

Department of Planning & Community Development



A meeting of the Franklin County Planning Commission was held on October 13, 2020 in the Board of Supervisors meeting room located in the Franklin County Government Center.

THOSE PRESENT:

Sherrie Mitchell- Snow Creek District (on phone)
Debbie Crawford- Union Hall District
David Clements- Rocky Mount District
C.W. Doss, Jr.- Blue Ridge District
David Pendleton- Blackwater District
James Colby- Gills Creek District
Angie McGhee- Boone District (on phone)

OTHERS PRESENT:

Steven Sandy- Director of Planning & Community Development
Lisa Cooper- Principal Planner
Hannah Powell- Clerk

The meeting was called to order by Vice Chair Crawford at 6:00 p.m. The next order of business was the approval of the minutes from the September 8, 2020 meeting. Vice Chair Crawford asked of the Planning Commission if there were any comments or corrections to the minutes as written; there were none. Vice Chair Crawford announced the minutes would stand as written.

Vice Chair Crawford introduced the next item on the agenda and asked for the staff report.

APPLICATION for SPECIAL USE PERMIT – Application of Dennis E. Sigmon and Susan Gosnay Sigmon, Applicants and Owners, requesting a Special Use Permit with possible conditions, to allow for the short term tourist rental of a dwelling, located on an approximate 6.45 acre property. The property, currently zoned A-1, Agricultural, is located at 2020 Altice Mill Road in the Blackwater District of Franklin County and is further identified by Franklin County Real Estate Records as Tax Map/Parcel # 0440019026B. Short term tourist rental of a dwelling is a permitted use by issuance of a Special Use Permit by the Franklin County Board of Supervisors in the A-1, Agricultural zoning district and subject to the supplemental regulations found in Section 25-138 of the Franklin County Code. The property has a future land use designation of Agriculture Forestry/Rural Residential.

Mr. Sandy began by explaining that the property is currently used for residential purposes. The home has additional unused space downstairs that the owners wish to use for short term rentals. The area of the home proposed for the short term rental use is approximately 1638 square feet. The rental unit offers one (1) bedroom, one (1) bathroom, and a dinette/living room.

Mr. Sandy went on to say that the property owners have indicated that the rental unit is currently equipped with smoke alarms over each door, two (2) fire extinguishers, and two (2) exits are available from each room of the unit. The property is in a semi-private location on Altice Mill Road with only three (3) other homes nearby; the closest one approximately 195 feet away and buffered with evergreen trees. The area around the home is primarily wooded.

Mr. Sandy added that the Sigmons have been using their property for short term rentals for approximately 1-2 months. Their rental unit is still currently listed on AirBNB. The listing was discovered by the Commissioner of Revenue's office with the assistance of Host Compliance.

Mr. Sandy stated that the property is located on 6.45 acres of land located at the end of the cul-de-sac on Altice Mill Road. The property is heavily wooded except in front of the driveway. Due to the size of the lot, location of the dwelling

1255 Franklin Street, Suite 103, Rocky Mount, Virginia 24151

unit and pool, on-site parking, and abundance of tree cover this short-term rental is not expected to adversely impact surrounding properties.

Mr. Sandy continued by saying that the comprehensive plan states as an objective to promote and expand the tourism industry within Franklin county with a strategy to encourage development of infrastructure that supports tourism the lodging, restaurants, etc.

Mr. Sandy mentioned that the Building Official and Fire Marshal shall inspect the rental unit to ensure all proper building and fire codes are met prior to any additional rental of the unit. Mr. Sandy noted that the Planning Office had received numerous communication from neighbors including a petition which was included in their packets.

