

AGENDA
NELSON COUNTY BOARD OF SUPERVISORS
August 11, 2015
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. Consent Agenda**
 - A. Resolution – **R2015-63** Minutes for Approval
 - B. Resolution – **R2015-64** FY16 Budget Amendment
 - C. Resolution – **R2015-65** Healthcare Flexible Spending Account Plan Amendment

- III. Public Comments and Presentations**
 - A. Public Comments
 - B. Presentation – Delegate P. Richard “Dickie” Bell
 - C. Presentation – Nelson County Community Fund Advisory Committee (J. Francis, I. Joiner)
 - D. VDOT Report

- IV. New Business/ Unfinished Business**
 - A. Proposed Zoning Ordinance Amendment: “Bed & Breakfast” Uses (**R2015-66**) – Referral to Planning Commission
 - B. Proposed Zoning Ordinance Amendments: “Wayside Stands” & “Farmers Markets” (**R2015-67**)- Authorization for Public Hearing
 - C. Proposed Zoning Ordinance Amendment: “Temporary Events” (**R2015-68**) – Referral to Planning Commission

- V. Reports, Appointments, Directives, and Correspondence**
 - A. Reports
 - 1. County Administrator’s Report
 - 2. Board Reports
 - B. Appointments
 - C. Correspondence
 - 1. Jean Payne, Commissioner of Revenue
 - D. Directives

- VI. Adjourn and Reconvene for Evening Session**

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

I. Call to Order

II. Public Comments

III. Public Hearings and Presentations

A. Public Hearing: Conditional Rezoning #2015-02 – Mountain Sports Retail Space / Mr. Joseph B. Kober: Consideration of an application to rezone (with conditions) two parcels, consisting of 6.06 total acres, from Residential (R-1) to Business (B-1) Conditional. The subject properties are identified as Tax Map Parcels #22-A-18 (owned by Herbert F. Hughes) and #22-A-19 (owned by Claude Malcolm Dodd), and are located at 2950 Rockfish Valley Highway in Nellysford. Specifically, the applicant wishes to rezone (with conditions) the properties to construct an 8,000 square foot “retail store” and accompanying parking lot on the subject properties.

B. Public Hearing: Proposed Zoning Ordinance Amendments: “Brewery” and “Limited Farm Brewery”: Consideration of proposed amendments to the Nelson County Zoning Ordinance as originally referred to the Planning Commission by Board of Supervisors Resolution **R2015-51** at the June 9th BOS meeting, inclusive of proposed modifications requested by the PC at their June 24th meeting, and as shown in a staff report dated June 26th. The proposed amendments contain a revised definition for “brewery” and “limited farm brewery” which would provide for the production of beer as well as additional types of brewed beverages.

IV. Other Business

A. Deferred from July 14, 2015: **Special Use Permit #2015-03** – “Dance Hall” / Jose & Elpidia Gaona

V. Adjournment

**RESOLUTION R2015-63
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF MEETING MINUTES
(July 14, 2015)**

RESOLVED, by the Nelson County Board of Supervisors that the minutes of said Board meeting conducted on **July 14, 2015** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

Approved: August 11, 2015

Attest: _____, Clerk
Nelson County Board of Supervisors

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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
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

Absent: Thomas H. Bruguire, Jr. West District Supervisor

I. Call to Order

Mr. Saunders called the meeting to order at 2:07 PM, with four (4) Supervisors present to establish a quorum and Mr. Bruguire being absent.

- A. Moment of Silence
- B. Pledge of Allegiance – Ms. Brennan led the pledge of Allegiance

II. Resolution Recognizing the Service of the Honorable Kenneth W. Farrar (R2015-52)

Mr. Hale moved to approve resolution **R2015-52** Resolution Recognizing the Honorable Kenneth W. Farrar, July 01, 1999 – July 31, 2015. Ms. Brennan seconded the motion and there being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the following resolution was adopted and read aloud by Mr. Hale:

**RESOLUTION R2015-52
NELSON COUNTY BOARD OF SUPERVISORS
RESOLUTION RECOGNIZING THE HONORABLE KENNETH W. FARRAR
July 01, 1999 – July 31, 2015**

WHEREAS, on July 31, 2015, the Honorable Kenneth W. Farrar officially retires from service as Judge of the Juvenile and Domestic Relations District Court of the Twenty-fourth Judicial District of Virginia; and

WHEREAS, Judge Farrar is a life-long resident of Virginia, a graduate of Amherst County High School (1966), earned his Bachelor of Science degrees in Business Management and Business Finance from Virginia Polytechnic Institute and State University (1970) and received his Juris Doctorate Degree from the University of Baltimore School of Law (1974); and

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WHEREAS, Judge Farrar practiced law for twenty-five years beginning his career in March, 1974 in Altavista, Virginia and opening a practice in Lovingston, Virginia in October, 1975; he is a member of the Virginia State Bar and of the Criminal Law, Domestic Relations and Judicial Sections of the Virginia Bar Association; is a member and past president of the Amherst/Nelson Bar Association; he served as chief judge of the Twenty-Fourth Judicial District from 2004 - 2006; he participated in the Juvenile Detention Alternatives Initiative in the Lynchburg Juvenile and Domestic Relations District Court; he implemented the Nelson Juvenile and Domestic Relations Best Practice Court in the area of foster care and adoption in 2010; he is a member of the National Council of Juvenile and Family Court Judges where he served on the Permanency Planning for Children and the Family Violence & Domestic Relations Committees; he serves on the Executive Committee of the Judicial Conference of Virginia for District Court Judges and on the Virginia Council of Juvenile and Domestic Relations District Court Judges Schools and Courts Committee; and

WHEREAS, Judge Farrar was appointed to the Juvenile and Domestic Relations District Court bench on July 01, 1999 and over the past sixteen years Judge Farrar has presided over numerous cases involving children and families where he has exhibited his knowledge, dedication and professionalism, all of which will be greatly missed; and

WHEREAS, Judge Farrar is an active and important part of his community and profession as a member of Mineral Springs Baptist Church in Gladstone, 4-H Club adult leader, Dixie Youth T-Ball Coach, Boy Scout Fundraising Drive co-sponsor for Nelson County and member/director of the Nelson County Chamber of Commerce; and

WHEREAS, it is fitting and proper that the Nelson County Board of Supervisors recognizes the Honorable Kenneth W. Farrar for his many years of service and commitment to the citizens of Nelson County and Virginia, and to congratulate him on his well-deserved retirement as Judge, with best wishes for many years of happiness and contentment,

NOW, THEREFORE, BE IT RESOLVED BY THE NELSON COUNTY BOARD OF SUPERVISORS, that The Board of Supervisors does hereby go on record as recognizing the Honorable Kenneth W. Farrar on his retirement from service from the Juvenile and Domestic Relations District Court of the Twenty-fourth Judicial District of Virginia.

III. Consent Agenda

Mr. Hale noted a correction to be made to the draft June 9, 2015 minutes under Ms. Brennan's directives. He requested that the word "imminent" be corrected to read "eminent" as it related to "eminent domain". Ms. McGarry acknowledged the correction and Mr. Hale moved to approve the consent agenda. Ms. Brennan seconded the motion and there being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the following resolutions were adopted:

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A. Resolution – **R2015-53** Minutes for Approval

**RESOLUTION R2015-53
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF MEETING MINUTES
(June 9, 2015)**

RESOLVED, by the Nelson County Board of Supervisors that the minutes of said Board meetings conducted on **June 9, 2015** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

B. Resolution – **R2015-54** FY16 Budget Amendment

**RESOLUTION R2015-54
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF FISCAL YEAR 2015-2016 BUDGET**

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)

Amount	Revenue Account (-)	Expenditure Account (+)
\$290,647.00	3-100-009999-0001	4-100-091050-9999
<u>\$20,000.00</u>	3-100-009999-0001	4-100-093100-9201
\$310,647.00		

II. Transfer of Funds (General Fund)

Amount	Credit Account (-)	Debit Account (+)
\$26,460.00	4-100-999000-9905	4-100-091050-7106
<u>\$5,000.00</u>	4-100-999000-9905	4-100-091050-7011
\$31,460.00		

III. Appropriation of Funds (VPA/Social Services Fund)

Amount	Revenue Account (-)	Expenditure Account (+)
\$20,000.00	3-150-004105-0001	4-150-053110-8111

C. Resolution – **R2015-55** Blue Ridge Tunnel, No Trespassing

**RESOLUTION R2015-55
NELSON COUNTY BOARD OF SUPERVISORS
NO TRESPASSING AT CLAUDIUS CROZET BLUE RIDGE TUNNEL, AFTON**

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RESOLVED, by the Nelson County Board of Supervisors that until its completion and opening to the public, the Claudius Crozet Blue Ridge Tunnel in Afton shall be posted with No Trespassing signs and any persons caught trespassing on the subject posted property shall be prosecuted.

D. Resolution – **R2015-56** Appointment of Agricultural and Forestal District Program Administrator

**RESOLUTION R2015-56
NELSON COUNTY BOARD OF SUPERVISORS
AGRICULTURAL & FORESTAL DISTRICT PROGRAM ADMINISTRATOR**

RESOLVED, by the Nelson County Board of Supervisors that pursuant to Chapter 9, Planning and Zoning, Article V. Agricultural and Forestal Districts of the Code of Nelson County, the Director of Planning and Zoning is hereby appointed as Program Administrator of the Agricultural and Forestal Districts Program.

E. Resolution – **R2015-62** Consent for Offers in Compromise- Local Taxes

**RESOLUTION R2015-62
NELSON COUNTY BOARD OF SUPERVISORS
CONSENT FOR OFFERS IN COMPROMISE – LOCAL TAXES
OUTSTANDING SERVICE DISTRICT (STREET LIGHT) TAX OBLIGATIONS**

WHEREAS, the Nelson County Board of Supervisors (the Board) enacted on July 13, 1999 a local ordinance establishing “Service Districts” within the provisions of the Code of the County of Nelson, Virginia (the Code) to provide for the administration, including taxation, within three specified Service Districts of a street lighting program; and,

WHEREAS, by Ordinance O2008-02 approved on April 24, 2008, the Board repealed the Service District provisions established in the Code at Chapter 9.5; and,

WHEREAS, the repeal of the Service District program resulted in the placement of liens against those properties that had outstanding tax obligations pursuant to the Service District program; and,

WHEREAS, the Board wishes to provide its consent, pursuant to §58.1-3994 (Offers in compromise with respect to local taxes) of the Code of Virginia, 1950 to the Treasurer of Nelson County (the Treasurer) to provide for “compromise and settlement” of the outstanding Service District tax obligations in accordance with the provisions of §58.1-3994, as said Treasurer of the County may complete.

NOW, THEREFORE, BE IT RESOLVED by the Nelson County Board of Supervisors that said Board hereby provides its consent, pursuant to the provisions of §58.1-3994 of the Code of Virginia, 1950, to the Treasurer of Nelson County to enable the Treasurer to compromise and settle, as determined by said Treasurer, the outstanding tax obligations resulting from the now repealed Service District Ordinance and the Street Light program that was established and administered pursuant to said Service District Ordinance.

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BE IT FURTHER RESOLVED, that the Board herewith provides authority to the County Administrator, as its designee pursuant to §58.1-3994, to consent on behalf of the Board, as may be necessary, to such compromise and settlement as is facilitated by the Treasurer.

LASTELY, BE IT RESOLVED, that the Board's consent, as herewith provided pursuant to §58.1-3994 of the Code of Virginia 1950, is and shall be limited to the outstanding tax obligations owed to Nelson County that are a result of the repealed Service District Ordinance and Street Light program.

IV. Public Comments and Presentations

A. Public Comments

1. Reverend Rose, Arrington

Reverend Rose thanked Mr. Harvey and Mr. Hale for speaking at a vigil held on June 21, 2015 at the Nelson Heritage Center in response to the South Carolina Massacre and thanked Mr. Saunders for attending. He noted that good things had come from this.

Reverend Rose then requested that the Board consider reversing the entrance and exit at the Shipman convenience center because of near accidents at the location. He noted he had also spoken with Don Austin about changing the passing lanes in front of it and was awaiting a response.

Reverend Rose then asked about renaming Front Street after Dr. Martin Luther King, Jr. He noted he was a member of the Dr. Martin Luther King Jr. Celebration Committee that has given out five (5) \$1500 scholarships over the past few years and they were dedicated to the education of their students. He then noted he wanted to better the quality of life for all citizens and he believed it was a defining time in the history of the County; that Nelson County could become better and the Board could have a great impact in making this come true. He commented that he had been to New York for a family reunion and was glad to get home. He added that he loved Nelson, the State and the Country. He added that he hoped the Board would consider this request and respond back in a timely matter.

Reverend Rose then noted that on August 10th at 11 am at the Lovingson Healthcare Center, they would present a plaque recognizing the service in care of his wife Hattie and he invited them to attend.

2. Pastor Marion Kanour, Afton

Pastor Kanour noted she was Priest at Grace Episcopal Church. She noted that the Interfaith Alliance would meet on August 12, 2015 at the library at 12:30. She noted the group was an Arm of Unity in Community and was an action arm creating faith based actions focused on bringing people closer together as a County over race lines. She added that they may be having a Thanksgiving Dinner at the Lovingson Firehouse that would be countywide.

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Pastor Kanour then noted that she was a Co-convenor of the Nelson County Domestic Violence Task Force and they would be coming to the Board with a resolution for adoption next month. She noted the group had been established for three years, they had victim advocates that worked in tandem with the Sheriff's Department and they met them at the Courthouse to walk them through the process. She noted that they were expanding their services to meet victims at the Hospital. She added that they would get CIT and Victim Advocate training and become certified in these areas. She noted that their ultimate goals was to have a shelter in Nelson in the next year.

3. Sharon Ponton, Lovington

Ms. Ponton noted that she was speaking as a County citizen and representative of the Blue Ridge Environmental Defense League.

She noted that she was speaking directly to the resolution that Ms. Brennan would be putting forth. She shared facts on Erosion and Sediment Control noting that there were 26.6 miles of pipeline and 23.5 of those miles were considered high risk for landslides. She noted that 21.6 miles of the total miles were considered to have re-vegetation concerns. She added that this information came directly from the Atlantic Coast Pipeline's Resource report to FERC. She added that they would build seven permanent access roads and that temporary ones were to be determined in the reports. Ms. Ponton emphasized that it was imperative that Atlantic Coast Pipeline, LLC should have to file site specific Erosion and Sediment Control plans with the County as was required by others. She noted that DEQ has said they did not have the staff and inspectors to require ACP to do this. She added that she hoped the Board would support Ms. Brennan's resolution.

4. Eleanor Amidon, Afton

Ms. Amidon read aloud a letter she had written to Governor McAuliffe as follows:

Dear Governor McAuliffe:

I live in Nelson County and I am very concerned that the proposed Atlantic Coast Pipeline, if built, will negatively impact the quality of water here. We must insist on thorough and proper management of one of our most important resources. Although the Virginia Department of Environmental Quality (DEQ) has the authority to require site-specific Erosion and Sediment Control (E & SC) plans from pipeline construction companies, they have neither personnel nor funding to review such plans. Therefore DEQ has not required the submission of E&SC plans. DEQ has abdicated its responsibility to provide oversight and accountability in this critical area. The result is a classic case of the fox guarding the hen house: only company-hired plan reviewers are examining the E&SC plans for compliance with state requirements, and no one else has access to those plans.

This is an intolerable arrangement, and concerned citizens are stepping up to fill DEQ's vacuum. The Dominion Pipeline Monitoring Coalition (see www.pipelineupdate.org), an organization of citizen volunteers, conservation groups, and environmental scientists, is proposing a citizen review of the E&SC plans. I, for one, am very thankful that people who actually care about our land, water, and quality of life are willing to contribute their energy and expertise to do a job that needs

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to be done. The E&SC plans should be made available to the public, so that this group, and anyone else who cares to, can review the plans for regulatory compliance.

Also, the practice of allowing pipeline companies to perform their own compliance reviews and conduct their own inspection programs, using company-hired plan reviewers and inspectors, is clearly inadequate. For example, in West Virginia there have been mudslides and other occurrences of non-compliance, with fines that amounted to a mere wrist-slap, just another business cost. We do not want to see this happening in Virginia.

It is obvious that DEQ needs more resources. Part of Virginia's budgetary surplus should go to DEQ, so that they can review plans and also perform inspections of existing projects. Energy companies have demonstrated that they are incapable of effective self-monitoring. We need DEQ oversight to protect our environment.

In the short term, citizen involvement in reviewing the E&SC plans can provide a meaningful review. Please do all within your power to make the E&SC plans available to the public.

She then added that, at a local level, to protect the County's water sources, the Flood Plain Ordinance needed to be strengthened.

5. Ernie Reed, Faber

Mr. Reed noted he was a member of Friends of Nelson and he was speaking in favor of Ms. Brennan's proposed resolution. He noted that he had discovered that it had become the responsibility of citizens to protect themselves. He noted that the Virginia DEQ had a responsibility to prevent degradation of water quality but did not have the resources to do this. He noted it was up to them to make sure DEQ did what it was supposed to do and that Atlantic Coast Pipeline, LLC created an E&SC plan. He added it was within local authority to ask them to do this and provide it to the public. He noted that this needed to be done before their permit was authorized, and this guaranteed it would be done. He added that the public should have access to this before their permit was issued and that enforcement would be important. He then asked that the Board endorse Ms. Brennan's proposed resolution.

David Collins, Nellysford

Mr. Collins noted he was the Director for Thomas Jefferson Soil and Water Conservation District for Nelson. He added that he was also a surveyor and civil engineer and that any other project was required to do a site plan that required an E&SC plan and stormwater management plan. He noted that the ACP would disrupt an acre of land about every 400 ft. and plenty were critical slopes. He noted that there would be additional run-off because of the removal of trees that would be replanted with grass. He noted this would create more runoff and sediment in the Chesapeake Bay.

Mr. Collins noted that there were currently TMDLs in local rivers partially due to soil runoff and more due to getting a lot of rain. Mr. Collins then described driving to Highland County and on Route 250 the side slopes were in bad shape.

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Mr. Collins noted that they would need a good plan if the ACP came through to be assured that they would be bonded to get the disturbed slopes re-stabilized. He then concluded by noting he was in favor of the proposed resolution.

B. VDOT Report

1. Discontinuance of a Portion of Route 641 Dutch Creek Lane (**R2015-57**)

Mr. Don Austin noted that for the Board's consideration was the Discontinuance of portions of Route 641, Dutch Creek Lane. He noted that portions had been abandoned and since then VDOT has made additional contact with adjacent property owners. He noted registered letters had been sent with no comments as a result; however he had spoken with a property owner and had given them additional information and mapping and had not heard back; so he was assuming they had no objection to it. He reiterated that the road had not been in use for years and it was a matter of formalizing discontinuance of VDOT maintenance.

Mr. Hale moved to approve resolution **R2015-57** Discontinuance of Portions of Route 641 Dutch Creek Lane and Ms. Brennan seconded the motion.

Mr. Austin then confirmed that there was nothing new to consider and there being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the following resolution was adopted:

RESOLUTION R2015-57
NELSON COUNTY BOARD OF SUPERVISORS
DISCONTINUANCE OF PORTIONS OF ROUTE 641 DUTCH CREEK LANE

WHEREAS, the Virginia Department of Transportation has provided this Board with a sketch dated June 22, 2015 and VDOT Form AM-4.3, which is hereby incorporated herein by reference, defines adjustments required in the secondary system of state highways as a result of the proposed discontinuances, and

WHEREAS, the portions of Route 641 (Dutch Creek Lane) to be discontinued are deemed to no longer serve public convenience warranting maintenance at public expense, and

WHEREAS, a public notice was posted and registered letters, as prescribed under §33.2-908, Code of Virginia, were sent to each landowner whose property abuts the section of highway to be discontinued, and

WHEREAS, the Commissioner of the Virginia Department of Transportation was provided the prescribed notice of this Board's request to discontinue the subject sections of road, and

WHEREAS, no public hearing was requested; and

WHEREAS, after considering all evidence available, the Nelson County Board of Supervisors is satisfied that the described sections of road to be discontinued no longer serves public convenience

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warranting maintenance at public expense and are no longer necessary as a part of the Secondary System of State Highways;

NOW THEREFORE, BE IT RESOLVED this Board concurs with the discontinuance as part of the Secondary System of State Highways, those portions of road identified by the sketch dated June 22, 2015 and Form AM-4.3 to be discontinued, and hereby requests the Virginia Department of Transportation to take the necessary action to discontinue those identified segments as part of the Secondary System of State Highways, pursuant to §33.2-908, Code of Virginia, and

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

Mr. Austin then reported that he had passed Reverend Rose's passing zone concern to their traffic engineer and had not yet heard back. He noted that the issue there was that someone may be pulling out of the collection site and someone would be passing and they would be looking left and not see the person passing from the right. He noted that they had similar issues at other locations and the lines were changed; however he was not sure about this location. He noted this would be reviewed same as with the crossover at Wilson Road, he had not heard back.

Mr. Austin noted it had been mentioned about the potential to put in a boat access at the Wayside in Woods Mill, and he noted he was checking on it. He added that there had been some emphasis placed on this by the Governor's Office and he had seen a MOA between VDOT, DCR, and Game and Inland Fisheries to allow this access. He added he did not know where the funding came from for this, but there was a push for this and chances were better for it to happen.

Mr. Austin then noted that HB2, Transportation Funding Project applications were to be made for the Primary Six Year Plan. He noted that they would be prioritized and the Commonwealth Transportation Board decided the funding. He added that the first application period was this fall. He then related that Counties have been asked to designate a point person and training would be held on July 30th. He noted that localities would compete for statewide funding and the new bill restricted a portion of this to districts. He noted that \$25 Million to \$30 Million had been designated for the Lynchburg District. He reiterated that Counties could apply for the statewide pot and district pot of funds. He noted that these applications were due at the end of September.

Mr. Austin then noted that the applications could be for any routes not just primary roads; however the funds mostly pertain to highways of significance.

The following VDOT issues were discussed:

Ms. Brennan:

Ms. Brennan asked if this would affect the two Route 151 safety projects and Mr. Austin noted it would not.

Mr. Austin noted that the Lynchburg district did get more funding; however it was a competitive process.

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Mr. Hale noted that these funds were really for the primary system and Mr. Austin added that feeder roads that were near primaries were considered. He reiterated that corridors of significance were priorities.

Mr. Austin then advised that the District would look at these and could make recommendations for good projects. He noted that Counties should limit their submissions to 3 or 4 at the most.

Ms. Brennan asked about submitting applications for joint projects between localities and Mr. Austin noted that the Route 250 intersection was being looked at for safety project funding but these could be worked on. He added that they were being looked at under safety funds which did not fall under the new HB-2 funding.

Ms. Brennan then noted she attended a meeting about the Craft Brewers Festival and the Spartan events. She noted their concern was where the buses were going to take people in and out and their intent to use the Spruce Creek intersection. She noted that now they were going to have buses go along Glenthorne Loop to get out. She added that the Spruce Creek area would be an annual problem and VDOT needed to look at this for safety funding.

