



ALBEMARLE COUNTY PLANNING
STAFF REPORT SUMMARY

Project Name: SP201700020 Restore'n Station	Staff: William D. Fritz, AICP
Planning Commission Public Hearing: December 5, 2017	Board of Supervisors Hearing: TBD
Owner(s): Jeffries II, LLC	Applicant(s): Jeffries II, LLC
Acreage: 4.06 acres	By-right use: HC, Highway Commercial
TMP: Tax Map 055B0000000100 Location: 6115 Rockfish Gap Turnpike (U.S. Route 250). This property is on the south side of Rockfish Gap Turnpike (U.S. Route 250) approximately 0.75 mile east of I-64 and 0.3 miles west of Western Albemarle High School.	Special Use Permit for: Uses permitted by right, not served by public water, involving water consumption exceeding four hundred (400) gallons per site acre per day. (18-24.2.2(13)) Amendment of SP 2009-34
Magisterial District: White Hall	Proffers/Conditions: Yes
Requested # of Dwelling Units/Lots: Not applicable	DA - RA - X
Proposal: Amendment of previous special use permit conditions to allow expanded business hours and fuel sales.	Comp. Plan Designation: Rural Area 3-preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/density (0.5 unit/acre in development lots).
Character of Property: The property is developed with a convenience store/office and has fueling stations.	Use of Surrounding Properties: Single Family residential to the south. Commercial development is located to the east and west of the site. A convenience store/market is located immediately to the north of the site. Other land to the north is either open area, agricultural or residential.
Factors Favorable: 1. There is no change in permitted water use. 2. The application is consistent with the criteria for the issuance of a special use permit.	Factors Unfavorable: 1. If the Board of Supervisors disagrees with the staff interpretation of the meaning and intent of the Comprehensive Plan, this application may be considered inconsistent with the Comprehensive Plan.
Recommendation: Staff recommends approval with conditions.	

STAFF CONTACT: William D. Fritz, AICP
PLANNING COMMISSION: December 5, 2017
BOARD OF SUPERVISORS: TBD

PETITION:

PROJECT: SP201700020 Restore'n Station

MAGISTERIAL DISTRICT: White Hall

TAX MAP/PARCEL: 055B0000000100

LOCATION: 6115 Rockfish Gap Turnpike (Attachment A)

PROPOSAL: Use of more than 400 gallons of groundwater per site-acre per day.

PETITION: Section 24.2.2(13) Uses permitted by right, not served by public water, involving water consumption exceeding four hundred (400) gallons per site acre per day. Uses permitted by right, not served by public sewer, involving anticipated discharge of sewage other than domestic wastes.

OVERLAY DISTRICT: Entrance Corridor (EC);

PROFFERS: No

COMPREHENSIVE PLAN: Rural Area in Rural Area 3

CHARACTER OF THE AREA:

The property is adjacent to and on the south side of Rockfish Gap Turnpike (U.S. Route 250). The property is developed with a convenience store/office and has fueling stations. The area to the south is zoned RA, Rural Areas and has several single family residences. Commercial development is located to the east and west of the site. A convenience store/market is located immediately to the north of the site. Other land to the north is either open area, agricultural or residential. (Attachments B)

PLANNING AND ZONING HISTORY:

This property, and others in the immediate area are within the Rural Area as designated by the Comprehensive Plan. However, this property and other nearby properties, were rezoned to HC, Highway Commercial in 1980 as part of the comprehensive rezoning of the County. (Attachment C) The County has not initiated a rezoning since 1980 to rezone any properties that are outside of the Development Areas but are zoned with "urban" zoning designations.

A special use permit was issued by the Board of Supervisors for this property on November 3, 2010. That special use permit, SP 2009-34, authorized the use of 1,625 gallons of water per day which is more than the 400 gallons of water per acre per day use permitted by-right. The by-right permitted water use is 1,624 gallons of water per day. The conditions of the special use permit limited water use, building size and other activities on site. Following the approval of the special use permit an initial site plan (SDP2008-154) and a final site plan (SDP2011-43) were approved.

A special use permit amendment request was submitted in 2015 (SP 2015-32). That request proposed to amend the previous special use permit conditions to allow the construction of additional building space, allow expanded business hours and fuel sales and allow overnight parking. The Board of Supervisors denied SP 2015-32 on October 12, 2016. (Attachment D)

DETAILS OF THE PROPOSAL:

Section 18-24.2.2(13) requires uses in the HC Highway Commercial zoning district that are not served by public water to obtain a special use permit if it uses more than 400 gallons of water per site per day.

