

AGENDA
NELSON COUNTY BOARD OF SUPERVISORS
April 12, 2016
THE REGULAR MEETING CONVENES AT 2:00 P.M.
IN THE GENERAL DISTRICT COURTROOM
AT THE COURTHOUSE IN LOVINGSTON

- I. Call to Order**
 - A. Moment of Silence
 - B. Pledge of Allegiance

- II. Recognition of the Dedicated Service of Recent Retirees from County Employment**

- III. Resolution Commending the Public Service of the Late Henry Conner (R2016-18)**

- IV. Consent Agenda**
 - A. Resolution – **R2016-19** Minutes for Approval
 - B. Resolution – **R2016-20** FY16 Budget Amendment
 - C. Resolution – **R2016-21** COR Refunds
 - D. Resolution – **R2016-22** April is Child Abuse Prevention Month
 - E. Resolution – **R2016-23** April is Fair Housing Month
 - F. Resolution – **R2016-24** April 16th is Healthcare Decision Day

- V. Public Comments and Presentations**
 - A. Public Comments
 - B. Presentation – Use of Vacancy Savings and Turnover Funds (Sheriff D. Hill)
 - C. VDOT Report

- VI. New Business/ Unfinished Business**
 - A. Proposed Amendments to County Code, Appendix A – Zoning “Roadside Stands and Farmers Markets” (**O2016-01**)
 - B. Proposed Amendment to County Code, Appendix A – Zoning, “Bed & Breakfast Uses” (**O2016-02**)
 - C. Establishment of 2016 Tax Rates (**R2016-25**)
 - D. Establishment of 2016 Personal Property Tax Relief (**R2016-26**)

- VII. Reports, Appointments, Directives, and Correspondence**
 - A. Reports
 - 1. County Administrator’s Report
 - 2. Board Reports
 - B. Appointments
 - C. Correspondence
 - 1. Friends of Nelson – Request FERC to Conduct PEIS, Atlantic Coast Pipeline
 - D. Directives

- VIII. Recess and Reconvene Until 7:00 PM for the Evening Session**

**EVENING SESSION
7:00 P.M. – NELSON COUNTY COURTHOUSE**

- I. Call to Order**
- II. Public Comments**
- III. Public Hearings**
 - A. **Class C Communications Tower Permit #2016-01 (CV821 – Greenfield – 5029 Rockfish Valley Hwy)** Proposed Equipment upgrades at an existing communication facility involving equipment replacement and additions and increased tower height.
 - B. **Class C Communications Tower Permit #2016-02 (CV822 – Lodebar – 622 Hearthstone Ln)** Proposed equipment upgrades at an existing communication facility involving equipment replacement and additions and increased tower height due to a proposed 5.3’ tall lightning rod.
 - C. **Consideration of Proposed Amendments to Zoning Ordinance Article 18, Limited Industrial (M-1) District:** Section 18-3 “Uses – Permitted by Special Use Permit Only”
- IV. Other Business (As May Be Presented)**
- V. Adjournment**

**RESOLUTION R2016-18
NELSON COUNTY BOARD OF SUPERVISORS
RESOLUTION RECOGNIZING THE COMMUNITY SERVICE OF
THE LATE HENRY CONNER**

WHEREAS, Mr. Henry Conner, longtime Nelson County community servant and former Nelson County Schools Superintendent has recently passed; and

WHEREAS, Mr. Conner's outstanding leadership and extensive commitment to the school children of Nelson County and all of its citizens was evident not only through his sixteen (16) years of service as School Superintendent but also through his public service as a volunteer for more than twenty (20) years with the Nelson County Rescue Squad in Faber; running thousands of calls; and

WHEREAS, Mr. Conner also served as a charter member of the Emergency Services Council and was a certified CPR and EMT instructor, was a past president of the Nelson County Chamber of Commerce, was Chairman of the Nelson County Men's Club for twenty (20) years, and was an active member of Rock Spring United Methodist Church;

NOW, THEREFORE, BE IT RESOLVED, that we, the Nelson County Board of Supervisors wish to hereby recognize and commend the late Henry Conner for his many years of public service and community activism that served to greatly enhance the Nelson County Community.

Adopted: April 12, 2016

Attest: _____, Clerk
Nelson County Board of Supervisors

**RESOLUTION R2016-19
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF MEETING MINUTES
(March 8, 2016)**

RESOLVED, by the Nelson County Board of Supervisors that the minutes of said Board meeting conducted on **March 8, 2016** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

Approved: April 12, 2016

Attest: _____, Clerk
Nelson County Board of Supervisors

March 8, 2016

Virginia:

AT A REGULAR MEETING of the Nelson County Board of Supervisors at 2:00 p.m. in the General District Courtroom located on the third floor of the Nelson County Courthouse, in Lovingston Virginia.

Present: Constance Brennan, Central District Supervisor
Allen M. Hale, East District Supervisor – Vice Chair
Thomas H. Bruguere, Jr. West District Supervisor
Larry D. Saunders, South District Supervisor – Chair
Thomas D. Harvey, North District Supervisor
Stephen A. Carter, County Administrator
Candice W. McGarry, Administrative Assistant/Deputy Clerk
Debra K. McCann, Director of Finance and Human Resources
Tim Padalino, Director of Planning and Zoning
Phillip D. Payne, IV, County Attorney

Absent: None

I. Call to Order

Mr. Hale called the meeting to order at 2:03 PM, with all Supervisors present to establish a quorum.

- A. Moment of Silence
- B. Pledge of Allegiance – Mr. Harvey led the pledge of Allegiance

II. Consent Agenda

Mr. Hale thanked those members of the public in attendance and noted the items for consideration in the Consent Agenda.

Mr. Bruguere asked if Buckingham Branch Railroad Company had tracks located in the County and Mr. Hale noted they did. He added they were located on Afton Mountain and went through Nelson County into the Blue Ridge Tunnel. He noted that they had been very helpful on the Blue Ridge Tunnel project and had done a lot of upgrades throughout Central Virginia. Mr. Carter added that their tracks ran from Central Virginia to Clifton Forge.

Ms. Brennan then moved to approve the consent agenda and Mr. Saunders seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the following resolutions were adopted:

- A. Resolution – **R2016-10** Minutes for Approval

**RESOLUTION R2016-10
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF MEETING MINUTES**

March 8, 2016

(February 9, 2016)

RESOLVED, by the Nelson County Board of Supervisors that the minutes of said Board meeting conducted on **February 9, 2016** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

B. Resolution – **R2016-11** FY16 Budget Amendment

**RESOLUTION R2016-11
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF FISCAL YEAR 2015-2016 BUDGET
NELSON COUNTY, VA
March 8, 2016**

BE IT RESOLVED by the Board of Supervisors of Nelson County that the Fiscal Year 2015-2016 Budget be hereby amended as follows:

I. Appropriation of Funds (General Fund)

| <u>Amount</u> | <u>Revenue Account (-)</u> | <u>Expenditure Account (+)</u> |
|---------------|----------------------------|--------------------------------|
| \$1,831.00 | 3-100-002404-0015 | 4-100-032020-5648 |

C. Resolution – **R2016-12** COR Refunds

**RESOLUTION R2016-12
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF COMMISSIONER OF REVENUE REFUNDS**

RESOLVED, by the Nelson County Board of Supervisors that the following refunds, as certified by the Nelson County Commissioner of Revenue and County Attorney pursuant to §58.1-3981 of the Code of Virginia, be and hereby are approved for payment.

| <u>Amount</u> | <u>Category</u> | <u>Payee</u> |
|---------------|----------------------------------|--|
| \$94.54 | 2014 & 2015 PP Tax & License Fee | Christopher J. Neese 1135 Tanbark Drive Afton, VA 22920-2711 |
| \$2,345.69 | 2013-2015 PP Tax & License Fee | Salvatore Mannino 6782 Welbourne LN Crozet, VA 22932 |
| \$363.68 | 2015 PP Tax & License Fee | Hyundai Lease Titling Trust Attn: Property Tax P.O. Box 198069 |

March 8, 2016

Nashville, TN 37219

\$428.60

2015 PP Tax & License Fee

Corbett 1 Putt Inc.
Daniel Webster Herlong
515 West Frederick St.
Staunton, VA 24401

D. Resolution – **R2016-13** Support of Buckingham Branch RR Co. Grant Application (Richmond & Alleghany Tie Replacement Project)

RESOLUTION R2016-13
NELSON COUNTY BOARD OF SUPERVISORS
ENDORSEMENT OF BUCKINGHAM BRANCH RAILROAD’S RAIL
PRESERVATION GRANT APPLICATION FOR THE RICHMOND AND
ALLEGHANY TIE REPLACEMENT PROJECT

WHEREAS, the Buckingham Branch Railroad desires to file an application with the Virginia Department of Rail and Public Transportation for funding assistance for the **Richmond and Alleghany Tie Replacement Project**, which will replace mainline ties, switch ties, siding ties and mainline bridge deck ties. Work will also include adding ballast, tamping, surfacing and drainage improvements on the Buckingham Branch Railroad line located between MP 85.5 in Richmond and MP 276 in Clifton Forge, VA; and

WHEREAS, the Buckingham Branch Railroad estimates that this project will cost **\$10,000,000**; and

WHEREAS, the General Assembly, through enactment of the Rail Preservation Program, provides for funding for certain improvements and procurement of railways in the Commonwealth of Virginia; and

WHEREAS, Buckingham Branch Railroad is an important element of the **Nelson County** transportation system; and

WHEREAS, Buckingham Branch Railroad is instrumental in the economic development of the area, and provides relief to the highway system by transporting freight, and provides an alternate means of transportation of commodities; and

WHEREAS, the County of Nelson supports the project and the retention of the rail service; and

WHEREAS, the Commonwealth Transportation Board has established procedures for all allocation and distribution of the funds provided.

March 8, 2016

NOW, THEREFORE, BE IT RESOLVED, that the Nelson County Board of Supervisors does hereby request the Virginia Department of Rail and Public Transportation to give priority consideration to the **Richmond and Alleghany Tie Replacement Project** proposed by Buckingham Branch Railroad for inclusion in the projects funded in the Rail Preservation Program.

E. Resolution – **R2015-14** FY16-17 VCA, Local Government Challenge Grant

**RESOLUTION R2016-14
NELSON COUNTY BOARD OF SUPERVISORS
VIRGINIA COMMISSION OF THE ARTS
2016-2017 LOCAL GOVERNMENT CHALLENGE GRANT**

BE IT RESOLVED, By the Nelson County Board of Supervisors that the County Administrator is hereby authorized to sign and submit an application for 2016-2017 Local Government Challenge Grant funding to the Virginia Commission of the Arts.

BE IT FURTHER RESOLVED, said application is to include a local match of \$5,000.00 to be confirmed upon formal adoption of Nelson County's Fiscal Year 2016-2017 Budget by the Board of Supervisors.

F. Resolution – **R2016-15** Local Government Education Week (April 3-9)

**RESOLUTION R2016-15
NELSON COUNTY BOARD OF SUPERVISORS
LOCAL GOVERNMENT EDUCATION WEEK
APRIL 3-9, 2016**

WHEREAS, since the colonial period, the Commonwealth of Virginia has closely held the institutions of local government; and

WHEREAS, local governments throughout the Commonwealth provide valuable services to the citizens of the communities they serve; and

WHEREAS, citizen services such as, law enforcement, public health and safety, recreational opportunities, and educating local children, are most often delivered at the local level; and

WHEREAS, in recognition of the work performed by local governments, the Virginia General Assembly, on February 29, 2012, designated the first week in April as Local Government Education Week in Virginia; and

WHEREAS, April 2, 1908 was the creation of the Council-Manager form of government in the City of Staunton thereby making the first week in April appropriate for this designation.

March 8, 2016

NOW, THEREFORE, BE IT RESOLVED by the Nelson County Board of Supervisors that April 3-9, 2016 is hereby designated as Local Government Education Week.

III. Public Comments and Presentations

A. Public Comments

1. Marta Keene, Ginger Dillard - JABA

Ms. Keene noted that she was there to share information about what JABA does. She first noted that the new statistics from Weldon Cooper showed that seniors were increasing in population; especially in Nelson County. She complimented Nelson County as a great place to age but noted that it created challenges. Ms. Keene noted several stories of their impact being made around the State and she noted the distribution of a handout on JABA's highlights. The handout noted that in the County they had 971 clients of which 63% were female and 37% were male, 42% were African American and 58% were Caucasian. She added that 50% lived alone and 35% of clients reported living in poverty.

Ms. Keene then noted that they had conducted a community impact survey and that they were very pleased with the results.

Ms. Keene then noted that the FISH program had started this year, they were working with the School Superintendent and Principals at two schools, and were building the volunteer base.

Ms. Keene then noted that as the Board began thinking about the budget, they should consider that 25% of their costs were covered by the Board's funding commitment and the rest was leveraged by federal and state funding. She added that their contribution allowed for a larger program to reach more of those in need.

2. Stu Mills, Rockfish Valley Community Center

Mr. Mills referred to the Rockfish Valley Community Center's letter that was listed under correspondence that had to do with the proposed Zoning Article 24 that was to be discussed. He noted that he was present to answer any questions the Board might have and to be available to participate in the discussion.

3. Elizabeth Smith, Afton Mountain Vineyard

Ms. Smith noted she was speaking to the proposed events amendments. She noted that she had made staff aware of certain regulations at the state level that already regulated these for Farm Wineries and attempts to regulate this was not something localities could do. She added that if the County could not exempt Farm Wineries; they should look at page 2 of 7 at the proposed hours and page 5 of 7 that limited the number of events that Farm Wineries could hold. Ms. Smith advised that not exempting Farm Wineries would create a reaction from the industry and they needed to work on these documents. She noted that on page 6 the permitted by right uses, if social temporary event were added in, it would allow any land

March 8, 2016

owner in an Agricultural (A1) District to hold private events not exceeding 300 people. She added that she hoped that was not the intent as it opened the door for anyone to set up a wedding barn. She encouraged the Board to work with the 151 Group on this and she added she hoped it got shelved as is.

4. Shelby Bruguiere, Nellysford

Ms. Bruguiere noted she would expand upon Ms. Smith's comments and read aloud the following prepared statement:

“Excessive complexity of our Ordinance hinders economic activity, creates burdens for individuals and businesses; and quite frankly, obstructs good government.

Perhaps the goal is to bring clarity to Ordinance definitions, but putting overly complex definitions into place, only creates greater opportunity for loopholes and unintended consequences.

For example, the proposed definitions for farmers markets and wayside stands are for offsite” permitting, but there is no definition or mention for “on site” in the ordinance. In 2014, Virginia implemented the ability for a person to sell agricultural produces from their farm on agriculturally zoned land and expressly prevents localities from requiring Administrative Approval or a Special Use Permitting for these sales, but the proposed ordinance you are reviewing today does not even mention these rights.

With that said, I'd like to bring attention to things that will directly affect the Nelson Farmers Market and at least one Wayside Stand.

1. HB 367 Nonconforming Uses: Passed yesterday with veto proof margins. This law basically provides businesses which have been operating unlawfully for 15 years, but have paid taxes according to the business they have been conducting, are now considered lawful nonconforming uses and can obtain permitting or rezoning to continue their business operations without any charge/fee imposed on them by the locality.

2. The short term lodging proposed ordinance changes are also being addressed at the state level. Some of the proposed ordinance changes on the table today will undoubtedly be reversed to a large degree due to action at the state level.

The bottom line is, we need to encourage the entrepreneurial spirit in Nelson County. We are at the point where people want to come to Nelson to not only live, but open businesses. They don't just want to retire here.

We need economic growth. We need lodging to compliment the tourism industry which has already been created in our county. We need farmers, farmers markets, wayside stands, Agritourism and yes, we need the taxes created by businesses as well. We can't rely on real estate taxes alone to pay for the county's expenses any longer.

March 8, 2016

But right now, the county is creating complexities and roadblocks for not just larger businesses, but the little guy is being stopped before he can get started. The county should be helping everyone, especially the average person who just wants to rent out a room to have some additional income or sell some excess produce from their garden.

Before voting on implementing these ordinance changes today, think about this... If the Commonwealth of Virginia is working to help clear roadblocks standing in the way of citizens and businesses in Nelson County, why is our local governing body working to make those roadblocks higher?"

5. Charlie Wineberg, Afton

Mr. Wineberg noted he was happy to see the County addressing its burgeoning growth with Farm Stands being defined and creating loosely regulated retail establishments. He then noted that he had looked at the proposed amendments fairly closely and noted that the owner of the wayside stand would sign an affidavit and it would be an honor system. He then questioned how a majority was defined, by number of items or by gross revenues. He noted his main concern was getting around in the county, traffic, and travel. He added that he did not want traffic impacted anymore, which would impact residents and the marketing of real estate; which was his livelihood. He noted that intersections such as the one at Route 635 and Route 151 get improved and then things are done to break them again; which should not happen. He added that the aforementioned intersection hangs up traffic on a regular basis.

6. Charlie Murphy, Cedar Creek Road

Mr. Murphy thanked the Board for the paving done on a portion of Cedar Creek Road. He added that there had been many positive comments on it and he appreciated what they had done. He added that he would like to see it paved even further as a little bit more needed to be done.

B. VDOT Report

1. 2016-2022 Secondary Six Year Plan & 2016 Rural Rustic Priority List

Mr. Don Austin noted that the Secondary Six Year Plan and priority list was to be discussed and he asked if the Board would like to adjust the list in any way. He noted that there was one priority that had to remain as listed, which was Wheeler's Cove Road as they had started on it already.

Mr. Saunders noted that one mile of paving had been completed on Cedar Creek Road and he would like to see one more mile done so that the majority of houses would be reached.

Mr. Austin noted that he would go by the current list unless the Board modified it. He noted that on Cedar Creek Road they could put in to do another mile because the traffic count supported it. He noted that VDOT was using an estimated cost of \$250,000 per mile and they could move project funding from one project to another if excess funding existed. Mr. Austin noted he would like to get a list from the County in April and then schedule the

March 8, 2016

public hearing in May. He added that they could do the priority list at a meeting or work session; whichever was best.

Mr. Bruguere noted he wanted to switch Cub Creek Road with Campbell's Mountain Road since most people there lived on the lower hard surfaced part and Cub Creek still had half of the road not paved yet.

Mr. Saunders reiterated that he would like one more mile paved on Cedar Creek Road.

Ms. Brennan asked how many people lived on these roads and Mr. Austin noted that was uncertain and all they had to go by was traffic counts in a 24 hour period.

Ms. Brennan then recommended that Buck Creek Road be put on the list. She added that she lived on the front end and many people were moving to the back of it.

Mr. Austin then reported that Cedar Creek Road had a 24 hour traffic count of 120. Mr. Hale noted that if in the acceptable range, he agreed it should be put on the list. He then inquired about the traffic count for Buck Creek.

Mr. Saunders noted he thought that Greenfield Road could be moved down and Cedar Creek Road could be put there. Mr. Austin concurred that Greenfield Road was no longer a critical maintenance issue and Mr. Hale suggested putting Cedar Creek Road in its place at #6.

In response to questions, Mr. Austin reported that a road had to have a minimum of 50 vehicles per day (VPD) to be paved. He advised that the paved portion of Buck Creek had a VPD of 150 and the unpaved portion had 140. He added that these counts were a few years old. Mr. Harvey commented that there was no longer a business back there which could have contributed to the higher traffic count. He noted that .17 miles was paved and then it went back to gravel.

Mr. Hale then confirmed that the schedule was to give him the list at the April meeting and agree to a public hearing in May. Mr. Harvey noted he thought that the Board should take input from the public at the public hearing and then compose the list. Mr. Austin confirmed that the list could be modified afterwards.

Supervisors then agreed by Consensus to hold the public hearing at the April meeting.

Mr. Austin noted that they had not been sent anything new on this year's budget bill. He advised that Lodebar Estates and Cedar Creek Road were completed and they were getting ready to close those out. He noted that there were funds left that would be moved down to the next priority and so on.

Mr. Hale then noted to Mr. Austin that he would like to see all of the roads on the list highlighted on a County map. Mr. Austin noted he would provide this and would add Buck Creek and Cedar Creek Road and would send it to staff to distribute. Mr. Austin then noted that all of the most recent traffic counts were on the VDOT website. He added he would

March 8, 2016

check the mileage for the remainder of Cedar Creek. Mr. Saunders noted he was sure it was one mile that needed to be done which would leave three miles unpaved; however most traffic came in from the other end that was paved.

Supervisors then noted the following VDOT issues:

Mr. Harvey and Mr. Hale had no issues to discuss.

Ms. Brennan reported that Adial Road had large dings in the pavement to be looked at and ditching was needed. Mr. Austin noted that the asphalt company would be opening up soon and they depended on them for patching.

Ms. Brennan then noted that Duncan Hollow Lane needed gravel.

Ms. Brennan inquired about the landscaping project at the intersection of Route 56 east and Business 29 and Mr. Austin noted they were working on this with Emily Harper who has had to be out of town recently on family business.

Mr. Saunders noted that he gets comments on the culvert opened up on Route 29 and Fletcher's Lane and is asked when it would be permanently done. Mr. Austin noted it was working and they would get to it.

Mr. Bruguiere noted that on Dickie Road, a culvert crossing was filled in and the adjoining landowner used a backhoe to open it up. He noted that the end of the pipe was bent down now and it needed to be extended and filled in. Mr. Austin noted he would have to have it looked at.

Mr. Bruguiere then noted that around the curve at Route 679, water was running on the edge of the road there and the ditch needed to be moved further back if possible.

Mr. Austin then reported that the HB2 application for sidewalks by Dollar General had been ranked highly and would probably be funded. He noted this would be to upgrade what was there for ADA compliance and to connect the sidewalks. He added that they should know by May and if funded, it would be done next year. He clarified that the sidewalks would go down past the Post Office and would connect with Tanbark Lane.

Mr. Austin added that he had met with the ladies in Lovington on the current sidewalks and he noted that they may put in an application on these.

2. Wayside Stand Entrance Requirements

Mr. Harley Joseph, VDOT Land Use Manager addressed the Board and noted he had provided staff and the Board with a red-line version of the Wayside Stand and Farmers Market Ordinance showing his comments. He advised that his greatest concern was the use of the term wayside; which dated back to 1937 and referred to roadside stops. He added that Nelson County had two of these and stands were not permitted at these waysides.

March 8, 2016

Mr. Joseph then recommended that to make this clear, the term Wayside Stands be changed to Farmer Stand so as to be consistent with the Farmers Market terminology. He then noted several other comments that he had included; primarily one that would include the following language regarding review comments from VDOT: "VDOT review comments must include a formal "recommendation for approval, *subject to the following conditions*, by VDOT before a Class A and *Class B, Farmer Stand* permit can be approved by the Zoning Administrator.

Mr. Joseph then noted that VDOT was there to serve the locality and were available for advice, comment etc. He added that their services were free and applicants could seek advice on both categories. He noted that VDOT regulated access to public rights of way and looked at circulation and how it may affect public roads. He emphasized that they were available to advise and support the public.

Mr. Hale questioned the provision of preliminary sketches versus formal site plans for these and Mr. Joseph noted that in these cases most would be able to provide a preliminary sketch and not necessarily a formal site plan. He added that VDOT could offer comments at any stage of the process and he noted that if they were provided a preliminary sketch, then their comments would be preliminary. He clarified that their comments would be as formal as the sketch/plan provided. Mr. Joseph then emphasized that farmer stands would require a VDOT permit and may or may not be what the County requires or vice versa. He further explained that VDOT's jurisdiction was the Right of Way and how it affected the capacity and functionality of the roads.

Mr. Joseph again clarified that both Class A and B farmer stands had to have VDOT permits and the County was responsible to make any applicant aware that any change required a permit. He added that there may be different levels of standards applied depending on the road involved.

Mr. Hale then questioned whether or not there should be a distinction between Class A and Class B and Mr. Joseph advised that it did not matter to VDOT.

Mr. Harvey then asked if VDOT would provide trash removal services at the Afton Wayside as was done at the Nelson Wayside and Mr. Joseph noted he could check and report back. Mr. Harvey noted that the Afton Wayside was within the Culpeper District of VDOT. Mr. Joseph then advised that this would be a maintenance function and Mr. Austin was the Maintenance Supervisor for Nelson County.

Ms. Brennan then asked if VDOT enforced the defacement of waysides and Mr. Joseph noted that they did not; it was the duty of law enforcement. He added that they enforced VDOT regulations and they called the State Police otherwise.

Mr. Bruguiere then asked if VDOT required site plans to be given to them for permitting and Mr. Joseph explained that the level of information needed was directly relevant to the use and the road being accessed. He noted that it could be handled by sketch or engineering site plan depending on the level of commercialism etc. He advised that this was at the discretion

March 8, 2016

of the licensed engineer assigned to the area in question and that Nelson and Amherst Counties were served by Jeff Kessler. He added that they promoted as many meetings and consultations as possible and that there was no checklist for design because every project was different. Mr. Harvey noted that a site plan was required on property not on the entrance. Mr. Joseph added that a plan of development and supporting data was required for the entrance. He noted that seeing a full blown site plan may or may not be an issue depending on the internal circulation. Mr. Joseph then explained that a commercial entrance was anything more than 3 houses on a driveway and it could be classified as low, moderate or commercial.

Mr. Hale then stated that it was important to note that VDOT was there to advise on these things free of charge and Mr. Joseph noted that the public could call any of them for help at any time.

C. Presentation – Nelson Memorial Library (S. Huffman)

Ms. Susan Huffman, Librarian addressed the Board and noted that in 2014, she had retired from 30 years of teaching and had a Masters in Library Science.

She then showed a Power Point presentation that contained the following information:

February 2016:

Total number of items checked out from Nelson Memorial Library from all of JMRL - 4,224
Up 5.68% over February 2015.

