NELSON COUNTY PLANNING COMMISSION

Meeting Agenda: October 28th, 2020
General District Courtroom, 3rd Floor, Nelson County Courthouse, Lovingston

− 7:00 – Meeting Convenes / Call to Order
− Review of meeting minutes: August 26th, 2020
− Public Hearings
  − 1. Special Use Permit #2020-06 – Office
− Other Business
  − Review of Solar Ordinance Draft
  − Review of Nonconforming Ordinance Draft
− Board of Supervisors Report
− Adjournment
− Next Meeting: November 18th, 2020

NOTICE: In alignment with current COVID-19 guidelines, and to guard the health and safety of all meeting attendees, social distancing and the wearing of face masks will be required in the courtroom. If you do not have a mask, one will be provided for you. Should current guidance change prior to the date of the meeting, the guidelines in place at the time will be adhered to.

If you are not able to attend the meeting due to COVID-19 precautions or restrictions, comments may be submitted (1) electronically, or (2) in writing, and will be accepted until 12:00 pm on October 28th, 2020.

(1) Electronically: ehjulstrom@nelsoncounty.org or dbishop@nelsoncounty.org
(2) In Writing: Dept. of Planning & Zoning, P.O. Box 558, Lovingston, VA 22949
NELSON COUNTY PLANNING COMMISSION
MEETING MINUTES
August 26, 2020

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

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, Lovingston.

Review of the minutes July 22nd, 2020

Ms. Proulx made a motion to approve the minutes from July 22nd. Mr. Reed seconded the motion. The motion passed with a vote of 3-0 with one abstaining.

Yes:
Mark Stapleton
Phil Proulx
Ernie Reed

Abstain:
Mike Harman

Public Hearings

Rezoning #2020-01 – R-1 to A-1

Ms. Bishop presented the following information:
To: Planning Commission  
From: Dylan M. Bishop, Director of Planning & Zoning  
Date: August 26, 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 and August 26, 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.

A public hearing was held at the Planning Commission meeting on July 22. After this hearing, additional and revised proffers were submitted by the applicants for review. Ordinance requires that a second public hearing be held before the Planning Commission, should the original submitted proffers be revised after the first public hearing.

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
Dan and Terry Tatarka are the applicants and own Wild Man Dan. She stated that they now have proffers that she hopes will address most of the concerns that came up at the last meeting. She noted that they are proffering away several things, including the use of livestock. She noted that she believes their presence in the community is a benefit. She added that because of this they asked a few people to send a letter of support.

Mr. Reed asked about the history of the building. Ms. Tatarka noted that the center of the main house is from 1870. She noted that the barn is a feed and seed store from the 1920’s and that the green cottage was the town market and had gas pumps. She explained that the house was the post office from 1886 to the 1950s. She noted that it was also Mayfair Beauty Parlor. She noted that in 1925 the house was the original location for the North Branch School and then was some business offices. She explained that she is not sure how it was zoned residential. Ms. Proulx noted that it was the second location of the North Branch School and that a school can be in residential. She added that the zoning was changed in the 70’s.

Chair Stapleton opened the public hearing at 7:09 PM
Chair Stapleton closed the public hearing at 7:09 PM

Ms. Proulx asked if the County Attorney had approved of the proffers. Ms. Bishop noted that she believed he had but would have to check. Ms. Proulx noted that she still has trouble with the zoning even with improved proffers and wonders if the new zone would fit the area. She is also concerned about how big of an impact there will be on the surrounding area if there are events. She noted that the noise would spill over onto neighbor’s houses. She asked what a vacation house is defined as. Ms. Bishop noted that it is when you rent out an entire dwelling at once and not by room. Ms. Proulx noted that her feelings are not a reflection on how the business has been run so far and that she is just worried about future negative impact.

Mr. Reed asked if they could get a Special Use Permit instead of a Rezoning. Ms. Bishop noted that a farm brewery is only allowed in the Agriculture zone so it would have to be rezoned. Ms. Proulx noted that she would like to make sure that the County Attorney found the all the proffers to be acceptable.

Mr. Harman made a motion to recommend approval of Rezoning 2020-01 from R-1 to A-1 to the Board of Supervisors on the condition of the County Attorney’s approval of all submitted proffers. Mr. Reed seconded the motion. The motion passed with a vote of 3-1.

Yes:
Mark Stapleton
Ernie Reed
Mike Harman

No:
Phil Proulx
Ms. Bishop presented the following information:
To: Planning Commission

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

Date: August 26, 2020

Re: SUP #2020-04 – Extended Stay Campground – 6787 Taylor Creek Rd.

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

Public Hearings Scheduled: P/C – August 26, 2020; Board – September 8, 2020 (tentative)

Location / Election District: 6787 Taylor Creek Road / North District

Tax Map Number(s) / Total acreage: 13-A-77 / 16.4 acre parcel

Applicant Contact Information: Jacqueline M. Whalen, 7056 Taylor Creek Road, Afton, VA 22920, 434-882-2456

Comments: This property is zoned A-1 Agricultural, and currently contains one dwelling, accessory structures, and horses. According to the applicant, there was a second dwelling on the site that burned down in 2008. The applicant is requesting to utilize this site for the purpose of renting it out to transient lodgers for up to 6 months at a time. These lodgers would provide their own travel trailer and connect to existing utilities.