Mr. Hale:

Mr. Hale noted that on Route 6 from Route 29 heading to Scottsville, the pavement had come up and some marks on the road had been made that needed patching.

Mr. Hale then noted that the speed limit was 35mph at the State Shed across from the Shipman Collection Center and that the passing zone there could be eliminated. Mr. Harvey noted that the collection site was built backwards, noting that one should always enter on the upper side and go out on the lower.

Mr. Hale noted that the bridge on Route 714 off of Route 617, which was a wooden deck type of bridge with asphalt on it, had holes in it such that one could look down into the river. He then asked if bridges had a schedule for replacement and Mr. Austin noted that there was a replacement schedule; however this was done in the bridge division and he could get that to him.

Mr. Harvey:

Mr. Harvey then asked about the speed limit reduction request for Route 151 and Mr. Austin noted that VDOT had not done an additional review yet and he had not yet followed up with Jerry Harter. Mr. Harvey noted that there was tremendous traffic on Route 151 Saturday night and traffic was going 35-40 through there and he did not understand why VDOT was not moving faster on this. He then asked if a resolution from the Board would help and Mr. Austin noted it would probably not help because certain criteria had to be met. Mr. Harvey noted that the section of reduced speed had yielded huge improvements and Mr. Austin noted he would speak to Mr. Harter. It was noted that the speed reduction would make sense with the construction that would go on for the safety projects.

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Mr. Harvey then inquired as to who did the paving at the Afton overlook and it was noted that the Culpeper District did, because they maintained Route 250. Wayside trash can maintenance was discussed, and Mr. Austin noted he would find out who dumped these on I-64; noting it was probably done on an interstate contract.

Mr. Harvey then asked if VDOT was working on obtaining right-of-ways in Avon and Mr. Austin noted they should be. Mr. Harvey noted an area resident had gotten a letter from a law office offering to help them work with VDOT on these. Mr. Austin noted he would find out and report back. Mr. Harvey then added that the citizen had not been contacted yet by VDOT.

Mr. Saunders:

Mr. Saunders noted that the shoulders on Brent's Mountain were washing away and they still looked bad. Mr. Austin noted he would check back on this as it was supposed to have been done.

V. New Business/ Unfinished Business

A. Courthouse Project Phase II, Authorization to Issue Invitation to Bid and Proceed with Application to Virginia Resources Authority for Project Funding (R2015-58)

Mr. Jim Vernon of Architectural Partners, gave a presentation on the status of the project. He noted that they were on the threshold of completing the documents needed to go out to bid, he would be giving a status report and requesting authorization to proceed.

Mr. Vernon noted that that the project was not adding much square footage and he showed the floor plan that showed the two areas of new construction. He noted that the new Circuit Court Judge had reviewed the plans and some minor revisions were made; such as the Judge decided to make the open balustrade into a panel wall in front of the jury. He added that he had a new request for wiring for future technology needs since Judge Garrett was interested in video monitoring and docket monitors that could be paid for by the VA Supreme Court.

He then showed the second floor and noted that there was a decrease in area to be disturbed. He then noted three conference spaces were now on the second floor; which allowed for meeting flexibility. He noted that the balcony in the Circuit Courtroom needed work underneath it; however once this was done, it could take loading per the building code and it could be opened back up for spectator seating.

He then showed the basement area and noted that they would extend the tunnel for inmates to be brought over and then they would have a vertical platform lift to take them up to court. He then noted that there would be mechanical areas and some storage there.

Mr. Vernon then showed the exterior elevations and noted that the design had not changed from what was presented previously and they were using architectural elements that already existed in the current building.

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Mr. Vernon then briefly reviewed the phasing plans and noted that the Circuit Court would be using the General District Courtroom during construction. He added that the phasing was part of the bidding package and would be a requirement of the General Contractor.

He then noted the proposed schedule going forward if granted approval by the Board. He added that phasing the project would lengthen the contract time from 12 to 15 months.

Mr. Hale inquired about the bidding atmosphere and if advertising in the NC Times, Lynchburg News and Advance, and the Daily Progress would provide enough coverage area. Mr. Vernon noted that the bidding climate was good and the plans would also be submitted to plan rooms that were nationally known. He added that people were aware of the project already.

Mr. Carter then noted the resolution for consideration and Ms. Brennan moved to adopt resolution **R2015-58**, Authorization to Issue Invitation to Bid for Courthouse Project Phase II and to Apply to Virginia Resources Authority for Project Funding. Mr. Hale seconded the motion and there being no further discussion Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the following resolution was adopted:

RESOLUTION R2015-58
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION TO ISSUE INVITATION TO BID FOR COURTHOUSE PROJECT
PHASE II AND TO APPLY TO
VIRGINIA RESOURCES AUTHORITY FOR PROJECT FUNDING

RESOLVED, by the Nelson County Board of Supervisors that authorization is hereby granted to the County Administrator to proceed with issuing an invitation to bid for the project known as the Courthouse Project, Phase II and;

BE IT FURTHER RESOLVED, that the County Administrator is hereby authorized to proceed with submitting a funding application to the Virginia Resources Authority for financing of an amount up to \$7,500,000 Dollars for completion of the Courthouse Project, Phase II.

Mr. Hale noted again that the Courthouse Committee had worked closely with Staff and Architectural Partners and they had addressed every concern and the project had moved along well. Mr. Saunders added that he was pleased that Mr. Vernon had found ways to lower costs.

B. Department of Conservation & Recreation Grant Application (R2015-59)

Mr. Carter noted that the resolution proposed to allow staff to apply to DCR for up to \$250,000 to complete Phase 2 of the Blue Ridge Tunnel Trail. He noted the grant program requires a 20% local match and staff may need to come back to the Board for some of that. He noted that the County had requested a rollover of other grant funds to the Tunnel project and federal law enabled VDOT funds to match DCR funds if successful. He noted that if successful with the application to DCR, 90% of the local match of \$62,500 would be grant rollover funds.

Mr. Carter then noted that the County needed an authorizing resolution for the application to DCR and these funds would help bridge the funding gap for the Tunnel Project. He reported that the

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stakeholders had met on the Tunnel project and the consolidation of VDOT funding. He noted VDOT staff, County staff, CTB members and Richmond staff agreed that the project should be finished. He noted that he thought the County would have a favorable outcome.

Ms. Brennan inquired if this funding would be available for the Sturt property sometime and Mr. Carter noted it would.

Mr. Hale asked if staff was preparing the application and Mr. Carter noted he had asked Woolpert about completing the application.

Following discussion, Mr. Hale moved to approve resolution **R015-59**, Authorization to Apply for Department of Conservation and Recreation Recreational Trails Program Grant Funds for Blue Ridge Tunnel Project.

Ms. Brennan seconded the motion and there being no further discussion Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the following resolution was adopted:

RESOLUTION R2015-59
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION TO APPLY FOR DEPARTMENT OF CONSERVATION
AND RECREATION RECREATIONAL TRAILS PROGRAM GRANT FUNDS
FOR BLUE RIDGE TUNNEL PROJECT

Recreational Trails Program Authorizing Resolution A resolution authorizing application(s) for federal funding assistance from the Recreational Trails Program (RTP) to the Virginia Department of Conservation & Recreation (DCR).

WHEREAS, under the provisions of RTPF, federal funding assistance is requested to aid in financing the cost of trail/trailhead/trailside construction and/or rehabilitation within Nelson County; and

WHEREAS, Nelson County considers it in the best public interest to complete the project described in the RTP application;

NOW, THEREFORE, BE IT RESOLVED that:

1. The County Administrator be authorized to make formal application to DCR for funding assistance;
2. Any fund assistance received be used for implementation and completion of trail and trailside construction of the Blue Ridge Claudius Crozet Tunnel within the specified time frame;

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3. The Board of Supervisors hereby certifies that project funding is currently available and is committed for the completion of this project while seeking periodic reimbursement through the Recreational Trails Program;
4. We are aware that the RTP funding, if approved, will be paid on a reimbursement basis. This means we may only request payment after eligible and allowable costs have already been paid to our vendors and evidence of such has been provided to DCR.
5. We acknowledge that the assisted trail project will have an assigned life expectancy assigned to it and that the facility must be maintained to standards suitable for public use.
6. We acknowledge that we are responsible for compliance with the National Environmental Policy Act, Endangered Species Act, Historic Preservation Act, Executive Orders 11988 and 11990 (Floodplain Management and Wetlands Protection) and all other applicable state and federal laws;
7. We acknowledge that appropriate opportunity for public comment will be provided on this application and evidence of such is a required component for approval;
8. This resolution becomes part of a formal application to the Virginia Department of Conservation & Recreation.

C. Gladstone Fire & Rescue Services Interest Free Loan Application (**R2015-60**)

Mr. Carter noted that the interest free loan program was a two-step process- the application went to the Emergency Services Council (ESC) for approval and then the Board for final authorization. He noted that the application information had been included in the Board's packet and there was more than sufficient funds in the loan fund.

It was then noted that the requested loan amount was \$55,518 for Gladstone Volunteer Fire and Rescue Service (GVFRS) to purchase a fire truck.

Mr. Harvey noted that this should be an 80/20 match and he thought that this had already been discussed previously. Mr. Carter noted that the Board had previously endorsed the local funding and the GVFRS had pursued a loan with the ESC and staff had never gotten the application to bring to the Board until last month.

Mr. Harvey then moved to approve resolution **R2015-60**, Approval of Interest Free Loan for Gladstone Volunteer Fire and Rescue Service and Mr. Hale seconded the motion. There being no further discussion Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the following resolution was adopted:

RESOLUTION R2015-60
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF INTEREST FREE LOAN FOR

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GLADSTONE VOLUNTEER FIRE AND RESCUE SERVICE

NOW THEREFORE BE IT RESOLVED, the Nelson County Board of Supervisors hereby approves the interest free loan request of \$55,518.00 made by Gladstone Volunteer Fire and Rescue Service and approved by the Nelson County Emergency Services Council.

BE IT FURTHER RESOLVED that upon the completion of all required loan documentation, approved funds shall be disbursed from the EMS Loan Fund by the Treasurer's Office no later than July 20, 2015.

Introduced: Atlantic Coast Pipeline Resolution

Ms. Brennan noted that the proposed resolution was related to information presented by the public during public comments regarding E&SC plans for the ACP. She read the title of the resolution and noted she hoped it would not be needed but she thought it was necessary.

Mr. Harvey noted that he had received the proposed resolution the previous night and had not read it until that morning. Ms. Brennan noted that no one else had seen it before the Board. Mr. Hale noted that the Board had seen the information before and the resolution addressed the same issues that had been discussed before. He added that the resolution reiterated the position held by the Soil and Water Conservation District.

Ms. Brennan added that the resolution asked for access to the plans and Mr. Hale noted that it requested project specific plans and was not something they would not do otherwise.

He noted that it was a significant request and he did not see any harm in adopting it. He added that after careful review of the route presented in reports to FERC, erosion and sediment control along most of the route was virtually impossible and there would be massive problems. He stated that Dominion has noted they would minimize the impact of the project but he thought there was not much they could do.

Mr. Hale then moved to approve resolution **R2015-61**, Resolution Petitioning Governor Terry McAuliffe and Secretary of Natural Resources Molly Ward to Provide Public Access to Erosion and Sediment Control Plans for the Construction of the Atlantic Coast Pipeline.

Ms. Brennan seconded the motion and Mr. Harvey noted he would have liked to have been more informed earlier than at the meeting.

There being no further discussion Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the following resolution was adopted:

**RESOLUTION R2015-61
NELSON COUNTY BOARD OF SUPERVISORS
RESOLUTION PETITIONING GOVERNOR TERRY MCAULIFFE AND SECRETARY
OF NATURAL RESOURCES MOLLY WARD TO PROVIDE PUBLIC ACCESS TO**

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EROSION AND SEDIMENT CONTROL PLANS FOR THE CONSTRUCTION OF THE ATLANTIC COAST PIPELINE

WHEREAS, Dominion Resources, Inc., Duke Energy Corporation, Piedmont Natural Gas Co., and AGL Resources, Inc. have formed Atlantic Coast Pipeline, LLC, which has contracted with Dominion Transmission, Inc. to permit, build, and operate a natural gas pipeline which transects portions of three states, including eleven counties and two cities in the Commonwealth of Virginia; and

WHEREAS, the proposed Atlantic Coast Pipeline will require excavation of over twenty-one and six tenths (21.6) miles of highly erodible soils with slopes greater than 8% in Nelson County; and

WHEREAS, the required excavation is unprecedented and will cause severe erosion in vertically steep and inhospitable mountainous terrain, and the amount of runoff from seasonal downpours would cause major soil loss and slides; and

WHEREAS, all private water systems and most business systems in Nelson County rely on groundwater from wells or springs for their water supplies; and

WHEREAS we are deeply concerned that construction of the proposed Atlantic Coast Pipeline will impact the quality and quantity of water supplies due to erosion, sedimentation and impacts on hydrology; and

WHEREAS, Nelson County's agricultural-tourism based economy is highly reliant on abundant, clean water; and

WHEREAS, erosion caused stream sedimentation is a significant contributor to pollution of the surface waters of Virginia and the Chesapeake Bay; and

WHEREAS, the Virginia Department of Environmental Quality has the authority to request site-specific erosion and sediment control and storm water management plans from Dominion Transmission, Inc., as prescribed by the Erosion and Sediment Control Regulations 9VAC25-840-30-B: "The submission of annual standards and specifications to the department does not eliminate the need where applicable for a project specific Erosion and Sediment Control Plan"; and

WHEREAS, Nelson County's unique mountainous terrain with shallow soils and granitic bedrock that are prone to landslides qualifies this project for DEQ authorization under VA Code to require submittal of a "*project specific Erosion and Sediment Control Plan*"; and

WHEREAS, current Erosion and Sediment Control and Stormwater Management regulations include critical post construction runoff requirements; and

WHEREAS, the Freedom of Information Act can be used to obtain public and local government access to such plans, but only if the Virginia DEQ requires the submission of the plans to the agency by the pipeline developer.

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NOW, THEREFORE, BE IT RESOLVED by the Nelson County Board of Supervisors that in consideration of the points made above, the Nelson County Board of Supervisors respectfully requests that:

1. DEQ will require project-specific Erosion and Sediment Control and Stormwater Management Plans for the proposed Atlantic Coast Pipeline project that meet all Virginia standards, and that these plans will be made available to the public prior to project approval and construction; and
2. Localities will have the right to review plans, conduct inspections and enforce their local Erosion and Sediment Control Ordinances; and
3. Prior to project approval and construction, Dominion Transmission, Inc. officials and third-party inspectors will be required to meet with local officials to discuss the implementation of the project-specific Erosion and Sediment Control and Stormwater Management Plans and adaptive management plans.

AND BE IT FURTHER RESOLVED that the Nelson County Board of Supervisors directs the Clerk of the Nelson County Board of Supervisors to send a copy of this resolution to: Governor of Virginia Terry McAuliffe, Virginia Secretary of Natural Resources Molly Ward, Virginia Senator Creigh Deeds, Virginia Delegate Richard Bell, Virginia Delegate Matthew Farris, US Senator Mark Warner, US Senator Tim Kaine, US Congressman Robert Hurt, Atlantic Coast Pipeline, LLC, Dominion Transmission, Inc., and the Federal Energy Regulatory Commission (FERC).

VI. Reports, Appointments, Directives, and Correspondence

A. Reports

1. County Administrator's Report

1. Courthouse Project Phase II: The 7-14 Board agenda includes a presentation on the project's status from Architectural Partners and an authorizing resolution for the project to be publicly bid and for staff to secure bond funding for the project from VRA.

2. Broadband: **A) Local Innovation Grant Project:** Receipt of the project contract document from VA-DHCD is in process and, thereafter, the project will proceed to construction. **B) VA Technology Planning Initiative** –The County was not selected to submit a final funding application (a debriefing with VA-DHCD can be conducted). As an alternative, County staff have requested the Department's input on use of the VTPI submittal for the agency's annual planning grant program (maximum of \$30,000 can be awarded). **C) Broadband Strategic Plan:** Staff will begin development of this project in the month of July.

- A) Mr. Carter noted he was hopeful that construction would begin in the next two weeks with the first leg to be done being from Martin's Store to Route 664.
- C) Mr. Hale suggested that the scope of the plan should be an outcome of the work session planned.

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3. BR Tunnel: A regional meeting, including participation was held on 7-8 at the Rockfish Valley Vol. Fire & Rescue Department. The purpose of the meeting was to discuss the means to provide for overall completion of the project. The meeting's outcomes will provide for consolidation of Phase 2 and Phase 3 grant funding to provide for restoration of the Tunnel, leaving Phase 3 (western trail and parking lot) as the last element for Project Completion.

Mr. Carter noted that strong endorsement to finish the project was received by everyone there.

4. Lovingson Health Care Center: The Citizen's Committee is continuing to meet. Region Ten has submitted a purchase proposal and Piedmont Housing Alliance will be scheduled to tour the Center the week of 7-13 or 7-20. One of two private companies that have recently toured the Center has withdrawn from any interest in the project. Medical Facilities of America will close its operation of the Center in the ensuing several months.

5. Radio Project: County staff met with Motorola and Clear Communication on 6-24 to discuss next steps in addressing concerns/issues with coverage areas, radio and pager use. A follow up meeting will be conducted in late July to receive Motorola's recommendations, which may result in a Phase 2 Project.

Mr. Carter noted that staff would be meeting in August with Motorola and Clear staff to discuss the system's shortcomings. He added that this may result in a phase 2 project coming back to the Board. He noted that there were areas where the system was not working well and it may entail expanding the scope of the initial project.

Mr. Harvey added that the new narrow-banding was an issue and Mr. Carter noted that Ms. Miller and staff thought that some of the issue was people getting used to using the new equipment.

Mr. Harvey related that they did a test on a pager at Rockfish and there was an error with Motorola and since it was reprogrammed, there was improvement.

Mr. Saunders noted that he had heard some volunteers were having problems getting messages and he was not sure if it was a phone issue or a system issue.

6. CDBG Grant Application for Sewer Line Extension: An application to VA-DHCD has not, to date, been completed. A meeting with the Department has been requested to discuss the project and grant specific criteria to enable a stronger application to be submitted.

Mr. Carter noted that Wild Wolf Brewery could still use the facility and have a margin until September to get an application in. He added staff was waiting on a response from DHCD and that WWB had a year to fix the issues.

7. Solid Waste – A) Tire Amnesty Program: The County collected 17 tons of tires from the two weekend amnesty days (6-20 and 27). **B) New Roll Off Truck:** The new roll off truck is received and in service. **C) Paving Gladstone Collection Site:** Complete.

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Mr. Carter noted he was not sure of the cost to the County of doing the tire amnesty; noting he would know once he knew the number of loads taken. He noted that the commercial accounts did pay for tires and the amnesty only applied to residential customers.

8. Capital/Maintenance Programs - A) County: Roof replacements at the Montreal Village Park are completed. Roof replacement and related repairs of the new Maintenance Building will begin on 7-13 (\$33,000). Bid quotes have been solicited for initial building repairs to the Nelson Memorial Library. **B) DSS:** Roof replacement and building repairs are in process.

Mr. Carter noted the work being done was on the pavilion and restrooms there. Mr. Saunders inquired as to next steps for the maintenance building and Mr. Carter noted it would be to come up with a plan on how it would be used. Fencing for the Sheriff's impound lot was discussed and then Mr. Harvey noted that maintenance could store equipment in the building that was being stored outside now.

In response to questions, Mr. Carter noted that the bucket truck had to be certified annually and it could be taken to Lynchburg for this. He added that it had been certified after the work was done to refurbish it.

9. Department Reports: Included with the 7-14-15 BOS agenda.

2. Board Reports

Ms. Brennan reported the following:

1. Attended Ag Forestal District Advisory Committee meeting – there were applications adding parcels to existing districts and there may be more.
2. Attended Anthony Martin's briefing on new laws.
3. Attended planning meeting for the Spartan Race and Craft Brewer's festival.

Mr. Saunders asked what buses were being used by the Spartan race this year and Ms. Brennan noted that they were hiring 25 buses from a local company.

4. Attended Crisis Intervention meeting - All dispatchers were being trained and some were going to a conference. Suicide prevention and mental health training was coming and they reviewed legislation that was passed.
5. Attended Atlantic Coast Pipeline meetings.
6. The Lovingson Healthcare Center Committee meeting last week was postponed until next week. There would be a meeting with another entity on Friday.
7. Did not attend the Prayer Vigil at the Nelson Heritage Center because she was in Mexico.

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8. Noted that perhaps the state budget surplus could be used to help DEQ do their jobs and she would write a letter on this.

Mr. Saunders reported that he attended a court session for kids getting new driver's licenses and the Judge did not attend. He added that the kids heard from Deputy Vasco Wright and Commonwealth Attorney, Anthony Martin because no Judge showed up and he was disappointed.

Mr. Hale reported the following:

1. Went to Serenity Ridge for a Tea; which is the headquarters of Ligmincha International. He noted that they proposed to do a major expansion and it would be a multimillion dollar project. He added this was a major Tibetan Buddhist organization in the County.
2. Reported that the Tunnel Foundation provided the banquet license for the Lockn Farm concert and the Foundation would get another \$1,000 for this. Mr. Carter noted that there were about five hundred (500) people there at most. Mr. Hale noted that he has given a couple of Tunnel Tours and suggested scheduling tours through the Parks & Recreation Department.

Mr. Harvey reported the following:

1. Work had been done to trim trees at the Afton Overlook and several pictures were shown.
2. The Service Authority meeting had not been eventful.

Ms. Brennan inquired about consideration of Blue Mountain Barrel House's request for rebate of connections fees from installation of the new line and Mr. Harvey noted that this was a Board of Supervisor's decision. Mr. Hale suggested waiting until they proceeded and there was no action taken.

Mr. Saunders reported the following:

1. Attended the meeting at the Rockfish Valley Fire Department building regarding the Blue Ridge Tunnel project.
2. Attended a Gladstone Senior Center Board meeting and noted that they were having the issue of members getting old with no younger replacements. He added they were having trouble with administration. He gathered that the Staff or someone should go down and see what could be done to help them with Fire and Rescue operations and he was very concerned about them being able to respond to calls etc. He added they would like to set up something and have help. He noted that they said that each Squad bought their own supplies and they expired before they were used and he suggested that there be a centralized system.

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Mr. Harvey noted that centralized supply purchasing was already done and they must have not participated; he added that this may be coordinated through the Paid Crew. Mr. Saunders noted that they also complained that phone numbers were not being added and Mr. Harvey noted this would be done right away if the information was gotten to the right people and this may have to do with cell service.

3. Mr. Saunders noted that he had attended a 4th of July picnic with the Governor and had gained some insights. He noted that they talked about boat ramps and the Governor had spent the weekend at James River State Park. He noted that the Governor was going to visit every state park in Virginia and that was number 16 of 36. He noted that the Governor said he could not do anything about the pipeline, it was a federal issue and was over his head. He noted that he also said he had created more jobs than any other Governor of Virginia. He added that he was out to put boat docks and landings in and was working with parks.