Total number of items checked out by Nelson patrons from all of JMRL- 6,180

July 2015 to February 2016:

Total number of items checked out by Nelson patrons from all of JMRL – Year to Date
53,897, up 4.5% over the same period last year

Examples:

Nelson Patrons checked out:

27,415 items from Nelson stacks

8,279 items from Crozet stacks

7,499 items from Central stacks

734 items from Greene County stacks

March 8, 2016

Non Fiction Checked Out February 2016 - 523 Books

Top Five Categories:

- 1 - Dewey 740 – Drawing and Decorative Arts
- 2 – Dewey 640 – Home and Family Management
- 3 – Dewey 92 – Biography
- 4 – Dewey 970 – History of North America
- 5 – Dewey 610 – Medicine and Health

July 2015 to February 2016;

Total number of items circulated from Nelson Memorial Library Year to Date - 35,939

Male Patrons – 1637, Female Patrons – 2875

Oldest Active Patrons: 102, 92, and 87

Youngest Active Patron: 3

Most Books Checked Out: 6963, 5785, and 5105

Total Number of Nelson Patrons as of February 29, 2016

Adult – 4,738

Juvenile – 761

Total – 5,499

Number of Patrons by Location with the highest being from: Lovington, Shipman, Roseland, Arrington, Faber, and Afton. The lowest being from the more outlying areas. She noted that computer usage was around 650 people in January 2016.

Ms. Huffman noted that she had set a goal of increasing programming by 50% and they had increased programming by 65%. She then noted some of the programs being offered for all age groups.

March 8, 2016

Ms. Huffman then noted that 80% of LMI children were not reading at grade level by grade 3, and she was starting initiatives to improve reading in juveniles, such as: School Visits, Reading Summit, Summer Reading Program, Summer Snack Program, Reach Out and Read, and 1000 Books before Kindergarten.

Ms. Huffman also indicated her desire to promote greater use of the Library from other areas and she suggested establishing drop box locations in the Nellysford/Afton area.

In conclusion, Ms. Huffman noted that the Library needed more space. She suggested taking the parking lot on the left of the building and putting on an addition that would make the building equal at both ends. She further suggested that the circulation desk be enclosed for the Nelson County Historical Society records that are used for genealogy research and the area out front would become the new circulation desk. She suggested making the reference area a new children's section and making the children's section the new young adult section.

She then noted she was open to any suggestions they may have and she appreciated the Board's time.

D. Presentation - Proposed DHR Grant, Warminster Rural Historic District Survey (B. Carter)

Mr. Bob Carter of the Nelson County Historical Society addressed the Board and noted that they supported the Library's request for the Board's support. He confirmed that the Historical Society's archives were located within the library and there were many visitors that did research there and Ms. Huffman's vision for expansion would create space for this. He added that they had a research committee that met every Wednesday and they could meet there. He noted that the expansion would enhance outreach and help the public.

Mr. Carter then noted that in September, the Virginia Department of Historic Resources (DHR) found their proposed project to be eligible for listing on the Historic Register. He added that the Warminster area was worthy of additional study and documentation and the Historical Society would be responsible for the initial nomination. He noted that they were asking for support for partial funding of the survey and then to apply for Historic District status. He noted that the cost of the proposed survey would be shared by the County and DHR under their statewide survey and planning cost share process. Mr. Carter noted that the deadline to apply was April 8th and they would know if they got the grant by May. He explained that DHR would handle the contract and administer the funds and they would hire a qualified person to do the survey according to DHR guidelines. Mr. Carter added that based on their research, the estimated total cost would not exceed \$10,000 and they were asking for matching funds of \$5,000. He explained that meetings about the project would be held with the public and landowners etc.

Mr. Carter went on to say that Warminster was an important part of the beginning of Nelson County. He noted the area on distributed maps and that they were looking at areas contiguous to the project area and have provided for that in the budget.

March 8, 2016

Mr. Carter noted if the Board approved the funding, he would work with staff to complete the application before April 8th. He then explained that the project would not be an archaeological survey; but they wanted to build in the fact that other buildings may be discovered that were not on current tax maps. He added that they would use private funding for the archaeological study.

Mr. Hale noted that there were not many structures shown in the proposed project area and he assumed the cost would reflect that. Mr. Carter noted it would and that there were approximately 60 some properties; which was similar to the Norwood Historic District. He noted that they had to have an inventory of all of the properties within the boundaries of the survey and then confirm the significance or not of these properties.

Ms. Brennan noted that the process was the same that had been followed for other districts. She then moved that the Board allocate up to \$5,000 for the Warminster Survey study and there was no second.

Mr. Hale noted that this had been done for other areas and Ms. Brennan noted she thought it was a wonderful project. She reiterated that it had been done for the Norwood/Wingina District and others and it provided valuable information. Mr. Carter added that there were many others in the County to be done.

Mr. Hale noted that this was a small area and he hoped the cost would be less. He added that it was valuable to identify these and there were many historic structures that had been lost. He then reiterated that it had been done for others.

There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

Mr. Bruguiere then noted that these Historic Districts only benefitted those with older homes who could apply for tax credits.

Mr. Carter noted that it was an important designation for conservation easements. He added that there were no restrictions and tax credits were an incentive not a requirement. He noted this was a sign that what they were doing was valuable.

Mr. Steve Carter advised that the only way to ensure historic preservation was to pass a local Ordinance; which to date the Board had not been interested in. He added this would be a very rigid approach and he was not recommending it.

IV. New Business/ Unfinished Business

A. Employee Benefits – Health Insurance Rates (R2016-16 Approval of Rate Structures)

Ms. McCann addressed the Board and noted that the County participated in the Local Choice health insurance program that was administered by the State. She advised that the

March 8, 2016

County had a 9.2% rate increase overall and that the Board had been provided with the current and proposed rate structures.

Ms. McCann explained that the County offered two different plans; a base plan called Key Advantage 250 and Key Advantage Expanded; which employees could buy up to. She noted that last year, the County had to provide dental plans within these offerings.

In terms of how the premiums were covered, Ms. McCann noted that the County had historically paid the employee only premium and then a percentage of the dependent coverage. She noted that this format was being maintained in the proposed rates with the increase split between the County and employee. She noted that the total projected increase in costs to Employees was \$28,332 and to the County was \$47,664.

Mr. Bruguiere inquired about the deductibles for these plans and Ms. McCann noted she would have to check; however she could say that the base plan had a higher deductible. Ms. McCann further advised that employees did not have the option to have higher deductibles and that the County could only offer two plans because of the size of the group. She noted that higher deductible plans would save money for those with fewer claims. She then added that offering a plan with a higher deductible was not prohibited. Ms. McCann then asked if the Board would like to make a higher deductible plan the base plan; but noted that this would make the other plan more expensive.

Mr. Carter then advised that if they had a higher deductible plan, the employee would pay more out of pocket if they had a significant health issue.

Ms. McCann then advised that there were two other plans between the 250 and the higher deductible plans. Mr. Carter added that the real benefit of the current plans was the maximum out of pocket limits.

Ms. Brennan inquired as to the meaning of “retirees’ premium before supplement” as shown on the chart and Ms. McCann explained that retirees with 15 years of service were eligible for a premium supplement of up to a \$75 maximum. She added that an additional health insurance supplement was provided to some groups of employees from the state.

Mr. Carter noted that staff would have deferred this consideration until work began on the budget; however, the insurance renewal was due by April 1st.

Ms. Brennan then moved to approve resolution **R2016-16**, FY17 Health Insurance Employer Contribution Amounts and Mr. Bruguiere seconded the motion.

Mr. Bruguiere then asked if all employees including Constitutional Officers fell under the plan and Mr. Carter confirmed they did if they elected coverage.

Mr. Hale commented that healthcare was incredibly expensive and Ms. McCann noted that this was an excellent benefit for County employees and they were very fortunate.

March 8, 2016

There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the following resolution was adopted:

**RESOLUTION R2016-16
NELSON COUNTY BOARD OF SUPERVISORS
FY17 HEALTH INSURANCE EMPLOYER CONTRIBUTION AMOUNTS**

WHEREAS, the local government participates in the Local Choice health insurance program and the premiums for fiscal year 2016-2017 have increased by 9.2%;

BE IT RESOLVED by the Nelson County Board of Supervisors that the local government’s employer contribution amounts for health insurance are hereby established for coverage beginning July 1, 2016 as follows:

| <u>Active Employees</u> | | | <u>Active Employees</u> | | | | |
|------------------------------------|-----------------------------|----------|------------------------------------|-----------------------------|----------|----------|---------|
| Key Advantage 250 C | Employee | Employer | Total | Key Advantage 250 P | Employee | Employer | Total |
| Individual | \$0 | \$647 | \$647 | Individual | \$0 | \$636 | \$636 |
| Dual | \$382 | \$815 | \$1,197 | Dual | \$362 | \$815 | \$1,177 |
| Family | \$764 | \$983 | \$1,747 | Family | \$734 | \$983 | \$1,717 |
| Key Advantage Expanded C | Employee | Employer | Total | Key Advantage Expanded P | Employee | Employer | Total |
| Individual | \$63 | \$647 | \$710 | Individual | \$52 | \$647 | \$699 |
| Dual | \$499 | \$815 | \$1,314 | Dual | \$478 | \$815 | \$1,293 |
| Family | \$934 | \$983 | \$1,917 | Family | \$904 | \$983 | \$1,887 |
| <u>Retirees</u> | | | <u>Retirees</u> | | | | |
| Key Advantage 250 C | Retiree (before supplement) | | Key Advantage 250 P | Retiree (before supplement) | | | |
| Individual | \$647 | | Individual | \$636 | | | |
| Dual | \$1,197 | | Dual | \$1,177 | | | |
| Family | \$1,747 | | Family | \$1,717 | | | |
| Key Advantage Expanded C | Retiree (before supplement) | | Key Advantage Expanded P | Retiree (before supplement) | | | |
| Individual | \$710 | | Individual | \$699 | | | |
| Dual | \$1,314 | | Dual | \$1,293 | | | |
| Family | \$1,917 | | Family | \$1,887 | | | |
| Advantage 65 (no dental or vision) | \$169 | | Advantage 65 (no dental or vision) | \$169 | | | |

B. Proposed Amendments to County Code, Appendix A – Zoning
“Wayside Stands and Farmers Markets”

Mr. Padalino addressed the Board and noted that a public hearing had been held by the Planning Commission and the Board and the language had been modified by the working group. He added that he was proud of the process and satisfied with the results. He noted that it appeared that regulations were being added; however staff was really just codifying what was already in place and was simply just adding nuances. He noted that per Mr. Joseph’s earlier comments, VDOT would be involved in any roadside stand.

March 8, 2016

The Board and staff discussed using the nomenclature of roadside or farmer stand and Mr. Joseph of VDOT expressed concern with roadside stand as it implied that the stand could be in the right of way; and it could not.

Mr. Padalino noted that a “wayside stand” was different from a “home occupation”.

Mr. Padalino then noted the major modifications made to the language by the working group as follows:

- Bring clarity and consistency to the current provision (§4-11-2), which is extremely vague and which currently lacks any clear methods or criteria for applying for, reviewing, approving, or denying these types of administrative permits.
- Create two separate categories or classes for the “wayside stand” land use, determined by the type of road it would be located on (or accessed from).
 - This would allow for proposed wayside stands to be applied for, reviewed, and approved more easily (administratively) if they are located on smaller roads; and
 - This would require applicants to go through the Special Use Permit process if a wayside stand is proposed for a location associated with greater potential risk(s) to public health, safety, and welfare (such as a location on roads with higher traffic counts, higher rates of speed, or other transportation factors which inherently create more concerns regarding public safety and land use changes).
- Eliminate the “temporary” nature of wayside stands (and specifically eliminate the proposed limitation to 5 consecutive days), and would instead allow for a wayside stand to be operated for any duration or frequency throughout any given week, month, or year.
- Eliminate the requirement that all products offered for sale must have been produced by the seller; and allow for the sale of products obtained from other producers.
- Provide for the operation of class A and class B wayside stands as a by-right use in all three business districts (B-1, B-2, and SE-1); currently, wayside stands are only permissible in Agricultural (A-1) District.

Mr. Bruguiere then stated that the existing Farmers Market was a coop and there was a producer only market there.

Mr. Harvey questioned the buying and reselling provisions as he saw that as a retail operation.

Mr. Hale read the proposed definition aloud as follows:

March 8, 2016

Farmers Market: Any structure, assembly of structures, or land used by multiple vendors for the off-farm sale or resale of agricultural and/or horticultural products, goods, and services, including value-added agricultural or horticultural products. Farmers Markets may include the sale or resale of accessory products, including arts, crafts, and/or farm-related merchandise, as long as the majority of products being offered for sale are, in the aggregate, comprised of agricultural or horticultural products.

He noted that the definition was sufficient and was not an onerous thing; it had been worked out. Ms. Brennan noted she was appreciative of the work that had been put into this.

Mr. Bruguire then asked about the need for a Special Use Permit (SUP) for a Class B wayside stand on a functionally classified road. Mr. Padalino confirmed that this was more of a process and Mr. Bruguire stated he would like to see that permissible by right. Ms. Brennan countered that Class B stands would be more of a traffic impact and Mr. Hale stated that would be addressed by VDOT, not the County.

Mr. Padalino stated that there were two issues associated with these: VDOT entrance permits and then the County's land use regulations. He noted that other issues were not looked at by VDOT and it was up to the County to decide. He further advised that the stands were a retail operation and could have a lot of traffic or a large parking lot. He added that this was unknown until the person applied. He added that he thought it was appropriate to leave Class B stands as permissible by SUP so that these things could be analyzed.

Mr. Bruguire stated that he thought it should be up to VDOT to address the safety concerns. Mr. Padalino advised that he thought there needed to be appropriate regulations in place; as they did not know what was to come. He noted that the majority of A1 properties were residences not farms and there was a need for control over what went where in the rural districts, in accordance with the Comprehensive Plan, and those took up most of A1.

Mr. Carter asked whether or not the Board wanted it to be by right or if they wanted to be able to decide if it fit or not and Ms. Brennan questioned what the public would want.

Mr. Carter then advised that his thought was to come back with a clean ordinance as the purpose that day was for the Board to review and discuss it.

Mr. Bruguire stated he would like to eliminate the need for a SUP for Class B stands in an A1 District.

Mr. Harvey then noted that most stands would be located on the busier roads; not secondary roads.

Mr. Saunders noted he thought that there should be an SUP process for Class B stands in A1 districts and Mr. Hale and Ms. Brennan agreed.

March 8, 2016

Supervisors then agreed by Consensus to go ahead with using the suggested changes put forth by Mr. Joseph of VDOT.

C. Proposed Amendment to County Code, Appendix A – Zoning, Addition of Article 24 “Temporary Events, Festival Grounds, Out-Of-Doors Accessory Uses”

Mr. Padalino addressed the Board and noted that the proposed language was relatively new so he would walk them through it. He then reviewed the following information that was contained in his staff report:

Issue Introduction:

Given the recent successes and ongoing growth in the special events, tourism, and agri-tourism industries in Nelson County, the existing Zoning Ordinance provisions and regulations for “special events” have become outdated and insufficient.

For example:

– *Lack of distinction between which activities require Special Events Permits, and which do not:*

“Special events” are not defined in the ordinance; and there are no clear boundaries for types of activities which may be exempt from the permit requirement, or which types of events absolutely need to obtain permits. This lack of clarity will continue to be a recurring issue, based on the ongoing, successful proliferation of the agri-tourism and events industries.

– *Lack of distinction among events of varying scale, duration, and frequency:*

The ordinance makes no distinction between small events (such as a brief daytime parade down Front Street in Lovingston) and major events (such as Lockn’ Festival or other multi-day mass gatherings). Currently, the same application procedures and same \$25 application fee apply to all events.

– *Lack of specific evaluation criteria to guide the County’s decision-making process during the review and approval/denial of Special Events Permit applications:*

Staff have done the best we can to develop processes and apply common-sense criteria on a case-by-case basis; and the results have been mostly successful. But the decision-making process should be based on clear criteria that are consistently applied to each and every event.

– *Lack of comprehensive provisions and regulations:*

March 8, 2016

The ordinance currently only contemplates a proposed special event in isolation, and does not account for multiple-date or repeat events or for how a venue or property should be regulated (especially if the special events, which are temporary, propose to include permanent improvements such as roads, utilities, structures, etc.).

Such limitations and omissions result in County staff regularly spending a significant amount of time and effort attempting to handle every inquiry, request, and application on a case-by-case basis *while also* attempting to be as fair, consistent, and accurate as possible. While this approach has worked reasonably well in recent years, it is far from perfect and it requires more time and effort of County staff than should be necessary.

Therefore, County staff believe the appropriate long-term solution is to amend the Zoning Ordinance with updated and improved provisions and regulations. A successful text amendment process would:

- benefit County staff by establishing a clear and consistent review process;
- benefit event promoters and members of the public by establishing a permitting process that is clearer, more straightforward, and more transparent; and
- benefit local businesses by exempting a large variety of activities from permit requirements.

Brief Summary of (Modified) Referred Amendments as Recommended by PC:

The Planning Commission's formal recommendations for the referred amendments, inclusive of several modifications specified by the PC would substantially change the way events are regulated, such as:

- To help clarify when permits are needed (or not), these amendments identify numerous different types of events that would be specifically exempted from Temporary Event Permit requirements. See proposed §24-2-A "Exempt Events."
- To provide for more appropriate regulations and permitting processes, three (3) categories of events would be established. The categorization of an event would be primarily determined by the number of attendees; and the different event categories would require different fee payment, application requirements, and permitting/review processes. See proposed §24-2-B "Temporary Event, Category 1," §24-2-C "Temporary Event, Category 2," §24-2-E "Temporary Event, Category 3," and §24-3, "Issuance of Temporary Event Permits."
- "Special Events Permits" would be redefined as "Temporary Event Permits," to help avoid confusion with "Special Use Permits" and to emphasize that these events are primarily meant to be temporary activities, not permanent land uses.

March 8, 2016

- Please note that the proposed amendments, if enacted, would create a new “Article 24” in the Zoning Ordinance and would also amend existing Articles 4, 8, 8A, and 8B.

Additional Staff Commentary on Proposed Amendments:

Issue A: Temporary Events and Permanent Structures

While the Planning Commission recommendations represent a detailed review of a large number of issues, there was one additional topic which identified very late in their review process which they decided to not fully address or resolve, due to time limitations. This additional topic relates to permanent structures used for temporary events and outdoor activities. There is currently no such definition or provision in the existing Zoning Ordinance, or in the proposed amendments as formally recommended by the PC. Specifically, the Board may wish to consider the apparent need to establish a definition and provisions for a permanent “outdoor entertainment venue,” or “outdoor performing arts facility,” or a similar permanent use/structure. This may be necessary because, as written, the proposed amendments would only establish a definition and provisions for “festival grounds” use which, by definition, is a land use associated with Category 3 Temporary Events. However, it may be prudent to establish a definition and corresponding provisions/regulations for permanent structures in association with other types of Temporary Events (such as Category 1, Category 2, or Exempt Events). Doing so would provide an opportunity for property owners to apply for zoning permits, site plans, and/or building permits that would authorize the construction and operation of a permanent structure for small- and medium-sized outdoor events and activities.

Issue B: Consideration of Establishing a ‘Citizen Working Group’

The PC review of these amendments included discussion of establishing a citizen working group to solicit additional public input, inclusive of local professionals in the events industry and agri-tourism industry. This step was explicitly requested by Mr. George Hodson representing Veritas Vineyard & Winery as well as Nelson 151, and was also requested by Mr. Dave Frey of Lockn LLC and Lockn Farm.

If the Board determines to establish any such working group, I strongly recommend that at least one Planning Commissioner be included in that group, to provide continuity throughout the review process and to extract maximum benefit from the six months of effort conducted by the Planning Commission.

Following his review, Mr. Padalino reiterated that the current regulations were pretty limiting and these uses were only contained in A1.

Mr. Hale stated he thought it was premature to go through it step by step since they would be looking at a number of things that were going to change. He advised that they proceed on the recommendations after a committee has looked at it for the changes. He then referenced a copy of a legal issue memo sent to Maureen Kelley and the Board on this.

March 8, 2016

Mr. Padalino noted that there were a number of exempt events for Farm Wineries. He noted that the County had to stay within State Code requirements and could not regulate a Farm Winery for things that were usual and customary; unless it could be shown that their actions had adverse effects to health safety and welfare of citizens. He then noted that out of door accessory uses would have a commercial use whereas a farm winery would not.

Mr. Harvey noted that the Afton Distillery was treated as a farm venture and Mr. Padalino advised that the State had codified it as well and it had to be allowed. He noted that the owners had now complied with their previous ordinance violations by planting winter wheat on the property and on the adjoining property.

Mr. Hale reiterated that this needed to be looked at some more. He suggested that the committee be formed and the memo looked at to evaluate its merits. Mr. Bruguiera agreed and he suggested the review should happen at the Planning Commission level. He then supposed that a better job of advertising these proposed amendments needed to be done in order to increase citizen involvement. Mr. Padalino agreed that industry involvement was needed; however he thought there needed to be balance on the work group. Mr. Padalino then advised that there was a lot of participation at the Planning Commission level and they had worked on it for six months. He added that comments were solicited from the industry that were incorporated.

Mr. Saunders also agreed that more work needed to be done and a committee should be formed. Mr. Padalino recommended including at least one Planning Commission member and he asked that Mr. Payne also be included.

Mr. Hale advised that he would be the Board of Supervisor member on the Committee and Mr. Padalino recommended a Planning Commissioner and an industry member be included and be given meeting options.

Mr. Harvey noted he did not think Mr. Payne needed to be included on the Committee; he could provide advice during the process and review final language. Supervisors agreed by consensus to not include him but to have him advise on any concerns.

Mr. Bruguiera then suggested that Robert Goad from the Planning Commission be included as he was an attorney.

Mr. Payne then addressed the Board and stated that he would like to give the Board the big picture reason on why these proposed amendments had been drafted. He noted that the Special Event permitting system was effectively becoming a rezoning tool without any input from the public or the Board and was all going on for a \$25 permit fee and was dealt with by the Zoning Administrator. He added that to create a methodology, they created categories and exempted certain activities that would be automatic, and then created definitions and plugged things in. He noted that they had intended for the limiting of the number of events to keep someone from abusing the system.

March 8, 2016

Mr. Carter noted that staff wanted the Board's direction and it was a matter of going forward or not. He added that Mr. Padalino was constantly being inundated with Special Event Permit applications and many were from non-A1 Zoning Districts.

Ms. Brennan thanked Mr. Padalino and Mr. Payne for their work on this and Supervisors agreed by consensus to establish a working committee on these proposed amendments.

D. Closed Session Pursuant to State Code §2.2-3711(A) (7) Consultation with legal counsel and briefings by staff members pertaining to pending litigation, County of Nelson v. Crockett.

Mr. Saunders moved that the Nelson County Board of Supervisors convene in closed session to discuss the following as permitted by Virginia Code § 2.2-3711(A) (7): Consultation with legal counsel and briefing by staff members pertaining to pending litigation in the case of County of Nelson v. Crockett.

Mr. Bruguiere seconded the motion and Mr. Hale noted he would not participate in the closed session as his surveying firm had been retained by a party with an interest in the litigation. He added that he did not feel that there was a conflict of interest; however he would recuse himself.

There being no further discussion, Supervisors voted (4-0-1) by roll call vote to approve the motion with Mr. Hale abstaining from the vote.

Supervisors then conducted the Closed Session and immediately upon returning to open session, Mr. Saunders moved that the Nelson County Board of Supervisors certify that, in the closed session just concluded, nothing was discussed except the matter or matters specifically identified in the motion to convene in closed session and lawfully permitted to be discussed under the provisions

Mr. Bruguiere seconded the motion and there being no further discussion, Supervisors voted unanimously (4-0-1) by roll call vote to approve the motion and Mr. Hale abstaining from the vote.

Mr. Hale then asked if the Board would consider scheduling the budget work session at that time and Ms. McCann noted that if the Board were to opt to change tax rates, it would have to be done at the April meeting. Mr. Carter advised that staff was not proposing that they do so.

Following discussion, Supervisors agreed by consensus to conduct a budget work session on March 29th at 3pm in the General District Courtroom.

V. Reports, Appointments, Directives, and Correspondence

These items were considered during the evening session following the scheduled public hearing.

March 8, 2016

A. Reports

1. County Administrator's Report

1. Courthouse Project Phase II: Jamerson-Lewis is working towards the construction of the building expansion on the north side of the Courthouse (facing the parking lot and adjacent to the Clerk's office). No major concerns or issues to report. Receipt of a quotation on the equipment for the Clerk's office is pending but anticipated this week March 7 - 11).

2. Broadband: Phase 1 of the middle mile fiber optic network expansion is in progress with approximately 2.5 miles of conduit installed. Completion of Phase 1 is anticipated by the end of March and not later than mid-April (weather dependent). Phases 2 and 3 will follow the completion of Phase 1.

The Broadband Strategic Planning Project is also in progress. The most recent project meeting with Design Nine was conducted on 2-26 (with Messrs. Hale and Strong of the NCBA in attendance). Subjects discussed at the meeting included: Network build-out plan, revising the network's rate structure and strategies related to network expansion.

Mr. Carter added that the Tourism office had developed a marketing plan and it was being implemented. He noted that there was now an interest form on the website, information would be sent out in the June tax tickets, and ads in local periodicals and the Parks and Recreation brochure were being placed. He noted that the downside was that the network would not be able to serve all those who expressed interest. Mr. Carter then noted that County staff had taken on the responsibilities of coordinating neighborhood installations.