DISCUSSION:

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

Access and Traffic: The property is accessed by a private entrance from Taylor Creek Road. Comments from VDOT (if any) will be provided at the meeting.

Utilities: The property is currently served by private water and septic systems.

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.
Jaqueline Whalen is the applicant and has lived on Taylor Creek Rd since 1978. She owns three historic properties on Taylor Creek Rd. She noted that she had a historic house on the property that had burned down in 2008. She explained that she has been trying to provide affordable housing for essential health care workers. She noted that she bought the land when she was 27 and is now 70 and has a lot of taxes to pay on her property.

Mr. Reed noted that he drove by the property and asked about the trailer that was there. Ms. Bishop noted that this all started because she had already been renting out this location since the house burned down because Ms. Whalen thought she was grandfathered in to be able to rent out a trailer. Ms. Bishop explained that Ms. Whalen had been renting it out to a single woman and that it came to the office’s attention when the renter contacted the Planning and Zoning office to ask if her living there was permitted. She added that the renter is now squatting on Ms. Whalen’s property and that Ms. Whalen is currently in a legal battle to have her removed from the property.

Mr. Harman questioned what the term Travel Trailer included. Ms. Hjulstrom read the following definition from the Zoning ordinance:

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 existing site.

Attachments:
Application
Plat
Comments
Travel trailer: A vehicular, portable structure built on a chassis, designed as a temporary dwelling for travel, recreational, and vacation uses. The term "travel trailer" does not include mobile homes or manufactured homes.

Chair Stapleton opened the public hearing at 7:28 PM
Chair Stapleton closed the public hearing at 7:28 PM

Mr. Harman made a motion that the Planning Commission recommend approval of SUP 2020-04 to the Board of Supervisors contingent on one existing campsite only and placement as per the plat. Mr. Reed seconded. The motion passed with a vote of 4-0.

Yes:
Mark Stapleton
Phil Proulx
Mike Harman
Ernie Reed

SUP #2020-05 – Retail Store

Ms. Bishop presented the following information:
To: Planning Commission

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

Date: August 26, 2020

Re: SUP #2020-05 – Retail Store in M-1 District – 60 Davis Creek Lane

BACKGROUND: This is a request for a special use permit to allow a retail store use on property zoned M-1 Industrial.

Public Hearings Scheduled: P/C – August 26, 2020; Board – September 8, 2020 (tentative)

Location / Election District: 60 Davis Creek Lane / East District

Tax Map Number(s) / Total acreage: 45-A-33 / 0.94 +/- acre parcel

Applicant Contact Information: Kerry W. Thornton, 4295 Tye River Road, Amherst, VA 24521, 434-987-7910

Comments: This property is zoned M-1 Industrial, and contains an existing structure that is over 6,000 square feet. The applicant is requesting to utilize approximately 2,700 square feet of this structure for retail sales of items that are not manufactured on site.

DISCUSSION:

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

Access and Traffic: The property is accessed by an entrance from Davis Creek Lane. Comments from VDOT will be provided at the meeting.

Utilities: The property is currently served by existing utilities.

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.
Ms. Proulx asked if the lower parking lot was cut off from the rest of the parcel. Ms. Bishop noted that the lines on the GIS can be inaccurate and that all the parking spaces will be on the same parcel as the store.

Kerry Williams Thornton is the applicant and owner of 60 Davis Creek. She explained that she wants to use the property as a second hand and specialty item store. She explained that she bought the previous owner’s entire estate, including his metal work that she will be selling as well. She noted that the parking spaces down at the bottom are where access to Route 29 used to be but it has been blocked off. She explained that she spoke with VDOT the night before about the entrance that they will be requiring and that she is going to work with Massie Saunders to widen the entrance so that a two cars can enter and exit at the same time. She explained that the building it was a fruit packing plant in the 70’s and it had a commercial entrance at that time, but it has been downgraded since then.

Mr. Reed went by the site that morning and noted that the exit was not totally blocked off. Ms. Thornton explained that no one can get through there because there is a big ditch. Mr. Reed noted that it looked like if you had a four-wheeler you could get over it and that it needed to be clear that it is not an entrance.

Chair Stapleton opened the public hearing at 7:39 PM
Chair Stapleton closed the public hearing at 7:39 PM
Mr. Harman made a motion that the Planning Commission recommend approval of SUP #2020-05 to the Board of Supervisors. Contingent on a limit of 2700 sq ft of retail space per the drawing and on VDOT approval. Ms. Proulx seconded the motion. The motion passed with a vote of 4-0.

Yes:
Mark Stapleton
Phil Proulx
Mike Harman
Ernie Reed

Other Business

SUP #2020-02:
Ms. Bishop noted that the Kassam-Adams has withdrawn their application for SUP #2020-02.