Mr. Hale noted he agreed in a sense that the pipeline was decided by FERC and Mr. Harvey added that the DEQ problems were his issue. Mr. Saunders then noted that Emily Harper had spoken with the Governor's wife about visiting the tunnel.

Mr. Hale then reported that he went to a Senior Advisory Committee Meeting and he noted similar issues with others besides Gladstone. He noted that the other centers did not want to travel to the Nelson Center and he suggested that maybe Gladstone could go to the Gladstone Fire Department building for meetings.

Mr. Saunders noted that the seniors in Gladstone say they have too much stuff to move. Ms. McCann noted that they had two different senior organizations in Gladstone with different bank accounts and they were squabbling over money.

Mr. Harvey then inquired as to when the EMS Council funds would be disbursed and Ms. McCann noted it would be that month.

Mr. Harvey then commented on Reverend Rose's gathering at the Heritage Center, noting it was very good and had great speakers. Mr. Saunders agreed it was very touching.

Reverend Rose then spoke and noted he did not have time to let everyone know it was happening and he thanked Board members for coming and noted that good things were coming out of it.

B. Appointments

Ms. McGarry reviewed the following appointments summary and noted that the Chair had requested that consideration of the BZA appointment be deferred until the whole Board was present. She also noted that she had received an Email from Lee Albright clarifying his willingness to be reappointed such that he would serve if no one else was interested. Ms. McGarry then noted that an application had been received from Joyce Burton who wished to serve in his place.

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<u>Board/Commission</u>	<u>Term Expiring</u>	<u>Term & Limit Y/N</u>	<u>Incumbent</u>	<u>Re-appointment</u>	<u>Applicant (Order of Pref.)</u>
Local Board of Building Code Appeals	6/30/2016	4 Years/No Limit	Clarence Craig	N - Resigned	Shelby Bruguere
					Barbara Funke
JAUNT Board	9/30/2015	3 Years/No Limit	Mercedes Sotura	N-Resigned	None
JABA Board of Directors	7/15/2015	2 Years/No Limit	Constance Brennan	Y	None
Ag & Forestal Dist. Advisory	5/13/2015	4 Years/3 Terms			
* See Attached Email Regarding His Appointment		<i>Producers</i>	* Lee Albright		Joyce Burton
		<i>Other Landowners</i>	Bruce A. Vlk (T2)	Y	None
Region Ten Community Services Board	6/30/2015	3 Years/3 Terms	Michael W. Kelley (T3)	NA	None
			Ineligible		
Board of Zoning Appeals	11/9/2018	5 Years/No Limit	John Bradshaw	Resigned- 6/4/15	Carole Saunders
					Shelby Bruguere

Mr. Harvey noted no reason to wait on the BZA appointments and moved to appoint Shelby Bruguere to the Local Board of Building Appeals, Joyce Burton and Bruce Vlk to the Ag Forestal District Advisory Committee, Connie Brennan to the JABA Board of Directors, and Carole Saunders to the Board of Zoning Appeals, replacing Mr. Bradshaw.

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Mr. Hale seconded the motion and there being no further discussion, Supervisors voted (3-0-1) by roll call vote to approve the motion with Mr. Saunders abstaining.

C. Correspondence

1. R. Browne –Rockfish Collection Site

It was noted that Mr. Browne’s email was complimentary of the cleanliness of the Rockfish solid waste collection site and Mr. Hale commented that the County should be proud of it.

2. R. Matuszak – Fence in Law

It was noted that Mr. Matuszak’s letter asked the Board to consider a fence in law for animals. Mr. Hale noted he had left a phone message for him that he was not in favor of a fence in law which was something the Board could pursue. He noted his reasons were it would impose a great burden on lots of people especially livestock owners and that the ability to succeed with that type of Ordinance would be limited. Mr. Harvey added that these issues seemed to come up between neighbors and he thought it was a civil matter.

Mr. Hale then confirmed that there was no laws requiring citizens to keep livestock in. Ms. Brennan indicated some level of support of this for livestock and Mr. Harvey maintained his position that these were civil matters.

Following this brief discussion, the Board agreed by consensus that they were not interested in pursuing a fence in law.

D. Directives

The following Directives summary was provided:

<u>Directives</u>	<u>Member</u>	<u>Status</u>	<u>Progress/Comments</u>
<u>Directives from November 13, 2014</u>			
<i>Continue to CC Mr. Hale on E-mails with Woolpert</i>	A. Hale	Ongoing	
<i>Check Into Getting a Boat Ramp at Nelson Wayside</i>	C. Brennan	In Process	Emily Harper Working On With Rob Campbell
<u>Directives from January 13, 2015</u>			
<i>Proceed With Historic Marker Replacement at Nelson Wayside and Colleen</i>	Consensus	In Process	Markers Ordered-At VDOT in 8-9 wks (3/25/15)
<i>Follow Up on Collection Options For The EMS Revenue Recovery Program</i>	C. Brennan	In Process - 90%	Staff Reviewing Summary Report

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<u><i>Directives from June 9, 2015</i></u>			
<i>Ask Dominion to Send Shape Files for ACP Routes</i>	C.Brennan	Complete	
<i>Check Noise Ordinance to See if ACP Construction Would be Exempt</i>	C.Brennan	Complete	Construction Exempt 7am to 9pm
<i>Get New BRT Project Engineer and PM Contact Information</i>	A. Hale	Complete	
<i>Get New BRT Phase II Estimate Inclusive of All of the Tunnel Work</i>	A. Hale	Complete	

Mr. Harvey mentioned that he wanted to note in the minutes, the great loss of Whitney Loving, a young lady in the County and noted what a tragedy it was. He added that she was Miss Nelson and had been named Miss Congeniality in the recent Dogwood Festival. He noted that Miss Virginia had visited her in the hospital, Miss Dogwood had sung at her service, and the family had received a letter from Miss America.

Mr. Saunders noted this tragedy was the reason he mentioned being disappointed that no judge had come to the latest issuance of driver's licenses.

Mr. Hale noted he sent an email requesting topo maps of Nelson County and the Atlantic Coast Pipeline route and Susan King of Dominion had sent back a reply and these were not provided. He noted he would like to have paper copies printed out and that Susan Rorrer had provided some sort of map; however it was not what he wanted. He added that he would like to see Dominion be responsive to his simple request and noted that it was part of their Environmental Resources Report.

Ms. Brennan agreed that it would be nice to have these. Mr. Hale noted some new routing where they were trying to stay away from any development and residences; however they were now going through some of the most difficult terrain in the County.

Mr. Saunders and Ms. Brennan had no Directives.

VII. Adjourn and Reconvene for Evening Session

At 4:45 PM, Mr. Harvey moved to adjourn and continue the meeting at 7:00 PM. Mr. Hale seconded the motion and there being no further discussion, Supervisors voted unanimously by voice vote to approve the motion and the meeting adjourned.

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

I. Call to Order

Mr. Saunders called the meeting to order at 7:10 PM, with four Supervisors being present to establish a quorum and Mr. Bruguere being absent.

II. Public Comments

1. Mary Elnidge, Lovington

Ms. Elnidge noted that she was aware there was a Master Plan for the town of Lovington which had never been approved. She noted it was comprehensive and asked if there was there a reason that it had not been approved and noted that it tied the hands of anyone that wanted to improve the town itself. She then asked if there was VDOT grant money for this; noting that the sidewalks were in bad shape and the lighting could be improved to make the Town safer. She added that she would like to know if it could be brought back for approval and noted the Plan was dated May 1, 2006.

Mr. Hale noted that they would look at it and see if in fact it needed adoption by the Board and Ms. Elnidge noted her understanding was that unless the Board adopted the plan, they could not go forward with grant requests.

Mr. Carter then noted that the Board had endorsed the plan, because the County had sought grant funding for Downtown Revitalization. He added that to date the Board had made the Blue Ridge Tunnel project its priority project, that VDOT funding was limited and the Tunnel had taken precedence over the town.

Mr. Carter added that only the Local Government could apply for the funding that he was speaking of and he noted that the Plan did not include any restrictions or local controls.

Ms. Elnidge noted that she was looking at it for safety reasons and for improving the Town.

Mr. Hale noted that the County had addressed these issues previously and VDOT had not provided funding for the grade changes or hole patching and paving in certain areas. He added while it has not been a comprehensive effort; they had done some things.

Ms. Elnidge noted places where people had fallen and broken bones and she added that the road (Tanbark Lane) leading into the Drug Store was in horrible shape. She added that there were a lot of walkers in the town and there was room for much improvement. She noted that she wanted to be able to look for funding and bring it to the Board for endorsement.

Mr. Hale noted that it was not that simple as the sidewalks were owned by VDOT. He added that he would bring up the issues she has raised with VDOT and noted that if there were safety issues with the sidewalks, they could can ask them to address them.

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2. Joe Lee McClellan, Lovington

Mr. McClellan noted his agreement with the previous speaker and stated that more sidewalks were needed in the Town. He noted that the initial ones were put in by private citizens and were later taken over by VDOT. He added that the Town had grown now and had more.

Ms. Brennan noted she thought it was time to review the Master Plan and agreed that perhaps the Town needed sprucing up and this could be discussed at the Board's retreat.

Mr. Harvey noted that most buildings were privately owned and owners had to be willing to do things.

Ms. Brennan added that the Town was a designated Historic District which afforded some opportunity for the funding of improvements.

III. Public Hearings and Presentations

- A. Public Hearing: Special Use Permit #2015-03 – “Dance Hall” / Jose & Elpidia Gaona** Consideration of a Special Use Permit application to operate a “dance hall” pursuant to §8-1-3a of the Zoning Ordinance. Specifically, the applicant wishes to operate a dance hall on Friday nights and Saturday nights, remaining in operation until 2:00AM the following morning(s). The requested dance hall would be co-located with “La Michoacana Authentic Mexican Taqueria & Restaurant” (which is a permissible by-right use, and which received County zoning approval via Minor Site Plan #2015-03 on May 27, 2015). The subject property is owned by Mr. Joe Lee McClellan and is located in Lovington at 37 Tanbark Place; it is further identified as Tax Map Parcels #58B-A-36 and #58B-A-37 which are zoned Business (B-1).

Mr. Padalino noted the location of the subject property is in Lovington at 37 Tanbark Place; it is further identified as Tax Map Parcels #58B-A-36 and #58B-A-37 which are zoned Business (B-1) and owned by Mr. Joe Lee McClellan. He noted on a map that the property was surrounded by the same types of zoning (Business B-1). He further noted that the property was located at the intersection of Main Street and Thomas Nelson Highway and also fronts along a small private road (Tanbark Plaza). He added the property was a total of 1.26 acres and the existing building was formerly a grocery store and is currently vacant.

Mr. Padalino showed an aerial view of the property and noted it was not in the floodplain .

Mr. Padalino then noted that the request for the Special Use Permit for a “dance hall” was made pursuant to §8-1-3a of the Zoning Ordinance. He added that the request was made in connection with the minor site plan submitted and approved to operate a restaurant as a by right use; and the Special Use Permit would be in addition to that previous approval.

He then advised that Massie Saunders had prepared the site plan for the restaurant and a new one was not required. He then showed some pictures of the site and noted the process of the permit

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review was that the Planning Commission held a public hearing on June 24th and voted 3-0-1 to recommend approval of the Special Use Permit without conditions. He added that members spoke in favor of the application with some concerns regarding the dance hall operating late at night.

Mr. Padalino then listed the criteria for the review of Special Use Permits as follows:

- A. The use shall not tend to change the character and established pattern of development of the area or community in which it proposes to locate;
- B. The use shall be in harmony with the uses permitted by right in the zoning district and shall not affect adversely the use of neighboring property;
- C. The proposed use shall be adequately served by essential public or private services such as streets, drainage facilities, fire protection and public or private water and sewer facilities; and
- D. The proposed use shall not result in the destruction, loss or damage of any feature determined to be of significant ecological, scenic or historic importance.

He noted that the opinion of Staff was that the proposed "Dance Hall" use, as proposed in the application seemed to be satisfactory relative to evaluation criteria C and D. However, the proposed use appears to be questionable with respect to evaluation criteria A ("shall not change the community character") and evaluation criteria B ("shall be in harmony with by-right uses and shall not affect adversely the use of neighboring property"). He added that operating until 2 am could alter the character, be unharmonious, or could adversely affect use of neighboring properties. He noted that he recommended the Board consider the potential noise from amplified music, traffic etc. and that the Planning Commission forwarded the application with a recommendation of approval.

Ms. Brennan inquired if a house in a business district could be transferred over to a business and Mr. Padalino noted this was determined by the Zoning. He noted that there were people living in residences along Front Street; however there were no residents on Tanbark Plaza. He advised that on the east side of Front Street the residences are zoned R-2 and the residences on the other side are zoned B-1.

Mr. Padalino then confirmed that the subject property was not in the floodplain; although there is some property on the other side of the road that is in the floodplain.

Mr. Padalino also advised that the Village of Lovington was exempt from parking requirements; however there were forty-eight (48) spaces with at least 2 designated handicapped spaces.

Ms. Brennan then inquired if there was anything to prohibit people from parking along Tanbark Road and Mr. Padalino advised that there was not and Mr. Carter added that the concentration of parking was near Region Ten and Rite Aid.

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

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1. Patty Avalon, Lovington

Ms. Avalon noted she was curious about the nuisances brought up and noted that they were also her concerns. She then read aloud the following statement:

To the Nelson County Board of Supervisors,

“I am a 13 year resident of the Village of Lovington, and am I writing to ask that you NOT approve the request for the Mexican restaurant dance/hall, as it is currently proposed, for these reasons...

Lovington is working hard to keep good residents and businesses, as are many rural small towns around the country. We have created a safe, family friendly environment through the efforts of many individuals by developing programs such as a Neighborhood Watch, the Adopt-a-Bed Flower barrel plantings, Holiday Decorating of the Village etc. We even paint our town curbs safety yellow ourselves as we have no government funds for this. We want our community to flourish and remain inviting and safe to live in and visit. A Mexican Restaurant would be fantastic here in Lovington! I whole heartedly support that.

The three serious problems with the current proposal are:

Serving alcohol. When you allow alcohol into the equation, suddenly there are too many opportunities for violence, noise, and late night lingerers after closing hours. Drugs will most likely find their way in and around the dance hall as well as dark corners of our neighborhood, (and there are many).

Noise. We already have noise problems with the local Firehouse dances...the music can be heard throughout the Village. Fortunately these are held only occasionally. If the music can be guaranteed to NOT BE HEARD 25 ft from the establishment (as the local ordinance states) that could work. Can you imagine in YOUR OWN NEIGHBORHOOD having loud music filtering into your homes all night long? Unacceptable of course. Please put yourself in our place.

The 2 a.m. closing time. There will be drunk drivers driving in and out of the Village into the wee hours, perhaps motorcycles as well. The “boom box” car stereos come through this village enough as it is, and with a nightly dance hall, we’ll be inundated with loud traffic. Would you and your children want to live with this? And what would happen to YOUR property values if this were in YOUR neighborhood?

I know that you listen to us and that you will make every effort to help grow Lovington to its greater potential to be a safe, fun and inviting town in which to raise families, work and visit.”

She then read aloud the Board of Supervisors Mission Statement as follows:

“It is the mission of the Board of Supervisors to maintain Nelson County as a beautiful, safe, healthy, and prosperous rural county; where public services are effective, efficient, adequate and

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responsive to the needs of its citizens; where education is a life-long process; where citizens are involved in all aspects of their governance; and where the community is well planned to assure respect for and dedication to its traditions and resources, while continuing to improve its economic viability.”

2. Mike Crabill, Lovington

Mr. Crabill noted he lives across the creek from the proposed site and his morning alarm goes off at 4 am and he noted if the noise was going on until 2 am, he would be personally upset. He noted he was not in favor of the dance hall unless the Board limited the hours or the noise. He then asked what the decibel limit was in the Noise Ordinance. Supervisors noted they could get him a copy of the Ordinance.

3. Joe Lee McClellan, Lovington

Mr. McClellan noted that the Planning Commission held a public hearing and passed the Special Use Permit with no reservations because they wanted to give people the leeway to operate a profitable business and to not restrict it. He added he felt that the Sheriff's Department could take care of any disruptions. He added that he thought that if the business owners could not maximize their potential, they would not be successful and that they should be given the opportunity to operate and if there was a problem, then it could be addressed. He added that he thought citizens were getting the wrong idea about a dance hall and noted that there used to be one in Lovington.

4. Mary Elnidge, Lovington

Ms. Elnidge noted that 2 am was too late to operate, it was too late and would be too loud. She added that she knew there was a noise ordinance; however the Sheriff's Office did not know what it says. She added that the Village was not patrolled by Deputies and this was a problem. She added that they come in the Village and go out to other areas of the County and she questioned who would take care of monitoring the noise. She added that the County did not have the resources for that. She then noted that she thought patrons would be parking out on Main Street regardless of the number of existing parking spaces; and with no traffic control, they would park wherever they wanted. She added that if they were serving alcohol, there was no mention of a cutoff time and she questioned who would patrol this for drunk driving. Ms. Elnidge then noted that she lived in a house zoned R-2 and could be a business; however she was not and she was very concerned about the associated alcohol use.

5. Joe Lee McClellan, Lovington

Mr. McClellan disputed Ms. Elnidge's comment that the Sheriff's Department did not patrol Lovington. He added that once a week, they would leave a business card in the door of the grocery store building to show they'd been there. He added that the dance hall was meant for the fifteen (15) going out party and was a community affair and it was his understanding that this was the primary reason for the request. He added that State law required no sale of alcohol after midnight.

6. Ed Hicks, Lovington

Mr. Hicks noted he was in favor of the restaurant, but was not in favor of the 2 am dance hall hours. He noted that the Board would be tying their hands if they set the times. He advised that he had spoken with Devil's Backbone and Wild Wolf Brewing Company to see when they closed. He noted that WWB closed at 10pm Monday through Thursday and were open until 11pm on weekends. He noted Devil's Backbone was open until 9pm during the week and until 10pm on weekends. Mr. Hick's then stated that he did not think fifteen (15) year olds needed to be out until 2am. He added that he did hear everything that went on at the Firehouse; has called and complained and nothing was done. He then questioned whether or not Mr. Hale had polled the Lovington residents personally on the matter and noted that he did not think he had.

7. Celine Thelen, Lovington

Ms. Thelen noted she thought the restaurant was fine; however she was seriously opposed to the dance hall. She noted that serving alcohol and being open until 2am was asking for disaster. She noted that she hears the Lovington Firehouse and other businesses that are noisy all hours of the night. She noted that she purchased a home in Lovington because it was a nice, quiet, safe place to live and it would not be if the Board allowed things like this in and she did not want it in her backyard.

8. David Boor, Lovington

Mr. Boor spoke to the Village being patrolled by deputies and noted that there had recently been a break in at Front Street Garage and at American National Bank that were unsolved. He noted that the Sherriff's Department was undermanned and did not need to be taxed anymore. He noted he was not opposed to the restaurant; however he did not think a beer joint was needed. He then referenced an email from Mr. Hale noting that he, Mr. Hale was in favor of the dance hall with conditions. He added that the Planning Commission had referred this to the Board with stipulations and he requested that Mr. Hale abstain from voting because he had made his mind up before hearing any public comments.

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

Mr. Saunders then asked for the Applicants to address the Board.

Mr. Massie Saunders addressed the Board representing the Applicant. He noted that Mr. Gaona understood good English and could answer; however he would work with him and the Board to answer questions.

He noted that Mr. Gaona had a security team that worked within the restaurant and alcohol serving shut down at midnight.

Supervisors then asked what was the anticipated maximum capacity and Mr. Saunders noted that the Building Official would determine this at some point. Supervisors then asked what would be a typical crowd for this type of activity and Mr. Saunders noted that this was hypothetical because

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they did not know how many people would come. He added that there was an architect involved with the layout, the Fire Marshall was involved and there would be a large amount of renovation involved.

Mr. Harvey then asked about the building, noting one side was 2,260 square feet and the other was 3,150 square feet and he inquired as to which part was open to the public. Mr. Saunders noted that the space designated as restaurant was where the food was prepared and was a 1,080 square foot area. He added that these were round figures from measures pulled between existing walls.

Mr. Harvey then noted he would like to hear from Mr. Gaona.

Mr. Harvey asked Mr. Gaona if these types of events were going on in the County now and he answered that they had these in Albemarle County, was from there and had a restaurant in Charlottesville.

Mr. Harvey asked how many people usually attended the dances and Mr. Gaona replied 65-75 people in the Charlottesville restaurant along with five (5) employees who were mostly family members.

Mr. Harvey asked how many seats were in the proposed restaurant and Mr. Gaona noted 40-45.

Ms. Brennan then inquired if this number was determined by the size of the restaurant by the Department of Health and Mr. Saunders noted that this had been based on the Architect's recommendation based on the building plans. He noted that the overall layout was dictated by what was a part of the operations.

Mr. Harvey asked what square footage the restrooms would take up and Mr. Saunders noted they would have to be large for ADA compliance.

Ms. Brennan noted it sounded like the applicant had experience with this and Mr. Saunders noted that they have been successful in Charlottesville and wanted to expand.

Mr. Carter then asked if the City had imposed any restrictions on the Charlottesville business and they noted that they had an abc permit in Charlottesville, the hours were 11am to 9pm with no dance hall.

Mr. Carter asked if the dance were not approved, would they still open the business and Mr. Saunders related that they would need to relook at the financials of this since the building was so big it would be hard to fill.

Mr. Saunders then noted that a small dance hall could be had within the restaurant by right; however if the SUP application were not approved, it would have to be discussed. Mr. Saunders advised that they had done a business plan because they had a financing plan in place.

Mr. Harvey then asked if the dances were special events or if they would be held every weekend. Mr. Saunders noted that this had been discussed a lot and they were not sure which night they

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would be held or if it would be both nights; they wanted to leave it open. He noted that there had been discussion at the Planning Commission of limiting the number held per month etc. and then they just rolled back to the original plan. He added that there was discussion about 1 night or 2 nights per month and then if it went well, they could get other nights approved. He added that no one spoke against this at the Planning Commission public hearing and it was properly advertised.

Mr. Harvey then supposed that if these dances were done as a private party then it was not really a dance hall. Mr. Padalino noted this was correct and that they had included a private dining area that would be used for private functions, in connection with the restaurant operation. He added that if the dance hall were not approved, they would still be able to rent this area out for quinceaneras and private events, but only during the normal operating hours of the restaurant use.

Ms. Brennan then asked for clarification on this, noting that she understood that they could do what they wanted without the SUP. Mr. Padalino noted this was not the case; but that they could rent out the space for private events during business hours with 1/8 of the restaurant being able to be used for dancing per the Ordinance definition of restaurant.

