed

Mary Kathryn Allen

Ernie noted that this was his first meeting with the Planning Commission. The Planning Commission welcomed him.

Adjournment:

Ms. Allen made a motion to adjourn the meeting at 9:20 pm. Mr. Amante seconded the motion. The motion was passed with a vote of 5-0.

Yes:

Mark Stapleton

Phil Proulx

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Chuck Amante

Ernie Reed

Mary Kathryn Allen

Respectfully submitted,

A handwritten signature in blue ink, appearing to be "Emily Hjulstrom", with a long horizontal flourish extending to the right.

Emily Hjulstrom

Secretary, Planning & Zoning