Nonconforming Ordinance:
Ms. Bishop noted that staff is hoping to bring a draft of the nonconforming ordinance to the Planning Commission at the next meeting. The Planning Commission asked for a chance to review it before bringing it to public hearing in September or October. Ms. Bishop noted that she would send it to them.

Solar Ordinance:
Ms. Hjulstrom added that there have been a few inquiries for solar farms in the County and that staff is hoping to bring a draft of the Solar Ordinance to the Planning Commission for their review. Ms. Bishop added that staff has some smaller changes to make to the zoning ordinance and would like to start reviewing additions to the zoning ordinance biannually.

Ag in Residential:
Ms. Bishop noted that there have been several instances of residentially zoned lots that are set up for agriculture. She mentioned a specific lot on Critzer Shop Rd that is set up for horses. She noted that staff has looked at the possibility of allowing agricultural uses in residential zones with certain conditions. She added that in Amherst County that if there were no issues with odor, noise, dust, pollution, erosion, drainage, etc. then they could allow agricultural uses. She noted that staff is looking at the possibility of doing that here with the added condition of having a minimum of two acres. Ms. Proulx noted that she liked the idea but
wondered if having a minimum of five acres might be more appropriate. Mr. Harman added that five acres sounds more reasonable than two.

**Comprehensive Plan:**

Mr. Stapleton noted that he knows there is no budget for the foreseeable future to review the Comprehensive Plan but that he would like to meet to discuss potential targets. Ms. Proulx noted that you do not need to update the whole plan at one time and that the 151 Plan/Rockfish Valley Area Plan still has not been resolved. Ms. Proulx asked if they could go back to the Planning Commission’s last version to review. Mr. Reed noted that he had been sent an editing copy that Ms. Shackelford had been working on and that it still needs quite a bit of work. Mr. Stapleton noted that he will work with Ms. Bishop to see if they can get something to bring to the Planning Commission.

**Board of Supervisors Report:**

Mr. Reed noted that the Board of Supervisors approved all three public hearings unanimously that the Planning Commission recommended to them last month. He added that the BOS has approved most of its CARES act funding and that a large portion of it is going to CVEC and providing internet to 7/8ths of the county at the first of the year. He added that a good amount of money went to the schools to provide computers and hot spots. He noted that there is still about $100,000 for them to allocate by the end of the year. Ms. Proulx noted that in the North district there are a lot of people on AEP that will not be able to get access to that. Mr. Reed added that supposedly there is an agreement between AEP and CVEC to provide that.

**Adjournment:**

Ms. Proulx made a motion to adjourn the meeting at 7:53 pm. Mr. Reed seconded the motion. The motion was passed with a vote of 4-0.

**Yes:**  
Mark Stapleton  
Phil Proulx  
Mike Harman  
Ernie Reed

Respectfully submitted,
Draft: 8/26/2020

Emily Hjulstrom
Secretary, Planning & Zoning
BACKGROUND: This is a request for a special use permit to allow an office use on property zoned A-1 Agricultural (Section 4-1-28a).


Location / Election District: 910 Beech Grove Road / Central District

Tax Map Number(s) / Total acreage: 20-2-3B / 1.85 +/- acre parcel

Applicant Contact Information: Geoffrey Truslow, 434-256-0502, geoff@mountainlifeofva.com

Owner Contact Information: Kathy Miller, 1280 Walker Mountain Road, Tye River, VA 22922, 434-981-1989, kjfoxmiller@gmail.com

Comments: This property received a special use permit for an antique shop in 2001. It has since seen several commercial uses, most recently as a salon. When the new tenant applied for a sign permit for the office operation (Mountain Life of VA), it was determined that the new use would require a new special use permit. Antique shops (4-1-2a) and offices (4-1-28a) are both special uses in the A-1 District. The original SUP for the antique shop became void when the use ceased for longer than two years.

DISCUSSION:

Land Use / Floodplain: This area is agricultural and residential in nature, with some commercial. 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 Beech Grove Road. VDOT comments (if any) will be provided at the meeting.
Utilities: The property is served by existing private water and septic systems. Health Department comments (if any) will be provided at the meeting.

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
TO THE ZONING ADMINISTRATOR:  

1. The undersigned hereby petitions the Planning Commission and/or Board of Supervisors for approval of the following (check appropriate box):

☐ Special Use Permit
☐ Rezoning from _____ to _____
☐ Conditional Rezoning from _____ to _____
☐ Other:

Reason(s) for request:
To operate as an Administrative office for an Administration & Services company to homeowners’ associations at Wintergreen.

3 Employees

Company Name: Mountain Life of VA

(Please use reverse or attach additional sheet if more space is needed.)

2. Applicant(s) and Property Owner(s):
(Please provide names of applicants and property owners and indicate applicable title; if applicant is not the property owner, please show relationship, i.e. lessee, contract purchaser, etc.)