This proposal does not propose to increase the permitted amount of water that may be used. No changes in impervious cover or building size is proposed.

The proposal does include requests to:

- Change the permitted hours of operation for the store from 16 hours a day to 20 hours a day. Operation would not be permitted between 12:30 a.m and 4:30 a.m.
- Change the permitted hours of fuel sales from 16 hours a day to 24 hours a day.
- Increase the number of pump stations from seven (7) to nine (9). This would increase the number of pump stations for gasoline, or equivalent fuel from four (4) to six (6). No increase or change in on-road diesel, off-road diesel or kerosene fueling stations is proposed.

As required by the Ordinance a community meeting was held on November 15, 2017 at the Crozet Community Advisory Committee's regular meeting where the applicant made a presentation for the request. The Committee adopted a resolution to not support any changes to the conditions. The applicant also held a community meeting at a regular meeting of the Crozet Community Association on November 9, 2017.

ANALYSIS OF THE SPECIAL USE PERMIT REQUEST

The issue of increased water use is not before the Board. The decision to authorize the use of up to 1,625 gallons per day has been made. If this permit is denied the applicant will still have the right to consume that much water. The applicant is not proposing to increase the amount of water that may be used.

The appropriateness of the HC zoning designation on the property is not under consideration. The property was rezoned in 1980 and no action has been taken to amend or modify the zoning of the property.

The issue before the Board of Supervisors is the amendment of the previously approved conditions that limited activity on this site to ensure that water consumption did not exceed 1,625 gallons per day. The review is limited to the impact on water resources of expanded hours of operation and an increase in the types of fueling stations. The permit is evaluated under reasonable standards, based on zoning principles which includes the proposal's compliance with the Comprehensive Plan. Any impacts caused by the proposal may be addressed through conditions and those conditions must be reasonably related to the impacts and be roughly proportional to the impacts.

The applicant has submitted information in support of this request (Attachment E). This information includes water meter readings dating back to September 2015. The meter readings are weekly readings from September 2015 to September 2017. These readings show that the average daily use peaked at 383 gallons per day. The applicant has also submitted daily water meter readings starting in July 2017 and going until September 2017. This daily information shows a peak use of 289 gallons per day. The weekly readings do not indicate the maximum amount of water used in any 24 hour period. However, the daily readings provide supporting information that using a daily average is a fairly reliable method of determining water use.

Based on this information the peak water use, 383 gallons/day represents 24% of permitted water consumption.

The proposed change to the hours of operation for the store will likely change water consumption. The increase in hours represents a potential increase in operating time of 17%. Assuming that water consumption increases by 17% also, the daily limit on water consumption would remain below the permitted level. Anticipated maximum daily water consumption would be approximately 450 gallons per day or 28% of permitted consumption. (The proposed change to the hours of operation for fuel sales will not change water consumption. Customers purchasing fuel after the store has closed will not have access to water.)

Section 33.8 of the Zoning Ordinance states that the Planning Commission and Board of Supervisors shall reasonably consider the following factors when reviewing and acting upon an application for a special use permit:

No substantial detriment. The proposed special use will not be a substantial detriment to adjacent lots.

The applicant submitted a Tier III groundwater study with the original special use permit for this property, SP 2009-34. That study indicated that the proposed water withdrawal and impervious coverage for the site would not result in a substantial detriment to adjacent property. The groundwater study was included in the analysis of the special use permit that was approved. The application under review does not propose to increase permitted water use or change the impervious coverage on the site.

Staff has analyzed this request to determine if a change in the hours of operation and change in fueling stations will result in water consumption that exceeds the permitted levels. As discussed above, water use is not anticipated to approach or exceed the permitted level.

Therefore, based on the approval of the original special use permit and that changes in conditions will not result in water consumption in excess of the levels permitted, it is staff's opinion that there would be no substantial detriment to adjacent properties.

Character of district unchanged. The character of the district will not be changed by the proposed special use.

This property has been zoned HC, Highway Commercial since 1980. Attachment C shows the zoning of nearby property. Attachment B is an aerial view of the immediate area. Property immediately to the north, east and west of this property is developed with commercial activities. (Pro Re Nata Brewery is a Farm Brewery operating on land zoned, RA, Rural Areas. However, its appearance is of a commercial activity not a traditional agricultural or farm operation.) Other properties along the south side of Rockfish Gap Turnpike are also developed commercially. Property immediately to the south is developed with low density residential on land zoned RA, Rural Areas. Other property to the north is undeveloped and is a portion of the Old Trail Golf Course.