3. BR Tunnel: VDOT staff have recently advised that a decision on full funding of the Tunnel Project may be completed within the ensuing 2-3 weeks (no specific timetable was provided by Department staff). Woolpert staff are working on the required project submittals to VDOT to enable the project to be authorized for construction bidding. A meeting with Woolpert staff is pending (coordination of the meeting date is in progress).

4. Lovingson Health Care Center: A communication from Valley Care Management was received on 2-26 indicating the company's continued interest in the facility. County staff responded with a request for VCM to submit its business plan (including financial plan) for ownership/operation of the center for review by County staff. VCM responded that the information would be submitted but receipt is pending. A tour of the center was also conducted on 2-3 with Architectural Partners (J. Vernon), Supervisors Brennan and Saunders and County staff (Carter and Truslow). The purpose was for AP to complete a visual review of the facility for possible re-use of the center by the County (offices or other). AP will complete and submit a report (pending) on its observations (the facility's construction drawing were previously provided to AP for review), including very preliminary cost estimates.

Mr. Carter noted that the building was now unoccupied and that most things had been moved out; however, he noted that there were some things left there that could go in a sale.

March 8, 2016

He added that the County would have to deal with utility turnover once the building was transferred.

5. Radio Project: (Taken from Dept. of Information Systems Report) The County has approved the final project milestone for the radio system and final payment will be made in March.

Black and Veatch is working to obtain the necessary radio frequency licenses for the Digital Vehicular Repeater Systems for Rockfish, Wintergreen and Montebello. The purchase and installation of the DVRS' will be completed as quickly as possible.

Representatives from the County, Motorola, Black and Veatch and Virginia State Police met at the Bear Den Mountain tower site on March 2nd to conduct a site survey. Information gathered during the survey will be utilized in evaluating the County's options for implementing a radio communications site at this location. Motorola is currently working on an assessment and will provide the County with information, recommendations and budgetary pricing. It is estimated that they will complete the assessment within the next three to four weeks. The team also conducted site surveys at an existing cell tower site on Afton Mountain, the Rockfish Fire Dept. tower site and the Martin's Store tower site. The Rockfish site will be evaluated as a second choice site if the Bear Den site does not work.

Augusta County has made a formal request to collocate on the County's Devils Knob tower site. A draft lease document is being prepared for consideration by the Board.

Mr. Carter added that Augusta County was there now, but would have to relocate.

6. CDBG Grant Application for Sewer Extension (Nellysford – Aqua VA to Wild Wolf Brewery): In order to proceed with the grant project, the scope of the project will have to be expanded and will, thereby, increase the project's expense. Additional steps include completion of a Preliminary Engineering Report (PER) to provide for the design of the sewer extension (to encompass increased capacity for all possible connections located along the proposed extension area) and an estimate of the projected construction expense. Also, income surveys of the project area will also be required to determine eligibility of any resident interested in connecting to the system (owned by Aqua VA). Additional negotiations and an agreement with Aqua VA will also be required. In recognition of these additional requirements, County staff met on 2-26 with the owner of Wild Wolf Brewery to discuss the feasibility of continuing the grant initiative, which will require greater expense and matching funding than initially projected. WWB's owner agreed that continuing the project was not feasible and advised County staff that WWB was working again towards an onsite solution to be approved by VDH. **Given the project's expanded scope and expense, which will increase from the original estimate, and WWB's recognition of these factors, staff's recommendation is for the Board of Supervisors to authorize rescinding the grant application with VA-DHCD.**

Mr. Carter reiterated that in order to proceed, the pipe would have to be sized to serve everyone, an engineering PER would have to be done, and design drawings done etc.

March 8, 2016

Mr. Harvey moved to authorize staff to rescind the application and Mr. Bruguere seconded the motion.

Mr. Carter advised that staff should have vetted the proposed project and grant requirements better and Mr. Saunders added that things became more complicated as well once VDOT got involved.

Ms. Brennan then thanked staff for the work done and it was noted that Ms. Wolf had expressed her thanks for them trying to help.

There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

7. FY 16-17 Budget: Work is nearly completed on the draft FY 16-17 Budget. Pending are the outcome of the State's Biennium Budget (the Gen. Assembly Session is scheduled to be completed on 3-12) and the School Division's formal budget request (which may not be received until after 3-24). Staff is, however, ready to begin budget work sessions with the Board and proposes the initial meeting be scheduled for 3-17. Should the Board decide to defer scheduling the initial work session (as Mr. Hale will not be available the week of 3-14 or 3-21) until the last week of March or into early April, a decision will need to be expeditiously completed on setting property tax rates. Staff's work to date does not include any tax rate adjustments. However, subject to the Board's initial review, the current working draft budget contains less financial ability/flexibility than in previous fiscal years.

8. Department Reports: Included with the BOS agenda for the 3-8-16 meeting.

2. Board Reports

Mr. Hale had no reports.

Mr. Harvey:

Mr. Harvey noted that he had not attended the Service Authority meeting; however he had brought up to them the Board's discussions regarding the connection fees. He noted that they had pulled up records for the last two and a half years and all of the Lovington connection fees were sent to the County within 30-90 days. He added that the Schuyler and Gladstone areas had not had any new connections. He reported that he had proposed to reduce the residential connections fees in order to make it equal to the Piney River connection fees of \$2,000 for each water and sewer. He noted that this would not affect the Service Authority since they did not retain these funds. He then noted that the discussion on the commercial hookups was that it was in the Board's hands since those fees were remitted to the County and the Board could do what they wanted with these. He then noted that they would meet on the following Thursday and hopefully could get this squared away.

March 8, 2016

Mr. Bruguiera suggested that if the fees came back to the County then they should make those connecting aware that they could ask the County for a rebate of the connection fees. Mr. Harvey suggested that a policy was needed in order to be consistent.

Mr. Carter then advised that those connection fees paid back to the County were to offset the debt the County has been paying on that system since 1999. He noted that it was in the Board's purview to rebate the fees; however it would then make it take longer to repay the debt. He noted that was the consideration when the connection fees were given back to someone. Mr. Harvey noted that it could be an incentive for people to locate in the County. Mr. Carter suggested that the Service Authority could still reduce the fees and he questioned whether or not they really wanted them to suggest to people that they ask for rebates from the County.

Mr. Hale then clarified that the Board was referring to connection fees and Mr. Harvey noted the difference between residential and commercial connections.

Mr. Saunders noted that water capacity had been his concern; however the Director had indicated to him that they had enough water. He noted that for commercial properties, connection to the system was very costly and was a deal breaker for some. He then agreed that there needed to be a policy on this. It was then noted that residential connection costs were \$4000 each for water and sewer right now. Mr. Harvey then pointed out that reducing these would not affect the Wintergreen area.

Mr. Hale noted he was in favor of equalizing the residential rates. Mr. Saunders then noted he would like to see the \$4,000 reduced to \$2,000 to be comparable with other areas.

Mr. Bruguiera:

Mr. Bruguiera reported that he attended Planning Commission meetings.

Mr. Saunders:

Mr. Saunders reported he attended courthouse progress meetings and TJPDC meetings as well as a tour of the Lovington Healthcare Center building.

Ms. Brennan:

Ms. Brennan reported that she attended a kick-off meeting for the Rockfish Valley Area Plan. She noted that the TJPDC was working on the first part and they would be meeting again in May.

She also reported attending a Crisis Intervention Team meeting and noted that there were no folks in the county with severe issues.

She reported attending the Atlantic Coast Pipeline court hearings and was impressed with the new Judge, Judge Garrett.

March 8, 2016

She reported attending the tour of the Lovingson Healthcare Center building.

B. Appointments

Ms. McGarry noted that there were no appointments to be made and that there had been no one interested so far in the North District seat on the Service Authority or the vacancy on the JABA Council on Aging. She noted that these would continue to be advertised on the County's website and in the Nelson County Times.

C. Correspondence

1. RVCC –Request for Zoning Ordinance Amendment

Mr. Hale noted the Community Center's concern regarding their ability to have temporary events on the property using a permanent structure. He noted that he had spoken with them and had suggested that Mr. Padalino would be looking at this issue as part of the review of the proposed Temporary Events amendments and would take their concerns into consideration. He added that the definition of Community Center may need some adjustment.

Mr. Bruguiere then questioned why the Rockfish Valley Community Center (RVCC) property was zoned R1, Residential and it was noted this was done in 1971 when the zoning map was first put in place. Mr. Hale then suggested that it should be rezoned.

Mr. Bruguiere noted that RVCC was anxious to get this done and rezoning may be a better way to go. Mr. Carter confirmed that the convenience center was also zoned R1.

Mr. Hale questioned whether or not rezoning would resolve their issues and Mr. Carter and Ms. Brennan noted that it would partially; however there would still be issues with events.

Mr. Carter noted that if RVCC wanted to rezone the property it would have to go through the Planning Commission and Mr. Harvey suggested that the whole corner there be included. It was then noted that they would need to consult with the Ruritans on this and Mr. Padalino noted he would look into it.

Mr. Bruguiere then reiterated the issue that they needed a permanent structure to hold events and have been told they could not do this under the current ordinance.

Supervisors then agreed by consensus that RVCC would be invited to participate in the Temporary Events ordinance working group.

D. Directives

Mr. Bruguiere and Mr. Harvey had no directives.

Ms. Brennan had the following directives:

March 8, 2016

She asked staff to check into the status of the Route 56 east and Business 29 intersection Garden.

She asked staff to get a list of new businesses from the Commission of Revenue and to have her include this in her monthly report.

She inquired about the siding replacement at the Library and Mr. Carter noted that the County was repairing the north face and it was a matter of timing and the weather.

She asked staff to prepare a resolution honoring the late Henry Conner.

She inquired about the status of the new Everbridge system and asked for an update in April.

She inquired as to when the next reassessment would begin and finish. Mr. Carter reported that an RFP for services would be issued in summer and once under contract it would be an eighteen month process ending in December 2017 and would be effective January 2018. He added that if the Board wanted to expedite the process, the ordinance would have to be changed.

Mr. Saunders had the following directives:

He noted that the LOCKN meeting was Thursday of that week at 11 am at the Carriage House and he would like to attend. Ms. Brennan noted she also wanted to go and the Board agreed by consensus for her and Mr. Saunders to attend.

He noted that the staff retirees were to be honored next month at the April meeting.

Mr. Hale had the following directives:

He asked that staff work on providing improved sign-age for their meetings. He added he preferred it to be larger and for it to have the ability to slide in a meeting placard. He clarified to use the same format; a sign on a stand that could be changed out.

VI. Recess and Reconvene Until 7:00 PM for the Evening Session

At 5:30 PM, Mr. Bruguiere moved to adjourn and continue the meeting until 7:00 PM. There was no second and Supervisors voted unanimously by voice vote to approve the motion.

EVENING SESSION 7:00 P.M. – NELSON COUNTY COURTHOUSE

I. Call to Order

March 8, 2016

Mr. Hale called the meeting to order at 7:05 PM, with all Supervisors present to establish a quorum.

II. Public Comments

There were no persons wishing to be recognized for public comments.

III. Public Hearings

- A. **Public Hearing – Proposed Amendments to Appendix A, Zoning “Bed & Breakfast Uses:** The proposed amendments include the definition or redefinition of numerous land uses related to transient lodging and dwellings and also include new or revised regulations regarding which zoning districts those uses are permissible in as a by-right use, as a special use, or as a use not permissible.

Mr. Padalino noted that in August 2015, County staff provided the Board with an introduction to the Bed and Breakfast ordinance issues and presented a request of the Board to make a text amendment referral to the Planning Commission. The Board then acted to refer Resolution R2015-66 “Bed and Breakfast Uses” to the Planning Commission. He then noted that on August 26, the Planning Commission formally received the referred amendments and began its review, on September 23 and October 28 the Planning Commission continued their review, proposed various modifications, and directed staff to advertise for a public hearing on November 18th. The Planning Commission then held a public hearing on November 18th and requested a three (3) month extension from the Board for continued review(s) prior to making a recommendation to the Board. On December 8th, the Board granted the requested three (3) month extension. On December 16th the Planning Commission continued its review inclusive of additional proposed modifications, on January 27, 2016 the Planning Commission concluded its review and formally voted to recommend the 12/28 draft of amendments. On February 9th, the Planning Commission recommendations were presented to the Board; which then authorized a public hearing for the March 8th Board meeting.

Mr. Padalino noted that the amendments were modified from what was referred based on careful Planning Commission review and discussion over six (6) meetings and one (1) public hearing, consideration of public comments received during the public hearing process, and consideration of written correspondence and phone calls from members of the public received throughout the overall Planning Commission review process.

He then noted that the most important changes made were:

(Proposed) Definition and Re-Definition of Uses in Article 2 “Definitions”:

– These amendments would eliminate the “tourist house” use and definition

March 8, 2016

- These amendments would resolve the existing contradictions between the definitions for “tourist house,” “home occupation,” and “dwelling”
- These amendments would also clarify uses that are currently provided for, as well as introduce new definitions for uses which are currently being undertaken in the County, such as:
 - “bed and breakfast class A” (intended to replace “home occupation – rental of rooms to tourists”)
 - “bed and breakfast class B” (room-by-room rentals, up to 8 total guest rooms or up to 24 total transient lodgers, conducted within a dwelling and/or accessory structures)
 - “vacation house” (rental of entire dwelling to transients)
 - “transient” and “transient lodging” (tourists lodging for less than 30 days)

Mr. Padalino noted that these proposed definitions resolved existing contradictions between definitions. He added that the Class A B&B definition was analogous to the current one and then a Class B was added. Mr. Padalino then clarified that transient lodging included a duration of less than 30 days to correlate with tax laws and this was not a change.

Mr. Padalino then discussed where these uses would be allowed noting that hotels and campgrounds would remain Special Uses in A1, and there was no change there.

He noted the RPC inclusions of a vacation house by right there so that Wintergreen condos and houses would not have to get Special Use Permits.

He then noted that the SE1 district currently provided for hotels as a Special Use and campground was being added.

Mr. Harvey questioned the need for the changes to Article 7, since RPC (Residential Planned Community) was a separate piece that once formed, the County did not have control over. Mr. Padalino explained that this was an atypical zoning area and there needed to be some way of dealing with R1 properties and the proposed amendments were providing more flexibility when being dealt with through the RPC reference.

Mr. Harvey further questioned the need for addressing RPC and Mr. Padalino stated that he thought the Ordinance still applied to RPC and they were trying to eliminate an existing hardship for Wintergreen. He added that those citizens in RPC have brought in subdivision plats for approval. Mr. Harvey added that he thought these were possibly boundary adjustments as his understanding was that the RPC was established on a certain number of parcels and if that changed, they had to come to the County.

Ms. Brennan then questioned why there were no B&BS in the B2 district and Mr. Padalino noted that the Planning Commission had addressed this and one cannot have dwellings in B2 without a Special Use Permit unless grandfathered. He noted this was a function of it not being provided for now so it was not addressed by the Planning Commission.

March 8, 2016

Supervisors and Staff then discussed Airbnb and Mr. Padalino noted that these were different than VRBO (Vacation Rental by Owner) as Airbnb was a company. It was noted that Senate Bill 416 was passed by the General Assembly and he had spoken with Legislative Liaison, David Blount of TJPDC about it. He noted that Mr. Blount emphasized that there was a reenactment clause in it and was almost a placeholder for next year. Mr. Carter confirmed this and noted that there was a study to be done by the state and the study committee would report back. He added that if it were approved again next year, he did not see where it impacted the County other than the ordinance may be superseded.

Mr. Hale then inquired about the Vacation House definition and them being subject to Article 13 site plan requirements. Mr. Padalino noted that a site plan was only required for new construction.

There being no further questions for staff, Mr. Hale opened the public hearing and the following persons were recognized:

1. Richard Bulissa, Orchard House B&B Owner

Mr. Bulissa noted he thought the proposed ordinance was very good and he noted that he has worked on it with Mr. Padalino. He then suggested that a Class A B&B be allowed six (6) rooms instead of five (5) as this was more in line with State regulations. He then applauded the use of a Class B classification and suggested allowing for ten (10) rooms but leaving the same number of people allowed the same. He noted that they did not put any more than two (2) people per room so a count of twenty-four (24) would be fine. He then added that he thought these changes would help others in the County.

2. Ellie Ray, Afton Mountain Rd

Ms. Ray noted that she has also worked with Mr. Padalino on this and she thought the proposal made a lot of sense and substantially clarified things.

There being no other persons wishing to be recognized, the public hearing was closed.

Mr. Hale then noted for the public that the Board often delayed adoption of amendments until their next meeting; however this was not required.

The Board then discussed Mr. Bulissa's suggested changes and agreed by Consensus to incorporate these changes as suggested.

Mr. Bruguiere then asked if the Board should wait for the outcome of the pending Airbnb legislation. Mr. Carter advised that he could send out the proposed language; however he explained that it would allow anyone to rent a house out as long as they registered with the State through a hosting company. He noted that the State would then collect all taxes including local taxes and then would remit them back to localities. He added that the legislation did not require the acquisition of a local business license to do this. Mr. Carter added that it was all to be determined; however he thought the localities probably would not

March 8, 2016

realize the full lodging tax from this. Ms. Brennan also questioned whether or not the County would know where in the County the Airbnbs were physically located. Mr. Carter noted a good thing was that there were penalties for not registering with the State.

Mr. Carter then advised the Board that the proposed amendments would need to be drafted in the form of an Ordinance and brought back for adoption. Mr. Hale suggested that it be drafted with the amended language and Mr. Harvey asked that the RPC language be checked.

Ms. Brennan then inquired if staff should look at allowing B&Bs in the B2 district and Mr. Harvey noted that B2 was a heavy business class and he thought it may not be a good mix. Mr. Carter reiterated that a Special Use Permit was required for dwellings there.

Mr. Hale then clarified the Board's action for the public and noted that the vast amount of the County was zoned A-1 Agricultural and the following applied: Permitted by right in A1 were Boardinghouses, Bed and Breakfast, Class A, Bed and Breakfast, Class B, and Vacation House. Permitted by Special Use Permit only were Campgrounds. He added that there were more restrictions on what was permitted by right in the other districts. He then reiterated that the Board's consensus was to change the number of rooms allowed in Class A Bed and Breakfasts from five (5) to six (6) and in Class B Bed and Breakfasts from eight (8) to ten (10).

Mr. Harvey advised that these proposed amendments would be posted on the County's website in advance of the April meeting for the public.

IV. Other Business

A. Schedule Budget Work Session(s)

This item was considered at the end of the Afternoon Session.

V. Adjourn and Continue for FY16-17 Budget Work Session

At 8:15 PM, Mr. Saunders moved to adjourn and continue the meeting until March 29, 2016 at 3:00 PM in the General District Courtroom for a budget work session. Mr. Harvey seconded the motion and Supervisors voted unanimously by voice vote to approve the motion and the meeting adjourned.

**RESOLUTION R2016-21
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF COMMISSIONER OF REVENUE REFUNDS**

RESOLVED, by the Nelson County Board of Supervisors that the following refunds, as certified by the Nelson County Commissioner of Revenue and County Attorney pursuant to §58.1-3981 of the Code of Virginia, be and hereby are approved for payment.

| <u>Amount</u> | <u>Category</u> | <u>Payee</u> |
|---------------|--------------------------------|--|
| \$187.69 | 2013-2014 PP Tax & License Fee | Michelle R. Gilland P.O. Box 73 Batesville, VA 22924 |
| \$104.27 | 2015 PP Tax & License Fee | Janie Groah 9664 Crabtree Falls Hwy Tyro, VA 22976 |
| \$37.71 | 2015 PP Tax | Isaias Ruiz-Castillo P.O. Box 282 Batesville, VA 22924 |

Approved: April 12, 2016

Attest: _____, Clerk
Nelson County Board of Supervisors

**COUNTY OF NELSON
PAMELA C CAMPBELL
COMMISSIONER OF REVENUE
P. O. Box 246
Lovington, VA 22949**

**Telephone: 434-263-7070
Fax: 434-263-7074
Email: pcampbell@nelsoncounty.org**

March 9, 2016

Mr. Alan Hale, Chairman
Nelson County Board of Supervisors
P. O. Box 336
Lovington, VA 22949

**Re: GILLAND MICHELLE R
P O BOX 73
BATESVILLE VA 22924**

RE: 1999 DODGE DURANGO #3381

This letter shall serve as a written request for 2013 & 2014 personal property tax & license fee refund in the amount of \$187.69 be issued to the above referenced taxpayer. The vehicle was garaged in Albemarle for 2013 & 2014.

Respectfully requested,


Pamela C Campbell
Commissioner of Revenue

The undersigned has reviewed the request of the Commissioner and consents to the refund requested above.

Phillip D. Payne, IV
County Attorney

**COUNTY OF NELSON
PAMELA C CAMPBELL
COMMISSIONER OF REVENUE
P. O. Box 246
Lovington, VA 22949**

**Telephone: 434-263-7070
Fax: 434-263-7074
Email: pcampbell@nelsoncounty.org**

March 18, 2016

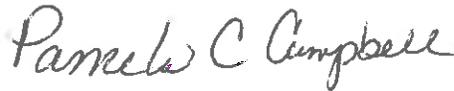
Mr. Alan Hale, Chairman
Nelson County Board of Supervisors
P. O. Box 336
Lovington, VA 22949

**Re: GROAH JANIE
9664 CRABTREE FALLS HWY
TYRO VA 22976**

RE: 2008 FORD ESCAPE #3681

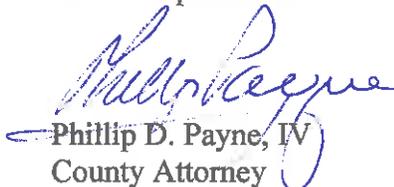
This letter shall serve as a written request for 2015 personal property tax & license fee refund in the amount of \$104.27 be issued to the above referenced taxpayer. The vehicle was garaged in Albemarle for tax year 2015.

Respectfully requested,



Pamela C Campbell
Commissioner of Revenue

The undersigned has reviewed the request of the Commissioner and consents to the refund requested above.



Phillip D. Payne, IV
County Attorney

COUNTY OF NELSON
PAMELA C CAMPBELL
COMMISSIONER OF REVENUE
P. O. Box 246
Lovington, VA 22949

Telephone: 434-263-7070
Fax: 434-263-7074
Email: pcampbell@nelsoncounty.org

March 25, 2016

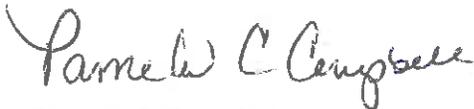
Mr. Alan Hale, Chairman
Nelson County Board of Supervisors
P. O. Box 336
Lovington, VA 22949

**Re: RUIZ-CASTILLO ISAIAS
PO BOX 282
BATESVILLE VA 22924 – 0282**

RE: 2005 CHEVROLET #3898

This letter shall serve as a written request for 2015 personal property tax refund in the amount of \$37.71 be issued to the above referenced taxpayer. The vehicle was garaged in Waynesboro for tax year 2015.

Respectfully requested,



Pamela C Campbell
Commissioner of Revenue

The undersigned has reviewed the request of the Commissioner and consents to the refund requested above.



Phillip D. Payne, IV
County Attorney

**RESOLUTION R2016-22
NELSON COUNTY BOARD OF SUPERVISORS
APRIL IS CHILD ABUSE PREVENTION MONTH**

WHEREAS, preventing child abuse and neglect is a community problem that depends on involvement among people throughout the community; and

WHEREAS, child maltreatment occurs when people find themselves in stressful situations, without community resources, and don't know how to cope; and

WHEREAS, the majority of child abuse cases stem from situations and conditions that are preventable in an engaged and supportive community; and

WHEREAS, all citizens should become involved in supporting families in raising their children in a safe, nurturing environment; and

WHEREAS, effective child abuse prevention programs succeed because of partnerships created among families, social service agencies, schools, faith communities, civic organizations, law enforcement agencies, and the business community.

NOW THEREFORE BE IT RESOLVED, that the Nelson County Board of Supervisors do hereby recognize April as Child Abuse Prevention Month and call upon all citizens, community agencies, faith groups, medical facilities, and businesses to increase their participation in our efforts to support families, thereby preventing child abuse and neglect and strengthening the communities in which we live.

Adopted: April 12, 2016

Attest: _____, Clerk
Nelson County Board of Supervisors

**RESOLUTION R2016-23
NELSON COUNTY BOARD OF SUPERVISORS
APRIL 2016 IS FAIR HOUSING MONTH**

WHEREAS, April is Fair Housing Month and marks the 48th anniversary of the passage of the federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988); and

WHEREAS, the Fair Housing Act provides that no person shall be subjected to discrimination because of race, color, national origin, religion, sex, disability, or familial status in the rental, sale, financing or advertising of housing (and the Virginia Fair Housing Law also prohibits housing discrimination based on elderliness); and

WHEREAS, the Fair Housing Act supports equal housing opportunity throughout the United States; and

WHEREAS, fair housing creates healthy communities, and housing discrimination harms us all;

NOW THEREFORE BE IT RESOLVED, that the Nelson County Board of Supervisors supports equal housing opportunity and seeks to affirmatively further fair housing not only during Fair Housing Month in April, but throughout the year;

Adopted: April 12, 2016

Attest: _____, Clerk
Nelson County Board of Supervisors

RESOLUTION R2016-24
NELSON COUNTY BOARD OF SUPERVISORS
APRIL 16TH IS HEALTHCARE DECISIONS DAY

WHEREAS, *Healthcare Decisions Day* is designed to raise public awareness of the need to plan ahead for health care decisions related to end of life care and medical decision-making whenever people are unable to speak for themselves and to encourage the specific use of Advance Directives to communicate these important health care decisions; and

WHEREAS, it is important for all individuals 18 and older to exercise their right to have their voices heard during the point in their life when they may not be able to express those wishes for their families and caregivers; and

WHEREAS, it is estimated that only about 20 percent of people in Virginia have executed an Advance Directive; and

WHEREAS, it is likely that a significant reason for these low percentages is that there is both a lack of knowledge and considerable confusion in the public about Advance Directives; and

WHEREAS, one of the principal goals of *Healthcare Decisions Day* is to encourage healthcare providers and community leaders to participate in a State-wide effort to provide clear and consistent information to the public about advance directives, as well as to encourage medical professionals and lawyers to volunteer their time and efforts to improve public knowledge and increase the number of citizens with advance directives; and

WHEREAS, JABA, University of Virginia Health System, Sentara Martha Jefferson Hospital, Hospice of the Piedmont, and other organizations throughout this community have endorsed this event and are committed to educating the public about the importance of discussing health care choices and executing advance directives; and

WHEREAS, as a result of April 16th being nationally recognized as *Healthcare Decisions Day* more citizens will have conversations about their health care decisions; more citizens will execute Advance Directives to make their wishes known; and fewer families and health care providers will have to struggle with making difficult health care decisions in the absence of guidance from the patient;

NOW, THEREFORE BE IT RESOLVED, the Nelson County Board of Supervisors do hereby recognize April 16, 2016, as *Healthcare Decisions Day* in Nelson County, and call this observance to the attention of all its citizens.