☐ Applicant  ☐ Property Owner  Name: Geoffrey H. Truslow

Business
Mailing Address: 910 Beech Grove Rd, Roseland, VA 22968

Telephone #: 434-256-0582 Email Address: geoff@mountainlifeofva.com

Relationship (if applicable):

☐ Applicant  ☐ Property Owner  Name: Kathy Miller

Mailing Address: Kathy MPH 1230 Walker Mountain Road, Tywere VA 22982

Telephone #: 434-981-1989 Email Address: kjfoxmiller@gmail.com

Relationship (if applicable): owner/landlord
3. Location and Characteristics of Subject Property:

a. Address of Property (specific location, route numbers, street names, voting district, etc.):
910 Beech Grove Road, Roseland, VA 22967

b. Official tax map number:

c. Acreage of property: 1.8500

d. Present use: Was Previously Beech Grove Salon - May 2020

e. Present zoning classification: A-1

f. Zoning classification of surrounding properties:

4. Affidavit: The undersigned applicant(s) and/or property owner(s) certifies that this application and the foregoing answers, statements, and other information herewith submitted are, in all respects, true and correct to the best of their knowledge and belief. Also, the applicant(s) and/or property owner(s) gives permission for members of the Planning Commission, Board of Supervisors, and County Staff to visit and view the subject property.

Signature: __________________________ Printed Name:
Signature: __________________________ Printed Name:

(Please attach additional sheet if more space is needed for applicant(s) / property owner(s) signatures.)

5. Additional information: (Please attach separate sheet for additional details, explanations, etc.)

6. Please note: In the event of cancellation or postponement at your request after the initial newspaper advertisement for this application, an additional fee will apply for re-advertisement (determined by the actual cost of the ad). This fee will not apply in cases of Planning Commission or Board of Supervisors deferment.

TO BE COMPLETED BY PLANNING & ZONING STAFF

Pursuant to Article _____, Section _______ of the Nelson County Zoning Ordinance.
Pursuant to Section _____, Subsection _______ of the Nelson County Subdivision Ordinance.

- [ ] Completed application and fee ($___________) received on ____________
- [ ] Hearing Notice published on ____________
- [ ] Planning Commission action: Date of Meeting / Hearing: ____________
  Recommendation: ____________
- [ ] Board of Supervisors action: Date of Hearing: ____________ Date of Decision: ____________
  Action: ____________

Nelson County Planning & Zoning Department

(Mailing Address) P.O. Box 558, Lovingston, Virginia 22949  |  (Physical Address) 80 Front Street, Lovingston, Virginia 22949
(Telephone Number) 434 263-7090 or Toll Free 888 662-9400, selections 4 & 1  |  (Fax Number) 434 263-7086
http://www.nelsoncounty-va.gov/departments/planning-zoning/
3. Location and Characteristics of Subject Property:

a. Address of Property (specific location, route numbers, street names, voting district, etc.):
   910 Breach Grove Road, Roseland, VA 22967

b. Official tax map number: 

c. Acreage of property: 1.8500

d. Present use: Was Previously Breach Grove Salon - May 2020

e. Present zoning classification: A-1

f. Zoning classification of surrounding properties:

4. Affidavit: The undersigned applicant(s) and/or property owner(s) certifies that this application and the foregoing answers, statements, and other information herewith submitted are, in all respects, true and correct to the best of their knowledge and belief. Also, the applicant(s) and/or property owner(s) gives permission for members of the Planning Commission, Board of Supervisors, and County Staff to visit and view the subject property.

Signature: ___________________________ Printed Name: ___________________________
Signature: ___________________________ Printed Name: ___________________________

(Please attach additional sheet if more space is needed for applicant(s) / property owner(s) signatures.)

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   TO BE COMPLETED BY PLANNING & ZONING STAFF

Pursuant to Article _________, Section ______________ of the Nelson County Zoning Ordinance.
Pursuant to Section ______________, Subsection ______________ of the Nelson County Subdivision Ordinance.

- Completed application and fee ($) _________ received on __________________________________________________________________________
- Hearing Notice published on __________________________________________________________________________
- Planning Commission action: Date of Meeting / Hearing: __________________________________________________________________________
  Recommendation: __________________________________________________________________________
- Board of Supervisors action: Date of Hearing: ___________ Date of Decision: ___________
  Action: __________________________________________________________________________

Nelson County Planning & Zoning Department

(Mailing Address) P.O. Box 558, Lovingston, Virginia 22949 | (Physical Address) 80 Front Street, Lovingston, Virginia 22949
(Telephone Number) 434 263-7090 or Toll Free 888 662-9400, selections 4 & 1 | (Fax Number) 434 263-7086
http://www.nelsoncounty-va.gov/departments/planning-zoning
# 910 Beech Grove Rd

## Parcel Information
- **Parcel No.**: 2023B  
- **Address**: 910 Beech Grove Rd  
- **Class**: 2  
- **Class Description**: 2-single family suburb  
- **Magisterial District**: 03  
- **Deed Book and Page**: N/A  
- **City**: Roseland  
- **LRS No.**: 7939  
- **Total Acres**: 1.8500  
- **Description 1**: QUICK  
- **Description 2**: 000003663  
- **Description 3**: N/A

## Valuation
- **Fiscal Year (January 1 - December 31)**  
  - **Land**: $46,600  
  - **Improvements**: $78,000  
  - **Total**: $124,600