There is no request to increase the amount of water consumption authorized with SP 2009-34 or to change building size or impervious coverage. The analysis of impact on the change in the character of the district was made during the review and ultimate approval of SP 2009-34 and as no change is proposed in water consumption, the previous determination that the water use does not change the character of the district remains valid.

Harmony. The proposed special use will be in harmony with the purpose and intent of this chapter.

The purpose and intent of the Zoning Ordinance is contained in Section 1.4 (Attachment F). The provisions of the ordinance are intended to further the purpose and intent of the ordinance. The requirement for a special use permit for water consumption in excess of 400 gallons per site acre per day is an example of how the ordinance addresses the stated purpose:

1.4.10 To include reasonable provisions, not inconsistent with the applicable state water quality standards to protect surface water and groundwater defined in section 62.1-44.85(8) of the Code

of Virginia; and

By granting SP 2009-34 and authorizing the use of 400.25 gallons/acre/day the County has already determined that water use in excess of 400 gallons per site acre per day is appropriate for the site.

During the review of this application staff has received comments from the public which may be generalized as a comment that the development is not appropriate due to its proximity to residential development and because it is not located within the development area. Staff agrees that designating this property for commercial activity is not consistent with the adjacent residential area or the Comprehensive Plan. However, this property has been zoned for commercial use. The sole issue for this special use permit is water consumption, and the application does not propose to increase the amount of water use above that authorized by SP 2009-34. Because no change in permitted water consumption is proposed, and water consumption is not likely to exceed permitted levels, staff recommendation is that this amendment is in harmony with the prior approval and therefore in harmony with the purpose and intent of the Zoning Ordinance.

...with the uses permitted by right in the district

The intent of the HC, Highway Commercial zoning district is stated in Section 24.1 of the Zoning Ordinance:

HC districts are hereby created and may hereafter be established by amendment to the zoning map to permit development of commercial establishments, other than shopping centers, primarily oriented to highway locations rather than to central business concentrations. It is intended that HC districts be established on major highways within the urban area and communities in the comprehensive plan. It is further intended that this district shall be for the purpose of limiting sprawling strip commercial development by providing sites with adequate frontage and depth to permit controlled access to public streets.

The designation of this property as HC, Highway Commercial is not consistent with the locational intent of the district (established within "the urban area and communities" in the comprehensive plan). However, the decision to zone this property HC, Highway Commercial was made in 1980 and no action has been taken by the County to amend the zoning. The proposed use of the property for commercial activity on a major highway is consistent with the intent of the zoning district. Access to the property is limited by previous actions and the access management requirements of VDOT. As part of controlling access, an easement exists on this property that would allow other property to use the entrance to this site instead of constructing a new entrance on Rockfish Gap Turnpike.

The zoning designation of this property is not currently under review and should not be a factor in analyzing this special use permit request which is solely to amend the conditions associated with a previous approval for water consumption in excess of the by-right amount. Water consumption in the HC, Highway Commercial district can be very high and the amount of water proposed to be consumed is consistent with what would be expected in the HC, Highway Commercial District.

This development proposal, with the condition limiting total water consumption, is consistent with the uses in the HC, Highway Commercial district.

...with the regulations provided in section 5 as applicable,

Section 5.0 contains no additional regulations regarding water usage.

...and with the public health, safety and general welfare.

The previous approval of SP 2009-34, with conditions, is a finding that the proposed use of up to 1,625 gallons per day is consistent with the public health, safety and general welfare. The conditions are intended to address water consumption, impact to groundwater resources and prevent the water consumption limit from being exceeded.

The proposed changes to the number of pump stations is unlikely to change water consumption to any significant degree. It does not increase the number of vehicles that can be served at any one time. However, the increased range of fuel options may increase the total number of customers resulting in some increased water consumption.

Two of the three proposed amendments have no or minimal impact on water consumption. The increase in store hours does have the potential to increase water consumption. However, based on water use information provided by the applicant, total consumption will remain below permitted levels. Conditions requiring metering and the use of a flow restrictor valve remain in place. These conditions limit and allow monitoring of water use to prevent water being consumed in excess of permitted levels.

Based on the analysis of the available information and the characteristics of the area, and conditions requiring monitoring and physically limiting the amount of water that can be used, it is staff's opinion that the increase in water consumption is not inconsistent with the public, health, safety and general welfare.

Consistency with the Comprehensive Plan. The use will be consistent with the Comprehensive Plan.