Mr. Saunders then noted that Mr. Gaona was in a band and has not had a problem with alcohol. He added that Mr. Gaona would be willing to operate the dance hall one night a week on Saturday night to see how it went and would be willing to stop at 1am. He added that most people come out late after dinner and stay out. He noted he was used to that timeframe and wanted to stay open past midnight. He noted that they typically started playing music around 10pm that alcohol was only served at the bar and none was allowed in the dance hall, and there would be security on site.

Ms. Brennan then asked if they were requesting the Special Use Permit for one night or both nights and Mr. Saunders noted that it was for just Saturday night and if all were content with it, they may come back to ask for a second night.

It was noted that the Board could restrict the Special Use Permit to this particular business.

Mr. Carter then asked if the music was acoustic or amplified and Mr. Saunders noted some of it was amplified.

Ms. Brennan noted that she appreciated the applicant's concession of one night per week; however she would like it to stop at midnight. She added she was appreciative of them having security on site and was confident that the noise ordinance could be met and that she was in favor of a trial period. She noted that she knew quinceaneras were important to Mexican families and there was a need for a safe place for these to occur and added she had no problem with this.

Mr. Hale noted he thought that it was important for Lovington to have commercial viability and he noted that businesses had been lost one after the other; he reiterated he was in favor of commercial opportunities being available. He added that when he reviewed the material the previous day and responded to an email about his thoughts, he said he was not in favor of a 2:00 am closing time. He noted that nothing much good happened between Midnight and 4:00 am so he was not in favor of the proposed hours. He noted that it had been stated in the email that the Planner had recommended that these things be addressed through possible condition; one of which

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was to permit it until a certain time. He then noted that the Board could apply conditions to Special Use Permits. He noted that it was also suggested by the Planner that the Special Use Permit have a condition that after 18 months of their certificate of occupancy that it be subject to review with an additional public hearing. He added that he thought that the applicant should limited this to a few nights each month rather than having it open every weekend; and he would like to see these conditions. He added that this would be a compromise to some extent that would enable the operators to have as many opportunities to succeed as possible.

Mr. Harvey stated that he thought the dance hall was a terrible idea; however he supported the restaurant. He noted that at the Rockfish Volunteer Fire Department, these events were held and there had been a minimum of 500 people and they were open to anyone. He added that he knew what happened and the required that security be there. He noted that they have had a lot of damage and they had gotten a call that week to rent the building for 1,000 attendees. Mr. Harvey then noted that the proposed location did not have the capability to handle this type of event. He added that there being only one way in and out of the property was a problem because if something happened, the whole place would be bottle necked. He noted he would love to see the restaurant and if they wanted to have a private party then that would be okay; however if it were open to the general public, the tendencies were known. Mr. Harvey then noted that it was the wrong place for this and there were only 48 parking places; meaning cars were going to line up the whole area.

Mr. Harvey then recommended that a decision be tabled so the Board could hear more and give the applicant an opportunity to see if it needed to go to the extent proposed. He added that eighteen months was a long time and the noise ordinance changed at 10:00 pm. He noted that the only enforcers of this was the Sheriff's Department and he noted that the noise ordinance says the sound cannot be over 65 decibels at the property line and was an average taken over a 15 minute period; so it was hard to violate the noise ordinance. He then noted that he felt for the people of Lovington, as sound carried over the creek there. He again suggested that this be deferred until they had a full Board and could give it more thought.

Mr. Harvey then moved to defer consideration of the Special Use Permit until next month's Board of Supervisors meeting on August 11, 2015 with the understanding that it's a public meeting; however the public hearing was over. He noted this would give the Board time to learn more and He thought there was something wrong for nobody to show up at the Planning Commission's public hearing.

Mr. Hale seconded the motion and then the Board had the following discussion:

Mr. Saunders noted at the Planning Commission meeting he was quiet and did not vote because he has adjacent property across from the subject property and did not want to influence the outcome either way. He added that he would not comment or vote now.

Ms. Brennan reiterated that at the next meeting there would be no public hearing; however the public could speak under public comments. She added that she thought it was a good idea to study it better and the applicant could have more time to consider concessions. She noted that she thought that economic development was important and she cared about those living in Lovington; however she did not think it would be like Mr. Harvey suggested.

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Mr. Saunders asked what the applicant should use as a gauge of how many people would attend these things and Mr. Harvey noted that the Fire Department had hosted three or four per year and they had all been the same and this was hard to judge.

Mr. Hale noted that these had been held at the Faber Rescue Squad building and he would find out what their experience has been.

There being no further discussion, Supervisors voted (3-0-1) by roll call vote to approve the motion with Mr. Saunders abstaining.

IV. Other Business (As May Be Presented)

There was no other business considered by the Board.

V. Adjournment

At 8:30 PM, Mr. Hale moved to adjourn and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted unanimously by voice vote to approve the motion and the meeting adjourned.

**RESOLUTION R2015-64
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF FISCAL YEAR 2015-2016 BUDGET
NELSON COUNTY, VA
August 11, 2015**

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

I. Transfer of Funds (General Fund)

<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$ 2,500.00	4-100-999000-9905	4-100-031020-5412

Adopted: August 11, 2015

Attest: _____, Clerk
Nelson County Board of Supervisors

EXPLANATION OF BUDGET AMENDMENT

- I. The **Transfer of Funds** includes a request to transfer from Contingency **\$2,500** for the Sheriff Dept. request for the K9 Fund. This request was previously approved by the Board. The balance in General Fund Contingency after this request is \$1,449,311 of which \$1,146,895 is recurring contingency.

**RESOLUTION R2015-65
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF NELSON COUNTY FLEXIBLE BENEFITS PLAN**

WHEREAS, Nelson County Board of Supervisors established a flexible benefits plan (cafeteria plan) in accordance with Internal Revenue Code Section 125 (IRC 125) for the benefit of its eligible employees on June 13, 1990 and amended the plan to include medical and dependent daycare flexible spending accounts effective July 1, 2008;

BE IT RESOLVED by the Nelson County Board of Supervisors to amend the Nelson County Flexible Benefits Plan relative to the medical and dependent care flexible spending accounts to be compliant with the nondiscrimination requirements of IRC 125 as follows:

**ARTICLE I
PREAMBLE**

- 1.1 **Adoption and effective date of amendment.** The Employer adopts this Amendment to the Nelson County Flexible Benefits Plan (“Plan”) to reflect changes to the Nondiscrimination Requirements of the Plan. The sponsor intends this Amendment as good faith compliance with the requirements of this provision. This Amendment shall be effective as of August 1, 2015.
- 1.2 **Supersession of inconsistent provisions.** This Amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.

**ARTICLE II
NONDISCRIMINATION REQUIREMENTS**

- 2.1 **Effective Date.** This Amendment is effective as of August 1, 2015.
- 2.2 **Nondiscrimination Requirements.** Notwithstanding any provision contained in this Health Care/Dependent Care Flexible Spending Account Plan to the contrary, the “Adjustment to avoid test failure.” shall read as follows:

(c) **Adjustment to avoid test failure.** If the Administrator deems it necessary to avoid discrimination or possible taxation to Key Employees or a group of employees in whose favor discrimination may not occur in violation of Code Section 125, it may, but shall not be required to, reduce contributions or non-taxable Benefits in order to assure

compliance with the Code and regulations. Any act taken by the Administrator shall be carried out in a uniform and nondiscriminatory manner. With respect to any affected Participant who has had Benefits reduced pursuant to this Section, the reduction shall be made proportionately among Health Flexible Spending Account Benefits and Dependent Care Flexible Spending Account Benefits, and once all these Benefits are expended, proportionately among insured Benefits. Contributions which are not utilized to provide Benefits to any Participant by virtue of any administrative act under this paragraph shall be forfeited and deposited into the benefit plan surplus.

NOW THEREFORE, BE IT FURTHER RESOLVED that the Nelson County Board of Supervisors hereby authorizes the County Administrator or Director of Finance and Human Resources to execute the amended plan document and any related documents which may be necessary or appropriate to implement the above amendment.

Adopted: August 11, 2015

Attest: _____, Clerk
Nelson County Board of Supervisors

HEALTH CARE FLEXIBLE SPENDING ACCOUNT AMENDMENT

**ARTICLE I
PREAMBLE**

- 1.1 **Adoption and effective date of amendment.** The Employer adopts this Amendment to the _____ (enter name of plan) (“Plan”) to reflect changes to the Nondiscrimination Requirements of the Plan. The sponsor intends this Amendment as good faith compliance with the requirements of this provision. This Amendment shall be effective on or after the date the Employer elects in Section 2.1 below.
- 1.2 **Supersession of inconsistent provisions.** This Amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.

**ARTICLE II
NONDISCRIMINATION REQUIREMENTS**

- 2.1 **Effective Date.** This Amendment is effective as of August 1, 2015.
- 2.2 **Nondiscrimination Requirements.** Notwithstanding any provision contained in this Health Care Flexible Spending Account Plan to the contrary, the “Adjustment to avoid test failure.” shall read as follows:

(c) **Adjustment to avoid test failure.** If the Administrator deems it necessary to avoid discrimination or possible taxation to Key Employees or a group of employees in whose favor discrimination may not occur in violation of Code Section 125, it may, but shall not be required to, reduce contributions or non-taxable Benefits in order to assure compliance with the Code and regulations. Any act taken by the Administrator shall be carried out in a uniform and nondiscriminatory manner. With respect to any affected Participant who has had Benefits reduced pursuant to this Section, the reduction shall be made proportionately among Health Flexible Spending Account Benefits and Dependent Care Flexible Spending Account Benefits, and once all these Benefits are expended, proportionately among insured Benefits. Contributions which are not utilized to provide Benefits to any Participant by virtue of any administrative act under this paragraph shall be forfeited and deposited into the benefit plan surplus.

This Amendment has been executed this ____ day of _____, _____.

Name of Employer:

By: _____

EMPLOYER

CERTIFICATE OF ADOPTING RESOLUTION

The undersigned authorized representative of _____
(the Employer) hereby certifies that the following resolutions were duly adopted by Employer on
_____ (date), and that such resolutions have not been modified or
rescinded as of the date hereof;

RESOLVED, that the Amendment to the _____
(name of the plan) (the Amendment) is hereby approved and adopted, and that an authorized
representative of the Employer is hereby authorized and directed to execute and deliver to the
Administrator of the Plan one or more counterparts of the amendment.

The undersigned further certifies that attached hereto is a copy of the Amendment approved
and adopted in the foregoing resolution.

Date: _____

Signed: _____

(print name/title)



Nelson County Community Fund

an opportunity to care and share

AN OVERVIEW OF THE NELSON COUNTY COMMUNITY FUND

A GOOD IDEA: HELP FOR NELSON NEIGHBORS

ORIGINS AND ORGANIZATIONAL STRUCTURE

The Nelson County Community Fund began as a good idea. In 2000 a very generous and philanthropic resident of Nelson County, Gordon Smyth, donated \$10,000 as seed money to start a fund dedicated to tackling the many challenges confronting the people of Nelson County and the agencies providing services to them. His wonderful idea – keeping local money to help the many needs right here in our county – caught on. Others wanted to join in the philanthropic enterprise. The Nelson County Advocacy Committee was appointed by the Board of the Community Foundation of the Blue Ridge, which was formerly known as the SAW Foundation. The Nelson County Advocacy Committee was formed to manage the donations and campaigns to raise additional funds and to organize a grant process to distribute the money to local nonprofits to meet the charitable needs of Nelson County residents.

In its early years, the Nelson County Community Fund operated an annual appeal and funds were disbursed from an unrestricted general fund. In December 2004 the Nelson County Advocacy Committee set up an additional Endowment Fund, designed, as it grew to larger amounts, to insure that the community support will go on “forever.”

In 2006 the Nelson County Advocacy Committee was reconstituted as the Nelson County Advisory Committee, and in 2007 NCCF moved to Charlottesville Area Community Foundation (CACF). Within the Charlottesville Area Community Foundation, which is a 501 (c) (3) organization, NCCF operates as a two committee-advised funds – an unrestricted general fund and an endowment fund. CACF offers NCCF a uniquely flexible mechanism to accomplish our charitable goals. It assumes fiscal responsibility for maintaining records and reports, offers advice, and provides donors with the maximum tax deduction benefit allowable under federal law. It also allows NCCF to keep our operating costs at the barest minimum – only 1% is

charged to administrative costs - so that the greatest portion of the donations can go to help people in Nelson County.

FUNDRAISING

Direct mail solicitations are made twice a year, in the spring and the fall. The Advisory Committee also receives donations in memory of or in honor of individuals as well as bequests. These donations are vital to ensure that funds are available to award as grants.

In 2004 the Opportunity Ball was initiated to raise additional funds. Nine wine-paired dinners and dances have been hosted at Veritas Winery and the Hodson family. The 10th Annual Opportunity Ball will be held on October 24, 2015 at The Carriage House at Oak Ridge Estate. Sponsorships, donations and the revenue from raffle tickets and silent and live auctions have contributed to making this a highly successful special event.

OUR MISSION

The Mission of the Nelson County Advisory Committee of the Nelson County Community Fund is as follows:

- Provide financial assistance to charitable organizations and governmental agencies to address the charitable needs of Nelson County.
- Raise funds for both the unrestricted general fund and the endowment fund.
- Maintain a liaison with Nelson County volunteer and governmental agencies that address identified needs.
- Refer individuals or groups with unmet needs to an appropriate, existing agency.
- Encourage agencies to apply for grants to address their specific needs.
- Receive and evaluate grants from nonprofit and governmental agencies.
- Make recommendations to the CACF Board of Directors regarding the monetary awards of grants.

HOW ARE GRANT DECISIONS MADE?

Once the grant application has been received, a site visit will be scheduled by one or more members of the Nelson County Advisory Committee. The site visits allow committee members to observe the operation of the organization, meet key staff or volunteers and ask questions about the project or program for which funding is being requested. Committee members submit a report from their site visit.

Following a review of all complete grant applications submitted and site visit reports, the NCAC determines the grant awards. These recommendations are then sent to the full CACF Governing Board for approval prior to the disbursement of the funds.

WHAT ORGANIZATIONS ARE ELIGIBLE TO RECEIVE GRANTS?

Grants are made to tax-exempt public charities under Section 501(c)(3) of the Internal Revenue Code and to government agencies. Grants are limited to projects in Nelson County. Grants are made without regard to gender, race, religion, national origin, or sexual orientation.

WHAT TYPES OF PROJECTS ARE SUPPORTED?

Careful consideration is given to the potential impact of the project and to especially imaginative and collaborative approaches to solving community needs. Categories of support include, but are not limited to, human services, education, environment, health, community needs and development.

Both seed money grants for innovative new programs and sustaining grants to organizations performing services vital to the community will be considered. Projects of interest include those that assist citizens whose needs are not met by existing services and those that benefit a significant number of citizens of the community.

WHAT TYPES OF PROJECTS ARE GENERALLY NOT SUPPORTED?

Support is not generally provided for endowments, deficit reduction, fund-raising events or annual appeals of well-established organizations, religious programs, and grants to individuals or projects normally under dictates of a government agency.

WHAT IS THE GRANT APPLICATION PROCESS?

Proposal deadlines are December 31 (for a March decision) and June 30 (for a September decision). All applicants must fully complete the [NCAC Grant Proposal Cover Sheet](#). One hard copy of the grant proposal should be submitted in writing on the organization's letterhead and signed by the organization's administrator or an officer as well as by the Governing Officer (e.g., Chair of the Board) on behalf of the governing board. The proposal narrative should be limited to no more than three pages. It should include a clear description of the project or program, the relationship of the project to the organization's mission, a total budget for the organization and a project budget, the qualifications of the project personnel, a list of the Board members, and information as to how it will be supported in the future. Letters of endorsement are welcomed and must be submitted along with all other application materials.

THE FOLLOWING INFORMATION MUST BE INCLUDED WITH GRANT APPLICATION:

- Check-Off Sheet
- NCAC Grant Proposal Cover Sheet
- A proposal narrative of up to three pages, clearly outlining the project or program to be funded.
- A Letter of Agreement (LOA) from each group, organization, or agency, whose support, cooperation, or approval is required for successful implementation of the project. For a new project that involves Nelson County Public Schools, the organization must contact Jeff Comer, Superintendent

- Evidence of 501(c)(3) operating status (IRS Tax Determination letter) and the most recent Form 990.
- A current financial statement including the annual budget and operating expenses.
- A list of names and addresses of the Board of Directors and top staff.
- Brief description of the organization's history, objectives, and current programs.
- Geographical area and demographic group(s) the organization serves.

*A hard copy of each application must be submitted.

*All application materials, including letters of endorsement, must be submitted together.

*When a grant is approved, the organization must wait until the next grant cycle - 9 to 12 months hence - before

submitting a grant proposal for the same (e.g., ongoing) project.

*Organizations may submit proposals for more than one project.

*Organizations whose grant proposal is not approved may reapply in the next grant cycle.

A copy of the grant application and the guidelines can be found on our website, www.nelsonfund.org.

WHAT IS THE REPORTING PROCESS?

A grant recipient is expected to use the funds for the purpose approved in the grant award, and funds are to be expended within the specified period of time. NCAC and CACF require that grant recipients submit a written report on the funded project no later than one year from the date of the grant. This report will be used to evaluate the success of the grant. An NCAC member may schedule a follow-up visit.

Grants will not be made to any organization that has not submitted an interim or final report for all previous NCCF grant(s) within 9 to 12 months after the award of such grant(s).

DOING GOOD THINGS FOR NELSON NEIGHBORS: A GOOD IDEA THAT HAS ONLY GOTTEN BETTER

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treatments); Emergency Home Repair program of Nelson County Community Development Foundation; American Red Cross- disaster services educational program; elementary school programs of Wintergreen Performing Arts, financial assistance program of Unity in Community Outreach Ministry; and Nelson County High School – Measure of Performance testing program.

Mark Your Calendar for Saturday October 24th 2015



for the

10th Annual Opportunity Ball

“Off to the Races!”



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DEPARTMENT OF
PLANNING & ZONING



PLANNING COMMISSION
BOARD OF ZONING APPEALS

To: Chair and Members, Nelson County Board of Supervisors
 From: Tim Padalino | Planning & Zoning Director
 Date: August 6, 2015
 Subject: **Introduction of Draft Zoning Ordinance Amendments re: Overnight Lodging Uses**

Issue Introduction:

The existing Zoning Ordinance provisions for overnight lodging accommodations are problematic in multiple ways: they are unclear and somewhat contradictory; and they do not reflect or account for the current variety of lodging types that exist in Nelson County.

For example, the ordinance does not define “bed and breakfast” or specifically provide for that type of use, despite the fact that “B&Bs” are a common and important part of the local economy. Additionally, the existing “tourist home” use (which is how the “bed and breakfast” use has been interpreted) is co-defined with “boarding house,” despite the fact that tourist homes are for short-term lodging and boarding houses are for semi-permanent lodging. These distinct land uses should not be co-defined or co-regulated.

There are numerous other issues with the ordinance regarding these types of overnight lodging uses; and after repeatedly spending a disproportionate amount of time attempting to correctly interpret these elements of the ordinance, County staff believe the appropriate solution is to amend the ordinance to provide better clarity and consistency. If done well, this would minimize the amount of time and effort required of staff for these particular issues and inquiries, and would simplify and clarify the permitting process for local residents and businesses.

The following (draft) amendments have been primarily prepared by Mr. Grant Massie, with some assistance from myself. These are also inclusive of detailed review and input from County Administration and County Attorney.

Please note that these proposed amendments are only a starting point – they are conceptual in nature and they require further refinement. Specifically, more work is necessary to:

- Identify how these proposed changes would be regulated (i.e. in which zoning districts would these be permissible as by-right uses, permissible only as special uses, or not permissible at all?)
- Identify if any of the existing definitions not addressed in this report might also need to be modified to ensure internal consistency (i.e. “dwellings,” “home occupations,” etc.)
- Identify if any other types of overnight lodging accommodations not addressed in this report may exist, or may need to be incorporated into this set of (draft) amendments.

Initial Draft Amendments for Possible Referral to Planning Commission:

➤ Article 2: Definitions

Bed and breakfast: Short-term overnight lodging accommodations inclusive of a morning meal, provided in an occupied residence and/or guest houses. The total number of guests rooms used for sleeping in the residence and guest houses combined shall not exceed eight (8). The total number of guests sleeping in the residence and guest houses combined shall not exceed twenty-four (24). This use is subject to the requirements contained in Article 13, Site Development Plan.

Bed and breakfast, home occupation: A single-family dwelling containing overnight lodging and breakfast accommodations as an accessory use to the principal use. Guest houses may also be used for overnight lodging accommodations on the same property as the principal dwelling. The total number of guest rooms used for overnight lodging in the principal dwelling and the guests houses combined shall not exceed five (5).

Boardinghouse: A single building arranged or used for semi-permanent lodging. A boardinghouse is not a home occupation, and may not be operated on the same parcel as a bed and breakfast.

Campground: Any place used for transient camping where compensation is expected in order to stay in a tent, travel trailer, or motorized camper. Primitive campgrounds may be unimproved with potable water and bathrooms but are limited to no more than five (5) spaces. Improved campgrounds with potable water and bathrooms may have more than five (5) spaces. Improved campgrounds are subject to the requirements contained in Article 13, Site Development Plan.

Guest House: A building that provides short-term lodging accommodations for transients and is clearly subordinate and incidental to the principal residence on the same property.

Home Occupation: An occupation or activity for economic gain conducted by a family member(s) which is clearly incidental and secondary to use of the premises as a dwelling and where there is no display beyond what is provided for in this ordinance.

Hotel: Any hotel, inn, hostelry, tourist home or house, motel, rooming house, dwelling, 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. Hotels are subject to the requirements contained in Article 13, Site Development Plan.

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 a short period of time and whose permanent address for legal purposes is not the lodging or dwelling unit occupied by that guest or boarder.

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.

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.

Conclusion and Summary:

As noted above, these proposed amendments can be considered a “work in progress” – they are not presented to you in “final draft” format. The proposed definitions (above) may require refinement or clarification; and additional work would be necessary to determine how these newly defined uses would be regulated in each zoning district.

Please consider if you would like these issues to be addressed through a text amendment process; and if so, you can formally initiate the amendment process by referring these proposed (draft) amendments to the Planning Commission for their review (inclusive of public hearing) and recommendation.

Thank you for your attention to this matter – and please contact me with any questions or requests for assistance you may have related to this report.

RESOLUTION R2015-66
NELSON COUNTY BOARD OF SUPERVISORS
REFERRAL OF AMENDMENTS TO APPENDIX A, NELSON COUNTY
ZONING ORDINANCE - “BED AND BREAKFAST USES”
TO THE NELSON COUNTY PLANNING COMMISSION

WHEREAS, the Nelson County Board of Supervisors (the Board) has received and reviewed in public session conducted on August 11, 2015, a staff report on changes proposed to Appendix A-Zoning (Nelson County Zoning Ordinance) of the Code of the County of Nelson, Virginia; and,

WHEREAS, the staff report proposed changes to the Zoning Ordinance in order to provide for “Bed & Breakfast” uses;

NOW, THEREFORE, BE IT RESOLVED by the Nelson County Board of Supervisors, pursuant to the applicable provisions of Title 15.2 Chapter 22, Planning, Subdivision of Land and Zoning of the Code of Virginia, 1950 with specific reference to §15.2-2285 of said Code, that the proposed amendments to the Code of Nelson County to provide for “Bed & Breakfast” uses be referred to the Nelson County Planning Commission for review and development of a report on the Commission’s findings and recommendations to the Board, in accordance with §15.2-2285 of the Code of Virginia.