## Ownership
- **Current Owner**  
  - **Owner Name**: Miller Jack A & Kathleen  
  - **Mailing Address**: 1280 Walker Mountain Rd  
  - **State**: VA  
  - **Owner Name 2**: N/A  
  - **City**: Tyre River  
  - **Zip**: 22922

## Site Description
- **Water**: N/A  
- **Gas**: N/A  
- **Easement**: Paved  
- **Characteristic**: N/A  
- **Sewer**: N/A  
- **Electric**: Y  
- **Topography**: Level  
- **Sidewalk**: N/A
## Dwelling Information Exterior

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## Dwelling Information Interior

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<td>Basement Finished:</td>
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<tr>
<td>Lower Finished:</td>
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<tr>
<td>Bedrooms:</td>
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<td>Half Baths:</td>
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<tr>
<td>Floor Finish:</td>
<td>Carpet</td>
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<tr>
<td>Central Air:</td>
<td>Y</td>
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<td>Attic Finished:</td>
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<tr>
<td>Basement:</td>
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<tr>
<td>Lower:</td>
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</table>

## Prior Record of Ownership

**Previous Owner**

- **Sale Date:** 11/27/2000
- **Grantor:** HALL PETER R & CYNTHIA M
- **Sale Price:** $67,500
- **Deed Reference:** 3883

**Previous Owner 2**

- **Sale Date:** 01/01/1900
- **Grantor:** JOANNE GRAZIANO
- **Sale Price:** $60,000
- **Deed Reference:** 0

**Previous Owner 3**

- **Sale Date:** N/A
- **Grantor:** N/A
- **Sale Price:** N/A
- **Deed Reference:** N/A
Solar Ordinance

Small Solar Energy Systems – Administrative Approval
By-right in A-1, B-1, B-2, M-1, M-2
SUP in C-1

Large Solar Energy Systems – Special Use Permit
By-right in M-2
SUP in A-1, C-1, B-1, B-2

ARTICLE xx. SOLAR ENERGY ORDINANCE

xx-1 Title.
This section shall be known as the Solar Energy Ordinance of Nelson County, Virginia.

xx-2 Purpose.
It is the purpose of this ordinance to promote the safe, effective and efficient use of solar energy systems for electrical generation.

xx-3 Definitions.
Small solar energy system. An energy conversion system, operating as a principal land use, consisting of photovoltaic panels, support structures, and associated control, conversion, and transmission hardware occupying less than one acre of total land area.

Large solar energy system. An energy conversion system, operating as a principal land use, consisting of photovoltaic panels, support structures, and associated control, conversion, and transmission hardware occupying one acre or more of total land area. Also known as solar energy arrays or solar energy farms.

GENERAL

xx-9 General Provisions shall be addressed for all large solar energy systems, and for small solar energy systems as applicable.
**xx-10 Safety and Construction**

(1) Design

The applicant shall submit documentation that the design of any buildings and structures associated with or part of the solar energy project complies with applicable sections of the Virginia Uniform Statewide Building Code (USBC) (13VAC5-63). This requirement includes all electrical components of the solar energy project.

(2) Construction and installation

In the construction and installation of a large solar energy system, the owner or operator shall install all electrical wires associated with the large solar energy system underground unless the applicant can demonstrate the necessity for aboveground installations as determined by the Board of Supervisors.

(3) Noise

Solar energy systems shall comply with Chapter 8, Article II, Noise Control, of the Nelson County Code.

**xx-11 Bonding**

Prior to the issuance of a Building Permit for a solar energy system, the applicant shall:

(1) Submit to the Planning and Zoning Director an itemized cost estimate of the work to be done to completely remove the entire solar energy system plus twenty-five percent (25%) of said estimated costs as a reasonable allowance for administrative costs, inflation, and potential damage to existing roads or utilities.

(2) Submit a bond, irrevocable Letter of Credit, or other appropriate surety acceptable to the County in the amount of the estimate as approved by the Planning and Zoning Director which shall:

   (a) Secure the cost of removing the system and restoring the site to its original condition to the extent reasonably possible; and

   (b) Include a mechanism for a Cost of Living Adjustment after ten (10) and fifteen (15) years.

(3) The applicant will ensure the bond, irrevocable Letter of Credit, or other surety shall remain in full force and effect until the Planning and Zoning Department has inspected the site and
verified that the solar energy system has been removed. At which time, the Planning and Zoning Department shall promptly release the bond, irrevocable Letter of Credit, or other surety.

**xx-12 Decommissioning**

(1) Decommissioning plan

As part of the project application, the applicant shall submit a decommissioning plan, which shall include the following: (1) the anticipated life of the project; (2) the estimated decommissioning cost in current dollars; (3) how said estimate was determined; (4) the method of ensuring that funds will be available for decommissioning and restoration; (5) the method that the decommissioning cost will be kept current; and (6) the manner in which the project will be decommissioned and the site restored.

(2) Discontinuation, Abandonment, or Expiration of Project

(a) Thirty (30) days prior to such time that a solar energy system is scheduled to be abandoned or discontinued, the owner or operator shall notify the Director of Planning and Zoning by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Any solar project that has been inoperable or unutilized for a period of 12 consecutive months shall be deemed abandoned and subject to the requirements of this section.