Mr. Sandy concluded that staff recommends that the Planning Commission consider and approve the Special Use Permit to allow for the short-term tourist rental of a dwelling with the following four (4) conditions:

1. This special use permit authorizing the short-term rental dwelling on tax parcel # 0720017905CC shall only apply to the existing dwelling on the property. No future dwelling on the property shall be used for short term rental unless this special use permit shall be revised by the Board of Supervisors after review and recommendation of the Planning Commission.
2. The owner shall always comply with the supplementary regulations for short term rentals found in Section 5.5-72 and Section 25-138 of the Franklin County Code.
3. The County Building Official and Fire Marshall shall inspect the proposed short-term rental use within 30 days of the approval of the special use permit for the short term rental. No short-term rental of the property shall be authorized until these inspections take place, and the property is found to be compliant with the applicable county building and fire codes.
4. Prior to using the property as a short-term rental use, the property owner shall provide documentation from the Virginia Department of Health and Franklin County Building Official that the home and septic system is approved for the dwelling.

Mr. Sandy offered to answer any questions. Vice Chair Crawford asked if anyone had questions for Mr. Sandy; no one did.

Vice Chair Crawford then asked to hear from the applicant.

Mr. Sigmon read a prepared a statement as follows:

Good evening, Planning Commission, neighbors and community of Rocky mount, VA. We are petitioning the planning commission this evening. Asking for a special use permit to rent short term the lower portion of our home. As we begin to look into the options & making decisions to renting our extra space in the lower level of our home. Long term conventional renting business vs short term renting, we choose to rent our extra space short term through Airbnb. We found that the rental business risk and damages associated with renters short term is much lower. Because of the platform Airbnb provides for host. This is why we choose not to rent conventional long term.

By short term renting on and off the last 3 months. We have experienced prequalified respectful couples with great previous renting reviews, our guest were clean, quiet, no property damages, we monitor our place each day, access to clean and manage our property quickly and proactive up-keep. No hassles getting our rent fee's In speaking to a couple of our closet neighbors about our Airbnb membership to rent short term. They did not notice any adverse or good changes. Only that we brought renting our space open to their attention.

There are no events, no smoking, no drugs, and no parties. No alcohol, our advertisement of the rental property does not include boating, kayaking, camping or hiking, married couples are attracted to our place that want time together over a long weekend to enjoy a peaceful and quiet setting as advertised

We offer our renter, a private furnished accommodation that includes bedroom, living room and bathroom, microwave and refrigerator kitchenette, they have access to pool in summer and can choose to walk down to the river. A large back porch with a cook grill.

Along this journey, we have learned of the helping connecting entities, associated with short term rental business.

We are willing to comply with the legalities of commissioner of revenue transit occupancy tax, planning commission advisory services, the board of directors council, fire marshal safety, building in inspector safety, septic advisory, respect our neighbors and community for a safe short-term renting experience as this is our choice of renting our un-used portion of our home.

We appreciate the community and our county officials giving us the opportunity to speak our heart in this matter, in connection to receive a special use permit to continue short term rental business.

Mr. Sigmon offered to answer any questions.

Mr. Doss asked if the Sigmons had reached out to their neighbors.

Mr. Sigmon answered that he had spoke to two of his neighbors.

Mr. Doss commented that roughly 90% of his neighbors seemed to be against this request and asked how he felt about that.

Mr. Sigmon said that he was concerned but that he felt that many of the neighbors were misinformed.

Vice Chair Crawford opened the public hearing and asked if there was anyone present that would like to speak.

Mrs. Kathy Brown stated that she was speaking for many of the residents of the neighborhood. She went on to say that they all had concerns about the request because of traffic endangering kids and pets, strangers in the area, hikers on other people's property, and the deterioration of the road.

Mrs. Tammy Chitwood reiterated that they had concerns about the children and walkers in the neighborhood. She stated there was enough traffic already.

Vice Chair Crawford then closed the public hearing and the members had discussion among themselves.

Mr. Colby read a prepared statement as follows:

I see ...

I see an applicant who is before us today because our new compliance contract identified them as a rogue activity.

I see an applicant who forgot to communicate with neighbors, to know and understand the concerns and impacts that are raised by this activity and attempt to mitigate or resolve them.

I see an intrusion of a business activity, with a potential array of customers and transactions into an established residential community including children.

I see a proposed activity - short term rental, that is not supported by our comprehensive plan. In fact, our plan is silent on short-term rentals and so cannot support. Any STR that is allowed in Franklin County must do so in the absence of plan support.