Approved: _____, 2015

Attest: _____, Clerk
Nelson County Board of Supervisors

§ 15.2-2285. Preparation and adoption of zoning ordinance and map and amendments thereto; appeal

A. The planning commission of each locality may, and at the direction of the governing body shall, prepare a proposed zoning ordinance including a map or maps showing the division of the territory into districts and a text setting forth the regulations applying in each district. The commission shall hold at least one public hearing on a proposed ordinance or any amendment of an ordinance, after notice as required by § 15.2-2204, and may make appropriate changes in the proposed ordinance or amendment as a result of the hearing. Upon the completion of its work, the commission shall present the proposed ordinance or amendment including the district maps to the governing body together with its recommendations and appropriate explanatory materials.

B. No zoning ordinance shall be amended or reenacted unless the governing body has referred the proposed amendment or reenactment to the local planning commission for its recommendations. Failure of the commission to report 100 days after the first meeting of the commission after the proposed amendment or reenactment has been referred to the commission, or such shorter period as may be prescribed by the governing body, shall be deemed approval, unless the proposed amendment or reenactment has been withdrawn by the applicant prior to the expiration of the time period. In the event of and upon such withdrawal, processing of the proposed amendment or reenactment shall cease without further action as otherwise would be required by this subsection.

C. Before approving and adopting any zoning ordinance or amendment thereof, the governing body shall hold at least one public hearing thereon, pursuant to public notice as required by § 15.2-2204, after which the governing body may make appropriate changes or corrections in the ordinance or proposed amendment. In the case of a proposed amendment to the zoning map, the public notice shall state the general usage and density range of the proposed amendment and the general usage and density range, if any, set forth in the applicable part of the comprehensive plan. However, no land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice required by § 15.2-2204. Zoning ordinances shall be enacted in the same manner as all other ordinances.

D. Any county which has adopted an urban county executive form of government provided for under Chapter 8 (§ 15.2-800 et seq.) may provide by ordinance for use of plans, profiles, elevations, and other such demonstrative materials in the presentation of requests for amendments to the zoning ordinance.

E. The adoption or amendment prior to March 1, 1968, of any plan or ordinance under the authority of prior acts shall not be declared invalid by reason of a failure to advertise, give notice or conduct more than one public hearing as may be required by such act or by this chapter, provided a public hearing was conducted by the governing body prior to the adoption or amendment.

F. Every action contesting a decision of the local governing body adopting or failing to adopt a proposed zoning ordinance or amendment thereto or granting or failing to grant a special exception shall be filed within thirty days of the decision with the circuit court having

jurisdiction of the land affected by the decision. However, nothing in this subsection shall be construed to create any new right to contest the action of a local governing body.

Code 1950, §§ 15-822, 15-846, 15-968.7; 1962, c. 407, § 15.1-493; 1964, c. 279; 1968, c. 652; 1970, c. 216; 1972, c. 818; 1975, c. 641; 1984, c. 175; 1988, cc. 573, 733, 856; 1989, c. 359; 1990, c. 475; 1991, c. 235; 1996, c. [867](#); 1997, c. 587.

DEPARTMENT OF
PLANNING & ZONING



PLANNING COMMISSION
BOARD OF ZONING APPEALS

To: Chair and Members, Nelson County Board of Supervisors

From: Tim Padalino | Planning & Zoning Director

Date: August 5, 2015

**Subject: proposed amendments re: “off-farm agricultural retail sales”
(wayside stands and farmers markets)**

Issue Introduction:

The Planning Commission (PC) has undertaken a policy review of the Zoning Ordinance provisions for “wayside stands,” and (over the course of many work sessions) has developed proposed amendments to the Zoning Ordinance for consideration by the Board of Supervisors. The PC’s policy review process recently culminated in a public hearing on July 22nd for proposed zoning ordinance amendments that, if adopted, would:

- substantially revise the existing “wayside stand” provision by creating new definitions and new regulations; and
- establish a new “farmers market” land use category, including a new definition and regulations.

For the purposes of discussion, these two types of land uses are being informally referred to as “off-farm agricultural retail sales.” This report provides an explanation of the background and context for these proposed amendments; the specific proposed text amendments that the PC has voted to recommend for BOS consideration; and a few staff comments to summarize the proposed changes.

Issue Background & Context:

The existing Zoning Ordinance regulations provide for “wayside stand” as a permissible land use in the Agricultural (A-1) District. Per §2 and §4-11-2, the operation of a wayside stand requires an administrative zoning permit to be obtained; and all sales at wayside stands are by definition limited only to products produced by the permit-holder (and/or his or her family) on an agricultural operation owned or controlled by the permit-holder (and/or his or her family).

The existing Zoning Ordinance regulations do not define or otherwise provide for “farmers markets” as a permissible land use. The proposed amendments attempt to resolve that omission.

Please note that the PC's ongoing review of these two topics is related to, but distinct from, the Zoning Ordinance amendments adopted by the Board of Supervisors (BOS) on October 14, 2014 (Ordinance O2014-06 "Agricultural Operations"), which were related to agricultural operations, breweries, distilleries, and other similar land uses.

Specifically, the difference is that the previous amendments deal with the sale of ag products on the farm or at the site of the "bona fide agricultural operation" – whereas the PC's recommended amendments relate to "off-farm ag retail sales." This retail sale of ag products off-site from the actual ag operation can further be divided into two types of land uses:

1. Off-farm retail sale of agricultural products that were produced solely on agricultural operations controlled or owned by the seller (currently treated as a "wayside stand"); and
2. Off-farm retail sale of agricultural products that were not solely produced on agricultural operations controlled or owned by the seller ("farmers market" – currently not provided for)

Proposed Text Amendments (as Recommended by PC):

Pursuant to Zoning Ordinance Article 16, Section 1-3, the PC conducted a properly-advertised public hearing on July 22nd and voted 6-0 to recommend the following text amendments to Articles 2, 4, 8, 8A, and 8B:

➤ 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 sale of agricultural and/or horticultural products, and/or agriculture-related goods and services; but not to include the sale of merchandise purchased specifically for resale.

Wayside Stand: Any use of land, vehicle(s), equipment, or facility(s) for the off-site retail sale of agricultural products, horticultural products, or merchandise which are produced on an agricultural operation owned or controlled by the seller or the seller's family. Wayside stands are a temporary (non-permanent) land use.

Wayside Stand, Class A: A Wayside Stand which is located on a road with a Functional Classification Code of 115 or higher (as defined by the Virginia Department of Transportation).

Wayside Stand, Class B: A Wayside Stand which is located on a road with a Functional Classification Code of 114 or lower (as defined by the Virginia Department of Transportation), or located within six-hundred sixty (660) feet of an intersection with any road with a FCC of 114 or lower.

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

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

- (i) Signed affidavit declaring that any and all products offered for sale have their source from, or are otherwise derived from, an agricultural operation that is owned or controlled by the wayside stand operator**
- (ii) Proposed frequency and duration of operations (throughout the day, week, month, or calendar year):**
 - a. may not exceed ____ consecutive days; and/or**
 - b. limited to a maximum of _____ hours per day; and/or**
 - c. limited to a maximum of _____ days per week; and/or**
 - d. limited to a maximum of _____ weeks per year**
- (iii) Location and type of proposed wayside stand equipment or facility:**
 - a. All wayside stand structures or facilities must be located outside of VDOT right-of-way**
 - b. All permanent wayside stand structures must comply with the required front yard setback areas of the applicable zoning district**
- (iv) 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**
- (v) Sketch site plan, including accurate locations and dimensions of:**
 - a. property boundaries and right-of-way**
 - b. proposed location of wayside 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 wayside stand request involving any proposed operation(s) after daylight hours)**
- (vi) Review comments from Virginia Department of Transportation:**

- a. **VDOT review comments must include a formal “recommendation for approval” by VDOT before a Class A Wayside 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 Wayside Stand, Class B

4-1-47a Farmers Market

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

Add the following provisions to Section 8-1-a “Uses – Permitted by Special Use Permit only:”

8-1-13a Farmers Market

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

Add the following provisions to Section 8A-1-a “Uses – Permitted by Special Use Permit only:”

8A-1-7a Farmers Market

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

Add the following provisions to Section 8B-1-a “Uses – Permitted by Special Use Permit only:”

8B-1-14a Farmers Market

Staff Comments and Summary:

These proposed amendments would address the fact that “farmers market” is not currently defined or provided for by Ordinance, yet is something that currently exists in Nelson County.

These proposed amendments would also improve the “wayside stand” provisions in the following ways:

- They would 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.
- They would 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).
 - The two categories would be determined by using VDOT’s “Functional Classification Code” to treat some wayside stands as a by-right use, while treating other wayside stands (on busier roads) to be treated as a special use, all based on the location.
 - This allows for proposed wayside stands located on smaller roads to be reviewed and approved more easily than proposed wayside stands located on roads with high traffic counts, high rates of speed, or other transportation factors which inherently create more concerns regarding public safety and land use changes.

Thank you for your attention to these proposed amendments regarding “wayside stands” and “farmers markets,” which are now presented to the BOS for you to review and to consider authorizing for public hearing. Please contact me with any questions you may have regarding any of the information contained in this packet.

RESOLUTION R2015-67
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR PUBLIC HEARING
AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA
APPENDIX A, ZONING, “WAYSIDE STANDS” AND “FARMERS MARKETS”

BE IT RESOLVED, that pursuant to §15.2-1427, and §15.2-2204, of the Code of Virginia 1950 as amended, the County Administrator is hereby authorized to advertise a public hearing to be held on _____, at 7:00 PM in the General District Courtroom in the Courthouse in Lovington, Virginia to receive public input on an Ordinance proposed for passage to revise the definitions, application requirements, and regulations for “off-farm agricultural retail sales” land uses, including Wayside Stands and Farmers Markets. Affected Sections of the Zoning Ordinance include: Article 2; Article 4, Sections 1-a and 11-2; Article 8, Section 1-a; Article 8A, Section 1-a; and Article 8B, Section 1-a.

Adopted: _____, 2015

Attest: _____, Clerk
Nelson County Board of Supervisors

§ 15.2-2204. Advertisement of plans, ordinances, etc.; joint public hearings; written notice of certain amendments

A. Plans or ordinances, or amendments thereof, recommended or adopted under the powers conferred by this chapter need not be advertised in full, but may be advertised by reference. Every such advertisement shall contain a descriptive summary of the proposed action and a reference to the place or places within the locality where copies of the proposed plans, ordinances or amendments may be examined.

The local planning commission shall not recommend nor the governing body adopt any plan, ordinance or amendment thereof until notice of intention to do so has been published once a week for two successive weeks in some newspaper published or having general circulation in the locality; however, the notice for both the local planning commission and the governing body may be published concurrently. The notice shall specify the time and place of hearing at which persons affected may appear and present their views, not less than five days nor more than 21 days after the second advertisement appears in such newspaper. The local planning commission and governing body may hold a joint public hearing after public notice as set forth hereinabove. If a joint hearing is held, then public notice as set forth above need be given only by the governing body. The term "two successive weeks" as used in this paragraph shall mean that such notice shall be published at least twice in such newspaper with not less than six days elapsing between the first and second publication. After enactment of any plan, ordinance or amendment, further publication thereof shall not be required.

B. When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of 25 or fewer parcels of land, then, in addition to the advertising as required by subsection A, written notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner or owners, their agent or the occupant, of each parcel involved; to the owners, their agent or the occupant, of all abutting property and property immediately across the street or road from the property affected, including those parcels which lie in other localities of the Commonwealth; and, if any portion of the affected property is within a planned unit development, then to such incorporated property owner's associations within the planned unit development that have members owning property located within 2,000 feet of the affected property as may be required by the commission or its agent. However, when a proposed amendment to the zoning ordinance involves a tract of land not less than 500 acres owned by the Commonwealth or by the federal government, and when the proposed change affects only a portion of the larger tract, notice need be given only to the owners of those properties that are adjacent to the affected area of the larger tract. Notice sent by registered or certified mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement. If the hearing is continued, notice shall be remailed. Costs of any notice required under this chapter shall be taxed to the applicant.

When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of more than 25 parcels of land, or a change to the applicable zoning ordinance text regulations that decreases the allowed dwelling unit density of any parcel of land, then, in

addition to the advertising as required by subsection A, written notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner, owners, or their agent of each parcel of land involved, provided, however, that written notice of such changes to zoning ordinance text regulations shall not have to be mailed to the owner, owners, or their agent of lots shown on a subdivision plat approved and recorded pursuant to the provisions of Article 6 (§ 15.2-2240 et seq.) where such lots are less than 11,500 square feet. One notice sent by first class mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that a representative of the local commission shall make affidavit that such mailings have been made and file such affidavit with the papers in the case. Nothing in this subsection shall be construed as to invalidate any subsequently adopted amendment or ordinance because of the inadvertent failure by the representative of the local commission to give written notice to the owner, owners or their agent of any parcel involved.

The governing body may provide that, in the case of a condominium or a cooperative, the written notice may be mailed to the unit owners' association or proprietary lessees' association, respectively, in lieu of each individual unit owner.

Whenever the notices required hereby are sent by an agency, department or division of the local governing body, or their representative, such notices may be sent by first class mail; however, a representative of such agency, department or division shall make affidavit that such mailings have been made and file such affidavit with the papers in the case.

A party's actual notice of, or active participation in, the proceedings for which the written notice provided by this section is required shall waive the right of that party to challenge the validity of the proceeding due to failure of the party to receive the written notice required by this section.

C. When a proposed comprehensive plan or amendment thereto; a proposed change in zoning map classification; or an application for special exception for a change in use or to increase by greater than 50 percent of the bulk or height of an existing or proposed building, but not including renewals of previously approved special exceptions, involves any parcel of land located within one-half mile of a boundary of an adjoining locality of the Commonwealth, then, in addition to the advertising and written notification as required by this section, written notice shall also be given by the local commission, or its representative, at least 10 days before the hearing to the chief administrative officer, or his designee, of such adjoining locality.

D. When (i) a proposed comprehensive plan or amendment thereto, (ii) a proposed change in zoning map classification, or (iii) an application for special exception for a change in use involves any parcel of land located within 3,000 feet of a boundary of a military base, military installation, military airport, excluding armories operated by the Virginia National Guard, or licensed public-use airport then, in addition to the advertising and written notification as required by this section, written notice shall also be given by the local commission, or its representative, at least 30 days before the hearing to the commander of the military base, military installation, military airport, or owner of such public-use airport, and the notice shall advise the military commander or owner of such public-use airport of the opportunity to submit comments or recommendations.

E. The adoption or amendment prior to July 1, 1996, of any plan or ordinance under the authority of prior acts shall not be declared invalid by reason of a failure to advertise or give notice as may be required by such act or by this chapter, provided a public hearing was conducted by the

governing body prior to such adoption or amendment. Every action contesting a decision of a locality based on a failure to advertise or give notice as may be required by this chapter shall be filed within 30 days of such decision with the circuit court having jurisdiction of the land affected by the decision. However, any litigation pending prior to July 1, 1996, shall not be affected by the 1996 amendment to this section.

F. Notwithstanding any contrary provision of law, general or special, the City of Richmond may cause such notice to be published in any newspaper of general circulation in the city.

G. When a proposed comprehensive plan or amendment of an existing plan designates or alters previously designated corridors or routes for electric transmission lines of 150 kilovolts or more, written notice shall also be given by the local planning commission, or its representative, at least 10 days before the hearing to each electric utility with a certificated service territory that includes all or any part of such designated electric transmission corridors or routes.

H. When any applicant requesting a written order, requirement, decision, or determination from the zoning administrator, other administrative officer, or a board of zoning appeals that is subject to the appeal provisions contained in § 15.2-2311 or 15.2-2314, is not the owner or the agent of the owner of the real property subject to the written order, requirement, decision or determination, written notice shall be given to the owner of the property within 10 days of the receipt of such request. Such written notice shall be given by the zoning administrator or other administrative officer or, at the direction of the administrator or officer, the requesting applicant shall be required to give the owner such notice and to provide satisfactory evidence to the zoning administrator or other administrative officer that the notice has been given. Written notice mailed to the owner at the last known address of the owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall satisfy the notice requirements of this subsection.

This subsection shall not apply to inquiries from the governing body, planning commission, or employees of the locality made in the normal course of business.

Code 1950, § 15-961.4; 1962, c. 407, § 15.1-431; 1964, c. 632; 1968, cc. 354, 714; 1973, cc. 117, 334; 1974, cc. 100, 570; 1975, c. 641; 1976, c. 642; 1977, c. 65; 1982, c. 291; 1990, c. 61; 1992, cc. 353, 757; 1993, cc. 128, 734; 1994, c. 774; 1995, c. 178; 1996, cc. 613, 667; 1997, c. 587; 2001, c. 406; 2002, c. 634; 2004, cc. 539, 799; 2005, c. 514; 2007, cc. 761, 813; 2011, c. 457; 2012, c. 548; 2013, cc. 149, 213.

§ 15.2-1427. Adoption of ordinances and resolutions generally; amending or repealing ordinances

A. Unless otherwise specifically provided for by the Constitution or by other general or special law, an ordinance may be adopted by majority vote of those present and voting at any lawful meeting.

B. On final vote on any ordinance or resolution, the name of each member of the governing body voting and how he voted shall be recorded; however, votes on all ordinances and resolutions adopted prior to February 27, 1998, in which an unanimous vote of the governing body was recorded, shall be deemed to have been validly recorded. The governing body may adopt an ordinance or resolution by a recorded voice vote unless otherwise provided by law, or any member calls for a roll call vote. An ordinance shall become effective upon adoption or upon a date fixed by the governing body.

C. All ordinances or resolutions heretofore adopted by a governing body shall be deemed to have been validly adopted, unless some provision of the Constitution of Virginia or the Constitution of the United States has been violated in such adoption.

D. An ordinance may be amended or repealed in the same manner, or by the same procedure, in which, or by which, ordinances are adopted.

E. An amendment or repeal of an ordinance shall be in the form of an ordinance which shall become effective upon adoption or upon a date fixed by the governing body, but, if no effective date is specified, then such ordinance shall become effective upon adoption.

F. In counties, except as otherwise authorized by law, no ordinance shall be passed until after descriptive notice of an intention to propose the ordinance for passage has been published once a week for two successive weeks prior to its passage in a newspaper having a general circulation in the county. The second publication shall not be sooner than one calendar week after the first publication. The publication shall include a statement either that the publication contains the full text of the ordinance or that a copy of the full text of the ordinance is on file in the clerk's office of the circuit court of the county or in the office of the county administrator; or in the case of any county organized under the form of government set out in Chapter 5, 7 or 8 of this title, a statement that a copy of the full text of the ordinance is on file in the office of the clerk of the county board. Even if the publication contains the full text of the ordinance, a complete copy shall be available for public inspection in the offices named herein.

In counties, emergency ordinances may be adopted without prior notice; however, no such ordinance shall be enforced for more than sixty days unless readopted in conformity with the provisions of this Code.

G. In towns, no tax shall be imposed except by a two-thirds vote of the council members.

Code 1950, §§ 15-8, 15-10; 1950, p. 113; 1954, c. 529; 1956, cc. 218, 664; 1956, Ex. Sess., c. 40; 1958, cc. 190, 279; 1960, c. 606; 1962, c. 623, § 15.1-504; 1966, cc. 405, 612; 1968, c. 625; 1970, c. 581; 1972, cc. 41, 837; 1973, c. 380; 1978, c. 235; 1983, c. 11; 1997, c. 587; 1998, c. 823; 2000, c.

DEPARTMENT OF
PLANNING & ZONING



PLANNING COMMISSION
BOARD OF ZONING APPEALS

To: Chair and Members, Nelson County Board of Supervisors

From: Tim Padalino | Planning & Zoning Director

Date: August 6, 2015

Subject: Introduction of Draft Zoning Ordinance Amendments re: Temporary Events

Issue Introduction:

The existing Zoning Ordinance provisions for “special events” are fundamentally inadequate. For example:

- There is ongoing confusion (among members of the public and among County staff) regarding how to determine which events 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 agritourism and events industries.
- The ordinance does not contain 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.
- The ordinance makes no distinction between small events (such as a brief parade down Front Street in Lovingson) and major events (such as Lockn’ Festival or other mass gatherings). Currently, the same application and same \$25 application fee apply to all events.
- The ordinance currently only contemplates the proposed special event in isolation, and does not account for how the venue / property should be addressed (especially if the special events, which are temporary, propose to include permanent improvements such as roads, utilities, structures, etc.).

These (and other) limitations and omissions result in County staff regularly spending a notable amount of time and effort attempting to handle everything on a case-by-case basis, while also attempting to be as fair, consistent, and accurate as possible. County staff believe the appropriate solution is to amend the ordinance to provide better clarity and consistency. If done well, this would reduce the amount of time and effort required of staff for these particular issues and inquiries, and would simplify and clarify the permitting process for applicants.

Proposed Amendments for Possible Referral to Planning Commission:

The following (draft) amendments (pages 3-7) have been jointly developed by County Attorney Phil Payne and myself, inclusive of extensive participation and detailed input from County Administration, across multiple work sessions in 2014 and 2015.

Please note that these proposed amendments are a “first draft,” but are relatively well developed. Please also note that these amendments would substantially modify the way events are regulated, including the following ways:

- “Special Events Permits” would be redefined as “Temporary Event Permits,” to help avoid confusion with “Special Use Permits” and to emphasize that these are primarily meant to be temporary activities, not permanent land uses.
- Three categories of events would be established. These would be primarily determined by the number of attendees, and would require different fee payments.
- Numerous different types of events would be specifically exempted from Temporary Event Permit requirements; see proposed §23-2-1 “Exempt Events.”

Conclusion and Summary:

Please review the following text amendments on pages 3-7 of this report; and please also reference Mr. Payne’s summary of existing law on pages 8-9. If the BOS would like these issues to be further reviewed and addressed through a text amendment process, you can formally initiate that process by referring these proposed amendments to the Planning Commission for their review (inclusive of public hearing) and recommendation.

Please contact with me any questions you may have regarding the information contained in this report, or regarding the issue of special events or temporary events in general. Thank you for your attention to this matter.

ARTICLE 23. TEMPORARY EVENTS, FESTIVAL GROUNDS, OUT-OF-DOORS ACCESSORY USES

Statement of Intent

This Article provides regulations designed to address temporary uses in districts where such uses would not otherwise be permissible, establishes criteria for the approval or disapproval of such temporary uses, and provides requirements for the permitting and conduct of such uses. The Article also requires for the issuance of a special use permit for properties where the intended use envisions large scale events and provides for the regulation of out-of-door activities conducted as an accessory use to certain permitted commercial uses. The Article is not intended to regulate, and does not regulate, the traditional non-commercial use of property by its owners; such use is subject to other provisions of this Ordinance, the Noise Ordinance, and other applicable law.