(b) Within 365 days of the date of abandonment or discontinuation, the owner or operator shall complete the physical removal of the solar energy project and site restoration. This period may be extended at the request of the owner or operator, upon approval of the Board of Supervisors.

(c) Decommissioning of discontinued or abandoned solar energy systems shall include the following:

1. Physical removal of all solar energy equipment and above-ground appurtenant structures from the subject property including, but not limited to, buildings, machinery, equipment, cabling and connections to transmission lines, equipment shelters, security barriers, electrical components, roads, unless such roads need to remain to access buildings retrofitted for another purpose, or the landowner submits a request to the Board of Supervisors that such roads remain.

2. Below-grade structures, such as foundations, underground collection cabling, mounting beams, footers, and all other equipment installed with the system shall be completely removed: however, these structures may be allowed to remain if a written request is submitted by the landowners and a waiver is granted by the Board of Supervisors.
3. Compacted soils shall be decompacted as agreed to by the landowner.

4. Restoration of the topography of the project site to its pre-existing condition, except that any landscaping or grading may remain in the after-condition if a written request is submitted by the landowner and a waiver is granted by the Board of Supervisors.

5. Proper disposal of all solid or hazardous materials and wastes from the site in accordance with local, state, and federal solid waste disposal regulations.

(d) A zoning permit issued pursuant to this article shall expire if the solar energy system is not installed and functioning within 24 months from the date this permit is issued.

(e) The Planning and Zoning Director may issue a Notice of Abandonment to the owner of a small solar energy system that is deemed to have been abandoned. The owner shall have the right to respond to the Notice of Abandonment within 30 days from notice receipt date. The Planning and Zoning Director shall withdraw the Notice of Abandonment and notify the owner that the notice has been withdrawn if the owner provides information that demonstrates the solar energy system has not been abandoned.

**SMALL**

**xx-4 Small Solar Energy Systems**

**xx-5 Use**

A small solar energy system shall be permitted by-right in A-1, B-1, B-2, M-1, and M-2, and by Special Use Permit in C-1 in accordance with “Article 12: General Provisions,” subject to certain requirements as set forth below:

1. Setbacks. All equipment and accessory structures associated with the small solar energy system shall meet the required setbacks for primary uses of the zone that the parcel is in.

2. Ground-mounted systems shall not exceed fifteen (15) feet in height when oriented at maximum tilt.
3. Site control. The applicant shall submit documentation of the legal right to install and use the proposed system at the time of application.

4. Solar energy systems shall meet or exceed all applicable federal and state standards and regulations.

5. Signs. No signs or advertising of any type may be placed on the small solar energy system unless required by any state or federal agency.

6. The applicant shall submit documentation that the design of any buildings and structures associated with or part of the solar energy system complies with applicable sections of the Virginia Uniform Statewide Building Code (USBC) (13VAC5-63). This requirement includes all electrical components of the solar energy system.

7. Any glare generated by the system must be mitigated or directed away from an adjoining property or from any road when it creates a nuisance or safety hazard.

**xx-6 Permit Requirements**

(1) Zoning Permit:

A zoning permit approved by the Planning and Zoning Director shall be required for the installation of a small solar energy system.

(2) Documents:

The zoning permit application shall be accompanied by a minor site plan in accordance with Article 13 "Site Development Plan" and shall include the following:

(a) Property lines, physical dimensions, and acreage of the property

(b) Location, dimensions, and types of existing major structures on the property

(c) Location of the proposed solar equipment

(d) The right-of-way of any public and private road that is contiguous with or crossing the property

(e) Any overhead utility lines

(f) Solar system specifications, including manufacturer and model.

(g) Foundation blueprints or drawings

(h) Array blueprint or drawing
(i) The proposed appearance of the small solar energy system.

(3) Zoning Permit Procedure:

(a) An applicant shall submit an application to the Planning and Zoning Director for a zoning permit for a small solar energy system. The application must be on a form approved by the Planning and Zoning Director, and must be accompanied by three copies of the site plan and be signed by the owner.

(b) The Planning and Zoning Director shall issue a permit or deny the application within one month of the date on which the application is received.

(c) The Planning and Zoning Director shall issue a zoning permit for a small solar energy system if the application materials show that the proposed small solar energy system meets the requirements of this ordinance.

(d) If the application is approved, the Planning and Zoning Director will return one signed copy of the application with the permit and retain the other copy with the application and forward the third copy to the Building Official.

(e) If the application is denied, the Planning and Zoning Director will notify the applicant in writing and provide a written statement of the reasons why the application was denied. The applicant may reapply for a zoning permit if the deficiencies specified by the Planning and Zoning Director are resolved or appeal the Planning and Zoning Director’s decision to the Nelson County Board of Zoning Appeals pursuant to Appendix A, Article 14 of the Code of the County of Nelson, 1989 as amended.

LARGE

xx-7 Large Solar Energy Systems

xx-8 Use

A large solar energy system shall be permitted by a Special Use Permit in A-1, C-1, M-1, B-1, and B-2, and by-right in M-2, provided that:
The primary use of the system is electrical generation to be sold to the wholesale electricity markets and not used primarily for the onsite consumption of energy by a dwelling or commercial building.