Staff has compiled some of the most relevant provisions of Comprehensive Plan in Attachment G. The zoning of this property HC, Highway Commercial, is inconsistent with the Comprehensive Plan land use recommendation which directs development into the development areas. However, as has been previously stated, the decision to zone this property HC, Highway Commercial has been made and the County has never initiated any action to change the zoning designation.

The use was analyzed for consistency with the Comprehensive Plan. The use, as specified in the Zoning Ordinance is the consumption of more than 400 gallons of water per acre per day. The applicant is not proposing any increased water consumption above that permitted by the conditions of SP 2009-34. Based on no new use being proposed, the application may be considered to be consistent with the Comprehensive Plan.

It is important to remember that this application is an amendment to an existing approval. If there were no prior approvals on this site this application would clearly be inconsistent with the Comprehensive Plan because the approval of water consumption would be for uses not consistent with the Comprehensive Plan's Rural Area designation of the site. However, there is a prior approval and staff's recommendation is that this factor limits the scope of the review. Because the changes to the conditions do not alter the level of water use allowed on site staff cannot find that approval of this application would be inconsistent with the Comprehensive Plan

SUMMARY:

Staff has identified factors which are favorable and unfavorable to this proposal:

Factors favorable to this request include:

1. There is no change in permitted water use.

2. The application is consistent with the criteria for the issuance of a special use permit.

Factors unfavorable to this request include:

1. If the Board of Supervisors disagrees with the staff interpretation of the meaning and intent of the Comprehensive Plan, this application may be considered inconsistent with the Comprehensive Plan.

RECOMMENDED ACTION:

Based on the findings contained in this staff report, and with the conditions proposed below staff recommends approval of Special Use Permit SP 2017-20 Restore'n Station: (These conditions include the prior conditions of SP 2009-34 with edits to indicate changes.)

1. The applicant shall install and maintain a meter on the well head to monitor water consumption. Prior to installation, the model of the meter shall be subject to approval by the Zoning Administrator in conjunction with the County Engineer. Results of daily water consumption shall be made available within forty-eight (48) hours of a request from the Zoning Administrator;
2. Water consumption from all wells on site shall not exceed one thousand six hundred twenty -five (1,625) gallons per day in the aggregate;
3. The applicant shall install and maintain a tamper-proof, flow restriction device limiting water flow to not more than one thousand six hundred twenty-five (1,625) gallons per day. Prior to installation, the model of the flow restriction device shall be subject to approval by the Zoning Administrator in conjunction with the County Engineer;
4. The total building footprint square footage shall not exceed three thousand (3,000) square feet;
5. The hours of business operation shall not exceed sixteen (16) hours per day; The convenience store shall not operate between 12:30 AM and 4:30 AM except the fuel pumps may remain operational;
6. There shall be not more than ~~seven (7)~~ nine (9) pump stations and ~~twelve (12) nozzle dispensers, with not more than eight (8) nozzles for four (4)~~ with six (6) pump stations for gasoline (or equivalent fuel), ~~with not more than two (2) nozzles for one (1) pump station for diesel fuel (or equivalent fuel), with not more than one (1) nozzle for one (1) pump station for off -road diesel fuel, and with not more than one (1) nozzle for one (1) pump station for kerosene fuel~~
7. If rainwater is collected from roof tops of the pump station canopies or the building, it shall be stored in a lined underground storage tank and utilized for on-site landscaping purposes only;
8. Overnight customer parking on -site shall not be permitted between the hours of 12:30 a.m. and 4:30 a.m. The applicant shall post signs indicating no such overnight parking in such places designated by the Site Plan Agent as a condition of final site plan approval; and,
9. Development of the site shall be in general accord with the submitted preliminary site plan dated December 6, 2009. Permitted modifications may include those required by the Architectural Review Board, those necessary to satisfy the conditions of this special use permit, and additional landscaping /screening approved by the Site Plan Agent.

Possible Motions:

- A. Should the Planning Commission **choose to recommend approval** of this special use permit:

I move to recommend approval of SP2017-20 Restore'n Station with the conditions outlined in the staff report.

- B. Should the Planning Commission **choose to recommend denial** of this special use permit:

I move to recommend denial of SP2017-20 Restore'n Station. Should a commissioner motion to recommend denial, he or she should state the reason(s) for recommending denial.

ATTACHMENTS

Attachment A – Map
Attachment B – Aerial view of immediate area
Attachment C – Map showing zoning of surrounding area
Attachment D – Resolution of denial for SP 2015-32
Attachment E – Applicant Justification
Attachment F – Purpose and Intent of the Zoning Ordinance
Attachment G – Comprehensive Plan Comments
Attachment H – Public Comments