I see a major change of land use in this proposal. This is an established residential neighborhood. Short-term rental is not a residential use. A residence is one's home where he/she resides, where possessions are maintained, where one lives, one's address. When I stay at a VRBO or AirBnB, or the like, I do not consider my occupancy to be my residence. My residence is still back home. This is simply temporary lodging ... not much difference from what I could buy at a motel or hotel.

I see and hear a neighborhood united in its opposition to the intrusion for reasons I would likely share if I lived here.

I see that short-term rental here will be of substantial detriment to adjacent property and must fail on this count alone.

If this application succeeds, I foresee there will be a victim. The victim will be neighborhood security. Replace the known and the familiar with the unknown and unfamiliar. Unfamiliar automobiles and unfamiliar faces. Unsettling to say the least.

Mr. Clements made a motion to deny, stating that he found that such use will be of substantial detriment to adjacent property, that the character of the zoning district will be changed thereby, and that such use will not be in harmony with the purpose and intent of the County Code with the uses permitted by right in the zoning district, and with the public health, safety and general welfare to the community. Therefore, I move to recommend to deny the request for the Special Use Permit.

Mr. Doss seconded the motion.

The motion to deny was approved. Voting on the motion was as follows:

AYES:	Doss, Colby, McGhee, Clements, Pendleton, Mitchell
NAYES:	Crawford
ABSENT:	None
ABSTAIN:	None

The applicant and public were advised that this recommendation would go forward to the Board of Supervisors for consideration and public hearing on November 17, 2020.

Vice Chair Crawford introduced the next item on the agenda and asked for the staff report.

APPLICATION for SPECIAL USE PERMIT – Application of Daniel J. Shorts and Zoey L. Shorts, Applicants and Owners, requesting a Special Use Permit to allow for the construction of a second dwelling on an approximate 3.38 acre parcel, currently zoned RC-1, Residential Combined Subdivision District, and located at 423 Fox Chase Road in the Union Hall District of Franklin County, and further identified by Franklin County Real Estate Records as Tax Map/Parcel # 0470004200. Second single family detached dwellings for immediate family members are a permitted use under Section 25-188 by issuance of a Special Use Permit by the Franklin County Board of Supervisors in RC-1, Residential Combined Subdivision Districts. The property has a future land use designation of Low Density Residential.

Mrs. Cooper began by explaining that the Shorts are requesting a Special Use Permit to allow for the construction of a second detached single-family dwelling on this property. The second dwelling will be used for an immediate family

member. The Shorts are constructing the home for an aging parent and have no intention to rent or lease to another party. The proposed dwelling will be in proximity to the existing home on the property.

Mrs. Cooper went on to say the property is zoned RC-1 and does not allow short-term rentals of a dwelling. The proposed dwelling is a ranch style dwelling approximately 1000 square feet. The floor plan submitted shows a two-bedroom, one bath with a kitchen, living room, and mudroom.

Mrs. Cooper stated that Low Density Residential is intended to allow gross densities of one to two dwelling units per acre, served by state-maintained roads, and possible have public water and/or sewer one day. This subdivision is wooded especially along the roadway with lots surrounding the proposed parcel over 1.5 acres or more.

Mrs. Cooper said that due to the property having 3.38 acres of land, and mostly wooded, and the surrounding properties being over 1.5 acres, the comprehensive plan would support having a second dwelling for an immediate family member which would not be of substantial detriment to adjacent properties.

Mrs. Cooper concluded that staff recommends that the Planning Commission consider and approve the Special Use Permit for a "Second single family dwelling for an immediate family member" with the following three (3) conditions:

- 1) The second single family dwelling shall be used only for immediate family members as defined in the Franklin County Zoning Ordinance and the Code of Virginia.
- 2) Short term and long-term rentals will be prohibited.
- 3) A separate drainfield will be required from the Virginia Department of Health before a certificate of occupancy is obtained for the second single-family dwelling. In addition, the existing location of the drainfield for the primary dwelling shall be located before construction of the second dwelling.

Mrs. Cooper offered to answer any questions.

Vice Chair Crawford asked if anyone had questions for Mrs. Cooper; no one did. She then asked to hear from the applicant.