In addition to the requirements of Article 13, “Site Development Plan,” and Article 12, “General Provisions,” applications for a large solar energy system shall include the following information:

(1). Project description

A narrative identifying the applicant and describing the proposed solar energy system, including an overview of the project and its location; approximate rated capacity of the solar energy system; the approximate number, representative types and expected footprint of solar equipment to be constructed; and a description of ancillary facilities, if applicable.

(2). Site plan.

The site plan shall conform to the preparation and submittal requirements of Article 13, “Site Development Plan,” including supplemental plans and submissions, and shall include the following information:

(a) Property lines and setback lines.

(b) Existing and proposed buildings and structures, including location(s) of the proposed solar equipment.

(c) Existing and proposed access roads, drives, turnout locations, and parking.

(d) Location of substations, electrical cabling from the solar systems to the substations, accessory equipment, buildings, and structures, including those within any applicable setbacks.

(e) Additional information may be required, as determined by the Zoning Administrator, such as a scaled elevation view and other supporting drawings, photographs of the proposed site, photo or other realistic simulations or modeling of the proposed solar energy project from potentially sensitive locations as deemed necessary by the Zoning Administrator to assess the visual impact of the project, landscaping and screening plan, coverage map, and additional information that may be necessary for a technical review of the proposal.
(f) Documentation shall include proof of control over the land or possession of the right to use the land in the manner requested. The applicant may redact sensitive financial or confidential information.

(g) The application shall include a decommissioning plan and other documents required by Section 9 of this ordinance.

**xx-8 Location, Appearance and Operation of a Project Site**

(1) Visual impacts
The applicant shall demonstrate through project siting and proposed mitigation, if necessary, that the solar project minimizes impacts on the visual character of a scenic landscape, vista, or scenic corridor.

(2) Ground-mounted systems shall not exceed fifteen (15) feet in height when oriented at maximum tilt.

(3) Signage.
Warning signage shall be placed on solar equipment to the extent appropriate. Solar equipment shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar energy project. All signs, flags, streamers or similar items, both temporary and permanent, are prohibited on solar equipment except as follows: (a) manufacturer’s or installer’s identification; (b) appropriate warning signs and placards; (c) signs that may be required by a state or federal agency; and (d) signs that provide a 24-hour emergency contact phone number.

(4) Setbacks.
All equipment, accessory structures and operations associated with a large solar energy system shall be setback at least one-hundred feet (100’) from all property lines and at least two hundred feet (200’) from any residentially zoned properties; unless the Board of Supervisors is satisfied that different setbacks are adequate to protect neighboring properties.

(a) Setbacks shall be kept free of all structures and parking lots.

(b) Setbacks shall not be required along property lines adjacent to other parcels which are part of the solar energy system; however, should properties be removed from the
system, setbacks must be installed along all property lines of those properties remaining
within the project and which are adjacent to a parcel which has been removed.

(5) Ocular impact study.
An ocular impact study shall be performed for airports within five miles of the project site, for
public roads within sight of the system, and from scenic highways and overlooks. The analysis
shall be performed using FAA Solar Glare Hazard Analysis Tool (SGHAT) to demonstrate
compliance with FAA standards for measuring ocular impact.

(6) Buffering.
A 20’ wide vegetative buffer yard for the purpose of screening shall be provided and maintained
adjacent to any residential property line or roadway. Existing vegetation can be used to satisfy
buffer requirements. The buffer location must be indicated on the site plan.
11-1-1 Intent. Any lot, use, or structure existing at the time of enactment of this Zoning Ordinance which does not conform to the provisions of this ordinance may be continued as herein provided. Such lots, uses, structures, or any combination thereof, are considered nonconformities, and are hereby declared by the Board of Supervisors to be inconsistent with the character of the districts in which they occur. The intent of this ordinance therefore is to permit these nonconformities to continue, but not to encourage their survival or permit their uses as grounds for adding other structures or uses prohibited elsewhere within the same district.

11-1-2 Nonconforming Lots. Any lot of record at the time of the adoption of this ordinance which is less in area or width than the minimum required by this ordinance, may be used when the requirements of the Zoning Ordinance regarding front, side and rear yard setbacks are met. The required area for permitted uses utilizing individual water supply or sewage disposal, or both, must be approved by the Health Department. This subsection does not preclude the request for, and consideration of, a variance.