Adopted: April 12, 2016

Attest: _____, Clerk
Nelson County Board of Supervisors

NELSON COUNTY

VC

RURAL RUSTIC PRIORITY LIST - 3/15/2016 DRAFT

| PRIORITY | ROUTE | NAME | FROM | TO | LENGTH | TC - VPD | NOTES |
|----------|-------|------------------|--------------------|--------------------|----------|----------|---------------------------|
| 1 | 640 | WHEELERS COVE RD | RTE 623 | RTE 620 | 0.70 Mi. | 90 | FUNDED FY 16/17 \$140,000 |
| 2 | 756 | WRIGHTS LANE | RTE 623 | DEAD END | 0.90 Mi. | 116 | FUNDED FY17/18 \$180,000 |
| 3 | 634 | OLD ROBERTS RD | RTE 619 | RTE 754 | 1.70 Mi. | 110 | FUNDED FY 18/19 \$340,000 |
| 4 | 654 | CEDAR CREEK RD | 1.0 Mi. W. RTE 655 | 2.0 Mi. W RTE 655 | 1.00 Mi. | 120 | \$200,000 |
| 5 | 680 | CUB CREEK RD | 0.51 W RTE 699 | 1.90 Mi W RTE 699 | 1.39 Mi. | 71 | \$278,000 |
| 6 | 654 | FALLING ROCK DR | 1.0 MI.E. RTE 657 | RTE 661 | 1.90 Mi. | 127 | \$380,000 |
| 7 | 814 | CAMPBELL'S MT RD | 0.99 Mi. N. RTE 56 | 1.99 Mi. N. RTE 56 | 1.00 Mi. | 109 | \$200,000 |
| 8 | 617 | BUCK CREEK RD | 0.23 Mi. N RTE 29 | DEAD END | 1.40 Mi. | 140 | \$280,000 |
| 9 | 625 | PERRY LANE | ROUTE 623 | DEAD END | 2.00 Mi. | 118 | \$400,000 |
| 10 | 653 | WILSON RD | RTE 655 | RTE 710 | 2.83 Mi. | 60 | \$566,000 |
| 11 | 645 | AERIAL DR | RTE 646 E | RTE 646 W | 0.20 Mi. | 55 | \$40,000 |
| 12 | 721 | GREENFIELD DR | RTE 626 | 0.50 Mi. N RTE 626 | 0.50 mi. | 51 | \$100,000 |

Estimated cost /mile \$200,000

Six Year Plan Estimated Unpaved Road Allocation - \$1,600,000

DEPARTMENT OF
PLANNING & ZONING



PLANNING COMMISSION
BOARD OF ZONING APPEALS

To: Chair and Members, Nelson County Board of Supervisors
Mr. Stephen A. Carter | County Administrator

From: Tim Padalino | Planning & Zoning Director

Date: March 9, 2016

**Subject: Final Recommendations for Zoning Ordinance Amendments –
“Roadside Stands” and “Farmers Markets”
(inclusive of recommendations from Citizen’s Working Group and VDOT)**

➤ **Article 2: Definitions**

Remove the following definition:

~~*Wayside stand, roadside stand, wayside market:* Any structure or land used for the sale of agriculture or horticultural produce; livestock, or merchandise produced by the owner or his family on their farm.~~

Add the following definitions:

Farmers Market: Any structure, assembly of structures, or land used by multiple vendors for the off-farm sale or resale of agricultural and/or horticultural products, goods, and services, including value-added agricultural or horticultural products. Farmers Markets may include the sale or resale of accessory products, including arts, crafts, and/or farm-related merchandise, as long as the majority of products being offered for sale are, in the aggregate, comprised of agricultural or horticultural products.

Roadside Stand: Any use of land, vehicle(s), equipment, or facility(s) used by a single vendor for the off-farm sale or resale of agricultural and/or horticultural products, goods, and services, including value-added agricultural or horticultural products. Roadside Stands may include the sale or resale of accessory products, including arts, crafts, and/or farm-related merchandise, as long as the majority of products being offered for sale are, in the aggregate, comprised of agricultural or horticultural products. The majority of products being offered for sale by the Roadside Stand operator must have been cultivated, produced, processed, or created on an agricultural operation owned or controlled by the operator or operator’s family. Roadside Stands shall not be located within Virginia Department of Transportation right-of-way.

Roadside Stand, Class A: A Roadside Stand which accesses a Local or Secondary road, or other road which is not functionally classified (as defined by the Virginia Department of Transportation).

Roadside Stand, Class B: A Roadside Stand which accesses a Minor Collector, Major Collector, Minor Arterial, Principal Arterial, or other road which is functionally classified (as defined by the Virginia Department of Transportation), or located within three-hundred (300) feet of an intersection with any such road.

➤ **Article 4: Agricultural District (A-1)**

Amend the following provision in Section 4-11 "Administrative Approvals:"

The Zoning Administrator may administratively approve a zoning permit for the following uses, provided they are in compliance with the provisions of this Article.

~~4-11-2 Wayside Stand.~~ Roadside Stand, Class A, which provides one (1) year of approval. An approved Class A Roadside Stand may be renewed annually; no renewal fee or site plan resubmission shall be required with any request for annual renewal unless the layout, configuration, operation, vehicular ingress/egress, and/or scale is substantially modified.

No Class A Roadside Stand permit may be approved or renewed unless the Planning and Zoning Director reviews and approves the following operational details regarding the safety and appropriateness of the proposed Roadside Stand:

- (i) Signed affidavit declaring that the majority of products offered for sale at the Roadside Stand are cultivated, produced, processed, or created on an agricultural operation owned or controlled by the operator or operator's family.
- (ii) Location and type of proposed Roadside Stand equipment or facility:
 - a. All Roadside Stand structures or facilities must be located outside of VDOT right-of-way
 - b. All permanent Roadside Stand structures must comply with the required front yard setback areas of the applicable zoning district
- (iii) Location and details of proposed signage:
 - a. Maximum of one sign allowed, which may be double-sided
 - b. Maximum of twelve (12) square feet of signage
 - c. Must be located outside of VDOT right-of-way
- (iv) Sketch site plan, including accurate locations and dimensions of:
 - a. property boundaries and right-of-way
 - b. proposed location of Roadside Stand equipment and/or facility(s)
 - c. proposed signage
 - d. proposed layout and provisions for safe vehicular ingress, egress, and parking
 - e. lighting plan and lighting details (for any Roadside Stand request involving any proposed operation(s) after daylight hours)
- (v) Review comments from Virginia Department of Transportation:
 - a. VDOT review comments must include a formal "recommendation for approval" by VDOT before a Class A Roadside Stand permit can be approved by the Zoning Administrator

Add the following provisions to Section 4-1-a “Uses – Permitted by Special Use Permit only:”

4-1-46a Roadside Stand, Class B

4-1-47a Farmers Market

➤ **Article 8: Business District (B-1)**

Add the following provisions to Section 8-1 “Uses – Permitted by right:”

8-1-25 Roadside Stand, Class A and B

8-1-26 Farmers Market

➤ **Article 8A: Business District (B-2)**

Add the following provisions to Section 8A-1 “Uses – Permitted by right:”

8A-1-15 Roadside Stand, Class A and B

8A-1-16 Farmers Market

➤ **Article 8B: Service Enterprise District (SE-1)**

Add the following provisions to Section 8B-1 “Uses – Permitted by right:”

8B-1-4 ~~Farming~~ Agricultural Operations

8B-1-25 Roadside Stand, Class A and B

8B-1-26 Farmers Market

ORDINANCE O2016-01
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA, APPENDIX A ZONING,
ARTICLE 2 DEFINITIONS, ARTICLE 4 AGRICULTURAL DISTRICT (A-1), ARTICLE 8
BUSINESS DISTRICT (B-1), AND ARTICLE 8B SERVICE ENTERPRISE DISTRICT (SE-1)
“ROADSIDE STANDS” AND “FARMERS MARKETS”

BE IT ORDAINED, by the Nelson County Board of Supervisors that Appendix A Zoning, Article 2, Definitions, Article 4 Agricultural District (A-1), Article 8: Business District (B-1), Article 8B: Service Enterprise District (SE-1) be amended to revise the definitions, application requirements, and regulations for “off-farm agricultural retail sales” land uses, including Roadside Stands and Farmers Markets as follows:

Article 2: Definitions

Remove the following definition:

Wayside stand, roadside stand, wayside market: Any structure or land used for the sale of agriculture or horticultural produce; livestock, or merchandise produced by the owner or his family on their farm.

Add the following definitions:

Farmers Market: Any structure, assembly of structures, or land used by multiple vendors for the off-farm sale or resale of agricultural and/or horticultural products, goods, and services, including value-added agricultural or horticultural products. Farmers Markets may include the sale or resale of accessory products, including arts, crafts, and/or farm-related merchandise, as long as the majority of products being offered for sale are, in the aggregate, comprised of agricultural or horticultural products.

Roadside Stand: Any use of land, vehicle(s), equipment, or facility(s) used by a single vendor for the off-farm sale or resale of agricultural and/or horticultural products, goods, and services, including value-added agricultural or horticultural products. Roadside Stands may include the sale or resale of accessory products, including arts, crafts, and/or farm-related merchandise, as long as the majority of products being offered for sale are, in the aggregate, comprised of agricultural or horticultural products. The majority of products being offered for sale by the Roadside Stand operator must have been cultivated, produced, processed, or created on an agricultural operation owned or controlled by the operator or operator’s family. Roadside Stands shall not be located within Virginia Department of Transportation right-of-way.

Roadside Stand, Class A: A Roadside Stand which accesses a Local or Secondary road, or other road which is not functionally classified (as defined by the Virginia Department of Transportation).

Roadside Stand, Class B: A Roadside Stand which accesses a Minor Collector, Major Collector, Minor Arterial, Principal Arterial, or other road which is functionally classified (as defined by the Virginia Department of Transportation), or located within three-hundred (300) feet of an intersection with any such road.

Article 4: Agricultural District (A-1)

Revise the following provision in Section 4-11 "Administrative Approvals:"

The Zoning Administrator may administratively approve a zoning permit for the following uses, provided they are in compliance with the provisions of this Article.

4-11-2 Roadside Stand, Class A, which provides one (1) year of approval. An approved Class A Roadside Stand may be renewed annually; no renewal fee or site plan resubmission shall be required with any request for annual renewal unless the layout, configuration, operation, vehicular ingress/egress, and/or scale is substantially modified.

No Class A Roadside Stand permit may be approved or renewed unless the Planning and Zoning Director reviews and approves the following operational details regarding the safety and appropriateness of the proposed Roadside Stand:

- (i) Signed affidavit declaring that the majority of products offered for sale at the Roadside Stand are cultivated, produced, processed, or created on an agricultural operation owned or controlled by the operator or operator's family.
- (ii) Location and type of proposed Roadside Stand equipment or facility:
 - a. All Roadside Stand structures or facilities must be located outside of VDOT right-of-way
 - b. All permanent Roadside Stand structures must comply with the required front yard setback areas of the applicable zoning district
- (iii) Location and details of proposed signage:
 - a. Maximum of one sign allowed, which may be double-sided
 - b. Maximum of twelve (12) square feet of signage
 - c. Must be located outside of VDOT right-of-way
- (iv) Sketch site plan, including accurate locations and dimensions of:
 - a. property boundaries and right-of-way
 - b. proposed location of Roadside Stand equipment and/or facility(s)
 - c. proposed signage
 - d. proposed layout and provisions for safe vehicular ingress, egress, and parking
 - e. lighting plan and lighting details (for any Roadside Stand request involving any proposed operation(s) after daylight hours)
- (v) Review comments from Virginia Department of Transportation:

- a. VDOT review comments must include a formal “recommendation for approval” by VDOT before a Class A Roadside Stand permit can be approved by the Zoning Administrator

Add the following provisions to Section 4-1-a “Uses – Permitted by Special Use Permit only:”

4-1-46a Roadside Stand, Class B
4-1-47a Farmers Market

Article 8: Business District (B-1)

Add the following provisions to Section 8-1 “Uses – Permitted by right:”

8-1-25 Roadside Stand, Class A and B
8-1-26 Farmers Market

Article 8A: Business District (B-2)

Add the following provisions to Section 8A-1 “Uses – Permitted by right:”

8A-1-15 Roadside Stand, Class A and B
8A-1-16 Farmers Market

Article 8B: Service Enterprise District (SE-1)

Add the following provisions to Section 8B-1 “Uses – Permitted by right:”

8B-1-4 ~~Farming~~ Agricultural Operations
8B-1-25 Roadside Stand, Class A and B
8B-1-26 Farmers Market

BE IT FURTHER ORDAINED, by the Nelson County Board of Supervisors that this Ordinance becomes effective upon adoption.

Adopted: _____, 2016

Attest: _____, Clerk
Nelson County Board of Supervisors

DEPARTMENT OF
PLANNING & ZONING



PLANNING COMMISSION
BOARD OF ZONING APPEALS

To: Chair and Members, Nelson County Board of Supervisors
Mr. Stephen A. Carter | County Administrator

From: Tim Padalino | Planning & Zoning Director

Date: March 9, 2016

**Subject: Final Recommendations for Zoning Ordinance Amendments –
“Bed & Breakfast Uses” and other Transient Lodging
(inclusive of public comments received during 3/8 BOS public hearing)**

➤ Article 2: Definitions

Delete the following:

~~Boardinghouse, tourist home:~~

~~Tourist home:~~

Add the following:

Bed and Breakfast, Class A: A use composed of transient lodging provided by the resident occupants of a dwelling that is conducted within said dwelling and/or one or more structures that are clearly subordinate and incidental to the single family dwelling, having not more than six (6) guest rooms in the aggregate, and having not more than twelve (12) transient lodgers in the aggregate, and which also may include rooms for dining and for meetings for use by transient lodging guests of the class A bed and breakfast, provided that the dining and meeting rooms are accessory to the class A bed and breakfast use.

Bed and Breakfast, Class B : A use composed of transient lodging provided within a single family dwelling and/or one or more structures that are clearly subordinate and incidental to the single family dwelling, having not more than ten (10) guest rooms in the aggregate, and having not more than twenty-four (24) transient lodgers in the aggregate, and which also may include rooms for dining and for meetings for use by transient lodging guests of the bed and breakfast provided that the dining and meeting rooms are accessory to the bed and breakfast use.

Boardinghouse: A use composed of a single building in which more than one room is arranged or used for lodging by occupants who lodge for thirty (30) consecutive days or longer, with or without meals, for compensation. A boardinghouse may be occupied by the owner or operator, but may not be operated on the same parcel as a bed and breakfast.

Tent: A structure or enclosure, constructed of pliable material, which is supported by poles or other easily removed or disassembled structural apparatus.

Transient: A guest or boarder; one who stays for less than thirty (30) days and whose permanent address for legal purposes is not the lodging or dwelling unit occupied by that guest or boarder.

Transient lodging: Lodging in which the temporary occupant lodges in overnight accommodations for less than thirty (30) consecutive days.

Vacation House: A house rented to transients. Rental arrangements are made for the entire house, not by room. Vacation houses with more than five (5) bedrooms are subject to the requirements contained in Article 13, Site Development Plan.

Amend the following:

Campground: Any place used for transient camping where compensation is expected in order to stay in a tent, travel trailer, or motor home. Campgrounds require the provision of potable water and sanitary facilities.

Dwelling: Any building which is designed for residential purposes (except boardinghouses, dormitories, hotels, and motels).

Dwelling, single-family detached: A building arranged or designed to contain one (1) dwelling unit.

Home Occupation, class A: An occupation carried on by the occupant of a dwelling as a secondary use in connection with which there is no display, and not more than one (1) person is employed, other than members of the family residing on the premises, such as the tailoring of garments, the preparation of food products for sale, and similar activities, beauty parlors, professional offices such as medical, dental, legal, engineering, and architectural offices conducted within a dwelling or accessory building by the occupant.

Home Occupation, class B: An occupation carried on by the occupant of a dwelling as a secondary use in connection with which there is no display, and not more than four (4) persons are employed, other than members of the family residing on the premises, such as the tailoring of garments, the preparation of food products for sale, and similar activities, beauty parlors, professional offices such as medical, dental, legal, engineering, and architectural offices conducted within a dwelling or accessory building by the occupant.

Hotel: Any hotel, inn, hostelry, motel, or other place used for overnight lodging which is rented by the room to transients, is not a residence, and where the renting of the structure is the primary use of the property.

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.

➤ **Article 4: Agricultural District A-1**

Amend as follows:

Section 4-1 *Uses – Permitted by right.*

- 4-1-3 Boardinghouse
- 4-1-30 Bed and Breakfast, Class A
- 4-1-31 Bed and Breakfast, Class B
- 4-1-32 Vacation House

Section 4-1-a *Uses – Permitted by Special Use Permit only:*

- 4-1-10a Campground

➤ **Article 5: Residential District R-1**

Amend as follows:

Section 5-1 *Uses – Permitted by-right:*

- 5-1-17 Bed and Breakfast, Class A
- 5-1-18 Bed and Breakfast, Class B, if the subject property contains more than one zoning classification with a majority portion of the subject property zoned Agricultural A-1.
- 5-1-19 Vacation House, if the subject property contains more than one zoning classification with a majority portion of the subject property zoned Agricultural A-1.

Section 5-1-a *Uses – Permitted by Special Use Permit only:*

- 5-1-4a Bed and Breakfast, Class B, if the provisions in 5-1-18 do not apply to the subject property
- 5-1-5a Vacation House, if the provisions contained in 5-1-19 do not apply to the subject property

➤ **Article 6: Residential District R-2**

Amend as follows:

Section 6-1-a *Uses – Permitted by Special Use Permit only:*

- 6-1-3a Boardinghouse
- 6-1-4a Bed and Breakfast, Class A
- 6-1-5a Vacation House

➤ **Article 7: Residential Planned Community District RPC**

Amend as follows:

Section 7-5-2 Single-Family Residential Sector - SR

In Single-Family Residential Sectors, the following uses will be permitted:

1. Single-family detached dwellings.

2. Single-family attached dwellings.
3. Other uses as permitted in Residential Districts R-1 and in Section 7-5-1(b); except that Vacation House shall be a permissible by-right use in the SR Sector of the RPC District and shall not require a Special Use Permit.

➤ **Article 8: Business District B-1**

Amend as follows:

Section 8-1 Uses – Permitted by right:

- 8-1-25 Bed and Breakfast, Class A, if the subject property contains an existing non-conforming dwelling or has an approved Special Use Permit for dwelling units pursuant to 8-1-10a
- 8-1-26 Bed and Breakfast, Class B, if the subject property contains an existing non-conforming dwelling or has an approved Special Use Permit for dwelling units pursuant to 8-1-10a
- 8-1-27 Vacation House, if the subject property contains an existing non-conforming dwelling or has an approved Special Use Permit for dwelling units pursuant to 8-1-10a

Section 8-1-a Uses – Permitted by Special Use Permit only:

- 8-1-13a Campground

➤ **Article 8A: Business District B-2**

Amend as follows:

Section 8A-1-a Uses – Permitted by Special Use Permit only:

- 8A-1-15 Hotel

➤ **Article 8B: Service Enterprise District SE-1**

Amend as follows:

Section 8B-1 Uses – Permitted by right:

- 8B-1-3 Boardinghouse, vacation house, class A bed and breakfast, class B bed and breakfast, churches, church adjunctive graveyards, libraries, schools, hospitals, clinics, parks, playgrounds, post offices, fire department, and rescue squad facilities

Section 8B-1-a Uses – Permitted by Special Use Permit only:

- 8B-1-14a Campground

ORDINANCE O2016-02
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA, APPENDIX A
ZONING, ARTICLE 2 DEFINITIONS, ARTICLE 4 AGRICULTURAL DISTRICT (A-1),
ARTICLE 5 RESIDENTIAL DISTRICT (R-1), ARTICLE 6 RESIDENTIAL DISTRICT
(R-2) ARTICLE 7 RESIDENTIAL PLANNED COMMUNITY DISTRICT (RPC),
ARTICLE 8 BUSINESS DISTRICT (B-1), ARTICLE 8A BUSINESS DISTRICT (B-2) ,
AND ARTICLE 8B SERVICE ENTERPRISE DISTRICT (SE-1) “BED AND
BREAKFAST” USES

BE IT ORDAINED, by the Nelson County Board of Supervisors that Appendix A Zoning, Article 2, Definitions, Article 4 Agricultural District (A-1), Article 5 Residential District (R-1), Article 6 Residential District (R-2), Article 7 Residential Planned Community District (RPC), Article 8: Business District (B-1), Article 8A Business District (B-2), and Article 8B Service Enterprise District (SE-1) be amended to revise the definitions, application requirements, and regulations for “Bed and Breakfast” Uses as follows:

Article 2: Definitions

Remove the following definitions:

Boardinghouse, tourist home: A building arranged or used for lodging, with or without meals, for compensation by more than five (5) and not more than fourteen (14) persons and open to transients. A boardinghouse or tourist home shall not be deemed a home occupation.

Tourist home: See Boardinghouse.

Add the following definitions:

Bed and Breakfast, Class A: A use composed of transient lodging provided by the resident occupants of a dwelling that is conducted within said dwelling and/or one or more structures that are clearly subordinate and incidental to the single family dwelling, having not more than six (6) guest rooms in the aggregate, and having not more than twelve (12) transient lodgers in the aggregate, and which also may include rooms for dining and for meetings for use by transient lodging guests of the class A bed and

breakfast, provided that the dining and meeting rooms are accessory to the class A bed and breakfast use.

Bed and Breakfast, Class B: A use composed of transient lodging provided within a single family dwelling and/or one or more structures that are clearly subordinate and incidental to the single family dwelling, having not more than ten (10) guest rooms in the aggregate, and having not more than twenty-four (24) transient lodgers in the aggregate, and which also may include rooms for dining and for meetings for use by transient lodging guests of the bed and breakfast provided that the dining and meeting rooms are accessory to the bed and breakfast use.

Boardinghouse: A use composed of a single building in which more than one room is arranged or used for lodging by occupants who lodge for thirty (30) consecutive days or longer, with or without meals, for compensation. A boardinghouse may be occupied by the owner or operator, but may not be operated on the same parcel as a bed and breakfast.

Tent: A structure or enclosure, constructed of pliable material, which is supported by poles or other easily removed or disassembled structural apparatus.

Transient: A guest or boarder; one who stays for less than thirty (30) days and whose permanent address for legal purposes is not the lodging or dwelling unit occupied by that guest or boarder.

Transient lodging: Lodging in which the temporary occupant lodges in overnight accommodations for less than thirty (30) consecutive days.

Vacation House: A house rented to transients. Rental arrangements are made for the entire house, not by room. Vacation houses with more than five (5) bedrooms are subject to the requirements contained in Article 13, Site Development Plan.

Amend the following:

Campground: Any place used for transient camping where compensation is expected in order to stay in a tent, travel trailer, or motor home. Campgrounds require the provision of potable water and sanitary facilities.

Dwelling: Any building which is designed for residential purposes (except boardinghouses, dormitories, hotels, and motels).

Dwelling, single-family detached: A building arranged or designed to contain one (1) dwelling unit.

Home Occupation, class A: An occupation carried on by the occupant of a dwelling as a secondary use in connection with which there is no display, and not more than one (1) person is employed, other than members of the family residing on the premises, such as the tailoring of garments, the preparation of food products for sale, and similar activities, beauty parlors, professional offices such as medical, dental, legal, engineering, and architectural offices conducted within a dwelling or accessory building by the occupant.

Home Occupation, class B: An occupation carried on by the occupant of a dwelling as a secondary use in connection with which there is no display, and not more than four (4) persons are employed, other than members of the family residing on the premises, such as the tailoring of garments, the preparation of food products for sale, and similar activities, beauty parlors, professional offices such as medical, dental, legal, engineering, and architectural offices conducted within a dwelling or accessory building by the occupant.

Hotel: Any hotel, inn, hostelry, motel, or other place used for overnight lodging which is rented by the room to transients, is not a residence, and where the renting of the structure is the primary use of the property.

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.

Article 4: Agricultural District A-1

Section 4-1 Uses – Permitted by right.