23-1 Definitions

Agritourism Activity: any activity carried out on a farm or ranch engaged in agricultural operations that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

Festival Grounds: The use of land for the hosting and operation of Category 3 Temporary Events, and the construction, erection, or other use of structures or other improvements (temporary or permanent) associated with Category 3 Temporary Events.

Out-of-Door, Accessory Use: The following out-of-door activities are accessory uses to a Banquet Hall, Conference Center, Corporate Training Center, Restaurant, Brewery, and Distillery: receptions, dining, and entertainment, such as musical or small band performances, which (i) are conducted in connection with the primary permitted use, (ii) do not involve amplified sound, and (iii) comply in all respects with other applicable ordinances and regulations. Such accessory activities are limited to 10:00 p.m. on Sundays through Thursdays, and are limited to 11:00 p.m. on Fridays and Saturdays.

Temporary Event, Historical Property: An event such as historical reenactments, living history, home tours, or similar activities which are conducted in connection with a property of historical or natural value when there is either (i) no admission or (ii) a nominal admission dedicated to preservation, restoration, or charitable purposes.

Temporary Event, Non-Profit: An event conducted by non-profit community service organizations such as fire departments, rescue squads, fraternal organizations, faith-based organizations, or community centers.

Temporary Event, Social: A one day private social event which is not open to the general public, such as weddings, receptions, and reunions, to which attendance does not exceed 300 people, conducted on property not zoned for commercial uses and for which the landowner charges a fee for the use of his property.

23-2 Temporary Event Permits

An event that is not otherwise a permitted use in a district, or which will have or projects having a large number of attendees and is conducted out of doors, in whole or in part, may only be conducted upon the issuance of a Temporary Event Permit.

23-2-1 Exempt Events

The following temporary events are exempt from Temporary Event Permit requirements and fees:

1. Private non-commercial functions conducted on the property of the host
2. Social Temporary Events where permitted by right
3. Historical Property Temporary Events
4. Non-Profit Temporary Events having or projecting less than 1,000 attendees at any time during the event
5. Athletic events conducted on sites approved for such events
6. Political gatherings
7. Religious gatherings
8. Out-of-Door Accessory Uses

23-2-2 Temporary Event, Category 1

A Category 1 Temporary Event is an event which is neither an otherwise permitted use nor exempt and (i) for which admission is charged or at which goods and services are sold, having or projecting less than 1,000 attendees, or, (ii) Non-Profit Temporary Events having or projecting more than 1,000 attendees. Each such event may not exceed a maximum duration of four (4) consecutive days open to the attending public, inclusive of an arrival day and a departure day. Amplified sound is not permitted after 11:00 p.m. on any Sunday, Monday, Tuesday, or Wednesday night; nor after 11:59 p.m. on any Thursday night; nor after 1:00 a.m. on any Saturday or Sunday morning. A Category 1 Temporary Event Requires a Temporary Event Permit.

23-2-3 Temporary Event, Category 2:

23-2-3-1 A Category 2 Temporary Event is an event which is neither an otherwise permitted use nor exempt, for which admission is charged or at which goods and services are sold, having or projecting 1,000 or more attendees but less than 10,000 attendees. Each such event may not exceed a maximum duration of six (6) consecutive days open to the attending public, inclusive of an arrival day and a departure day. Amplified sound is not permitted after 11:00 p.m. on any Sunday, Monday, Tuesday, or Wednesday night; nor after 11:59 p.m. on any Thursday night; nor after 1:00 a.m. on any Saturday and Sunday morning. A Category 2 Temporary Event Requires a Temporary Event Permit.

23-2-3-2 Except as provided in connection with Festival Grounds, and subject to the criteria for issuance of a Temporary Event Permit provided in Section 23-3, no more than two (2) Category 2 Temporary Event Permits may be issued in a calendar year to the same applicant or for the same property or for properties contiguous to, or adjacent to, such property.

23-2-4 Structures for Category 1 and 2 Temporary Events

Each structure used for either a Category 1 or 2 event (i) shall have been in existence on the date of adoption of this Article, provided that this requirement shall not apply to accessory structures less than 150 square feet in size and (ii) shall be a lawful conforming structure and shall support or have supported a lawful use of the property.

23-2-5 Temporary Event, Category 3

23-2-5-1 A Category 3 Temporary Event is any event having or projecting more than 10,000 attendees and requires a Special Use Permit for Festival Grounds land use be obtained pursuant to Article 12, Section 3 “Special Use Permits” and Article 13 “Site Development Plan” and also a Temporary Event Permit.

23-2-5-2 A Festival Grounds Special Use Permit shall automatically terminate five years after its issuance, upon which time a new Festival Grounds Special Use Permit may be applied for.

23-2-5-3 A property granted a Special Use Permit for Festival Grounds use may host no more than three (3) Category 3 Temporary Events and no more than three (3) Category 1 or 2 Temporary Events in a calendar year. Each such event may not exceed a maximum duration of 6 consecutive days open to the attending public, inclusive of an arrival day and a departure day. Amplified sound is not permitted after 11:00 p.m. on any Sunday, Monday, Tuesday, or Wednesday night; nor after 11:59 p.m. on any Thursday night; nor after 1:00 a.m. on any Saturday and Sunday morning.

23-3 Issuance of Temporary Event Permits

23-3-1 Whether a temporary event permit will be issued will be determined after consideration of the following factors:

1. If and how the proposed event would result in undue interference with other planned activities in the County;
2. The schedules of churches, schools, governmental operations, and similar public and quasi-public entities;
3. The availability and provision of necessary resources such as transportation infrastructure, law enforcement, emergency services, parking, and similar considerations;
4. The location and operation(s) of other permitted Temporary Events during the same time period as the proposed event; and
5. Compliance with the requirements of other agencies and departments.

23-2-2 In issuing the permit, the Director, may, after consideration of the foregoing factors:

1. Establish or modify times during which activities or amplified sound, or both, may be conducted;
2. Fix the permitted dates for the event;
3. Limit the number of attendees; and

4. Impose such conditions as are necessary to protect the health, safety and welfare of attendees and residents of the County.

23-2-3 The Director may issue a Temporary Event Permit for more than one event if he determines that each event is substantially similar in nature and size and that a single set of conditions would apply to each event, provided that, if allowable, no more than six such temporary events in a calendar year may be permitted under a single permit.

23-2-4 A Temporary Event Permit application requires the following submissions to be considered a completed application:

1. Temporary Event Permit application signed by the property owner and the sponsor who shall collectively constitute the “Applicant”;
2. Temporary Event Permit application fee, as follows:
 - a. Category 1 Temporary Event Permit application, per event = \$100
 - b. Category 2 Temporary Event Permit application, per event = \$500
 - c. Category 3 Temporary Event Permit application, per event = \$5,000
3. Site Plan, drawn to scale and containing all necessary dimensions, annotation, and other details regarding event layout and event operations;
4. Transportation Plan, containing all necessary details regarding vehicular arrival, departure, informational signage, and on-site circulation (as applicable);
5. Safety Plan, containing all necessary details regarding emergency preparedness and emergency response plans, emergency services, medical services, law enforcement and security services, and similar details necessary for ensuring the safety of attendees and the general public; and
6. Any other event information deemed necessary by the Director of Planning and Zoning.

In addition to the proposed introduction of Article 23 (above), the following amendments are also proposed for existing Articles:

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

Remove the following:

4-11-3 Temporary events not otherwise a permitted use may be allowed pursuant to a Special Events Permit for a specified time period. [...]

Add the following:

4-1 Uses – Permitted by right:

- Agritourism activity
- Social Temporary Event, provided that there are no more than fifty such events in a calendar year and that any noise generated by the event is not discernible by adjoining landowners.
- Category 1 Temporary Event
- Category 2 Temporary Event
- Category 3 Temporary Event

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

Festival Grounds

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

Add the following:

8-1 Uses – Permitted by right:

- Category 1 Temporary Event
- Category 2 Temporary Event
- Category 3 Temporary Event

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

Festival Grounds

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

Add the following:

8A-1 Uses – Permitted by right:

- Category 1 Temporary Event
- Category 2 Temporary Event
- Category 3 Temporary Event

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

Festival Grounds

LAW:

§ 15.2-2288.3. Licensed farm wineries; local regulation of certain activities. —

A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia wine industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the citizens of the Commonwealth, and to permit the reasonable expectation of uses in specific zoning categories. Local restriction upon such activities and events of farm wineries licensed in accordance with Title 4.1 to market and sell their products shall be reasonable and shall take into account the economic impact on the farm winery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for farm wineries throughout the Commonwealth. Usual and customary activities and events at farm wineries shall be permitted without local regulation unless there is a substantial impact on the health, safety, or welfare of the public. No local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at farm wineries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at a farm winery, the locality shall consider the effect on adjacent property owners and nearby residents.

B, C. [Expired.]

D. No locality may treat private personal gatherings held by the owner of a licensed farm winery who resides at the farm winery or on property adjacent thereto that is owned or controlled by such owner at which gatherings wine is not sold or marketed and for which no consideration is received by the farm winery or its agents differently from private personal gatherings by other citizens.

E. No locality shall regulate any of the following activities of a farm winery licensed in accordance with subdivision 5 of § 4.1-207:

1. The production and harvesting of fruit and other agricultural products and the manufacturing of wine;

2. The on-premises sale, tasting, or consumption of wine during regular business hours within the normal course of business of the licensed farm winery;

3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title 4.1 and regulations of the Alcoholic Beverage Control Board;

4. The sale and shipment of wine to the Alcoholic Beverage Control Board, licensed wholesalers, and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law;

5. The storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or

6. The sale of wine-related items that are incidental to the sale of wine.

"Agritourism activity" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural

activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity. *Virginia Code* § 3.2-6400

A. No locality shall regulate the carrying out of any of the following activities at an agricultural operation, as defined in § 3.2-300, unless there is a substantial impact on the health, safety, or general welfare of the public:

1. Agritourism activities as defined in § 3.2-6400 ;

["Agritourism activity" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity. § 3.2-6400.]

B. No locality shall require a special exception, administrative permit not required by state law, or special use permit for any activity listed in subsection A on property that is zoned as an agricultural district or classification unless there is a substantial impact on the health, safety, or general welfare of the public.

C. Except regarding the sound generated by outdoor amplified music, no local ordinance regulating the sound generated by any activity listed in subsection A shall be more restrictive than the general noise ordinance of the locality. In permitting outdoor amplified music at an agricultural operation, the locality shall consider the effect on adjoining property owners and nearby residents.

§ 15.2-2288.6

Land use tax consideration:

Real estate upon which recreational activities are conducted for a profit or otherwise shall be considered real estate devoted to agricultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner. Real property that has been designated as devoted to agricultural use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. *Virginia Code* § 58.1-3230

State law mandates that day festival-type activities on farms are permitted by right (except, perhaps, Sundays, which is not worth trying to regulate). Night functions on farms can be regulated.

RESOLUTION R2015-68
NELSON COUNTY BOARD OF SUPERVISORS
REFERRAL OF AMENDMENT TO APPENDIX A, NELSON COUNTY
ZONING ORDINANCE- ADDITION OF ARTICLE 23, TEMPORARY EVENTS,
FESTIVAL GROUNDS, AND OUT-OF-DOORS ACCESSORY USES
TO THE NELSON COUNTY PLANNING COMMISSION

WHEREAS, the Nelson County Board of Supervisors (the Board) has received and reviewed in public session conducted on August 11, 2015, a staff report on changes proposed to Appendix A-Zoning (Nelson County Zoning Ordinance) of the Code of the County of Nelson, Virginia; and,

WHEREAS, the staff report proposed changes to the Zoning Ordinance in order to provide for “Temporary Events, Festival Grounds, and Out-of-Doors Accessory Uses”;

NOW, THEREFORE, BE IT RESOLVED by the Nelson County Board of Supervisors, pursuant to the applicable provisions of Title 15.2 Chapter 22, Planning, Subdivision of Land and Zoning of the Code of Virginia, 1950 with specific reference to §15.2-2285 of said Code, that the proposed amendment to the Code of Nelson County to provide for the addition of Article 23 “Temporary Events, Festival Grounds, and Out-of-Doors Accessory Uses” be referred to the Nelson County Planning Commission for review and development of a report on the Commission’s findings and recommendations to the Board, in accordance with §15.2-2285 of the Code of Virginia.

Approved: _____, 2015

Attest: _____, Clerk
Nelson County Board of Supervisors

§ 15.2-2285. Preparation and adoption of zoning ordinance and map and amendments thereto; appeal

A. The planning commission of each locality may, and at the direction of the governing body shall, prepare a proposed zoning ordinance including a map or maps showing the division of the territory into districts and a text setting forth the regulations applying in each district. The commission shall hold at least one public hearing on a proposed ordinance or any amendment of an ordinance, after notice as required by § 15.2-2204, and may make appropriate changes in the proposed ordinance or amendment as a result of the hearing. Upon the completion of its work, the commission shall present the proposed ordinance or amendment including the district maps to the governing body together with its recommendations and appropriate explanatory materials.

B. No zoning ordinance shall be amended or reenacted unless the governing body has referred the proposed amendment or reenactment to the local planning commission for its recommendations. Failure of the commission to report 100 days after the first meeting of the commission after the proposed amendment or reenactment has been referred to the commission, or such shorter period as may be prescribed by the governing body, shall be deemed approval, unless the proposed amendment or reenactment has been withdrawn by the applicant prior to the expiration of the time period. In the event of and upon such withdrawal, processing of the proposed amendment or reenactment shall cease without further action as otherwise would be required by this subsection.

C. Before approving and adopting any zoning ordinance or amendment thereof, the governing body shall hold at least one public hearing thereon, pursuant to public notice as required by § 15.2-2204, after which the governing body may make appropriate changes or corrections in the ordinance or proposed amendment. In the case of a proposed amendment to the zoning map, the public notice shall state the general usage and density range of the proposed amendment and the general usage and density range, if any, set forth in the applicable part of the comprehensive plan. However, no land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice required by § 15.2-2204. Zoning ordinances shall be enacted in the same manner as all other ordinances.

D. Any county which has adopted an urban county executive form of government provided for under Chapter 8 (§ 15.2-800 et seq.) may provide by ordinance for use of plans, profiles, elevations, and other such demonstrative materials in the presentation of requests for amendments to the zoning ordinance.

E. The adoption or amendment prior to March 1, 1968, of any plan or ordinance under the authority of prior acts shall not be declared invalid by reason of a failure to advertise, give notice or conduct more than one public hearing as may be required by such act or by this chapter, provided a public hearing was conducted by the governing body prior to the adoption or amendment.

F. Every action contesting a decision of the local governing body adopting or failing to adopt a proposed zoning ordinance or amendment thereto or granting or failing to grant a special exception shall be filed within thirty days of the decision with the circuit court having

jurisdiction of the land affected by the decision. However, nothing in this subsection shall be construed to create any new right to contest the action of a local governing body.

Code 1950, §§ 15-822, 15-846, 15-968.7; 1962, c. 407, § 15.1-493; 1964, c. 279; 1968, c. 652; 1970, c. 216; 1972, c. 818; 1975, c. 641; 1984, c. 175; 1988, cc. 573, 733, 856; 1989, c. 359; 1990, c. 475; 1991, c. 235; 1996, c. [867](#); 1997, c. 587.

6 August, 2015

To: Board of Supervisors
From: S. Carter, County Administrator
Re: County Administrator's Report (August 11, 2015 Meeting)

1. Courthouse Project Phase II: A mandatory pre-bid meeting was conducted on 8-6 with very good attendance. Sealed bids for the project are due on 9-2-15 at 2 p.m. Additionally, the County's application to VRA for financing of the project was also submitted on 8-6.

2. Broadband: A) Local Innovation Grant Project: Phase 1 construction (from Rtes. 151&6 to Rtes. 151 & 664t) will commence after receipt of right of way permits from VDOT (application(s) submitted on 8-5). A 6-8 week construction period is projected. Thereafter, Phase 2 and 3 will be initiated. Significant interest is being expressed in the Phase 1 network extension.
B) Broadband Strategic Plan: Development of the scope of work for the project is pending completion.

3. BR Tunnel: An application to VA-DCR for \$250,000 in Recreational Trails Program grant funding was submitted to the Department on 8-4. If successful, the DCR grant funding will be combined with VDOT TAP funding presently in place to provide for completion of a revised Phase 2 (of 3) Project, which encompasses full Tunnel restoration, including bulkhead(s) removal and trail installation, etc. At present, the prospects for overall completion of the project are very promising.

4. Lovingson Health Care Center: The Citizen's Committee is continuing to meet. Region Ten has previously submitted a purchase proposal and input is pending from Piedmont Housing Alliance on specific interest it may have in ownership and operation of the Center. Staff has a scheduled conference call on 8-12 with a Harrisonburg based adult care company to discuss the company's specific interest in acquiring the property. Input on 8-5 from Medical Facilities of America staff noted that closing of the Center is presently projected in February 2016.

5. Radio Project: The Director of Information Services (S. Rorrer) is drafting a more comprehensive status of the project to be included in the agenda package.

6. CDBG Grant Application for Sewer Line Extension: An application to VA-DHCD for funding of the project is in process with additional guidance from DHCD pending receipt.

7. Maintenance: Roof replacement for the new Maintenance Building is scheduled to commence on 8-13 and be completed by 8-28. Repairs at Nelson Memorial Library are pending a more extensive approach, which will require prior review and approval by the Board.

8. Department Reports: Included with the 8-11-15 BOS agenda.

Candy McGarry

From: Kim Taylor Cash <taylorsthyme@hughes.net>
Sent: Tuesday, July 14, 2015 9:44 PM
To: Candy McGarry
Subject: BZA

Candy,

I wish to immediately resign from the Board of Zoning Appeals. I will not attend any future meetings.

Thank you,

Kim Taylor Cash
P. O. Box 14
Montebello, VA 24464
540.290.0647

NELSON COUNTY BOARDS AND COMMISSIONS APPLICATION FORM

Subject: Appointments - Statement of Interest Form

Completing this form is one way to indicate your interest in being considered for appointment to some of the Boards, Commissions and Committees appointed by the Board of Supervisors. All appointments remain at the discretion of the Board of Supervisors.

Please complete and mail this form to:

Nelson County Board of Supervisors
Attention: Stephen A. Carter, Clerk of Board
Post Office Box 336
Lovingston, VA 22949

or fax to (434) 263-7004

Date June 30, 2015

Mr. _____ Mrs. X _____ Ms. _____

Name: Shelby R. Bruguiera

List a maximum of three (3) Boards on which you are interested in serving.

1. Board of Zoning Appeals
2. Local Board of Building Code Appeals
3. _____

Home Address:

1339 Stoney Creek West, Nellysford, Va 22958

Occupation: REALTOR Employed by: self

Home Phone No.: (434) 361-2017 Business Phone No.: (434) 531-9732 mobile

Fax No.: _____ E-Mail Address: ShelbyBruguiera@gmail.com

Do you live in Nelson County? Yes X No _____

Are you currently a member of a County Board, Commission, Committee or Authority? Yes _____ No X

If yes, list the Board(s):

What talent(s) and/or experience can you bring to the Board(s)?

I have been a licensed REALTOR since 2006, and am quite familiar with ordinance and zoning regulations.

of Nelson County.

As a successful business owner, parent, spouse and lifelong resident of Nelson County, I am devoted to helping

Nelson achieve balanced success between government, residential life, farming and business development.

What do you feel you can contribute to the Board(s) and to the community that may not be evident from information already on this form?

As a real estate professional and owner of properties in three districts, I am well versed in zoning regulations

I believe my experience and unique perspective can well serve the County and her residents.

Please use this space for any additional information you would like to provide:

A resume or separate sheet with additional information may be included.

ATTENDANCE REQUIREMENTS

Section 2-153, Absences, Chapter 2, Administration, Article V. Appointments for Boards and Commissions of the Nelson County Code, an appointee of the Board of Supervisors who either (a) fails, during a calendar year, to attend seventy-five percent of the regular meetings of the board or commission of which he/she is a member, or (b) is absent for three consecutive regular meetings, shall be deemed to have tendered his/her resignation from such position. The Board of Supervisors may accept such resignation by appointing another person to fill the position.

In light of the above, will you be able to attend at least 75% of the regular meetings of the boards to which you may be appointed?

Yes X No ___

Candy McGarry

From: joanshpm@aol.com
Sent: Friday, August 07, 2015 10:06 AM
To: Candy McGarry
Subject: Ronald Moyer

I, Ron Moyer would like to be considered for the full time BZA vacancy. Thank you.

joanshpm@aol.com

VIRGINIA: IN THE CIRCUIT COURT OF NELSON COUNTY

IN RE: APPOINTMENT OF RONALD L. MOYER AS ALTERNATE TO THE NELSON COUNTY BOARD OF ZONING APPEALS

ORDER

The Board of Supervisors of Nelson County has requested that the Circuit Court appoint Ronald L. Moyer as an alternate on the Nelson County Board of Zoning Appeals. The Court finding that it is proper to do so doth ADJUDGE, ORDER and DECREE that Ronald L. Moyer is appointed an alternate on the Nelson County Board of Zoning Appeals pursuant to Code §15.2-2308 for a period of five (5) years commencing April 01, 2015, and expiring at midnight on March 30, 2020. The Court ORDERS that Ronald L. Moyer appear before the Clerk of the Circuit Court of Nelson County to be administered the oath required by law prior to serving as an alternate on the Nelson County Board of Zoning Appeals.

The Clerk is directed to mail a certified copy of this order to Ronald L. Moyer, P.O. Box 94, Shipman, VA 22971 and to Stephen A. Carter, County Administrator.

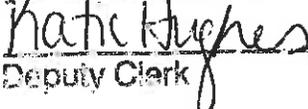
ENTERED this 26th day of June, 2015.


_____, JUDGE
JOHN T. COOK


_____, JUDGE
E. PATRICK YEATTS


_____, JUDGE
JAMES W. UPDIKE, JR

A Copy, Teste:
NELSON COUNTY CIRCUIT COURT
Judy S. Spyners, Clerk

By: 

Deputy Clerk

BOARD OF ZONING APPEALS

Board Appoints & Recommends Certification by the Circuit Court

<u>Name & Address</u>	<u>Term Expiration Date</u>
Goffrey E. Miles 146 Miles Lane Faber, VA 22938 (434) 263-5339	November 11, 2016
John J. Bradshaw (Resigned) 412 Hickory Creek Rd. Walnut Valley Farm Faber, VA 22938 (434) 263-4381	November 9, 2018
Carole Saunders – Recommended to CC 1610 Wilson Hill Rd. Arrington, VA 22922 H (434) 263-4976 carolevar@aol.com	
Gifford Childs 5596 Taylor Creek Rd. Afton, VA 22920 (434) 361-9147	November 11, 2017
Mary Kathryn Allen (Active PC Member) 1115 Gladstone Rd. Gladstone, VA 24553 (434) 933-8214	November 1, 2019
Kim T. Cash (Resigned 7/14/15) P.O. Box 14 Montebello, VA 24464 (540) 377-6409	November 10, 2015
Ronald L. Moyer (Appointed 4/01/15 Alternate) P.O. Box 94 Shipman, VA 22971 (434) 263-5947 (h)	March 30, 2020

BOARD OF ZONING APPEALS

Board Recommends Appointment to the Circuit Court.