Mrs. Shorts said that Mrs. Cooper had covered everything well. She added that they had no intention of renting out the dwelling. She went on to say that they had spoken to their neighbors on either side of their property and received no opposition.

Vice Chair Crawford asked if anyone had questions for Mrs. Shorts; no one did. She then opened the public hearing and asked if there was anyone present that would like to speak; there was not. She closed the public hearing and the members had discussion among themselves.

Mr. Doss made a motion to approve, stating that he found that such use will not be of substantial detriment to adjacent property, that the character of the zoning district will not be changed thereby, and that such use will be in harmony with the purpose and intent of the County Code with the uses permitted by right in the zoning district, and with the public health, safety and general welfare to the community. Therefore, I move to recommend approval of the petitioner's request for a Special Use Permit for a "second single family dwelling" in accordance with Sec. 25-268 of the Zoning Ordinance, with the conditions as recommended in the staff memorandum.

Mr. Clements seconded the motion.

The motion to approve was approved.

Voting on the motion was as follows:

AYES: Doss, Colby, McGhee, Clements, Pendleton, Crawford, Mitchell

NAYES: None

ABSENT: None

ABSTAIN: None

The applicant and public were advised that this recommendation would go forward to the Board of Supervisors for consideration and public hearing on November 17, 2020.

Vice Chair Crawford announced the next item on the agenda and asked for the staff report.

APPLICATION for SPECIAL USE PERMIT - Application of David Kingery, Applicant, and Windy Gap Property Owners Association, Owners, requesting a Special Use Permit, with possible conditions, to allow for a storage yard on an approximate 28.12 acre parcel currently zoned A-1, Agricultural, and located on Windridge Parkway in the Boone District of Franklin County, and further identified by Franklin County Real Estate Records as Tax Map/Parcel # 0100000102. Storage yards are a permitted use by issuance of a Special Use Permit by the Franklin County Board of Supervisors in the A-1, Agricultural zoning district. The property has future land use designation of Conservation Areas/Steep Slopes (>25%).

Mrs. Cooper began by explaining that the requested Special Use Permit is to bring the property into conformance with the current requirements in the County Code. The property owners have been allowing boats, trailers, recreational vehicles, and personal vehicles to be stored on the property. The storage yard is fenced and gated, and each property owner has access to the storage yard. The Association has begun a process to remove the abandoned vehicles from the property.

Mrs. Cooper went on to say that it is heavily wooded and about three acres of the 28.12 acres will be used for the storage yard. This storage yard would allow residences to store boats, trailers, recreational vehicles, watercraft to be in compliance with the restrictive covenants of the subdivision concerning these types of recreational vehicles and personal vehicles.

Mrs. Cooper stated that the Association would like the ability to temporarily store automobiles that have been towed off the subdivision streets. The special use permit of this particular property would be consistent with the policies of the conservation areas/steep slopes >25% and the intent of the comprehensive plan has been met. This special use permit would not be substantial detriment to the surrounding properties or community if the property is protected with conditions as suggested by staff.

Mrs. Cooper concluded that staff recommends that the Planning Commission consider and approve the Special Use Permit for a "Storage Yard" with the following five (5) conditions:

- 1) Use of the property shall be limited to 3.0 acres of the total 28.12 acre property. Expansion will require the issuance of a new special use permit by the Board of Supervisors.
- 2) Storage on the property shall be limited to personal boats, personal watercraft, residential vehicles (RVs), and trailers and all boats/personal watercraft/trailers/recreational vehicles stored on the property are to be in operable condition, have current registration, and current inspection.

- 3) No storage shall be allowed within yards or setback areas required by the Zoning Ordinance.
- 4) Storage area shall be fenced and gated. Access shall be provided to Franklin County Public Safety. Storage area shall be screened from all properties with existing tree cover. The association will be required to maintain a 100-foot buffer of existing tree cover on all sides of the property to screen the storage area.
- 5) A minor site plan of the storage yard must be submitted to Franklin County Zoning Administrator for review and approval within sixty (60) days of approval of the special use permit.