4-1-3 Boardinghouse

4-1-30 Bed and Breakfast, Class A

4-1-31 Bed and Breakfast, Class B

4-1-32 Vacation House

Section 4-1-a Uses – Permitted by Special Use Permit only:

4-1-10a Campground

Article 5: Residential District R-1

Section 5-1 Uses – Permitted by-right:

5-1-17 Bed and Breakfast, Class A

5-1-18 Bed and Breakfast, Class B, the subject property contains more than one zoning classification with a majority portion of the subject property zoned Agricultural A-1

5-1-19 Vacation House, if the subject property contains more than one zoning classification with a majority portion of the subject property zoned Agricultural A-1

Section 5-1-a Uses – Permitted by Special Use Permit only:

5-1-4a Bed and Breakfast, Class B, if the provisions in 5-1-18 do not apply to the subject property

5-1-5a Vacation House, if the provisions contained in 5-1-19 do not apply to the subject property

Article 6: Residential District R-2

Section 6-1-a Uses – Permitted by Special Use Permit only:

6-1-3a Boardinghouse

6-1-4a Bed and Breakfast, Class A

6-1-5a Vacation House

Article 7: Residential Planned Community District RPC

Section 7-5-2 Single-Family Residential Sector - SR

In Single-Family Residential Sectors, the following uses will be permitted:

1. Single-family detached dwellings.
2. Single-family attached dwellings.
3. Other uses as permitted in Residential Districts R-1 and in Section 7-5-1(b); except that Vacation House shall be a permissible by-right use in the SR Sector of the RPC District and shall not require a Special Use Permit.

Article 8: Business District B-1

Section 8-1 Uses – Permitted by right:

8-1-25 Bed and Breakfast, Class A, if the subject property contains an existing non-conforming dwelling or has an approved Special Use Permit for dwelling units pursuant to 8-1-10a

8-1-26 Bed and Breakfast, Class B, if the subject property contains an existing non-conforming dwelling or has an approved Special Use Permit for dwelling units pursuant to 8-1-10a

8-1-27 Vacation House, if the subject property contains an existing non-conforming dwelling or has an approved Special Use Permit for dwelling units pursuant to 8-1-10a

Section 8-1-a Uses – Permitted by Special Use Permit only:
8-1-13a Campground

Article 8A: Business District B-2

Section 8A-1-a Uses – Permitted by Special Use Permit only:
8A-1-15 Hotel

Article 8B: Service Enterprise District SE-1

Section 8B-1 Uses – Permitted by right.

8B-1-3 Boardinghouse, vacation house, Class A bed and breakfast, Class B bed and breakfast, churches, church adjunctive graveyards, libraries, schools, hospitals, clinics, parks, playgrounds, post offices, fire department, and rescue squad facilities

Section 8B-1-a Uses – Permitted by Special Use Permit only:
8B-1-14a Campground

BE IT FURTHER ORDAINED, by the Nelson County Board of Supervisors that this Ordinance becomes effective upon adoption.

Adopted: _____, 2016

Attest: _____, Clerk
Nelson County Board of Supervisors

**RESOLUTION R2016-25
NELSON COUNTY BOARD OF SUPERVISORS
ESTABLISHMENT OF TAX RATES**

RESOLVED, by the Nelson County Board of Supervisors, pursuant to and in accordance with Section 58.1-3001 of the Code of Virginia, 1950, that the tax rate of levy applicable to all property subject to local taxation, inclusive of public service corporation property, shall remain as currently effective until otherwise re-established by said Board of Supervisors and is levied per \$100 of assessed value as follows:

| | |
|----------------------------|--------|
| Real Property Tax | \$0.72 |
| Tangible Personal Property | \$3.45 |
| Machinery & Tools Tax | \$1.25 |
| Mobile Home Tax | \$0.72 |

Adopted: _____, 2016

Attest: _____, Clerk
Nelson County Board of Supervisors

Code of Virginia
Title 58.1. Taxation
Chapter 30. General Provisions

§ 58.1-3001. When boards of supervisors to fix and order county and district taxes; funds not available, allocated, etc., until appropriated.

The governing body of each county shall, at its regular meeting in the month of January in each year, or as soon thereafter as practicable not later than a regular or called meeting in June, fix the amount of the county and district taxes for the current year. Any such governing body may provide that if any taxpayer owns tangible personal property of such small value that the local levies thereon for the year result in a tax of less than fifteen dollars, such tax may be collected as provided by ordinance or such property may be omitted from the personal property book and no assessment made thereon.

The imposition of taxes or the collection of such taxes shall not constitute an appropriation nor an obligation or duty to appropriate any funds for any purpose, expenditure or contemplated expenditure. No part of the funds raised by the general county taxes shall be considered available, allocated or expended for any purpose until there has been an appropriation of funds for that expenditure or purpose by the governing body either annually, semiannually, quarterly, or monthly. There shall be no mandatory duty upon the governing body of any county to appropriate any funds raised by general county taxes except to pay the principal and interest on bonds and other legal obligations of the county or district and to pay obligations of the county or its agencies and departments arising under contracts executed or approved by the governing body, unless otherwise specifically provided by statute. Any funds collected and not expended in any fiscal year shall be carried over to the succeeding fiscal years and shall be available for appropriation for any governmental purposes in those years.

Code 1950, § 58-839; 1950, p. 416; 1952, c. 423; 1958, c. 35; 1959, Ex. Sess., c. 52; 1984, c. 675; 1988, c. 430; 1989, c. 81; 1994, c. 252.

RESOLUTION R2016-26
NELSON COUNTY BOARD OF SUPERVISORS
2016 PERSONAL PROPERTY TAX RELIEF

WHEREAS, the Personal Property Tax Relief Act of 1998, Va. Code § 58.1-3524 has been substantially modified by the enactment of Chapter 1 of the Acts of Assembly, 2004 Special Session I (Senate Bill 5005), and the provisions of Item 503 of Chapter 951 of the 2005 Acts of Assembly; and

WHEREAS, the Nelson County Board of Supervisors has adopted an Ordinance for Implementation of the Personal Property Tax Relief Act, Chapter 11, Article X, of the County Code of Nelson County, which specifies that the rate for allocation of relief among taxpayers be established annually by resolution as part of the adopted budget for the County.

NOW THEREFORE BE IT RESOLVED that the Nelson County Board of Supervisors does hereby authorize tax year 2016 personal property tax relief rates for qualifying vehicles as follows:

- Qualified vehicles with an assessed value of \$1,000 or less will be eligible for 100% tax relief;
- Qualified vehicles with an assessed value of \$1,001 to \$20,000 will be eligible for **39%** tax relief;
- Qualified vehicles with an assessed value of \$20,001 or more shall be eligible to receive **39%** tax relief only on the first \$20,000 of assessed value; and
- All other vehicles which do not meet the definition of “qualifying” (business use vehicle, farm use vehicle, motor homes, etc.) will not be eligible for any form of tax relief under this program.

BE IT FINALLY RESOLVED that the personal property tax relief rates for qualifying vehicles hereby established shall be effective January 1, 2016 through December 31, 2017.

Adopted: _____, 2016

Attest: _____, Clerk
 Nelson County Board of Supervisors

Code of Virginia
Title 58.1. Taxation
Chapter 35.1. Personal Property Tax Relief

§ 58.1-3524. Tangible personal property tax relief; local tax rates on vehicles qualifying for tangible personal property tax relief.

[Bills amending this Section](#)

A. For tax year 2006 and all tax years thereafter, counties, cities, and towns shall be reimbursed by the Commonwealth for providing the required tangible personal property tax relief as set forth herein.

B. For tax year 2006 and all tax years thereafter, the Commonwealth shall pay a total of \$950 million for each such tax year in reimbursements to localities for providing the required tangible personal property tax relief on qualifying vehicles in subsection C. No other amount shall be paid to counties, cities, and towns for providing tangible personal property tax relief on qualifying vehicles. Each county's, city's, or town's share of the \$950 million for each such tax year shall be determined pro rata based upon the actual payments to such county, city, or town pursuant to this chapter for tax year 2005 as compared to the actual payments to all counties, cities, and towns pursuant to this chapter for tax year 2005, as certified in writing by the Auditor of Public Accounts no later than March 1, 2006, to the Governor and to the chairmen of the Senate Committee on Finance and the House Committee on Appropriations. The amount reimbursed to a particular county, city, or town for tax year 2006 for providing tangible personal property tax relief shall be the same amount reimbursed to such county, city, or town for each subsequent tax year.

The reimbursement to each county, city, or town for tax year 2006 shall be paid by the Commonwealth over the 12-month period beginning with the month of July 2006 and ending with the month of June 2007, as provided in the general appropriation act. For all tax years subsequent to tax year 2006, reimbursements shall be paid over the same 12-month period. All reimbursement payments shall be made by check issued by the State Treasurer to the respective treasurer of the county, city, or town on warrant of the Comptroller.

C. For tax year 2006 and all tax years thereafter, each county, city, or town that will receive a reimbursement from the Commonwealth pursuant to subsection B shall provide tangible personal property tax relief on qualifying vehicles by reducing its local tax rate on qualifying vehicles as follows:

1. The local governing body of each county, city, or town shall fix or establish its tangible personal property tax rate for its general class of tangible personal property, which rate shall also be applied to that portion of the value of each qualifying vehicle that is in excess of \$20,000.
2. After fixing or establishing its tangible personal property tax rate for its general class of tangible personal property, the local governing body of the county, city, or town shall fix or establish one or more reduced tax rates (lower than the rate applied to the general class of tangible personal property) that shall be applied solely to that portion of the value of each qualifying vehicle that is not in excess of \$20,000. No other tangible personal property tax rate shall be applied to that portion of the value of each qualifying vehicle that is not in excess of \$20,000. Such reduced tax rate or rates shall be set at an effective tax rate or rates such that (i) the revenue to be received from such reduced tax rate or rates on that portion of the value of qualifying vehicles not in excess of \$20,000 plus (ii) the revenue to be received on that portion of the value of qualifying vehicles in excess of \$20,000 plus (iii) the Commonwealth's reimbursement is approximately equal to the total revenue that would have been received by the county, city, or town from its tangible personal property tax had the tax rate for its general class of tangible personal property been applied to 100 percent of the value of all qualifying vehicles.

3. Notwithstanding the provisions of subdivisions 1 and 2, beginning with tax year 2016, each county, city, and town that receives reimbursement shall ensure that the reimbursement pays for all of the tax attributable to the first \$20,000 of value on each qualifying vehicle leased by an active duty member of the United States military, his spouse, or both, pursuant to a contract requiring him, his spouse, or both to pay the tangible personal property tax on such vehicle. The provisions of this subdivision apply only to a vehicle that would not be taxed in Virginia if the vehicle were owned by such military member, his spouse, or both.

D. On or before the date the certified personal property tax book is required by § 58.1-3118 to be provided to the treasurer, the commissioner of the revenue shall identify each qualifying vehicle and its value to the treasurer of the locality.

E. The provisions of this section are mandatory for any county, city, or town that will receive a reimbursement pursuant to subsection B.

1998, Sp. Sess. I, c. 2; 2004, Sp. Sess. I, c. 1; 2015, c. 266.

Upcoming Appointments May - June 2016

| <u>Board or Commission</u> | <u>Terms Expiring</u> | <u>Incumbent</u> |
|---|-------------------------------------|---|
| Ag & Forestal Dist. Advisory 4 Year Term - 3 Term Limit | 5/13/2016 | Other Landowners Bill Halvorsen |
| Board of Building Appeals 4 Year Term - No Term Limit (initial 3 - 2012, initial 2 - 2014 per Ordinance) | 6/30/2016 6/30/2016 6/30/2016 | Shely Bruguere Steven C. Crandall Kenneth H. Taylor |
| Jefferson Madison Regional Library Board 4 Year Term - 2 Term Limit | 6/30/2016 | Marcia McDuffie (T1) Unexp Term of Mary Coy |
| N.C. Economic Dev. Authority 4 year term | 6/30/2016 6/30/2016 | R. Carlton Ballowe Emily H. Pelton |
| N.C. Library Advisory Committee 4 year term appointed by District | 6/30/2016 | Audrey Evans - West District |
| N.C. Service Authority 4 Year term appointed by District | 6/30/2016 6/30/2016 | Edward L. Rothgeb - South David S. Hight-West |
| N.C. Social Services Board 4 year term with 2 term limit | 6/30/2016 | Clifford Savell (T1) |
| Piedmont Workforce Network Board PWN Business Representative - 3 Year Term No Term Limits | 6/30/2016 | James S. Turpin |
| Planning Commission 4 Year term appointed by District | 6/30/2016 6/30/2016 | Mary K. Allen - South Michael Harman-West |
| Region Ten Community Services Board 3 Year term / 3 Term Limit | 6/30/2016 | Patricia Hughes (T1) |

Steve Carter
Nelson County Administrator
POB 336
Lovingson, VA 22949

March 15, 2016

Dear Mr. Carter,

Friends of Nelson has recently collected signatures from 119 Nelson County residents who want the Board of Supervisors to immediately pass two resolutions:

- 1) Request that the FERC complete a Programmatic Environmental Impact Statement (PEIS) for the proposed Atlantic Coast Pipeline and all other pipelines proposed to cross the Blue Ridge and Central Appalachian mountain region and
- 2) Urge our state and federal legislators to contact FERC for the same purpose.

For the last several months, our community has been asking the Board to act on this issue. During that time, several other counties (Giles, Roanoke, Craig) and numerous legislators (US Representatives Goodlatte, Griffith, Hurt; VA Senators Deeds, McEachin, Miller; VA Delegates McClellan, Heretick, Loupassi, Toscano, Carr, Bagby, Rasoul and Wilt) have issued calls for a broader regional analysis or PEIS.

Please forward these signed petitions to each of the members of the Board of Supervisors and make sure that they are entered into the County's permanent records.

Additionally, in order to help the Board more fully understand the reasons why a PEIS is appropriate, we are providing them with a copy of a filing that Roanoke County's counsel recently submitted to FERC as part of the Mountain Valley Pipeline docket. As they state, "The County's interest in the Commission's preparation of a PEIS relates not to the MVP Project exclusively but rather to the need for improved and more consistent NEPA review of pipeline projects throughout the region."

If other counties are willing to go to this much trouble to weigh in on the PEIS issue, we think that it is a small thing to ask our Board to pass a simple resolution and submit it to FERC.

Thank you for your time.

Sincerely,



Joyce D. Burton and Randall S. Whiting
Friends of Nelson



**UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

| | |
|------------------------------------|-------------|
| _____) | |
| Mountain Valley Pipeline, LLC) | CP16-10-000 |
| Mountain Valley Pipeline Project) | |
| _____) | |
| Equitrans, LP) | CP16-13-000 |
| Equitrans Expansion Project) | |
| _____) | |

**MOTION FOR LEAVE TO FILE AN ANSWER AND LIMITED ANSWER OF
ROANOKE COUNTY, VIRGINIA**

Pursuant to the Commission’s Rules of Practice and Procedure 212 and 213,¹ Roanoke County, Virginia (County) hereby moves to file a limited answer to Mountain Valley Pipeline, LLC’s (MVP), “Motion to Answer and Answer”² in connection with the Mountain Valley Pipeline Project (MVP Project), which is pending before the Federal Energy Regulatory Commission (Commission). The purpose of this answer is to respond to certain arguments in MVP’s Answer regarding the appropriateness of programmatic review under the National Environmental Policy Act (NEPA) for pipeline projects that are not necessarily “connected actions” or part of a “federally coordinated plan,” and the appropriateness of the Commission analyzing gathering lines as part of either project-specific or programmatic NEPA review.

I. MOTION FOR LEAVE TO FILE AN ANSWER

Pursuant to 18 C.F.R. § 385.213(a)(2), Roanoke County requests the opportunity to be heard on certain arguments made in MVP’s Answer.

Rule 213(a)(2) prohibits an answer to an answer unless otherwise ordered by the decisional authority. However, the Commission has granted leave to file an answer when it will clarify the issues in dispute, ensure a complete and accurate record, or otherwise provide information that will assist the Commission in its decision-making process.³

¹ 18 C.F.R. §§ 385.212, 385.213.

² MVP, “Motion to Answer and Answer,” eLibrary no. 20160127-5259 (Jan. 27, 2016).

³ See, e.g., *S. La. Elec. Coop. Assoc.*, 144 FERC ¶ 61,050 (July 18, 2013) (allowing an answer to an answer where “it will assist the Commission in its decision-making process”); *Mich. Elec. Transmission Co.*, 106 FERC ¶ 61,064 (Jan. 28, 2004) (allowing an answer to an answer that “provides information that clarifies the issues”); *Dominion Transmission, Inc.*, 105 FERC ¶ 61173 (Oct. 31, 2003) (waiving Rule 213(a)(2) because the “answer may aid in the disposition of the issues raised by the subject filing”).

Given the general rule against answers to answers, the County has not responded to all of the arguments raised by MVP's Answer. Rather, the County's Answer is limited to information necessary to clarify disputed issues regarding NEPA review, correct mischaracterizations, or respond to new arguments raised by MVP.

The County respectfully requests that the Commission consider this limited Answer because it will clarify the issues and assist in the Commission's decision-making.

II. ANSWER

A. Programmatic NEPA Review Is Useful to Improve Evaluation of Natural Gas Pipeline Projects Throughout the Region.

MVP's Answer objects to the County's comments in support of the Commission's preparation of a Programmatic Environmental Impact Statement (PEIS).⁴ The County noted that there were several other pipeline projects that would cross Western Virginia and be subject to the Commission's jurisdiction, including the Equitrans Expansion, Atlantic Coast Pipeline, and Appalachian Connector Projects.⁵ The County submitted that the most efficient way to conduct a comprehensive study of the environmental impacts for these and other potential natural gas projects in the region was to prepare a PEIS.⁶

In its Answer, MVP argues that preparation of a PEIS *for the MVP Project* is unnecessary: "[a]n extended programmatic EIS, however, covering multiple unrelated projects that happen to be planned in the same general region is unnecessary to facilitate the Commission's review of the MVP Project."⁷

The County's interest in the Commission's preparation of a PEIS relates not to the MVP Project exclusively but rather to the need for improved and more consistent NEPA review of pipeline projects throughout the region. As stated in our previous comments, there are four pipeline projects that have been proposed in Western Virginia alone, and the prospect of numerous other pipeline projects subject to NEPA review throughout Greater Appalachia to transport Marcellus Shale natural gas.⁸ This is indicative of an unprecedented increase in natural gas development throughout Greater Appalachia that shows no signs of slowing soon.

⁴ See Roanoke County, Virginia, "Roanoke County's Motion to Intervene and Identification of Issues," eLibrary no. 20151125-5074 (Nov. 25, 2015), p. 6.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* at 3, *see also id.* at 27.

⁸ MVP noted that there was no agreement among the various parties that requested programmatic NEPA review as to the appropriate geographic scope of a PEIS. MVP's Answer, p. 27. Although the County cited four

Roanoke County's Motion to Answer and Answer
Mountain Valley Pipeline Project (CP16-10-000)
Equitrans Expansion Project (CP16-13-000)

The County's request is consistent with the Council for Environmental Quality's (CEQ) recommendation that "agencies give particular consideration to preparing a PEA [Programmatic Environmental Assessment] or PEIS when ... making decisions on common elements or aspects of a series or suite of closely related projects."⁹ As discussed below, CEQ states that programmatic review of several similar projects in a particular geographic area can improve the impacts analysis of the multiple projects and increase the efficiency of project-specific NEPA review.¹⁰

MVP's arguments that preparation of a PEIS is unnecessary for the MVP Project appear related to the potential for delay of the MVP Project timeline. This assumes that the Commission could not proceed with preparation of a project-specific Environmental Impact Statement (EIS) for the MVP Project until it completed a PEIS. However, CEQ's regulations implementing NEPA provide that a lead agency's decision to prepare a programmatic NEPA document does not need to halt or delay any project-specific NEPA review that is already underway.¹¹ CEQ Regulation 1506.1 expressly provides that project-specific NEPA review may proceed simultaneous with the preparation of the broader NEPA programmatic review so long as the project-specific NEPA does not limit the analysis that would be undertaken in the programmatic review. Thus, objections that programmatic review would necessarily delay the MVP Project are unfounded, and more importantly, miss the broader purpose of programmatic NEPA review for pipeline projects in this region.

specific projects in support of its comments regarding programmatic NEPA review, it did not specifically recommend a geographic scope for a PEIS. We note that in the examples of programmatic NEPA review cited herein, the geographic scope extended across multiple states. We also note that MVP's Answer makes reference to the "Appalachian Basin," which we understand extends across multiple states. *See, e.g., id.*, pp. 6-10. The County is willing to further brief the issue of appropriate geographic scope for a PEIS upon the Commission's request.

⁹ CEQ, *Effective Use of Programmatic NEPA Reviews* (2014) (CEQ Programmatic NEPA Guidance), p. 15, available at <https://www.whitehouse.gov/administration/eop/ceq/initiatives/nepa/programmatic-reviews>. CEQ lists approving "[s]everal similar actions or projects in a region or nationwide" as a programmatic example. *Id.* at 14.

¹⁰ *Id.* at 10. *See also* Daniel R. Mandelker, *NEPA Law and Litigation* (2013), p. 555 ("Often it is difficult to examine the cumulative impact of a number of individual but related actions when they are reviewed one at a time. The program impact statement can help overcome this problem by considering a group of related actions together or by reviewing the implications of an agency's program comprehensively before it produces actions that will be reviewed individually.").

¹¹ 40 C.F.R. § 1506.1.

B. Preparation of a PEIS Can Be Appropriate Regardless of Whether “Connected Actions” or a “Federally Coordinated Plan” Are Involved.

In its Answer, MVP argues that the Commission is not required to prepare a PEIS here because the pipeline projects pending before the Commission are not “connected actions” or part of a “federally coordinated plan.”¹²

A finding that “connected actions” are involved or that the actions are part of a “federally coordinated plan” is not necessary to a determination that programmatic review should be undertaken. The County maintains that CEQ’s regulations and guidance should be read in favor of the Commission exercising its discretion to prepare a PEIS in these circumstances because programmatic NEPA review will streamline project-specific NEPA review and better achieve NEPA’s purpose of protecting environmental quality.

As discussed above, CEQ regulations and guidance provide that NEPA programmatic review may be appropriate and beneficial when a federal agency is approving similar projects in a particular geographic area with common environmental impacts.¹³ CEQ’s, “Effective Use of Programmatic NEPA Review,” in particular, finds that NEPA programmatic review can be appropriate for “several similar actions or projects in a region” that are “likely to have effects on the same environmental resources,” and that enable federal agencies to avoid “repetitive broad level analysis in subsequent tiered NEPA reviews to provide a more comprehensive picture of the consequences of multiple proposed actions.”¹⁴

The County disagrees with MVP that the Commission should dismiss this CEQ guidance out-of-hand.¹⁵ CEQ is charged with developing national policies directed to achieving the purposes of NEPA.¹⁶ The Commission’s regulations state that it will comply “with the regulations of the [CEQ] except where those regulations are inconsistent with the statutory requirements of the Commission.”¹⁷ Under CEQ Regulation 1500.2,¹⁸ federal agencies have an obligation to “[u]se all practicable means, consistent with the requirements of the Act and other essential considerations of national policy, to restore and enhance the quality of the human

¹² MVP’s Answer, pp. 17-19.

¹³ 40 C.F.R. § 1502.4(c); *see also* CEQ, “Forty Most Asked Questions Concerning CEQ’s National Environmental Policy Act Regulations,” 46 Fed. Reg. 18026 (1981), Answer 24b.

¹⁴ CEQ Programmatic NEPA Guidance, p. 12.

¹⁵ *See* MVP’s Answer, p. 20 (“CEQ Guidance, by its very nature, is non-binding and not legally enforceable”).

¹⁶ 42 U.S.C. § 4344.

¹⁷ 18 C.F.R. § 380.1.

¹⁸ 40 C.F.R. §1502.2.

environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment.”¹⁹

The *Upper Great Plains Wind Energy Programmatic Environmental Impact Statement*, jointly prepared by Western Area Power Administration (Western) and U.S. Fish and Wildlife Service (Service), shows how programmatic NEPA review can better protect environmental quality in circumstances like these.²⁰ The document addressed wind energy development projects in certain parts of Iowa, Minnesota, Montana, Nebraska, North Dakota, and South Dakota that would interconnect to Western’s transmission facilities or affect easements managed by the Service. As is the case here, the wind projects were not part of a federally coordinated energy planning program, but did have similar environmental impacts within the same geographic region. The agencies used programmatic NEPA review to identify standardized environmental evaluation procedures, best management practices, and mitigation measures that would be applied to wind energy projects within the region.²¹

In the separate example of the *Programmatic Environmental Impact Statement on Designation of Energy Corridors on Federal Land in the 11 Western States*, the U.S. Departments of Energy and Interior used programmatic NEPA review to identify appropriate areas for the siting of oil and natural gas pipelines due to concerns regarding adverse impacts on wildlife, endangered species, water quality, scenic, and cultural/historical resources. This information was then “used to tier to site-specific environmental reviews.”²² According to the lead agencies, “[b]y analyzing and presenting project-related impacts from future actions, the PEIS provides invaluable information for future site-specific environmental reviews.”²³

Neither of these examples relied on “connected actions” or a plan of project development initiated by or at the direction of the federal government as justification for programmatic NEPA review. Instead programmatic review was used to provide a comprehensive picture of the consequences of multiple proposed actions and the procedures, practices, and mitigation measures that could be implemented to minimize or avoid those consequences. Programmatic review was also used to streamline subsequent project-specific environmental review.

¹⁹ 40 C.F.R. § 1500.2(f) (emphasis added). “The phrase ‘to the fullest extent possible’ ... means that each agency of the Federal Government shall comply with that section unless existing law applicable to the agency’s operations expressly prohibits or makes compliance impossible.” 40 C.F.R. § 1500.6.

²⁰ DOE/EIS-0408, available at <http://plainswindeis.anl.gov/documents/index.cfm>

²¹ *Id.*, p. ES-3.

²² DOE/EIS-0386, available at <http://corridoreis.anl.gov/eis/guide/index.cfm#voll>, p. S-6.