Established: by Article 14 of the Nelson County Code,

Composition: 5 members and an alternate recommended by the BOS and appointed by the Nelson Circuit Court, 1 of which is an active Planning Commission member.

Term of Office: 5 years; No Term Limits

Summary of Duties:

To hear and decide applications for Special Use Permits where authorized by Ordinance including deciding interpretation of the district map where there is uncertainty as to location or boundary. To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to public interest.

Meetings:

Meetings are held at the call of the Chairman or at such times as a quorum of the board may determine. Members serve on a volunteer basis without pay other than for travel expenses.

REGION TEN COMMUNITY SERVICES BOARD

NAME, ADDRESS & PHONE

TERM :3 Years , July-June

Patricia Hughes
23 Camping Ridge
Nellysford, VA 22958
(434) 981-5532
Tricia047@gmail.com

July 1, 2013 – June 30, 2016 (T1)

Michael W. Kelley
134 Saddle Ridge Lane
Nellysford, VA 22958

July 1, 2012 – June 30, 2015 (T3)

Established by the Code of Virginia §37.2-500 et seq.

Membership: 2 local members, with 9-15 total members as apportioned on the basis of population not less than 1 member per subdivision. Members serve on a voluntary basis. 14 members (4 City appointees, 4 Albemarle County appointees, 1 each from Fluvanna and Greene Counties, 2 each from Louisa and Nelson Counties)

Term: 3 years with a 3 consecutive term limit.

Summary of Duties: To Act as a direct agent of the Region Ten member localities in the establishment and operation of community mental health, mental retardation, and substance abuse programs as provided for in the Code of Virginia §37.2-500 et seq. as amended. Reviews and evaluates public mental health, mental retardation and substance abuse services and facilities available to serve the community and such private services and facilities as receive funds through the Board. Submits governing bodies of regions the programs of community mental health, mental retardation and substance abuse services and facilities. Within amounts appropriated, executes programs and services and enters into contracts for rendition of services and facilities. Makes rules and regulations concerning rendition or operation of services and facilities under its directions or supervision.

Meetings: Second Monday of every month. **Place:** Region Ten, 502 Old Lynchburg Road Charlottesville VA.

Contact: Region Ten Community Services Board at 434-972-1800

§ 37.2-502. Community services board members; term of office; vacancies; removal

The term of office of each member of a community services board shall be for three years from January 1 of the year of appointment or, at the option of the governing body of a county or city, from July 1 of the year of appointment, except that of the members first appointed, several shall be appointed for terms of one year each, several for terms of two years each, and the remaining members of the board for terms of three years each. The appointment of members for one-year, two-year, and three-year terms shall be as nearly equal as possible with regard to the total number of members on the board. If a governing body has appointed members for terms commencing January 1 or July 1 but desires to change the date on which the terms of office commence, the governing body may, as the terms of the members then in office expire, appoint successors for terms of two and one-half or three and one-half years, so that the terms expire on June 30 or December 31. In the case of a board established by more than one city or county, the decision to change the date on which terms of office commence shall be the unanimous decision of all governing bodies. Vacancies shall be filled for unexpired terms in the same manner as original appointments. No person shall be eligible to serve more than three full terms; however, a person first appointed to fill an unexpired term may serve three additional full three-year terms. The remainder of a term to which a member is first appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. However, after a one-year period has elapsed since the end of the member's last three-year term, the governing body may reappoint that member. Any member of a board may be removed by the appointing authority for cause, after being given a written statement of the causes and an opportunity to be heard thereon.

1968, c. 477, § 37.1-196; 1970, c. 346; 1972, c. 498; 1977, c. 88; 1979, c. 391; 1980, c. 582; 1998, c. 680; 2005, c. 716; 2007, c. 570; 2010, c. 71.

JEFFERSON AREA UNITED TRANSPORTATION –JAUNT, INC.

2 CITIZEN MEMBERS

Janice Jackson
6438 Laurel Rd.
P.O. Box 56
Shipman, VA 22971
Ph (434) 263-4116
jjacksonconsult@earthlink.net

August 1, 2013-September 30, 2016

Mercedes Sotura (**Resigned**)
34 Pleasant View Lane
Afton, VA 22920
Ph (540) 456-8631
msotura@hotmail.com

March 13, 2012 -September 30, 2015

Term(s) of Office: 3 years: August 1st to September 30th

Summary of Duties: To set broad policy in support of JAUNT's mission which is to safely, courteously and promptly provide public and specialized services to meet community mobility needs.

Meetings: Meets the second Wednesday of each month from 10:00 am to 12:00 noon at the JAUNT office, 104 Keystone Place, Charlottesville, VA 22902. Members serve on a volunteer basis. Contact Person is Brad Sheffield, brads@ridejaunt.org , 434-296-3184 ext 101

COUNTY OF NELSON
JEAN W. PAYNE
COMMISSIONER OF REVENUE
P. O. Box 246
Lovington, VA 22949
Telephone: 434-263-7070
Fax: 434-263-7074
email: jpayne@nelsoncounty.org

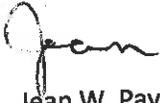
August 5, 2015

To Nelson County Board of Supervisors:

The Commissioner of Revenue's office has two full time positions, Deputy I and Deputy II, that are fully paid by the county. The Deputy II position was vacated on July 31, 2015. I am requesting that I be able to move the Deputy I person into the Deputy II position. The Deputy I salary is \$25,264 and the Deputy II salary is \$30,926. I will be hiring a new person as soon as I find a qualified person to fill the position.

Also, I would like to be able to use part of the Deputy I salary to pay a part time person. This would only be a day or two every now and then until I fill the vacant position.

Thank you for your consideration.



Jean W. Payne
Commissioner of Revenue

<u>Directives</u>	<u>Member</u>	<u>Status</u>	<u>Progress/Comments</u>
<u>Directives from November 13, 2014</u>			
<i>Continue to CC Mr. Hale on E-mails with Woolpert</i>	A. Hale	Ongoing	
<i>Check Into Getting a Boat Ramp at Nelson Wayside</i>	C. Brennan	In Process	Emily Harper Working On With Rob Campbell
<u>Directives from January 13, 2015</u>			
<i>Proceed With Historic Marker Replacement at Nelson Wayside and Colleen</i>	Consensus	In Process	Markers Ordered-At VDOT in 8-9 wks (3/25/15)
<i>Follow Up on Collection Options For The EMS Revenue Recovery Program</i>	C. Brennan	In Process -90%	Staff Reviewing Summary Report
<u>Directives from July 14, 2015</u>			
<i>Follow up with Susan King of Dominion to get Detailed Topo Maps of ACP</i>	A. Hale	Complete	



DEPARTMENT OF
PLANNING & ZONING

PLANNING COMMISSION
BOARD OF ZONING APPEALS

To: Chair and Members, Nelson County Board of Supervisors
From: Tim Padalino | Planning & Zoning Director
Date: August 5, 2015
Subject: **Public Hearing for Conditional Rezoning #2015-02 (Joseph B. “Sepp” Kober / Mountain Sports)**

Application Summary	
<u>Site Address / Location:</u>	2950 Rockfish Valley Highway / Nellysford / Central District
<u>Tax Parcel(s):</u>	#22-A-19 and #22-A-18
<u>Parcel Size:</u>	1.27 acres and 4.79-acres, respectively
<u>Zoning:</u>	Residential (R-1) with General Floodplain District (FP) on portion of #22-A-18
<u>Applicant:</u>	Mr. Joseph “Sepp” Kober of Mountain Sports
<u>Request:</u>	Approval of Conditional Rezoning #2015-02 to rezone Tax Map Parcels #22-A-18 and #22-A-19 to Business (B-1) Conditional, in order to construct an 8,000 SF retail store and accompanying parking pursuant to Article 8, Section 1-2
<ul style="list-style-type: none"> • <i>Completed Application Received On:</i> June 24th, 2015 • The applicant (Mr. “Sepp” Kober) has noted that, “This request is being submitted to determine the feasibility of applicant’s future intended use prior to purchase. Applicant has attached a separate document containing the requested uses along with the uses that would be proffered away.” • The application is lacking documented permission from both property owners: Dodd and Hughes/Tharpe both need to officially authorize this application prior to BOS action. 	

A brief narrative has been provided by the applicant team to explain the intent and purpose of this conditional rezoning application:

Our reasoning for this [rezoning] request is fourfold:

1. *The “Mountain Sports” store would offer for sale a complete line of outdoor sports equipment and clothing.*
2. *The Mountain Sports store would provide shopping that fits well with the other venues along the 151 corridor. It is also projected to provide 25 local jobs.*
3. *The site is in the center of what is a mixed use commercial area. It would fit well with the other businesses in the vicinity.*
4. *The plan is designed to provide minimal environmental impact and storm water runoff*

generation. The parcels slope gently from southwest to northeast with a slightly steeper spot in the middle that drops to the flood plain. The relative flatness of the front allow storm water to soak in rather than run off.

Subject Property Location, Characteristics, and Comprehensive Plan Designation:

The subject properties are located in the Nellysford area at 2950 Rockfish Valley Highway, further identified as:

- Tax Map Parcel #22-A-19 (owned by Herbert F. Hughes): fronting Route 151, this 1.27-acre parcel is occupied by a large white frame building (circa 1878) that was previously a store and is currently vacant. This property is zoned Residential (R-1).
- Tax Map Parcel #22-A-18 (owned by Claude Malcolm Dodd): fronting Route 151 and wrapping behind parcel 19, and with frontage along the South Fork of the Rockfish River, this 4.79-acre parcel is unimproved and contains FEMA-designated floodplain and floodway. This property is currently zoned Residential (R-1), with General Floodplain District (FP) overlaying the rear portion of the property.

The subject properties are located in the heart of Nellysford, with some adjoining properties zoned Agricultural (A-1), Residential (R-1), and Residential Planned Community (RPC) (“Multiple Use – Village Center” designation). Additionally, some properties designated Business (B-1) zoning are located in close proximity. *Please see maps on pages 7-10.*

As noted above, the rear portion of parcel 18 contains FEMA-designated “Special Flood Hazard Areas.” Specifically, parcel 18 contains both the 100-year floodplain and the floodway for the South Fork of the Rockfish River. During my initial site visit on April 17th, I observed that the flat, low-lying landscape contains ephemeral pools, wet soils, and other features characteristic of river bottoms. *Please see site visit photos on page 11.*

With regards to the “Future Land Use Plan” in the *Nelson County Comprehensive Plan*, the Nellysford area is designated as Nelson County’s only “Neighborhood Mixed Use Development Model.” It is further identified as a “primary development area.”

Please note the following highlights from the “Neighborhood Mixed Use” section of the Future Land Use Plan:

- Neighborhood Mixed Use Development Model: “A central gathering place able to fulfill the diverse needs and interests of nearby residents and visitors to the county, all within a focused, walkable and identifiable place.”
- “Appropriate ‘Neighborhood Mixed Use’ land uses include...a variety of commercial establishments...Over time, a neighborhood mixed use community may expand to offer a wider variety of retail and civic uses.”
- “Multifamily dwellings, commercial and office buildings may be up to three stories in height. ... Parking lots should be placed behind buildings or in other areas where the impact of the lot on the neighborhood is minimized. ... Dark sky lighting and unobtrusive signage is appropriate for all new development.”

Site Plan Review Committee Comments:

The Site Plan Review Committee reviewed the Minor Site Plan for these subject properties on April 8th.

- **Director of Planning & Zoning:**
 - The applicant noted that the existing structure may be retained, or may be demolished. The applicant is undecided on how to proceed. The structure’s historic character, reuse potential, and poor condition were all discussed.
 - *Update: at the July 22nd PC hearing, the applicant noted they intend to demolish this structure, but they also intend to look for opportunities to salvage and reuse specific materials in the new development, if possible.*
 - The proposed facility would be 8,000 SF with approximately 6,000 SF dedicated to public floor area. 32 parking spaces and additional handicap parking spaces would be made available in a parking lot on the side and rear of the proposed retail building.
 - The applicant has submitted a conceptual rendering of the proposed facility’s facade; this elevation was included in the packet.
 - The applicant team will be prepared to address specific site details (such as landscaping, exterior lighting, and signage) at later stages of the permitting process and on the Major Site Plan, if the conditional rezoning request is approved.

- **VDOT:** Mr. Jeff Kessler, Virginia Department of Transportation representative, did not attend the meeting but provided the following preliminary comments regarding the proposed rezoning by Joseph B. Kober “Sepp” for a 8,000 square foot retail center “Mountain Sports” in the Nellysford area. These preliminary comments included the need for the following items to be provided to VDOT in order to advise the County of the potential traffic impacts and to assist the developer in assessing the viability and magnitude of his project:
 - A brief narrative of the proposed use along with a traffic analysis of this use including ITE Trip Generation, peak hour turning movements and turn lane analysis.
 - Location of the proposed commercial entrance and its spacing to the next adjoining commercial entrance and or public roadway in each direction to determine if it meets VDOT’s Access Management Spacing Requirements.
 - Sight Distances (Stopping and Intersection) at the proposed commercial entrance location.

On May 11th, the applicant team submitted a transportation analysis packet (“access management report”) prepared by Perkins & Orrison in response to VDOT’s preliminary comments. That submittal was then forwarded to VDOT on May 12th. On May 27th, county staff received correspondence from VDOT indicating the following:

- The “access management report” correctly concludes that no turning lane is required;
- The sight distance measurements are acceptable;
- Future (additional) development of the site would require re-review by VDOT; and
- Due to VDOT access management regulations and commercial spacing requirements, the proposed location of this project’s commercial entrance would, “...affect the commercial access to the three parcels located to the south (between this property and Adail [sic] Road) and the six or so parcels located immediately to the north along the east side of

Route 151. In anticipation of continued commercial development of the corridor, we recommend the consideration of requiring a shared “joint” commercial entrance that would serve both this property and the adjoining parcels as well.

Please note that a copy of this access management report and a copy of VDOT’s response from May 27th are included in the BOS meeting materials packet.

- TJSWCD: Mrs. Alyson Sappington of the Thomas Jefferson Soil & Water Conservation District noted that, with an estimated 28,000 SF of surface disturbance, a stormwater management plan should not be necessary. An Erosion & Sediment Control Plan will be necessary; that document is typically prepared in connection with the Major Site Plan submission (which would occur after any County approval of a rezoning request).
- VDH: Mr. Tom Eick of the Nelson County Health Department did not have review comments.
- Nelson County Building Code Official: Mr. David Thompson provided written review comments as follows: “No comments – on the rezoning application. Comment on the submitted site plan by Robin Meyer; the property owner will need to obtain an approved TJSWCD Erosion Sediment Control plan and a Nelson County Erosion & Sediment Control Permit before any site development of the road and parking areas. 9VAC25-840-70 (A) and Code of Virginia §62.1-44.15:55.”

Staff Evaluation and Recommendation(s):

In consideration of the application materials for Conditional Rezoning #2015-02, and in consideration of other pertinent documents, plans, and resources, the Planning & Zoning Director has identified the following primary factors:

- The Comprehensive Plan designation of Nellysford as a “Neighborhood Mixed Use Development Model” indicates that a new retail commercial development would be appropriate in the center of Nellysford.
- The Zoning Map and surrounding land uses currently contain a variety of residential, commercial, retail, service, professional office, and restaurant structures and uses in close proximity to the subject property(s).
- The subject property(s) includes frontage along a stretch of Virginia Route 151 which is a well-known destination for tourism industry activity and related commercial enterprises.
- The applicant team has communicated and demonstrated that their proposed project, if approved, would be done very tastefully and appropriately. They wish to develop a retail project that will enhance Nellysford’s “curb appeal,” and which would have a character and design that fits in with existing successful commercial enterprises in Nellysford and the Rockfish Valley.
- The presence of the 100-year floodplain and the other riparian characteristics of the low-lying river bottom are not conducive to commercial development or other intensive land uses.

Therefore, in consideration of the primary factors identified above, and with particular reliance upon the Comprehensive Plan, the Planning & Zoning Director recommends the following:

- The applicant’s request to rezone Tax Map Parcel #22-A-19 from Residential (R-1) to Business (B-1) be approved; and
- The applicant’s request to rezone Tax Map Parcel #22-A-18 from Residential (R-1) to Business (B-1) be approved. Please note that it is the opinion of the Planning & Zoning Director that a substantial portion of parcel 18 is not suitable for commercial development (such as all of the low-lying portions of the property located behind the slope which begins approximately 400’ from the edge of VDOT ROW, an area which includes the “Special Flood Hazard Area” / 100-year floodplain). Please also note that the portion of Tax Map Parcel #22-A-18 adjacent to Rockfish Valley Highway (including, in particular, all of the relatively flat portion of the property within 345’ of the VDOT ROW) is suitable for commercial development, with respect to the site’s physical characteristics.

PC Review, Public Hearing, and Recommendation(s):

The Planning Commission conducted a properly-advertised public hearing at their July 22nd meeting. The following members of the public provided comments:

Julia Rogers: Stated she is a business owner in Nellysford as well as the president of the Nelson County Chamber of Commerce. She stated the chamber board has been discussing this issue and passed resolution in support of Mountain Sports Retail at 2950 Rockfish Valley Highway; she read the resolution which stated (in part) that “It fits with the Nellysford plan of mixed use development.” She went on to thank the Planning Commission for the assistance provided to Mr. Kober.

Joe Lee McClellan: Owns the shopping center across from street from proposed property as well as a house a few blocks down. Stated this would benefit the community and believed the current building used to provide posters delivered to his father for the theater. This property used to be a retail establishment and should have been zoned for retail when zoning originally began in Nelson County. He then stated that a lot of property in Nelson is incorrectly zoned. He stated the commission is trying to micro-manage a respectable business owner.

Herbert Forest: Stated his mother, who owned parcel #22-A-19, passed away on February 21, 2010. He stated this property has been on the market for the last five years. He then explained the several different businesses that this property has housed over the years. He further stated that his mother would be proud to see it turned into a sporting store, and he would like to see it bring revenue to the community.

After closing the public hearing and further reviewing the applicant’s request:

Commissioner Russell made a motion to approve the application submitted by Mr. Joseph “Sepp” Kober for the conditional re-zoning of Tax Map Parcels #22-A-18 and #22-A-19 from R-1 Residential to B-1 Conditional. The Commission supports the staff report from July 15th and recommends approval by Board of Supervisors to rezone Tax Map Parcels #22-A-18 and #22-A-19 from R-1 Residential to B-1 conditional zoning, which would limit by right uses to:

8-1-2 Retail drugstores, feed and seed stores, food sales and restaurants, wearing apparel shops, auto and home appliance services, banks, barber and beauty shops, hardware stores, offices and personal and professional services. Wholesale and processing activities that would be objectionable because of noise, fumes, or dust are excluded.

8-1-13 Off-street parking as required by this ordinance

8-1-16 Business signs advertising for sale or rent of premises only, up to fifty (50) square feet in total area

8-1-17 Business signs, up to one hundred fifty (150) square feet in total area. One sign less than five (5) feet beyond building.

8-1-18 Directional signs, up to two (2) square feet in total area

8-1-19 Location signs, up to one hundred fifty (150) square feet in total area

Also, the Planning Commission directs the Planning and Zoning Director to assume the lead in the correction of all county records with the correct positioning of these two properties regardless of final disposition of this application.

Also, we recommend the Board of Supervisors look at the current development of the east side of Route 151 as well as the comp plans of future development of the area so that it may consider if a joint commercial entrance for this property and a required front yard setback would enhanced future development in this area.

Commissioner Harman provided the second, and the motion passed on a 5-0 vote with Supervisor Saunders abstaining.

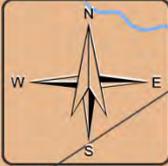
This application is now before the Board of Supervisors for review and action. Specifically, County Administration has properly advertised and scheduled a public hearing for the August 11th BOS meeting.

Please contact me with any questions, concerns, or requests for assistance leading up to the august 11th BOS public hearing for Conditional Rezoning #2015-02. Thank you very much for your time and attention to this application.