Possible Addition:

- 6) Automobiles in operable condition and with proper license may be temporarily stored in the compound for no more than seven (7) days.

Mrs. Cooper offered to answer any questions.

Vice Chair Crawford asked if anyone had questions for Mrs. Cooper; no one did. She then asked to hear from the applicant.

Mr. David Kingery began by saying that the storage yard was meant for property owners to have a place to store their boats and campers. He went on to say that they have been cleaning out the storage yard and removing things that did not belong. He mentioned that he was under the Environmental Committee and would stay up on maintaining the storage yard.

Vice Chair Crawford asked if there were anymore questions for Mr. Kingery; there was not. She then opened the public hearing and asked if there was anyone present that would like to speak.

Mr. Tom Bragg stated that he was concerned with vehicles being removed from the storage yard and then being parked in the neighbor's yards.

There was no one else that would like to speak therefore Vice Chair Crawford closed the public hearing and the members had discussion among themselves.

Mrs. McGhee made a motion to approve, stating that she found that such use will not be of substantial detriment to adjacent property, that the character of the zoning district will not be changed thereby, and that such use will be in harmony with the purpose and intent of the County Code with the uses permitted by right in the zoning district, and with the public health, safety and general welfare to the community. Therefore, I move to recommend approval of the petitioner's request for a Special Use Permit for a "Storage Yard" in accordance with Sec. 25-179 of the Zoning Ordinance, with the conditions as recommended in the staff memorandum and with the addition of the Condition #6.

Mr. Clements seconded the motion.

The motion to approve was approved.

Voting on the motion was as follows.

AYES:	Doss, Colby, McGhee, Clements, Pendleton, Crawford, Mitchell
NAYES:	None
ABSENT:	None
ABSTAIN:	None

The applicant and public were advised that this recommendation would go forward to the Board of Supervisors for consideration and public hearing on November 17, 2020.

Vice Chair Crawford introduced the next item on the agenda and asked for the staff report.

APPLICATION for REZONE – Application of Timothy Reith, Applicant, and Timothy Reith, Allen Mullins, Steve Williamson, L.T McGhee, Donald Mullendore, Michael Hoots, David Arrington, Tom Staab, and Bank of Botetourt, Owners, requesting to amend proffer #6 of an existing rezone granted by the Franklin County Board of Supervisors on November 15, 2005. The properties are currently zoned PCD, Planned Commercial Development District, with proffered conditions and conceptual plan, and located along Booker T. Washington Highway in the Gills Creek District of Franklin County, and further identified by Franklin County Real Estate Records as Tax Map/Parcel #s 0151202600, 0151600400, 0151600300, 0151202800, 0151202200, 0151600200, 0151201601, 0151200100, 0151200200, 0151200300, 0151200400. The property is located in the Westlake Hales Ford Designated Growth Area with a future land use designation of Commercial Mixed Use and Civic & Open Spaces. The purpose of the proffer amendment is to reduce the overall height of the required berm along Route 122 from the +/- 10 feet to +/- 2 feet.

Mr. Sandy began by saying that many of the landowners who are making this request bought various properties when the property was divided and sold at auction in 2015 as a result of the bankruptcy of the original developer. The request involves reducing or eliminating a required earthen berm along Route 122. This berm was a condition of the approval of the development in 2005. This condition is #6 and reads as follows:

“ 6. The applicant shall install a 20’ wide and +/- 10’ high landscape berm outside of the proposed future right of way along Virginia State Route 122. Said berm to be of varying heights depending upon the existing topography and shall include planted trees along the top of the berm. Trees shall be a mixture of hardwoods and evergreens planted at a maximum separation distance of 25’ within a minimum height of 6’ at time of planting.”

Mr. Sandy added that the berm was installed and trees planted nearly 15 years ago. Current owners feel this is a detriment to their property and want to remove/modify it. Staff believes that the landscape berm, trees, and fencing were intended to control the viewshed along Route 122 in this area and discourage strip development. Staff believes that changes to this condition could be made to allow greater visibility to businesses while also maintaining the original intent.