²³ *Id.*, p. S-11.

MVP also argues that the MVP Project will serve different markets and is “miles apart” from the other pipeline projects cited by the County.²⁴ The fact that the MVP Project will serve different markets does not make the environmental impacts of the project dissimilar²⁵ from the other pipeline projects. Further, the descriptions of the specific projects cited by the County in support of a PEIS show that they will occur within Western Virginia. For example, information provided for the Appalachian Connector Project show that it will pass through Roanoke County.²⁶

Programmatic review of pipeline projects proposed for this region would avoid redundant, duplicative, or potentially inconsistent analysis in subsequently tiered project-specific NEPA review of such issues as baseline/background conditions, cumulative impacts analysis, and identification and analysis of direct/indirect effects. Similar to the PEIS examples cited above, programmatic review here could lead to development of best management practices or mitigation measures that address impacts common to these projects, such as best management practices for construction in karst geological settings. It also may contribute to findings that would reduce the proliferation of right-of-ways (ROWs) across the regional landscape. This type of tiering and regional analysis would be of benefit to the Commission, cooperating agencies such as the U.S. Forest Service, pipeline applicants, and other stakeholders regardless of whether the actions considered in the PEIS were “connected actions” or undertaken pursuant to a “federally coordinated plan.”

C. The Commission’s NEPA Review Should Include Analysis of Existing Gathering Lines.

MVP argues that “a review of upstream natural gas development is not required under NEPA because the impacts of such drilling are not causally connected to the MVP Project or reasonably foreseeable.”²⁷

The Commission has previously declined to consider the impacts from the development of upstream natural gas resources that are not causally related to the project under review or are not reasonably foreseeable at the time of project-specific NEPA review.²⁸ Regardless of whether

²⁴ MVP’s Answer, p. 20.

²⁵ “Similar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography.” 40 C.F.R. § 1508.25(a)(3).

²⁶ See Williams, “Appalachian Connector,” available at <http://co.williams.com/expansionprojects/appalachian-connector/>; Aaron Martin, “3rd Natural Gas Pipeline Could Run through Southern Virginia,” available at <http://wsls.com/2014/10/31/3rd-natural-gas-pipeline-could-run-through-southern-virginia/>.

²⁷ MVP’s Answer, p. 28.

²⁸ *Dominion Transmission, Inc.*, 153 FERC ¶ 61,203, *7 (Nov. 19, 2015).

the Commission must evaluate future development of new gathering lines that may feed into the MVP Project and other new interstate pipelines, the Commission's NEPA review should evaluate any gathering lines that have already been built in the project area.

Under NEPA and its implementing regulations, the Commission is required to set forth an accurate and complete description of baseline conditions, identify and analyze projects in the region with similar cumulative environmental impacts, and identify and analyze direct and indirect environmental effects resulting from the proposed project.²⁹ These requirements support inclusion of existing gathering lines in the project-specific NEPA review for the MVP Project. The project-specific impacts of the MVP Project need to be considered in the context of other past, present, and reasonably foreseeable natural gas pipelines – including gathering lines – in the region.

While analysis of existing gathering lines should be included in the project-specific NEPA review of the MVP Project, gathering lines also provide an excellent example of the type of background conditions, cumulative impacts, and direct/indirect impacts that could be more efficiently and uniformly analyzed (and later tiered off of) in the context of a PEIS.

Finally, if it is reasonably foreseeable that the construction of the MVP Project will cause the construction of additional gathering lines to transport natural gas from the wellheads to the MVP Project, then the Commission should analyze these additional gathering lines in the project-specific EIS as direct/indirect effects to the extent it has or can reasonably obtain³⁰ information on the likely number and location of such lines.³¹

²⁹ 42 U.S.C. § 4332; 40 C.F.R. §§ 1502.15, 1502.16, 1508.7.

³⁰ If the incomplete information relevant to reasonably foreseeable significant adverse impacts is essential to a reasoned choice among alternatives and the overall costs of obtaining it are not exorbitant, the agency shall include the information in the environmental impact statement. 40 C.F.R. § 1502.22(a).

³¹ The Commission's decision in *Dominion Transmission, Inc.* does not foreclose such a result in circumstances where it has sufficient information to provide meaningful analysis of the impacts of upstream production, including gathering lines. 153 FERC ¶ 61,203, *7 (Nov. 19, 2015).

III. CONCLUSION

The County requests that the Commission grant its Motion for Leave to File an Answer, and consider its Answer, which bears both on whether the Commission should proceed with programmatic NEPA review for pipelines proposed in this region, and how the question of natural gas gathering lines should be addressed in the current project-specific EIS for the MVP Project.

Dated: March 11, 2016

Respectfully submitted,



Paul S. Kibel
Julie Gantenbein
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pskibel@waterpowerlaw.com
jgantenbein@waterpowerlaw.com

Attorneys for ROANOKE COUNTY, VIRGINIA

DECLARATION OF SERVICE

Mountain Valley Pipeline, LLC's Mountain Valley Pipeline Project (CP16-10-000)
Equitrans, LP's Equitrans Expansion Project (CP16-13-000)

I, Tiffany Poovaiah, declare that I today served the attached "Motion for Leave to File an Answer and Answer of Roanoke County, Virginia" by electronic mail, or by first-class mail if no e-mail address is provided, to each person on the official service lists compiled by the Secretary in these proceedings.

Dated: March 11, 2016

By:



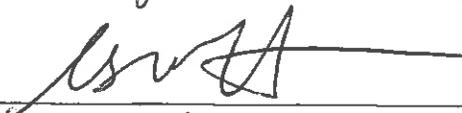
Tiffany Poovaiah
WATER AND POWER LAW GROUP PC
2140 Shattuck Ave., Suite 801
Berkeley, CA 94704-1229
Phone: 510-296-5591
Fax: 866-407-8073
office@waterpowerlaw.com

Dear Supervisors Brennan, Bruguiera, Harvey, Saunders, and Hale:

7

CC: Stephen Carter

As Nelson County residents or property owners, we urge you to immediately pass a resolution requesting that FERC complete a Programmatic Environmental Impact Statement (PEIS) for the proposed Atlantic Coast Pipeline and all other pipelines proposed to cross the Blue Ridge and Central Appalachian mountain region, as well as a resolution urging our state and federal legislators to contact FERC for the same purpose. This PEIS would assess the need for, impacts of, and alternatives to these pipelines in a single comprehensive document that would accurately consider energy needs and impacts on a regional basis. While our community has been asking you to act for the last several months on this issue, through personal meetings, presentations and delivered petitions, other counties (Giles, Roanoke, Craig) and legislators have issued calls for a PEIS (VA Senators Deeds, McEachin, and Miller; VA Delegates McClellan, Heretick, Loupassi, Toscano, Carr, Bagby, Rasoul, and Wilt) or a regional analysis (US Reps. Goodlatte, Griffith, and Hurt). We eagerly await similar action from you. Thank you.

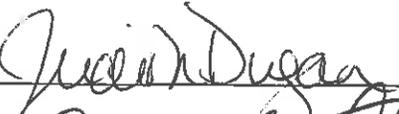
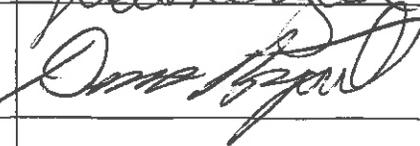
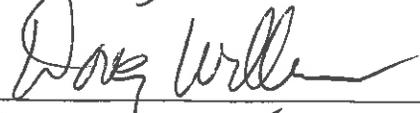
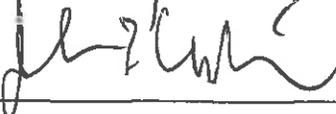
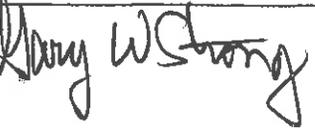
| Name (Please Print) | Signature | Phone | Street Address, City and Zip |
|---------------------|--|------------------|---|
| Virginia Dawnsweir |  | 434 825 5320 | 994 Shannon Farm Ln Afton VA 22920 |
| Anne Payne |  | 540-377- 6228 | 131 Seaman Lane Monte Bello, VA 24464 |
| Nancy Uvanitte |  | 401-529-7258 | 8251 Rockfish River Rd Schuyler, VA |
| Chantal Swift |  | 434-3614 1476 | 359 Cherry Grove Ln. Afton VA 22920 |
| Andrew DeMarrler |  | 646 350 1978 | 359 Cherry Grove Lane Afton, VA 22920 |
| Rollie Lawless |  | 434 882 0334 | 274 Shannon Farm Ln Afton, VA 22920 |
| Karen String |  | 434-361-2135 | 12 OLD TURTLE PLACE NELLYSFOLD, VA 22958 |

Dear Supervisors Brennan, Bruguiera, Harvey, Saunders, and Hale:

⑦

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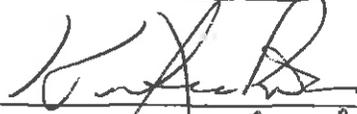
| Name (Please Print) | Signature | Phone | Street Address, City and Zip |
|---------------------|--|--------------|---|
| Judith Dugan |  | 434-361-0129 | 179 Waters Edge Ln Nellysford VA 22958 |
| Dennis Bryant |  | 325 7056 | 597 Cedar meadow Nellysford VA |
| Albino Saccacio |  | 540 456 6933 | 4075 Citicor Shop Rd Afton Va 22920 |
| DOUG WELLMAN |  | 434-263-8474 | 776 Laurel Lane Livingston, VA 22949 |
| John Cunningham |  | 434 361 1057 | 1099 Shannon Farm Ln Afton VA 22920 |
| Beverly Yaeger |  | 434-361-9016 | 123 wildwood Trl. Afton, VA 22920 |
| GARY STRONG |  | 434-361-2135 | 12 Old Turtle Place Nellysford, VA 22958 |

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①

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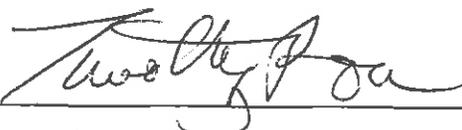
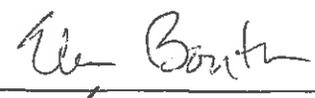
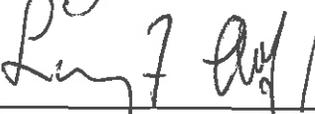
| Name (Please Print) | Signature | Phone | Street Address, City and Zip |
|-----------------------|--|----------------|--|
| Dina Holman |  | 434-967-7952 | 525 Mountain Field Dr. Nellysford, VA 22958 |
| Charlie & Pat Schutte | | 434-361-894 | 241 Stone Orchard Dr. Nellysford, VA |
| Mitch Fleckher |  | (434) 361-8102 | 987 Trade Farm Drive Nellysford, VA 22958 |
| CAROL SPANGL |  | (434) 409-1465 | 415 BLAND WIDE LAKE AFTON, VA 22920 |
| KAREN LEE REEDS |  | 734-826-0203 | 777 River Hollow Rd. ROSELAND, VA. 22967 |
| Rita Crawford |  | 540 456 6540 | 110 Pounding Branch Rd Afton VA 22910 |
| Laurie Shaffer |  | 434-361-1803 | 96 Old Turtle Pl. Nellysford VA 22958 |

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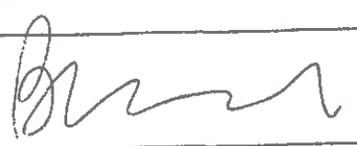
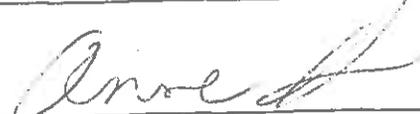
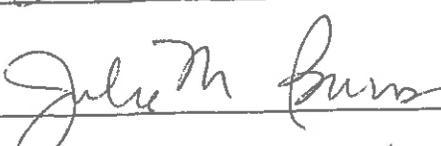
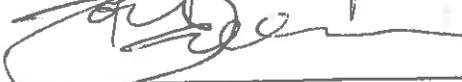
| Name (Please Print) | Signature | Phone | Street Address, City and Zip |
|---------------------|--|--------------------------------|--------------------------------------|
| Tim Rowe |  | 434-361-1433 | 88 Catbrier Circle Afton VA |
| Laura Flusher |  | 540-292-6677 | 987 Kodes Farm Dr, Wellsville VA |
| Ellen Bouton |  | 540-456-6746 | 395 Goodwin Creek Trl Afton 22920 |
| Laura Leva |  | 434-263-6193 | 241 River Trails Shipman 22971 |
| Joanna Salidis |  | 434 242-5859 | 415 Bland Wade LN Afton VA 22920 |
| LARRY CLUFF |  | 434 540 456 6195 | 60 ENGLANDER ROCK RD Afton, VA 22920 |
| Chris Mendosa | CHRIS MENDOSA | (434) 305-2530 | 274 Spinnaker Farm Afton 22920 |

Dear Supervisors Brennan, Bruguiera, Harvey, Saunders, and Hale:

7

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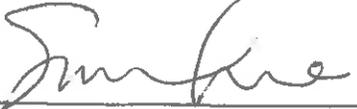
| Name (Please Print) | Signature | Phone | Street Address, City and Zip |
|---------------------|--|--------------|---|
| Branden Mercier |  | 434-226-2906 | 160 Campsey Ridge Newell, Spnd, VA 22958 |
| BEN HELMES |  | | 525 MTX FLD RD NEWELLSPOND, VA 22958 |
| ANNE AUKER |  | 540-836-8931 | PO BOX 25 NEWELLSPOND, VA 22958 |
| Julie Burns |  | 434 263 5394 | 259 Spring Hill LOVINGSTON VA 22949 |
| BEKY GREENLEAF |  | 434 361-1654 | 5836 Taylor Circle Afton 22920 |
| JOHN NELSON |  | | 5836 TAYLOR CR RD. |
| TAYLOR RIGAN |  | 434-361-2328 | 82 Wild Orchid Lane Afton VA 22920 |

Dear Supervisors Brennan, Bruguiera, Harvey, Saunders, and Hale:

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| Name (Please Print) | Signature | Phone | Street Address, City and Zip |
|---------------------|---|----------|---|
| MICHAEL LOCHANCE |  | 263-8665 | 141 DRUMHELLER LN SHIPMAN VA 22971 |
| Andrew Stone |  | 361-2337 | 122 Crawfords Knob Ln. Afton, VA 22920 |
| Maggie Buchanan |  | 987-3033 | 122 Crawfords Knob L. Afton, VA 22920 |
| Helen Kimble |  | 361-1126 | 96 Wildwood Trail Afton, VA 22920 |
| Susan Greene |  | 361-2344 | 262 Mt Ararat Hill Afton, VA 22920 |
| Jill Fulmer |  | 361-1965 | 1304 Shannon Fern Lane Afton VA 22920 |
| Philip Teal |  | 962-8175 | 875 Duncan Hollow Loop Afton VA 22920 |

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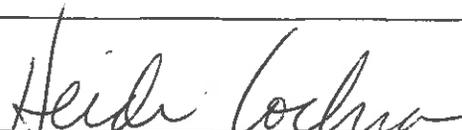
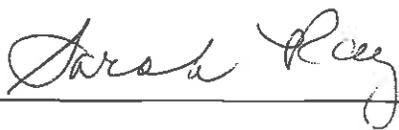
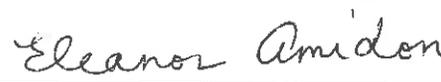
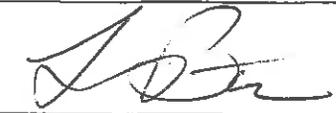
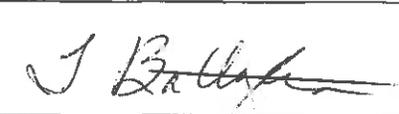
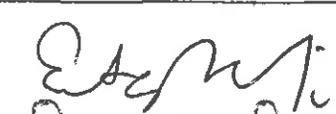
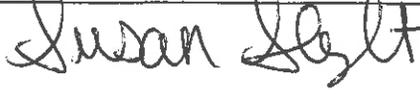
| Name (Please Print) | Signature | Phone | Street Address, City and Zip |
|---------------------|------------------------|----------------|--|
| LAURA BURROWS | <i>Laura Burrows</i> | 434-361-0063 | 409 STONEGATE LN NELLYSFORD, VA 22958 |
| HENRY HELLER | <i>Henry Heller</i> | 434-2638178 | 1788 Buck Creek Ln. Fisher, VA 22938 |
| MARY CUNNINGHAM | <i>Mary Cunningham</i> | (310) 456-8316 | 171 Joshua Lane Afton, VA 22920 |
| Rhonda Deane | <i>Rhonda Deane</i> | 434-962-2378 | 7645 Rockfish Valley Hwy Afton VA 22920 |
| Krista Waibel | <i>Krista Waibel</i> | 434-361-2522 | 171 Millie Ln Nellys Rd VA 22958 |
| WILLIAM PRINDLE | <i>William Prindle</i> | 434-361-1570 | 56 Z Englewood Dr. NELLYSFORD, VA 22958 |
| ANNE BUTEAN | <i>Anne Butean</i> | 26349416 | 6556 Jones River Rd Stuyvesant VA 22971 |

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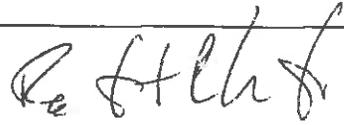
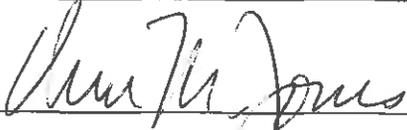
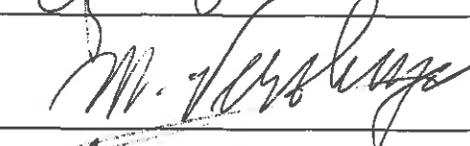
| Name (Please Print) | Signature | Phone | Street Address, City and Zip |
|---------------------|--|-----------------|---|
| HEIDI COCHRAN |  | 540 447 4350 | 325 GLASS HOLLOW AFTON Va. 22920 |
| Jarah Roy |  | 434-361 2662 | 1009 Deer Run Dr Nellysford VA 22958 |
| Eleanor Amidon |  | 540 456-8506 | 931 Tambak Dr. Afton, VA 22920 |
| FRANK BATTAGLIA |  | 434 361 9003 | 69 WILD GINGER LANE NELLYSFORD |
| Teresa Battaglia |  | 434 361 9003 | 69 Wild Ginger Lane Nellysford, Va. |
| Ernie Reed |  | 434 971-1627 | 971 Rainbow Ridge Rd. Fisher 22938 |
| Susan Sleight |  | 434 906 4521 | 1543 Hickory Creek Fisher Rd. |

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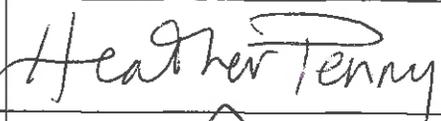
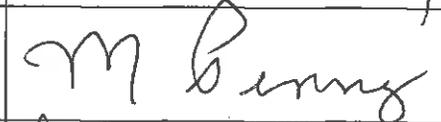
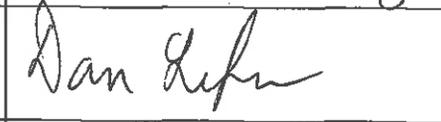
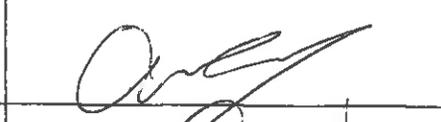
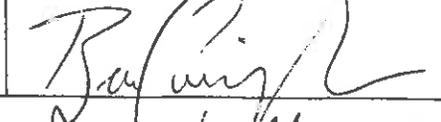
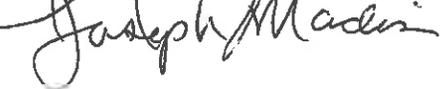
| Name (Please Print) | Signature | Phone | Street Address, City and Zip |
|---------------------|--|--------------|--|
| Robert Huest |  | 434-981-3560 | 4547 Taylor Creek Rd Alton VA 22920 |
| DIANA MARCHIBRONA |  | 540-456-6571 | 4605 CRIZENS SHOP RD AFTON VA |
| Vera Jones |  | 434-325-9256 | RR1, Box 701 Roseland, VA 22967 |
| RON FANDETTI |  | 401-577-8025 | 8051 ROCKFISH RIVER RD SCOTTSBURG, VA 22969 |
| Carolyn Ball |  | 434-962-2499 | 948 Afton Mtn Rd Alton, VA 22920 |
| MARTIN VERSLUYS |  | 434-301-1517 | 7256 ABIAL RD FABER, VA 22930 |
| Aida Curtis |  | 434-263-8218 | 988 Hill Hollow Rd Faber, VA 22930 |

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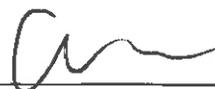
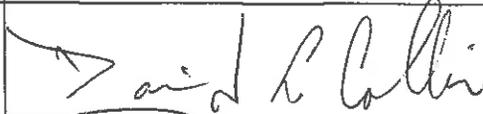
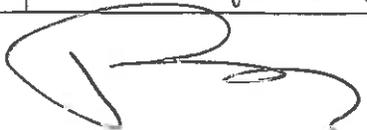
| Name (Please Print) | Signature | Phone | Street Address, City and Zip |
|---------------------|---|----------------|---------------------------------------|
| Heather Penny |  | (434) 361-1721 | 51 Cherry Grove Ln Afton, VA 22926 |
| Michael Penny |  | " | " |
| Dan Lefever |  | 484-318-3789 | 2055 Adial Rd Faber, VA 22938-3212 |
| Lesley Rowe |  | 434-263-4855 | PO Box 99 Lovingston VA 22949 |
| Alex Ahlf |  | 703-937-2091 | 345 Lakeland Ln Faber VA, 22958 |
| Ben Cunningham |  | 434-882-1893 | 171 Joshua Lane Afton, VA, 22920 |
| Joseph MADISON |  | 434-996-1682 | P.O. Box 493 Lovingston, VA 22949 |

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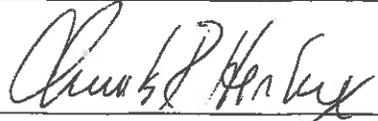
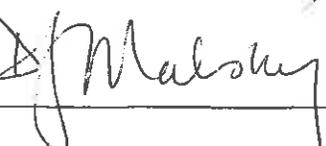
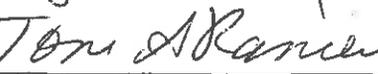
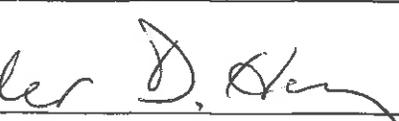
| Name (Please Print) | Signature | Phone | Street Address, City and Zip |
|---------------------|--|--------------|--|
| Alex Eder |  | 240-409-1258 | 160 Caring Ridge Nellysford, VA 22952 |
| Bob Borge |  | 434-466-9351 | 14 Crescent Lane Nellysford VA 22921 |
| George P. Piper | George P. Piper | 434-361-1377 | 1057 - Shinnecock Farm LA Atlan, VA 22420 |
| Ann Mooney | ANN MOONEY | 962 4611 | Piney Run 22964 |
| Alecia Milner | Alecia Milne | 301 861 9124 | 1001 Sunken Rd Fredericksburg VA 22401 |
| David Collins |  | 434-361-2244 | 1188 Berry Hill Rd. Nellysford VA. 22958 |
| RANDAW WHITWIG |  | 434 361 1903 | 96 LOW TURTLE PL NELLYSFORD VA 22952 |

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|---------------------|---|------------------|---------------------------------------|
| Charles Hickox |  | 434-361 1300 | 242 Mt. Howard Hill Afton VA 22920 |
| Diana Malsky |  | 434-361- 2012 | 100 Wild Orchid Ln Afton VA 22920 |
| Toni Ranier |  | 434-361- 1418 | 94 Catbrier Circle Afton, Va 22920 |
| Deborah Harkrader |  | | 21 Cole Farm Dr. Afton VA 22920 |
| Kand Bladch |  | 434 361-9383 | 75 Wild Orchid Ln Afton VA 22920 |
| Anna Dolles |  | 434- 361-9383 | 75 Wild Orchid lane Afton Va 22920 |
| Brian Buckley |  | 434.326.2998 | 484 Seymour Ln. Afton Va 22920 |

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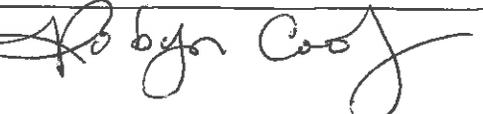
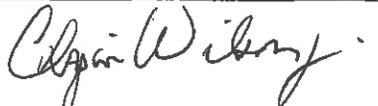
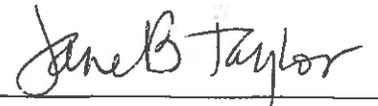
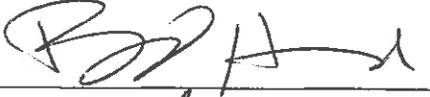
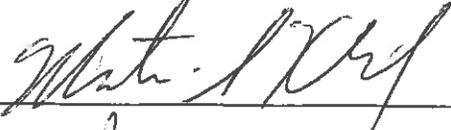
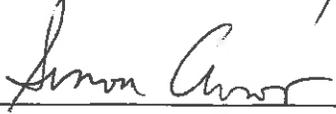
| Name (Please Print) | Signature | Phone | Street Address, City and Zip |
|---------------------|-------------------|----------------|---|
| Marilyn Shifflett | Marilyn Shifflett | (434) 361-9352 | PO Box 517, Nellysford, VA 22958 |
| Theresa Euler | Theresa Euler | (240) 818-7954 | 1160 Camping Ridge, Nellysford, VA 22958 |
| Lee Diehl | Lee Diehl | 434-366-9319 | PO Box 327 Nellysford, VA 22958 |
| JANET HELLMAN | Janet Hellman | 434-263-8474 | 776 Laurel Lane Livingston, VA 22949 |
| Barbara Strauss | Barbara Strauss | 434-361-1313 | 1051 Shannon Farm Lane Afton, Va 22920 |
| Cynthia Lachance | CHARLES TONZ-3 | | RT 1 Box 701 ROSELAND VA |
| Cynthia Lachance | Cynthia Lachance | 434-263-8668 | 141 Drumheller Lane, Skyman, VA 22971 |