11-1-3 Nonconforming Structures.
A. Buildings or structures which do not conform to the zoning prescribed for the district in which they are situated may be used only (i) so long as the then existing or a permitted more restricted use continues and such use is not discontinued for more than two years and (ii) so long as the buildings or structures are maintained in their then structural condition.
B. In the event that the use of a nonconforming building or structure is discontinued for more than two years, then the building or structure may be used only (i) so long as a permitted more restricted use continues and (ii) so long as the buildings or structures are maintained in their then structural condition.
C. No building or structure shall be enlarged in any way which increases or extends its nonconformity.
D. Any nonconforming building or structure which is moved for any reason shall thereafter conform to the regulations of the zoning district in which it is located after it is moved.
E. Notwithstanding any provision hereof to the contrary, if (i) the County government has issued a building permit, the building or structure was thereafter constructed in accordance with the building permit, and upon completion of construction, the County issued a certificate of occupancy or a use permit therefor, or (ii) the owner of the building or structure has paid taxes to the County for such building or structure for a period of more than the previous 15 years, then such building or structure is legal and not subject to removal solely due to such nonconformity. Such building or structure shall be nonconforming.
F. If the County has issued a permit, other than a building permit, that authorized construction of an improvement to real property and the improvement was thereafter constructed in accordance with such permit, then such improvements, if nonconforming, are not illegal. If the structure is one that requires no permit, and an authorized County
official informs the property owner that the structure will comply with the zoning ordinance, and the improvement was thereafter constructed, then the structure, if nonconforming, shall not be deemed illegal and subject to removal solely due to such nonconformity. In any proceeding when the authorized government official is deceased or is otherwise unavailable to testify, uncorroborated testimony of the oral statement of such official shall not be sufficient evidence to prove that the authorized government official made such statement.

G. The owner of any residential or commercial building damaged or destroyed by a natural disaster or other act of God may repair, rebuild, or replace such building to eliminate or reduce the nonconforming features to the extent possible, without the need to obtain a variance. If such building is damaged greater than 50 percent and cannot be repaired, rebuilt or replaced except to restore it to its original nonconforming condition, the owner shall have the right to do so. The owner shall apply for a building permit and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the Uniform Statewide Building Code and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the County’s flood plain regulations adopted as a condition of participation in the National Flood Insurance Program. Unless such building is repaired, rebuilt or replaced within two years of the date of the natural disaster or other act of God, such building shall only be repaired, rebuilt or replaced in accordance with the provisions of the County’s Zoning Ordinance. However, if the nonconforming building is in an area under a federal disaster declaration and the building has been damaged or destroyed as a direct result of conditions that gave rise to the declaration, then an additional two years are allowed for the building to be repaired, rebuilt or replaced as otherwise provided in this paragraph. For purposes of this section, “act of God” shall include any natural disaster or phenomena including a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake or fire caused by lightning or wildfire. For purposes of this section, owners of property damaged by an accidental fire have the same rights to rebuild such property as if it were damaged by an act of God.

H. An owner of real property shall be permitted to replace an existing on-site sewage system for any existing building in the same general location on the property even if a new on-site sewage system would not otherwise be permitted in that location, unless access to a public sanitary sewer is available to the property. If access to a sanitary sewer system is available, then the connection to such system shall be required. Any new on-site system shall be installed in compliance with applicable regulations of the Department of Health in effect at the time of the installation.

I. As provided in Section 15.2-2307(H), Code of Virginia, 1950, as amended, nothing in this section shall be construed to prevent the land owner or home owner from removing a valid nonconforming manufactured home from a mobile home park and replacing that home with another comparable manufactured home that meets the current HUD manufactured housing code. In such mobile home park, a single-section home may replace a single-section home and a multi-section home may replace a multi-section home. The owner of a valid nonconforming manufactured home not located in a mobile home park may replace that home with a newer manufactured home, either single- or multi-section, that meets the current HUD manufacturing housing code. Any such replacement home shall retain the valid nonconforming status of the prior home.
J. The property owner shall have the right to seek a variance in order to bring a nonconforming structure or building into compliance.

11-1-4 Nonconforming Uses. Where a lawful use of land exists at the time of enactment of the Zoning Ordinance or any amendment thereto that would not be permitted under the ordinance, such use may continue, as long as it remains otherwise lawful, subject to the following provisions:

A. Nonconforming uses shall not be expanded or enlarged in any way that increases its nonconformity.

B. In the event that such use ceases for any reason for a period of more than two years, any subsequent use shall conform in all respects to the zoning district in which the land is located.

C. No additional structures not conforming to this ordinance shall be constructed in connection with such nonconforming use.

D. If a use does not conform to the zoning prescribed for the district in which such is situated, and if (i) a business license was issued by the County for such use and (ii) the holder of such business license has operated continuously in the same location for at least 15 years and has paid all local taxes related to such use, the holder of such business license may apply for a rezoning or a special use permit without charge by the County or any agency thereof for fees associated with such filing.

E. If any nonconforming use is discontinued for a period exceeding two (2) years after the enactment of this ordinance, it shall conform to the requirements of this ordinance, except that, when a written notice of intent to continue the use after the expiration of the two-year period shall be submitted by the owner of the property before the two-year discontinuance period shall expire, which notice shall state that the use will be continued within the next two-year period, the nonconforming use may continue for an additional two (2) years. The additional two-year discontinuance period permitted by this subsection may neither be extended nor renewed.

F. Residential occupancy of a single-family dwelling is the most restrictive use when determining level of intensity.

11-1-5 Changes in district boundaries. Whenever the boundaries of a district are changed, any uses of land or any buildings or structures which become nonconforming as a result of such change shall become subject to the provisions of this article.