Mr. Sandy went on to say that staff believes there should still be some form of landscaping and/or buffer along the frontage of Route 122. Rather than completely eliminating all the berm and trees, staff believes that it may be possible to reduce the height of the berm in areas, thin out trees and replace with lower shrubs as an example. Staff also believes it is important that a business owner or Commercial POA be established to maintain the berm and landscaped areas.

Mr. Sandy stated that the applicant, Mr. Reith, has indicated his willingness to work with a landscape architect to develop a plan for the Route 122 frontage if the berm is removed or reduced. Based on renderings depicting desired features for the frontage, a modified condition #6 can be developed for consideration by the Planning Commission and Board of Supervisors.

Mr. Sandy concluded that staff recommends that the Planning Commission consider tabling this request until additional information can be provided on maintenance of the remaining landscape berm, establishment of a commercial property owners association and approved language for a revised proffered condition relating to the berm.

Mr. Sandy offered to answer any questions.

Vice Chair Crawford asked if anyone had any questions for Mr. Sandy; no one did. She then asked to hear from the applicant.

Mr. Tim Reith stated that the berm is unsafe and unsightly and difficult to maintain. He added that property owners have lost sales because of the berm. Mr. Reith offered to answer any questions.

Vice Chair Crawford asked if anyone had any questions for Mr. Reith; No one did. She then opened the public hearing and asked if there was anyone present that would like to speak.

Mr. L.T. McGhee stated that his property is invisible behind the berm and that it is impossible to mow and maintain. He said he is in favor of removing the berm.

Mr. Tim Bird said that Lakewatch was a wonderful idea but that times have changed. Since it is no longer a contained community the berm is a detriment and a eyesore. He said he is in favor of removing the berm.

With no one else present to speak, Vice Chair Crawford closed the public hearing and discussion between the members ensued.

Mr. Colby made a motion to delay action, stating that he found that that the required information for the submitted petition is incomplete. I would like to see additional information presented on maintenance and the development of a Commercial Property Owners Association (POA). Therefore, I move to delay action until all necessary materials are submitted to the Planning Commission.

Mr. Pendleton seconded the motion.

The motion to delay action was approved.

Voting on the motion was as follows:

AYES:	Pendleton, Doss, Colby, McGhee, Clements, Crawford, Mitchell
NAYES:	None
ABSENT:	None
ABSTAIN:	None

Mr. Sandy mentioned that it would be the intention to bring this matter back to the Commission on November 10th for a recommendation that would go to the Board on November 17, 2020.

Vice Chair Crawford introduced the next item on the agenda as citizen comment and asked if there was anyone present that would like to speak on any topic.

Brenda McManaway commented that rental units are needed in Franklin County and that duplexes should be allowed in A-1 zoning districts.

Vice Chair Crawford announced the next item as a work session on amending the Zoning Ordinance to allow duplexes by special use permit in A-1 zoning districts.

Mr. Sandy and the Planning Commissioners discussed the possible amendments as well as how duplexes are managed in other jurisdictions in Virginia.

Mr. Doss made a motion to recommend to the Board of Supervisors that a public hearing be scheduled for November 10, 2020 and December 22, 2020, to amend Section 25-179 of the Franklin County Code by adding

Duplexes as a permitted use in A-1, Agricultural zoning districts, by issuance of a Special Use Permit by the Board of Supervisors. A minimum lot size of one (1) acre shall be required as found in Section 25-180 *Minimum lot size* and Section 25-188 *Special Requirements* of the County Code. Duplexes shall continue to be allowed in the non-zoned areas of the County, and in Residential Multifamily Districts (RMF) and Residential Planned Unit Development Districts (RPD) as a permitted use. Duplexes shall not be allowed in any other areas of the County as a permitted use or with a Special Use Permit.

Mr. Clements seconded the motion.

The motion to schedule a public hearing was approved.

Voting on the motion was as follows:

AYES:	Doss, Colby, McGhee, Clements, Pendleton, Crawford, Mitchell
NAYES:	None
ABSENT:	None
ABSTAIN:	None

With no other business, the meeting was adjourned at 8:28 p.m.

Hannah L. Powell, Clerk
Franklin County Planning Commission

October 29, 2020
Date