Dear Supervisors Brennan, Bruguiera, Harvey, Saunders, and Hale:

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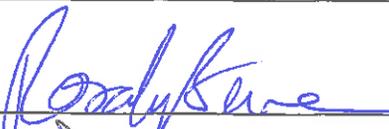
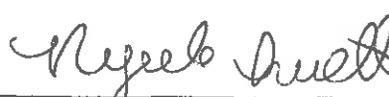
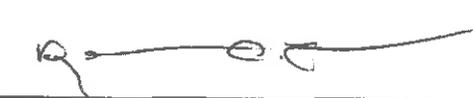
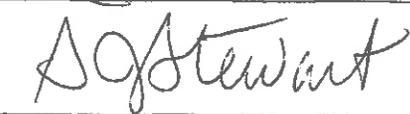
| Name (Please Print) | Signature | Phone | Street Address, City and Zip |
|---------------------|--|----------------|---|
| Robyn Cooper |  | 402-660-7162 | 77 Glenburn Loop Nellysford 22958 |
| Chapin Wilson |  | 434-262-4116 | DT 56 Shipman, VA - 22150 |
| Jane B. Taylor |  | 540 456-8660 | 698 Glass Hollow Rd., Afton, VA 22920 |
| BO HOLLAND |  | | |
| Martin Klärf |  | | 100 Wild Orchid Ln Afton VA 22920 |
| Simon A. Crow |  | 434 | P03 154 Nellysford VA 22958 |
| Lena Daws |  | 434-227-2698 | 875 Duncan Hollow Loop Faber, VA 22930 |

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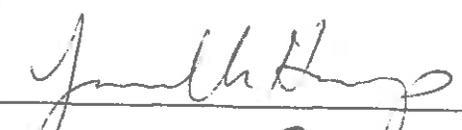
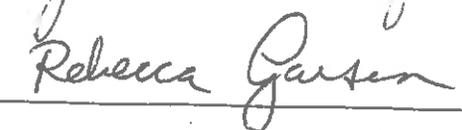
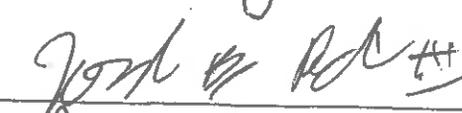
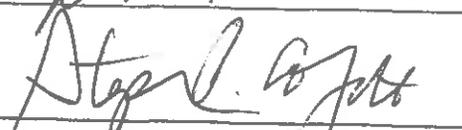
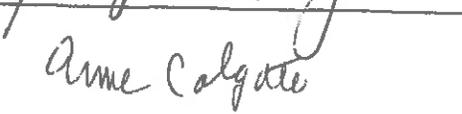
| Name (Please Print) | Signature | Phone | Street Address, City and Zip |
|---------------------|--|---------------------|--|
| Rosalyn Beane |  | 434 361 1570 | 562 Edgewood Dr Nellysford, VA 22958 |
| JAUISE JACKSON |  | 434-981-2863 | P.O. BOX 56 STUBBARD, VA 22971 |
| Cheryl Kluch |  | 434 361-1300 | 242 Mt Kismet Afton VA 22920 |
| Nyeka Huebott |  | 434 964 8565 | 33 Wildwood Tr. Afton, VA |
| REBECCA L'ABBE |  | 434 466- 2696 | 1088 SHANNON FARM LN AFTON, VA 22920 |
| Sarah J. Stewart |  | 434-361-0331 | 4547 Jaylor Creek Rd. Afton, VA 22920 |

Dear Supervisors Brennan, Bruguiera, Harvey, Saunders, and Hale:

6

CC: Stephen Carter

As Nelson County residents or property owners, we urge you to immediately pass a resolution requesting that FERC complete a Programmatic Environmental Impact Statement (PEIS) for the proposed Atlantic Coast Pipeline and all other pipelines proposed to cross the Blue Ridge and Central Appalachian mountain region, as well as a resolution urging our state and federal legislators to contact FERC for the same purpose. This PEIS would assess the need for, impacts of, and alternatives to these pipelines in a single comprehensive document that would accurately consider energy needs and impacts on a regional basis. While our community has been asking you to act for the last several months on this issue, through personal meetings, presentations and delivered petitions, other counties (Giles, Roanoke, Craig) and legislators have issued calls for a PEIS (VA Senators Deeds, McEachin, and Miller; VA Delegates McClellan, Heretick, Loupassi, Toscano, Carr, Bagby, Rasoul, and Wilt) or a regional analysis (US Reps. Goodlatte, Griffith, and Hurt). We eagerly await similar action from you. Thank you.

| Name (Please Print) | Signature | Phone | Street Address, City and Zip |
|---------------------|--|------------------|--|
| Lawrence Stopper |  | 361-1323 | 141 Heartwood Circle, Afton |
| Jamille Harrop |  | | 380 Creekside Ln Falm VA 22938 |
| Rebecca Garson |  | 434-996- 3 | 274 Shannon Farm Ln |
| Joseph H. Nibht |  | 434-996- 11 | 274 SHANNON FARM LN - |
| Stephen Colgate |  | 434 263-4504 | 2305 Dutch Creek Ln Shipman VA 22971 |
| Anne Colgate |  | 434-263- 4504 | 2305 Dutch Creek Ln Shipman, VA 22971 |

Dear Supervisors Brennan, Bruguiera, Harvey, Saunders, and Hale:

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CC: Stephen Carter

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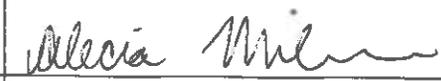
| Name (Please Print) | Signature | Phone | Street Address, City and Zip |
|---------------------|---|--------------|--|
| Amelia Williams |  | | 128 Wildwood TN, Afton |
| Roberts Jones |  | | 6119 Woodmont Rd Alexandria, VA 22306 |
| Janet R Jones |  | | 115 Ravens Roost Pt Winterygreen, VA |
| Nicki Abbott |  | 540.377.2019 | 353 Little Mountain Lane Montebello, VA 24464 |
| Chris Sonne |  | 434-361-1443 | 191 Satinwood Lane Nellysford VA 22958 |
| Nay McDuffie |  | 5124261243 | 252 FAWN RIDGE DR ROSELAND VA |

Dear Supervisors Brennan, Bruguiera, Harvey, Saunders, and Hale:

4

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| Name (Please Print) | Signature | Phone | Street Address, City and Zip |
|---------------------|---|---------------------|---|
| Benjamin Cunningham |  | 434 882 1893 | 171 Joshua Lane, Afton VA 22920 |
| Alecia Milner |  | 301 - 861 - 9124 | 171 Joshua Lane, Afton, VA 22920 |
| Michael Collins |  | 843 442-8676 | 1354 Glass Hollow Afton VA |
| DONNA TETDEN |  | | 5163 Wyant Lane Charlottesville VA 22903 |
| | | | |
| | | | |

APRIL 12, 2016 PUNCH LIST

VII D

| <u>Directives</u> | <u>Member</u> | <u>Status</u> | <u>Progress/Comments</u> |
|---|---------------|----------------------|-----------------------------------|
| <u>Directives from November 13, 2014</u> | | | |
| Continue to CC Mr. Hale on E-mails with Woolpert | A. Hale | Ongoing | |
| Check Into Getting a Boat Ramp at Nelson Wayside | C. Brennan | In Process | E. Harper Working On |
| <u>Directives from January 12, 2015</u> | | | |
| Get Commitment Letter and Name of Project Engineer from Woolpert | A. Hale | Complete | |
| Work on Solving the Calohill Drive Road Issues | A. Hale | BOS Direction Needed | |
| <u>Directives from February 9, 2016</u> | | | |
| Schedule 2x2 with Wintergreen | C. Brennan | Complete | |
| Post Hazardous Waste Disposal Day Info on Website | C. Brennan | Complete | |
| <u>Directives from March 8, 2016</u> | | | |
| Check the Status of the Route 29 Business and Route 56 East Garden Project | C. Brennan | Complete | |
| Obtain List of New Businesses from the Commissioner and Include in Monthly Report | C. Brennan | In Process | Requested from P. Campbell |
| Prepare a Resolution Honoring the Late Henry Conner | C. Brennan | Complete | |
| Provide Update on the Everbridge System in April | C. Brennan | In Process | Assigned to J. Miller & S. Rorrer |
| Provide Improved Signage for Board and Other County Meetings | A. Hale | Complete | |

**PUBLIC HEARING NOTICE
NELSON COUNTY BOARD OF SUPERVISORS
APRIL 12, 2016**

Pursuant to §15.2-1427 and §15.2-2204, of the Code of Virginia 1950 as amended, the Nelson County Board of Supervisors will conduct a public hearing to be held on **Tuesday, April 12, 2016 at 7:00 p.m.** in the General District Courtroom in the Courthouse in Lovingston, Virginia. The purpose of said public hearing is to receive public input on the following:

- 1. An Ordinance proposed for passage to amend Appendix A, Zoning, Article 18, Section 18-3 to amend uses permitted by special use permit only and summarized as follows:**

ARTICLE 18. LIMITED INDUSTRIAL M-1

Amend Section 18-3 (“Uses – Permitted by Special Use Permit only.”) as follows:

18-3-1: Replace “Any use requiring outside storage or displays” with “Any by-right use or permissible accessory use requiring outside storage or displays”

18-3-10: Replace “*Reserved for future use*” with “Contractors’ outside equipment yard, which may include storage of materials”

- 2. Class C Communications Tower Permit #2016-01 (CV821 – Greenfield – 5029 Rockfish Valley Hwy): Proposed Equipment upgrades at an existing communication facility involving equipment replacement and additions and increased tower height.**
- 3. Class C Communications Tower Permit #2016-02 (CV822 – Lodebar – 622 Hearthstone Ln): Proposed equipment upgrades at an existing communication facility involving equipment replacement and additions and increased tower height due to a proposed 5.3’ tall lightning rod.**

The full text of the proposed ordinance amendment and the complete communications tower applications are available for public inspection in the Office of the County Administrator, 84 Courthouse Square and the Department of Planning & Zoning, 80 Front Street, both in Lovingston, VA, 22949, M-F, 9:00 a.m. to 5:00 p.m. For more information, call County Administration, (434) 263-7000, the Dept. of Planning & Zoning, (434) 263-7090, or toll free, (888) 662-9400, selections 4 and 1.

BY AUTHORITY OF THE NELSON COUNTY BOARD OF SUPERVISORS



DEPARTMENT OF
PLANNING & ZONING

PLANNING COMMISSION
BOARD OF ZONING APPEALS

To: Chair and Members, Nelson County Board of Supervisors
Mr. Stephen A. Carter | County Administrator

From: Tim Padalino | Planning & Zoning Director

Date: March 24, 2016

Subject: Class C Communication Tower Permit #2016-01 (NTELOS / Ms. Jessie Wilmer)

| Summary of Class C Communication Tower Permit #2016-01 | |
|--|--|
| <u>Site Address / Location:</u> | CV821: Greenfield / 5029 Rockfish Valley Highway / Nellysford / Central District |
| <u>Tax Parcel:</u> | #22-A-60C1 |
| <u>Parcel Size:</u> | N/A (no record) |
| <u>Zoning:</u> | Agricultural (A-1) |
| <u>Applicant:</u> | Ms. Jessie Wilmer, Senior Site Acquisition Specialist, NTELOS |
| <u>Request:</u> | Review and Approval of Class C Communication Tower Permit #2016-01 |
| <ul style="list-style-type: none"> ▪ <i>Completed Application Received On:</i> February 19th, 2016 | |

On February 19, the Dept. of Planning & Zoning received two (2) Class C Communication Tower Permit applications from Ms. Jessie Wilmer of NTELOS.

This staff report details Communication Tower Permit #2016-01, which requests approval for proposed equipment upgrades at an existing communication facility in the Nellysford area. The proposed upgrades involve equipment replacement and additions, as well as increased tower height, at a facility known as CV821 "Greenfield."

Specifically, the application materials include the following submittals:

- Class C Communication Tower Permit application #2016-01
- Application narrative (dated February 9);
- Photo simulations showing proposed equipment on existing tower; and
- Site Plans depicting details of existing facility, proposed modification to lease area, and proposed modifications to equipment to include new antennas, new microwave dish, and proposed new pipe mounts (dated January 25)

Subject Property Location and Characteristics:

This subject property is a parcel in Nellysford with frontage on Rockfish Valley Highway; it is identified as Tax Map Parcel #22-A-60C1, and is zoned Agricultural (A-1). County land records contained in the ProVal system do not specify the acreage of this property. *Please see the enclosed maps on pages 5-7.*

This subject property currently contains a 50' x 50' lease area with an E911 address of 5029 Rockfish Valley Highway. There is an existing entrance from VA-151, and a 20' wide access easement between the entrance and the lease area.

Review Process Overview:

- December 2, 2015 – pre-application meeting
- February 19th – applications submitted
- March 23rd – PC introduction, review, and recommendation
- April 12th – BOS introduction
- (?) – BOS review, public hearing, and action (TBD)

Site Plan Review Committee Comments:

These applications have not been referred to the Site Plan Review Committee, as these permits are associated with existing permitted tower facilities – and (in the Director's opinion) do not constitute a change in use or otherwise require interagency review. The majority of changes would occur on the tower, and the modifications to the lease area would be minor in nature.

- VDOT: Not applicable.
- VDH: Not applicable.
- Nelson County Building Official: No review to date. Construction activity within lease areas typically requires a Building Permit and/or Land Disturbing Activity Permit; to be determined.
- TJSWCD: No review to date. An approved Erosion & Sediment Control Plan may be necessary; this will be determined and (if necessary) addressed during the issuance of a Building Permit. That process does not occur until after the zoning review process is finished.

Staff Commentary on Permit Review Process:

Please carefully consider the following comments on various aspects of this application:

A. Class C Tower Permit process vs. (administrative) Tower Permit Amendments process –

Please note that P&Z staff routinely review and approve "Tower Permit Amendment" applications administratively, pursuant to Z.O. 20-17-A ("Tower Permit Amendments"). However, this proposed equipment upgrade project is not eligible for the administrative Tower Permit Amendment permit process (per the "Policy" outlined in Z.O. 20-17-A-1). This is because the proposed facility upgrade involves the installation of a microwave dish, and the original approved permit did not include approval for a microwave dish and was approved as a "stealth facility" to minimize visual impacts on a Scenic Byway.

This determination was previously communicated to the applicant in an email dated December 8, 2015, stated as follows:

“The proposed introduction of a microwave dish would, in my opinion, substantially deviate from the terms of the original approval. Therefore, under the current definitions and regulations in the Communication Tower Ordinance, you’ll need to prepare and submit application pursuant to Z.O. 20-13 (“Application and Procedure for Approval of a Class C Communication Tower Permit”).”

B. Balloon test and photosimulations –

Please also note that, in my review of this application to determine its completeness, I have determined that the balloon test requirement is not applicable for this application. Although Class C Communication Tower Permit applications require that a balloon test be scheduled and conducted (per Z.O. 20-13-D), this requirement was established in contemplation of new tower facilities. Consider the following language in Z.O. 20-13 (“Application and Procedure for Approval of a Class C Communication Tower Permit”), Section D:

“[20-13]-D. Balloon Test. For any proposed tower requiring a Class C Communication Tower Permit, a balloon test shall be conducted...” (emphasis added)

Because this application is associated with an existing, permitted tower facility, I previously directed the applicant to simply prepare photo simulations of the proposed new equipment on the existing tower (which is the ultimate purpose of conducting a balloon test for new tower facilities), pursuant to Z.O. 20-13-D-4. This determination was previously communicated to the applicant in an email dated December 8, 2015, stated as follows:

“As we briefly discussed during our meeting last week, some of the requirements in 20-13 may not apply in this specific scenario. For example, regarding the balloon test requirement in 20-13-D, you may be able to simply prepare photosims of the existing facility which graphically depict the proposed new equipment, in lieu of conducting the balloon test in order to create photosims.

In other words, the balloon test requirement is clearly devised for applications involving the installation of an entirely new communication tower facility. As such [...] it is my opinion that 20-13-D-1, -2, and -3 seem illogical – and 20-13-D-4 is the only requirement in that section which clearly remains a requirement... .”

C. Planning Commission review process & public hearing(s) –

Finally, please also note that under the new Tower Ordinance (enacted in 2014), the Planning Commission is not required to conduct a public hearing for Class C Communication Tower Permit applications. (See Z.O. 20-13 “Application and Procedure for Approval of a Class C Communication Tower Permit”, Section B.)

With respect to the optional PC public hearing, the PC decided at their March 23rd meeting to simply, “conduct a review of the application” and “communicate its determination together with any additional recommendations to the Board of Supervisors” without conducting a public hearing. (Please see page 4 for the formal PC recommendation.)

Staff Evaluation & Recommendation:

The Planning & Zoning Director’s opinion is that the requested Class C Communication Tower Permit (#2016-01 for “CV821 – Greenfield”), as detailed in the application materials, seems to be acceptable relative to the criteria contained in Z.O. 20-13-F (“Factors considered in granting a Class C Communication Tower permit”).

This opinion is heavily influenced by the fact that this application is associated with an existing permitted tower facility. Independent of that fact, my conclusion is that the proposed equipment upgrade project (and permissible minor increase in height for CV821) – as detailed in the application materials, and specifically as depicted in the photosims – is acceptable relative to Z.O. 20-2 (“Purpose”), Z.O. 20-13-F (“Factors considered in granting a Class C Communication Tower permit”), and the Nelson County Comprehensive Plan.

I therefore recommended that the PC recommend approval of these applications to the BOS.

PC Review & Recommendation:

The Planning Commission received a staff report and a slideshow presentation at the March 23rd meeting. Ms. Debbie Balsler of NTELOS was present to answer questions and discuss the application with the PC. Specific attention was given to two provisions in Z.O. 20-4 “Definitions” as follows (below), with deliberation over whether or not it is permissible (through the modification of an existing facility) for a Class C Communication Tower to have a maximum height greater than 130’ above ground level.

- “*Class C Communication Tower*” – re: the clause “maximum allowed height of 130 feet”
- “*Substantial increase...*” – re: the provision which addresses increase in tower heights

After reviewing the application in detail, and discussing the Planning & Zoning Director’s recommendations, the PC voted unanimously on the following recommendation, as contained in a motion made by Commissioner Russell and seconded by Commissioner Proulx:

The Planning Commission recommends Board of Supervisors approval of Class C Communication Tower Permit #2016-01 to modify the existing tower facility at CV821, with the stipulation that the tower must be at or below the maximum allowed tower height of 130’ above ground level, including all antennas and lightning rods.

Summary & Conclusion:

The permit application and Planning Commission recommendation are now presented to the Board of Supervisors for review and consideration. Please note that the applicant has confirmed that new site plan drawings will be prepared and submitted to depict a revised tower height of 130’ above ground level, which the applicants will present for BOS consideration as an alternative to the original site plan drawing (which shows a tower height of 132’ above ground level).

Please also note that before taking any formal action on this application, the BOS is required to conduct a public hearing on this application per Z.O. 20-13-C and in accordance with Section §15.2-2204 of the Code of Virginia.

In conclusion, please contact me with any questions, concerns, or requests for assistance leading up to the April 12th Board of Supervisors review of Class C Communication Tower Permit #2016-01.

Thank you very much for your time and attention to this application.

Nelson County, Virginia

0 1,250 2,500 5,000 Feet

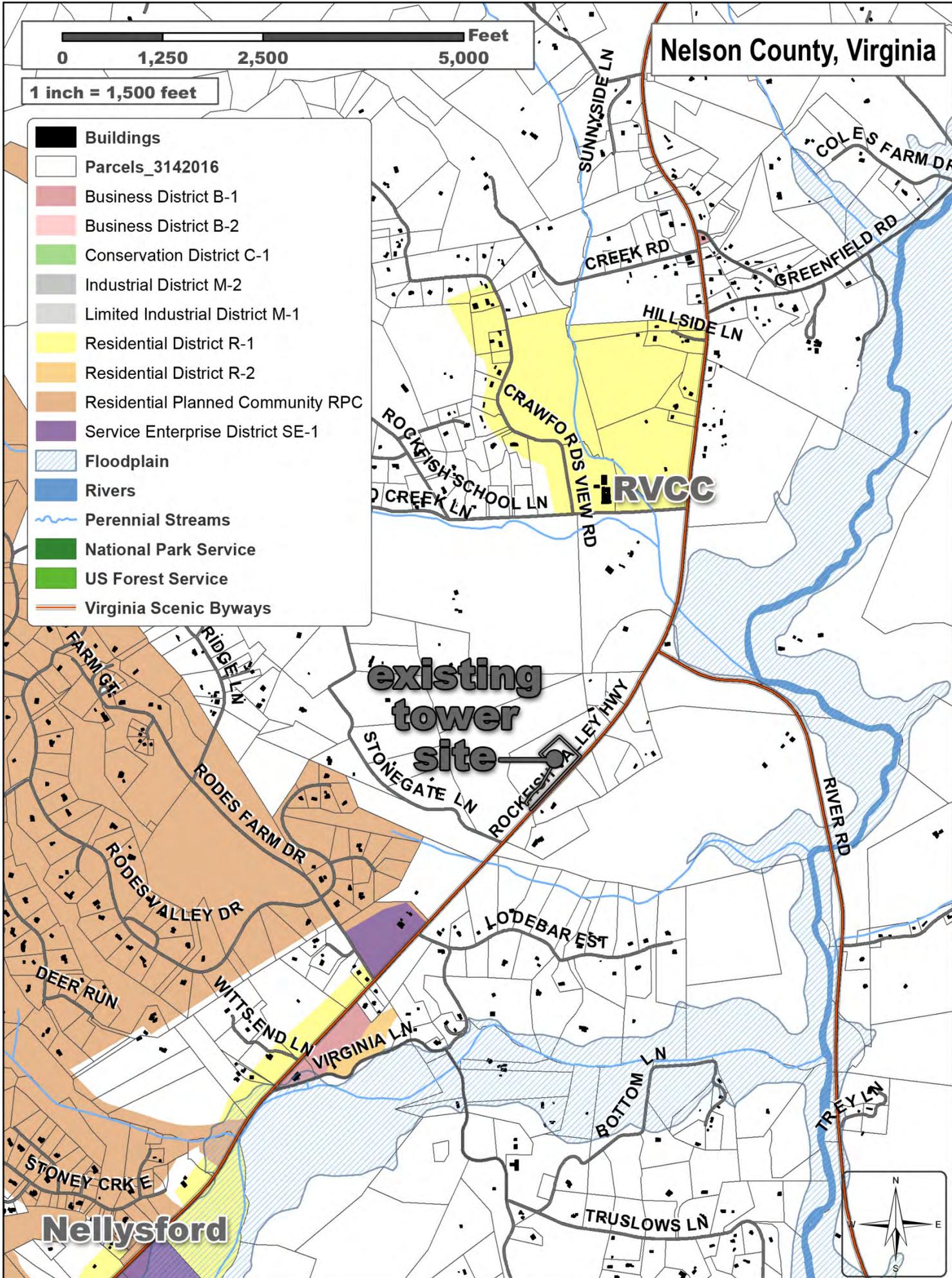
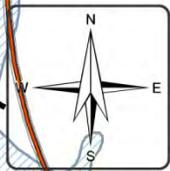
1 inch = 1,500 feet

- Buildings
- Parcels_3142016
- Business District B-1
- Business District B-2
- Conservation District C-1
- Industrial District M-2
- Limited Industrial District M-1
- Residential District R-1
- Residential District R-2
- Residential Planned Community RPC
- Service Enterprise District SE-1
- Floodplain
- Rivers
- Perennial Streams
- National Park Service
- US Forest Service
- Virginia Scenic Byways

existing tower site

RVCC

Nellysford



Nelson County, Virginia

0 400 800 1,600 Feet

1 inch = 500 feet

COLD CREEK LN

ROCKFISH SCHOOL LN

ORDS VIEW RD

RVCC

RIVER RD

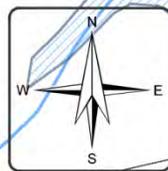
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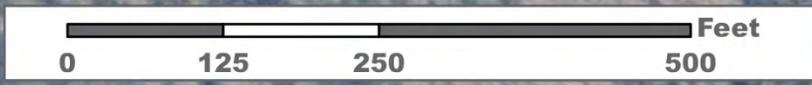
existing tower site

STONEGATE LN

ROCKFISH VALLEY HWY

Rockfish Presbyterian Church





1 inch = 150 feet

- Parcels_3142016
- Floodplain
- Rivers
- Perennial Streams
- National Park Service
- US Forest Service
- Virginia Scenic Byways

existing tower site

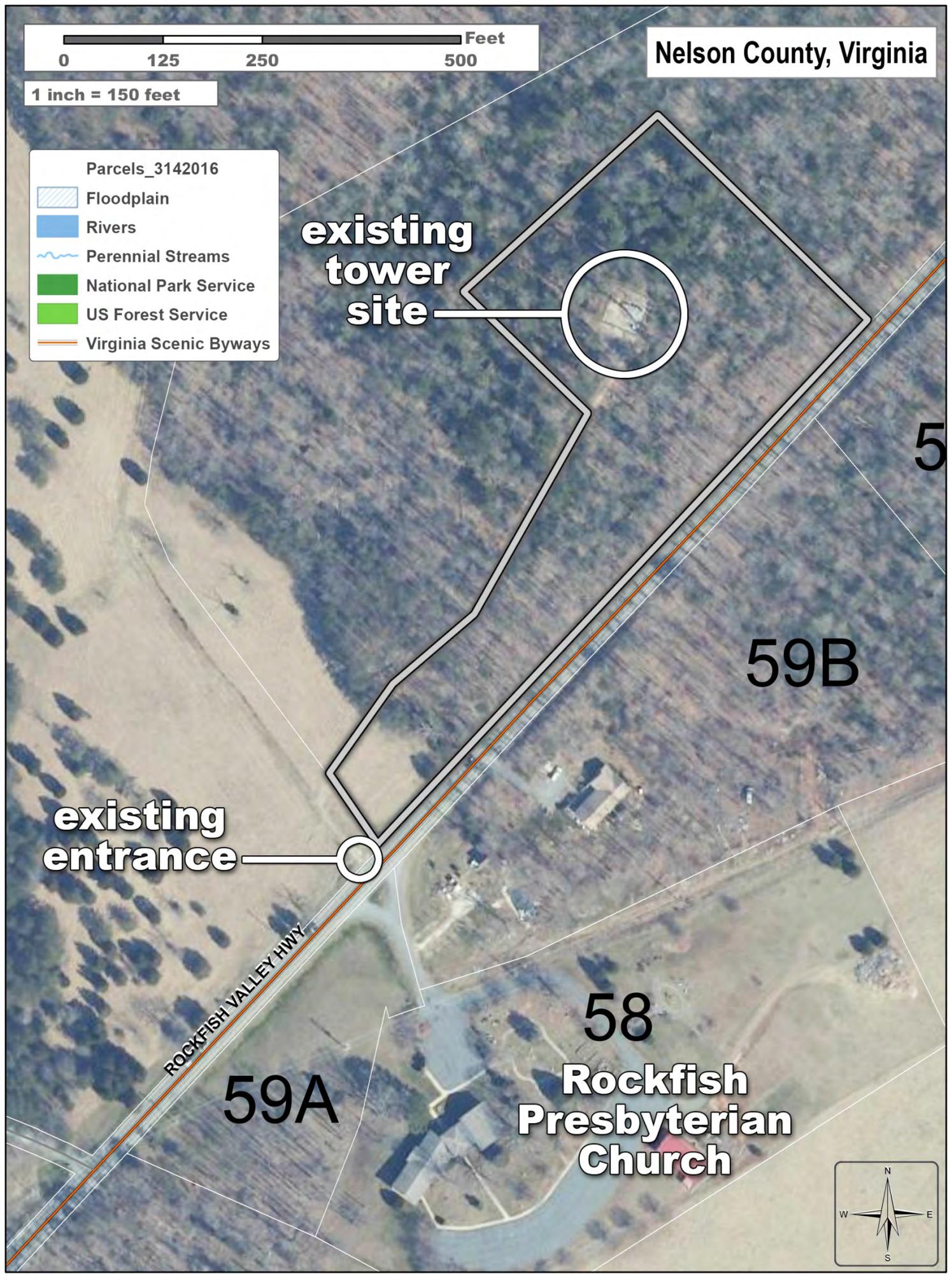
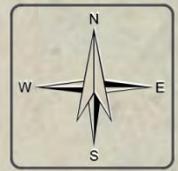
existing entrance

ROCKFISH VALLEY HWY

59A

59B

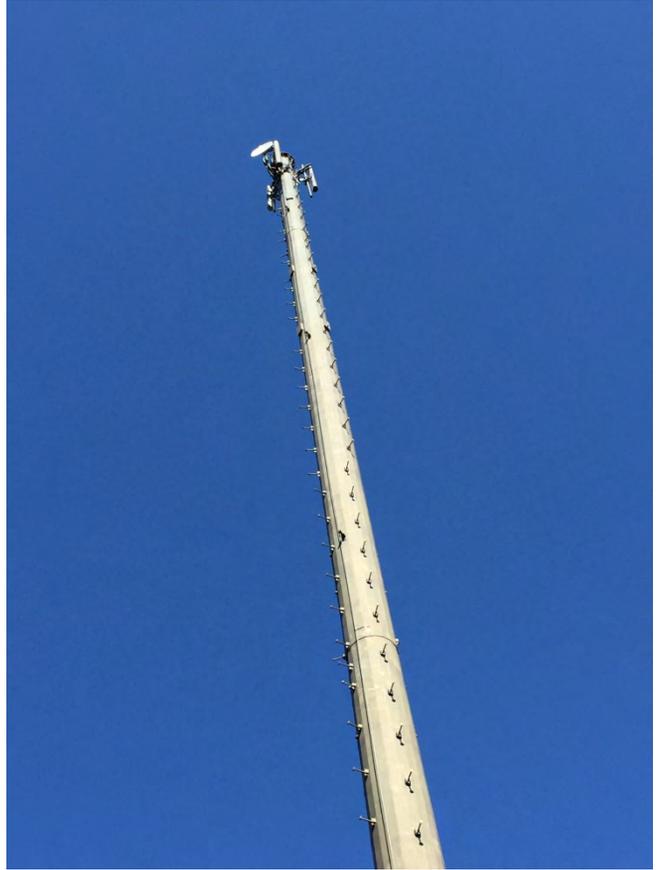
58
Rockfish
Presbyterian
Church



Site Photos (taken March 22):



existing tower (as seen from lease area)



existing tower (note existing equipment)



proposed monopole extension stored in lease area



DEPARTMENT OF PLANNING & ZONING

PLANNING COMMISSION BOARD OF ZONING APPEALS

To: Chair and Members, Nelson County Board of Supervisors
Mr. Stephen A. Carter | County Administrator
From: Tim Padalino | Planning & Zoning Director
Date: March 25, 2016
Subject: Class C Communication Tower Permit #2016-02 (NTELOS / Ms. Jessie Wilmer)

Summary of Class C Communication Tower Permit #2016-02
Table with 2 columns: Field Name, Value. Fields include Site Address / Location, Tax Parcel(s), Parcel Size, Zoning, Applicants, Request, and Completed Application Received On.

On February 19, the Dept. of Planning & Zoning received two (2) Class C Communication Tower Permit applications from Ms. Jessie Wilmer of NTELOS.

This staff report details Communication Tower Permit #2016-02, which requests approval for proposed equipment upgrades at an existing communication facility in Stoney Creek. The proposed upgrades involve equipment replacement and additions, as well as increased tower height due to a proposed 5.3' tall lightning rod, at a facility known as CV822 "Lodebar."

Specifically, the application materials include the following submittals:

- Class C Communication Tower Permit application #2016-02;
- Application narrative (dated February 9);
- Photo simulations showing proposed equipment on existing towers; and
- Site Plans depicting details of existing facilities; proposed modifications to lease areas; and proposed modifications to equipment including new antennas, new microwave dish, new lightning rod (5.3' in height), and proposed new pipe mounts (dated February 3)

Subject Property Location and Characteristics:

This subject property is a parcel in Stoney Creek identified as Tax Map Parcel #11I – “Wintergreen Property Owners Association – Open Space,” and is zoned Residential Planned Community (RPC). County land records contained in ProVal do not specify the acreage of this large, irregular property.

This subject property currently contains a 15’ x 40’ lease area with an E911 address of 622 Hearthstone Lane. The lease area is accessed from Hearthstone Lane via an existing gravel drive. The existing tower height is 127.7’ above ground level. *Please see the enclosed maps on pages 5-6.*

Review Process Overview:

- December 2, 2015 – pre-application meeting
- February 19th – applications submitted
- March 23rd – PC introduction, review, and recommendation
- April 12th – BOS introduction
- (?) – BOS review, public hearing, and action (TBD)

Site Plan Review Committee Comments:

These applications have not been referred to the Site Plan Review Committee, as these permits are associated with existing permitted tower facilities – and (in the Director’s opinion) do not constitute a change in use or otherwise require interagency review. The majority of changes would occur on the tower, and the modifications to the lease area would be minor in nature.

- VDOT: Not applicable.
- VDH: Not applicable.
- Nelson County Building Official: No review to date. Construction activity within lease areas typically requires a Building Permit and/or Land Disturbing Activity Permit; to be determined.
- TJSWCD: No review to date. An approved Erosion & Sediment Control Plan may be necessary; this will be determined and (if necessary) addressed during the issuance of a Building Permit. That process does not occur until after the zoning review process is finished.

Staff Commentary on Permit Review Process:

Please carefully consider the following comments on various aspects of this application:

A. Class C Tower Permit process vs. (administrative) Tower Permit Amendments process –

Please note that P&Z staff routinely review and approve “Tower Permit Amendment” applications administratively, pursuant to Z.O. 20-17-A (“Tower Permit Amendments”). However, this proposed equipment upgrade project is not eligible for the administrative Tower Permit Amendment permit process (per the “Policy” outlined in Z.O. 20-17-A-1). This is because the proposed facility upgrade involves the installation of a microwave dish, and the original approved permit did not include approval for a microwave dish. This determination was previously communicated to the applicant in an email dated December 8, 2015, stated as follows:

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B. Balloon test and photosimulations –

Please also note that, in my review of this application to determine its completeness, I have determined that the balloon test requirement is not applicable for this application. Although Class C Communication Tower Permit applications require that a balloon test be scheduled and conducted (per Z.O. 20-13-D), this requirement was established in contemplation of new tower facilities. Consider the following language in Z.O. 20-13 (“Application and Procedure for Approval of a Class C Communication Tower Permit”), Section D:

“[20-13]-D. Balloon Test. For any proposed tower requiring a Class C Communication Tower Permit, a balloon test shall be conducted...” (emphasis added)

Because this application is associated with an existing, permitted tower facility, I previously directed the applicant to simply prepare photo simulations of the proposed new equipment on the existing tower (which is the ultimate purpose of conducting a balloon test for new tower facilities), pursuant to Z.O. 20-13-D-4. This determination was previously communicated to the applicant in an email dated December 8, 2015, stated as follows:

“As we briefly discussed during our meeting last week, some of the requirements in 20-13 may not apply in this specific scenario. For example, regarding the balloon test requirement in 20-13-D, you may be able to simply prepare photosims of the existing facility which graphically depict the proposed new equipment, in lieu of conducting the balloon test in order to create photosims.

In other words, the balloon test requirement is clearly devised for applications involving the installation of an entirely new communication tower facility. As such [...] it is my opinion that 20-13-D-1, -2, and -3 seem illogical – and 20-13-D-4 is the only requirement in that section which clearly remains a requirement... .”

C. Planning Commission review process & public hearing(s) –

Finally, please also note that under the new Tower Ordinance (enacted in 2014), the Planning Commission is not required to conduct a public hearing for Class C Communication Tower Permit applications. (See Z.O. 20-13 “Application and Procedure for Approval of a Class C Communication Tower Permit”, Section B.)

With respect to the optional PC public hearing, the PC decided at their March 23rd meeting to simply, “conduct a review of the application” and “communicate its determination together with any additional recommendations to the Board of Supervisors” without conducting a public hearing. (Please see page 4 for the formal PC recommendation.)

Staff Evaluation & Recommendation:

The Planning & Zoning Director’s opinion is that the requested Class C Communication Tower Permit application (#2016-02 for “CV822 – Lodebar”), as detailed in the application materials, seems to be acceptable relative to the criteria contained in Z.O. 20-13-F (“Factors considered in granting a Class C Communication Tower permit”).

This opinion is heavily influenced by the fact that this application is associated with an existing permitted tower facility. Independent of that fact, my conclusion is that the proposed equipment upgrade project (and permissible minor increase in height from 127.7’ AGL to 133’ AGL) – as detailed in the application materials, and specifically as depicted in the photosims – are acceptable relative to Z.O. 20-2 (“Purpose”), Z.O. 20-13-F (“Factors considered in granting a Class C Communication Tower permit”), and the Nelson County Comprehensive Plan.

I therefore recommended that the PC recommend approval of these applications to the BOS.

PC Review & Recommendation:

The Planning Commission received a staff report and a slideshow presentation at the March 23rd meeting. Ms. Debbie Balsler of NTELOS was present to answer questions and discuss the application with the PC.

After reviewing the application in detail, and discussing the Planning & Zoning Director's recommendations, the PC voted unanimously on the following recommendation, as articulated in a motion made by Commissioner Russell:

The Planning Commission recommends Board of Supervisors approval of Class C Communication Tower Permit #2016-02 to modify the existing tower facility at CV822.

Summary & Conclusion:

The permit application and Planning Commission recommendation are now presented to the Board of Supervisors for review and consideration.

Please note that before taking any formal action on this application, the BOS is required to conduct a public hearing on this application per Z.O. 20-13-C and in accordance with Section §15.2-2204 of the Code of Virginia.

In conclusion, please contact me with any questions, concerns, or requests for assistance leading up to the April 12th Board of Supervisors review of Class C Communication Tower Permit #2016-02.

Thank you very much for your time and attention to this application.



1 inch = 1,500 feet

Crawford's Knob

existing tower site

OLD STONEY CREEK RD

FAR KNOB CLIMBER

LACK WALNUT DR

CARDINAL LN

STONE CHIMNEYS RD

FOOTHILLS DR

MONOCAN DR

HIDDEN SPRINGS LN

SADDLEBACK KNL

NAPIER LN

HUNTERS PT

Stoney Creek

STONEY CRK W

HIGH VIEW LN

ROSEWOOD DR

STONE ORCHARD DR

Nellysford

MAY APPLE LN

ROCKFISH VALLEY HWY

ADIAL RD

- Buildings
- Parcels_3142016
- Business District B-1
- Business District B-2
- Conservation District C-1
- Industrial District M-2
- Limited Industrial District M-1
- Residential District R-1
- Residential District R-2
- Residential Planned Community RPC
- Service Enterprise District SE-1
- Floodplain
- Rivers
- Perennial Streams
- National Park Service
- US Forest Service
- Virginia Scenic Byways





1 inch = 150 feet

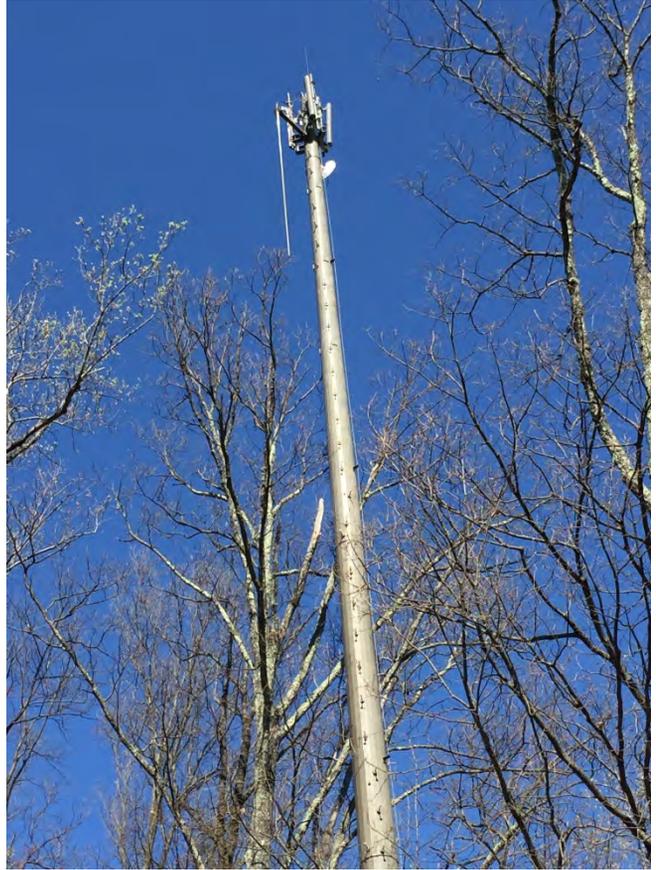
Nelson County, Virginia



Site Photos (taken March 22):



existing tower (as seen from lease area)



existing tower (note existing equipment)



existing tower heavily concealed by forest canopy



DEPARTMENT OF
PLANNING & ZONING

PLANNING COMMISSION
BOARD OF ZONING APPEALS

To: Chair and Members, Nelson County Board of Supervisors
Mr. Stephen A. Carter | County Administrator

From: Tim Padalino | Planning & Zoning Director

Date: March 24, 2016

Subject: Planning Commission Recommendations for Proposed ZO Text Amendments Referred by BOS – Article 18, Limited Industrial District (M-1)

Issue Summary:

On March 23rd, the Planning Commission conducted a properly-advertised public hearing regarding the following proposed text amendments to the Zoning Ordinance:

Amend Article 18 (“Limited Industrial District M-1”), Section 18-3 (“Uses – Permitted by Special Use Permit only.”) as follows:

18-3-1: Any **by-right use or permissible accessory** use requiring outside storage or displays

18-3-10: ~~Reserved for future use~~ **Contractors’ equipment storage yard**

After conducting the public hearing (during which no members of the public spoke), the PC further discussed the proposed amendments. Then, on a motion made by Commissioner Goad, the Planning Commission voted 4-2 to recommend the following text amendment to the BOS (below).

Planning Commission Recommendation:

Amend Article 18 (“Limited Industrial District M-1”), Section 18-3 (“Uses – Permitted by Special Use Permit only.”) as follows:

18-3-1: Any **by-right use or permissible accessory** use requiring outside storage or displays

18-3-10: ~~Reserved for future use~~ **Contractors’ outside equipment yard, which may include storage of materials**

For more detailed information regarding the PC review, please see “Issue Background” (pp. 2-3).

Issue Background:

On January 12th, the Nelson County Board of Supervisors (BOS) acted to refer to the Planning Commission (PC) a possible text amendment to Zoning Ordinance Article 18 (“Limited Industrial District M-1”) for PC review and recommendations. The subject of the referral is a specific use that is currently provided for in the Industrial (M-2) District, but which is not currently provided for in the Limited Industrial (M-1) District.

Specifically, the BOS referral and requested review are essentially a question of whether the following use (below) should be permissible in the Limited Industrial District M-1, or not; and if so, whether it should be permissible by-right or only permissible as a special use:

“Contractors’ equipment storage yard or plant, or rental of equipment commonly used by contractors”

This use is not further defined in Article 2, Definitions. As noted above, this use is currently permissible by-right in the Industrial District (M-2), pursuant to Zoning Ordinance Article 9, Section 1-12; and is currently not provided for (and therefore not permissible) in Limited Industrial District (M-1).

Please also consider the “Statement of intent” for the Limited Industrial (M-1) District:

“This district is intended to provide for and encourage limited industries to locate and/or expand in order to foster development of the local economy. These industries are generally light industrial which are office oriented or oriented toward the manufacturing, processing, assembly, warehousing and/or distributing of goods and materials which are dependent upon previously prepared raw materials refined or processed elsewhere. It is expected that uses in this district be to be operated from within a building.”

During the January 27th and February 24th PC meeting, the Commission reviewed and discussed several possible policies. At the February 24th meeting, the PC directed staff to advertise for a public hearing for the March 23rd meeting, regarding proposed text amendment(s) as follows:

Amend Article 18 (“Limited Industrial District M-1”), Section 18-3 (“Uses – Permitted by Special Use Permit only.”) as follows:

18-3-1: Any **by-right use or permissible accessory** use requiring outside storage or displays

18-3-10: ~~Reserved for future use~~ **Contractors’ equipment storage yard**

These recommended amendments would clarify an existing provision (18-3-1) and would establish the use in question as a “special use” (18-3-10). Please note the following:

- The PC specifically directed that the clause, “...rental of equipment commonly used by contractors” should be left out, due to concerns about that component of the provision being a commercial or business use (and not an industrial use).
- The PC spent time giving careful consideration to the proposed use being established as a by-right use in the M-s District; however, after reviewing the issue in detail, the PC decided to advertise for a public hearing for amendments that would provide “contractors equipment storage yard” as a special use in M-1.
- The PC concluded that regulating this land use as a “special use” is the most appropriate policy, and would strike the appropriate balance between providing for the possibility of the use, but requiring case-by-case review and (ultimately) a determination by the BOS. Further, this would:
 - provide for the land use in question to potentially be permissible on a case-by-case basis – but only after public input is solicited during public hearings conducted by the PC and BOS, and only if the BOS votes to approve a specific SUP request;
 - give M-1 property owners (or their authorized agents) the opportunity to request County approval to conduct the use in question, but would not guarantee the property owner the right to use M-1 property for that land use (as it would be if it were made a “Use – permissible by-right”);
 - allow for the details and context of each proposal or application to be reviewed individually; and
 - allow the BOS to make case-by-case decisions about establishing conditions to any SUP approval, if the Board were to determine that there were property-specific or project-specific reasons for doing so

Please also note that staff have prepared a countywide map and corresponding chart which identify all properties currently zoned Limited Industrial (M-1), as recorded in the County’s GIS database.

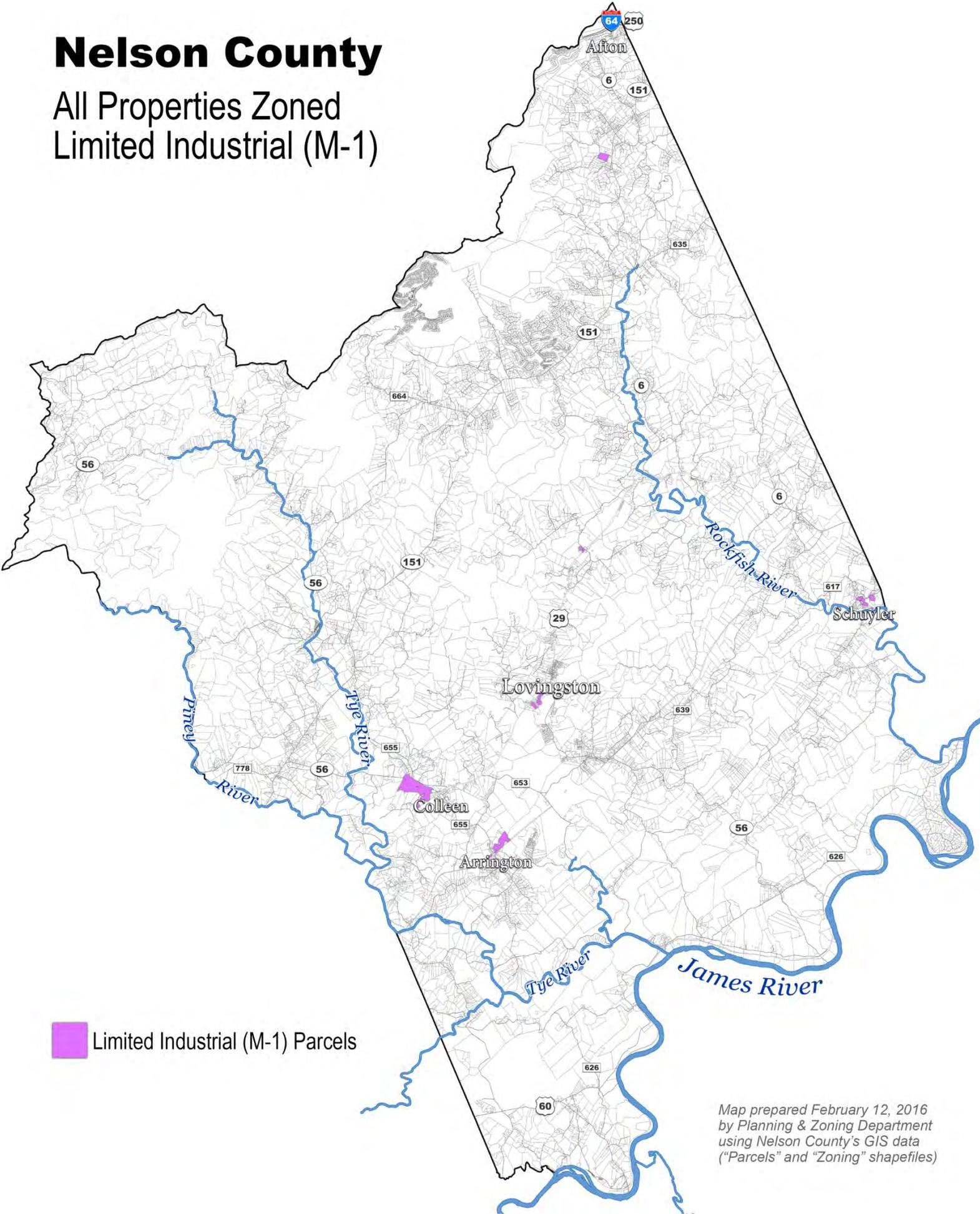
Summary:

In conclusion, please contact me with any questions, concerns, or requests regarding the PC review and recommendations and/or the upcoming BOS review of the PC’s recommended text amendments.

Thank you very much for your time and attention to this important subject.

Nelson County

All Properties Zoned
Limited Industrial (M-1)



Map prepared February 12, 2016
by Planning & Zoning Department
using Nelson County's GIS data
("Parcels" and "Zoning" shapefiles)

ORDINANCE O2016-03
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA,
APPENDIX A ZONING, ARTICLE 18 LIMITED INDUSTRIAL M-1

BE IT ORDAINED, by the Nelson County Board of Supervisors that Appendix A Zoning, Article 18, Limited Industrial M-1 Uses be amended as follows:

Section 18-3 Uses – Permitted by Special Use Permit only:

18-3-1: Any by-right use or permissible accessory use requiring outside storage or displays

18-3-10: Contractors' outside equipment yard, which may include storage of materials

BE IT FURTHER ORDAINED, by the Nelson County Board of Supervisors that this Ordinance becomes effective upon adoption.

Adopted: _____, 2016

Attest: _____, Clerk
Nelson County Board of Supervisors