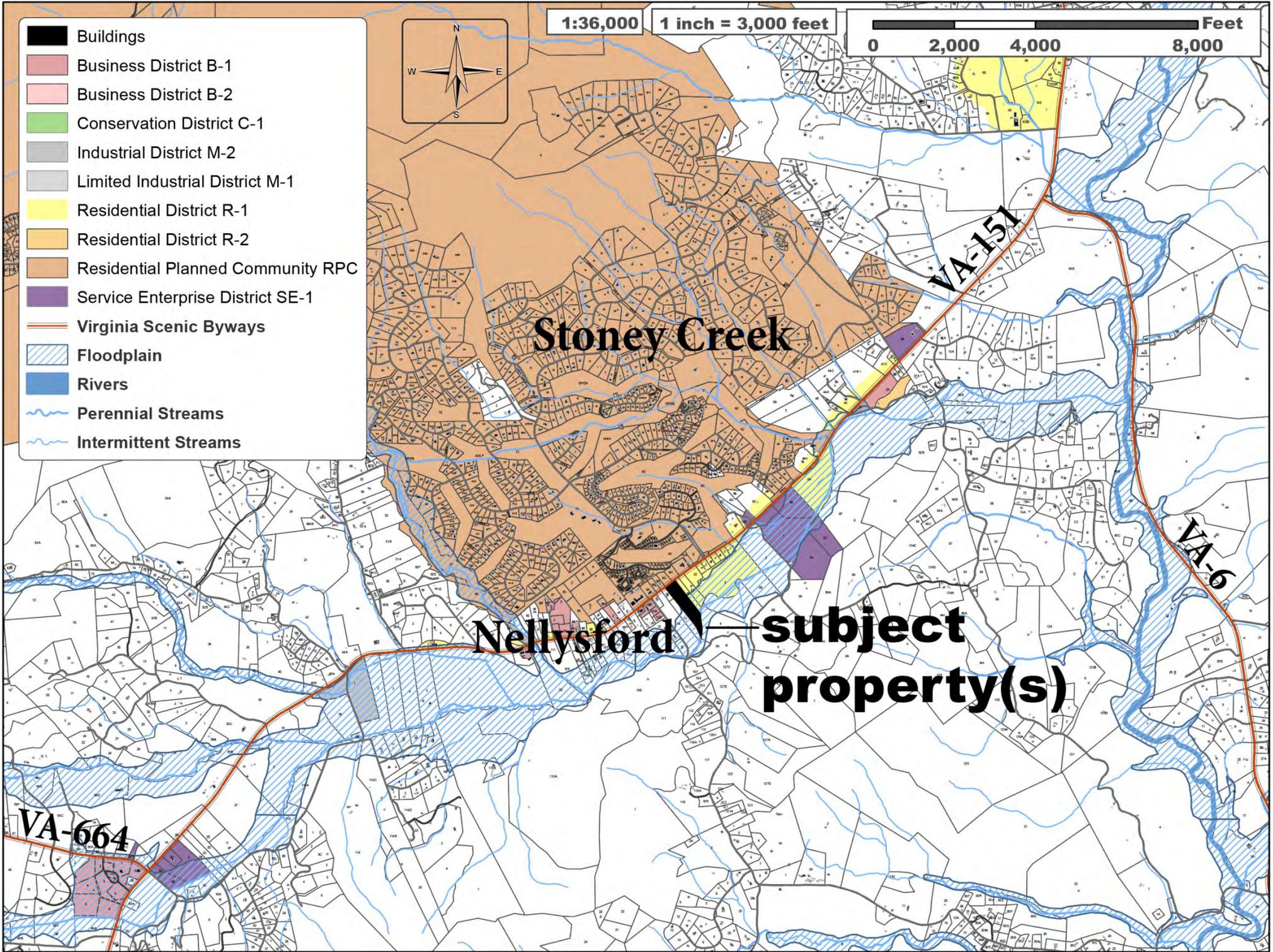
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1 inch = 3,000 feet

0 2,000 4,000 8,000 Feet



- Buildings
- 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
- Virginia Scenic Byways
- Floodplain
- Rivers
- Perennial Streams
- Intermittent Streams



Stoney Creek

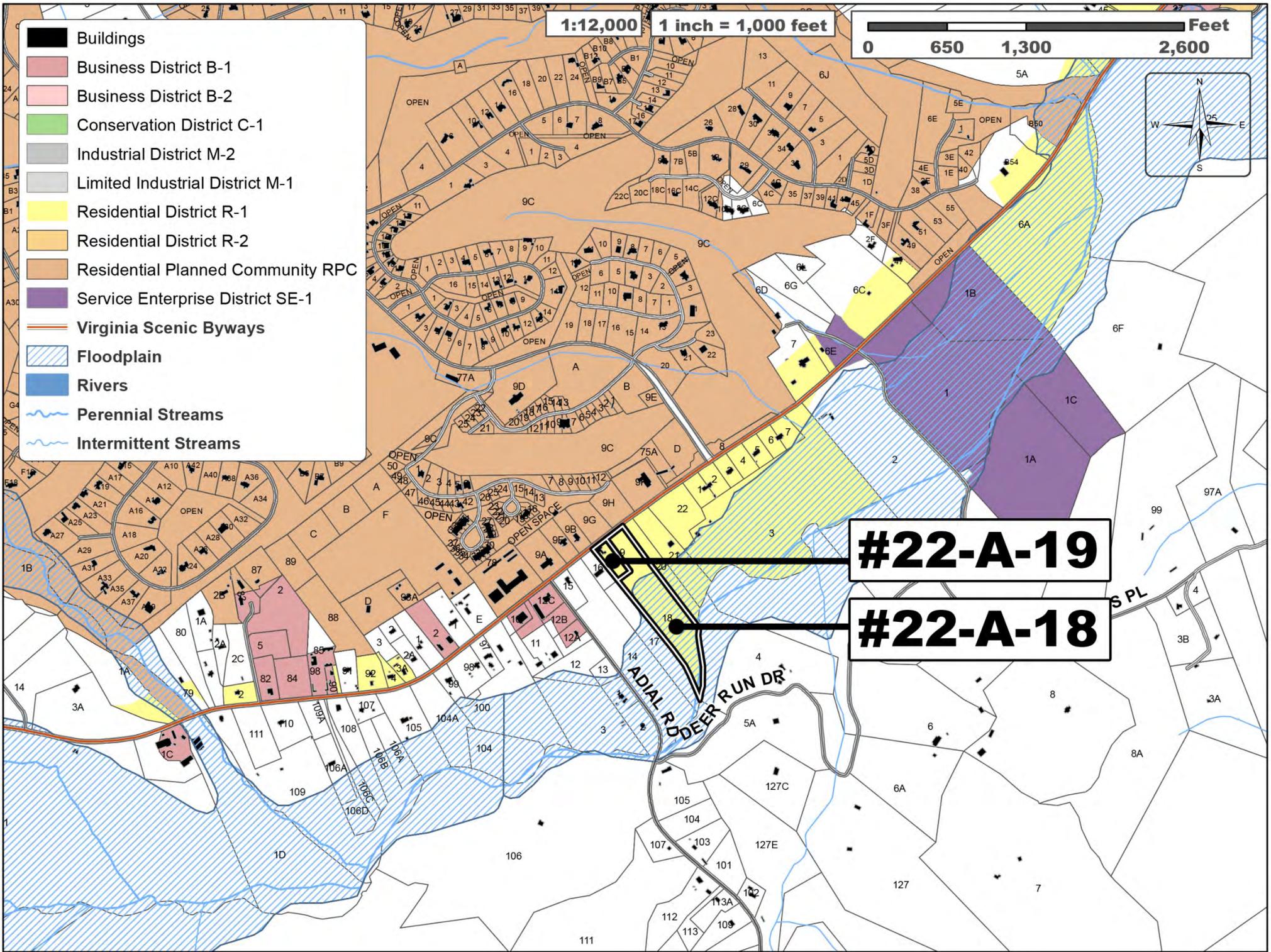
Nellysford

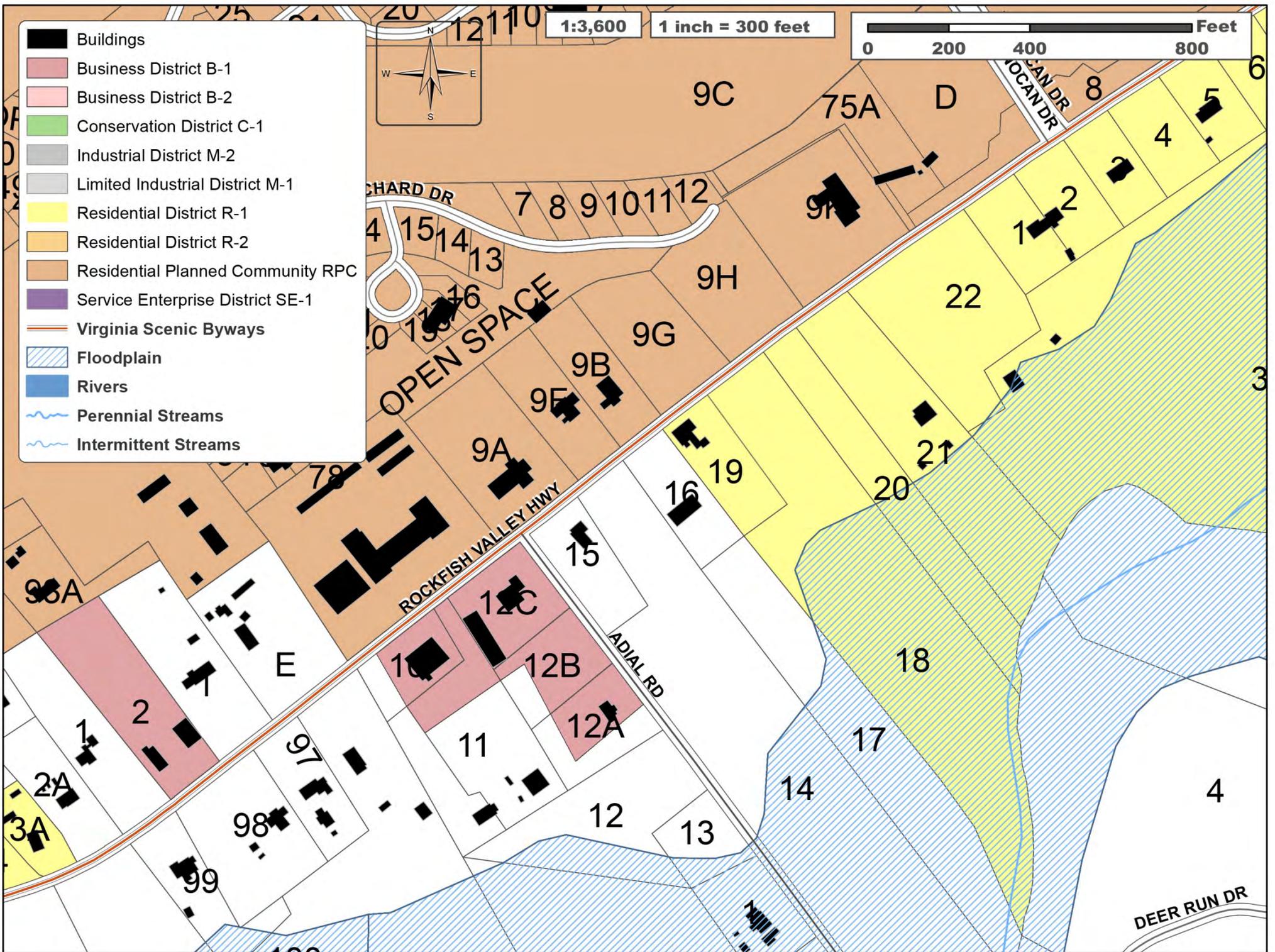
subject property(s)

VA-664

VA-151

VA-6

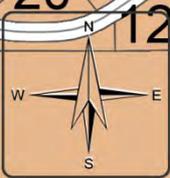




1:3,600

1 inch = 300 feet

0 200 400 800 Feet



- Buildings
- 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
- Virginia Scenic Byways
- Floodplain
- Rivers
- Perennial Streams
- Intermittent Streams

RICHARD DR

OPEN SPACE

ROCKFISH VALLEY HWY

RADIAL RD

OCEAN DR
MOCAN DR

DEER RUN DR

9C

75A

D

9H

9G

9A

9F

9B

15

12C

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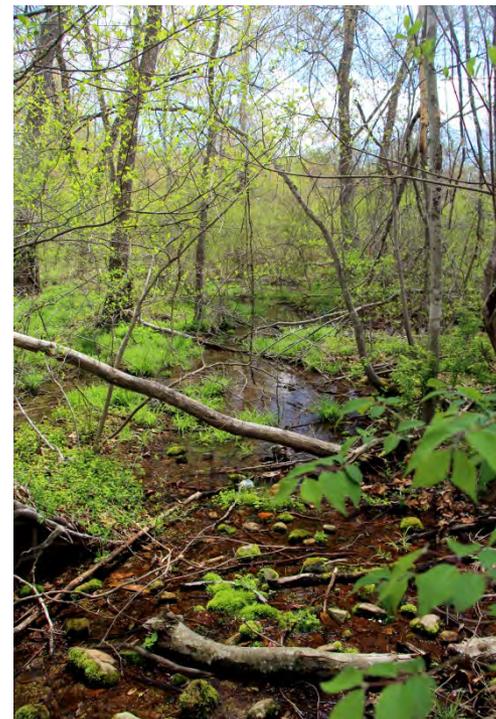
2A

3A





Above: Panoramic photo showing the gradual slope down into the low-lying river bottom area (right) in the rear of the property.
Below: Photos showing the low-lying river bottom features of Parcel 18, between the slope (see above) and the 100-year floodplain.





PERMIT APPLICATION:

Nelson County Department of Planning & Zoning

TO THE ZONING ADMINISTRATOR: Conditional Rezoning # 2015-02
application type application number

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

- | | |
|---|--|
| <input type="checkbox"/> Rezoning from _____ to _____ | <input checked="" type="checkbox"/> Conditional Rezoning from <u>R-1</u> to <u>B-1</u> |
| <input type="checkbox"/> Subdivision – Preliminary | <input type="checkbox"/> Site Plan – Preliminary (optional) |
| <input type="checkbox"/> Subdivision – Final | <input type="checkbox"/> Site Plan – Final |
| <input type="checkbox"/> Major Site Plan | <input type="checkbox"/> Special Use Permit |
| <input type="checkbox"/> Minor Site Plan | <input type="checkbox"/> Other: _____ |

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

Reason(s) for request: This request is being submitted to determine the feasibility of the applicants future intended use, prior to purchase. Applicant has attached a separate document containing the requested uses along with the uses that would be proffered away.

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

2. Applicant(s) and Property Owner(s):

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

Applicant Property Owner Name: Joseph B. "Sepp" Kober

Mailing Address: 1578 Beckoning Ridge Rd • Charlottesville, VA 22901

Telephone # 434.906.0807 E-mail Address: seppkober@icloud.com

Relationship (if applicable): _____

Applicant Property Owner Name: 22-A-18 Claude Malcolm Dodd • 22-A-19 Herbert F. Hughes

Mailing Address: Uncertain

Telephone # _____ E-mail Address: _____

Relationship (if applicable): _____

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

3. Location and Characteristics of Subject Property:

a. Address of property (specific location, route numbers, street names, voting district, etc.):

2950 Rockfish Valley Highway

b. Official tax map number: Tax Map 22-A-19 & Tax Map 22-A-18

c. Acreage of property: Approximately 6.06 acres

d. Present use: Vacant

e. Present zoning classification: R-1

f. Zoning classification of surrounding properties: R-1 • PUD • B-1

4. Names of Adjacent Property Owners:

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

Signature: 

Printed Name: Joseph B. "Sepp" Kober

Signature: _____

Printed Name: _____

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

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

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

***** TO BE COMPLETED BY PLANNING & ZONING STAFF *****

o Completed application and fee (\$ 300.00) received on June 24, 2015

o Hearing Notice published on July 9th + 16th, 2015

o Planning Commission action: Date of Meeting / Hearing: July 22, 2015

Recommendation: _____

o Board of Supervisors action: Date of Hearing: _____ Date of Decision: _____

Action: _____

Nelson County Planning & Zoning Department

(Mailing Address) P.O. Box 558, Lovingson, Virginia 22949 | *(Physical Address)* 80 Front Street, Lovingson, Virginia 22949

(Telephone Number) 434 263-7090 or Toll Free 888 662-9400, selections 4 & 1 | *(Fax Number)* 434 263-7086

<http://www.nelsoncounty-va.gov/departments/planning-zoning/>

The following document is being provided with the Conditional Rezoning Application for the following tax map parcels: 22-A-19 & 22-A-18. It is our hope that the by specifying our requested uses along with our proffered uses, it will allow the Nelson County Planning Commission and the Board Of Supervisors to arrive at an easier decision.

Proffered B-1 Uses

- 8-1-1 Boardinghouse, hotel, motel
- 8-1-3 Fire departments and rescue squad facilities
- 8-1-4 Funeral home/crematorium
- 8-1-5 Gasoline filling stations and/or the servicing and minor repairing of motor vehicles when in an enclosed structure
- 8-1-6 Golf driving ranges and miniature golf courses
- 8-1-7 Public garages, for storage and/or repair of motor vehicles when in an enclosed space
- 8-1-8 Public and semi-public uses, such as churches, church adjunctive graveyards, libraries, museums, schools, hospitals, post offices and recreational facilities
- 8-1-9 Schools of special instruction
- 8-1-10 Veterinarian hospital
- 8-1-11 Waterfront business activities: wholesale and retail marine activities such as boat docks, piers, small boat docks, yacht clubs, and servicing facilities for the same; activities primarily conducted on or about a waterfront. All such uses shall be contiguous to a waterfront.
- 8-1-12 Accessory uses as defined
- 8-1-14 Sale of new and/or used cars
- 8-1-15 Public utilities: lines, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of public utilities, including water and sewerage facilities and water storage tanks
- 8-1-20 Automobile graveyard, class A
- 8-1-21 Flea markets
- 8-1-22 Communication towers subject to Article 20, Communication Tower Ordinance
- 8-1-23 Small wind energy system, per requirements in Article 22 of these regulations
- 8-1-24 Activity center
- 8-1-a Uses—Permitted by Special Use Permit only
- 8-1-1a Additional small wind energy system(s), per requirements in Article 22 of these regulations
- 8-1-2a Borrow pit
- 8-1-3a Commercial amusement parks, theaters, commercial assembly halls, public billiard parlors and pool rooms, bowling alleys, dance halls and similar forms of public amusement
- 8-1-4a Farm winery permanent remote retail establishment
- 8-1-5a Fraternal lodges and community buildings
- 8-1-6a General advertising signs
- 8-1-7a Group homes
- 8-1-8a Hospitals, special care
- 8-1-9a Lattice structure used to support a wind turbine
- 8-1-10a Single family dwelling units, two family dwelling units, and multi-family dwelling units
- 8-1-11a Distillery
- 8-1-12a Brewery

Requested B-1 Uses

- 8-1-2 Retail drugstores, feed and seed stores, food sales and restaurants, wearing apparel shops, auto and home appliance services, banks, barber and beauty shops, hardware stores, offices and personal and professional services. Wholesale and processing activities that would be objectionable because of noise, fumes, or dust are excluded.
- 8-1-13 Off-street parking as required by this ordinance
- 8-1-16 Business signs advertising for sale or rent of premises only, up to fifty (50) square feet in total area
- 8-1-17 Business signs, up to one hundred fifty (150) square feet in total area. One sign less than five (5) feet beyond building.
- 8-1-18 Directional signs, up to two (2) square feet in total area
- 8-1-19 Location signs, up to one hundred fifty (150) square feet in total area

I hereby proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission.


Joseph B. "Sepp" Kober



MOUNTAIN SPORTS
HELLYSFORD, VA
MAY 7, 2015

DEPARTMENT OF
PLANNING & ZONING



PLANNING COMMISSION
BOARD OF ZONING APPEALS

July 6, 2015

Dear Property Owner:

The following petition has been made to the Planning Commission (PC) and the Board of Supervisors (BOS), regarding a tract of land adjacent to or near property you own in Nelson County:

Conditional Rezoning #2015-02 – Mountain Sports Retail Space / Mr. Joseph B. Kober

Consideration of an application to rezone (with conditions) two parcels, consisting of 6.06 acres from Residential (R-1) to Business (B-1) Conditional. The subject properties are identified as Tax Map Parcels #22-A-18 (owned by Claude Malcolm Dodd) and #22-A-19 (owned by Herbert F. Hughes), and are located at 2950 Rockfish Valley Highway in Nellysford.

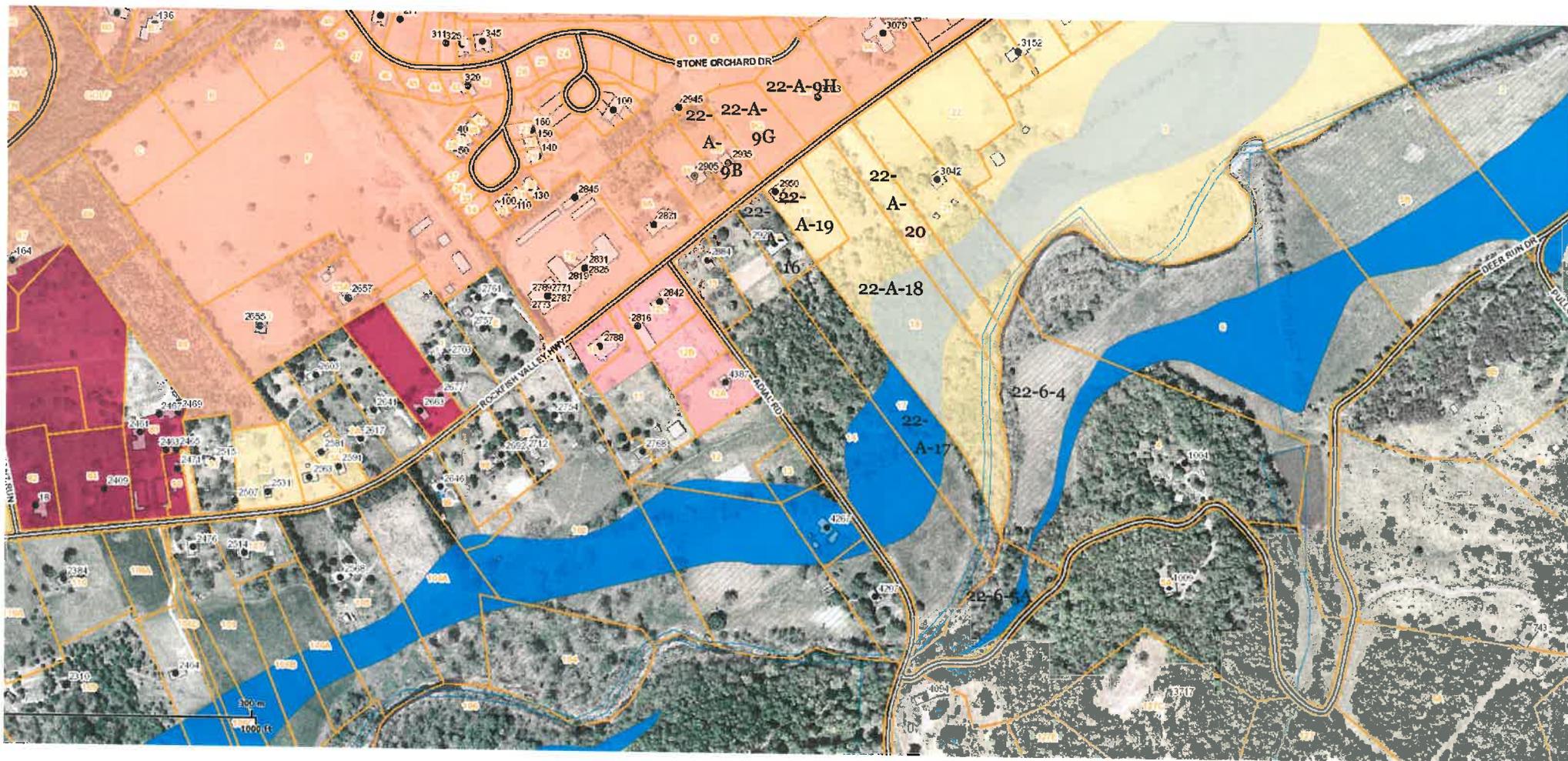
Specifically, the applicant has attached conditions to the application by voluntarily proffering away all potential Business (B-1) land uses, except for the following requested by-right uses, which the applicant would retain as by-right uses if the Conditional Rezoning is approved:

- 8-1-2: "Retail drugstores, feed and seed stores, food sales and restaurants, wearing apparel shops, auto and home appliance services, banks, barber and beauty shops, hardware stores, offices and personal and professional services. Wholesale and processing activities that would be objectionable because of noise, fumes, or dust are excluded."
- 8-1-13: "Off-street parking as required by this ordinance"
- 8-1-16 "Business signs advertising for sale or rent of premises only, up to fifty (50) square feet in total area"
- 8-1-17: "Business signs, up to one hundred fifty (150) square feet in total area. One sign less than five (5) feet beyond building."
- 8-1-18: "Directional signs, up to two (2) square feet in total area"
- 8-1-19: "Location signs, up to one hundred fifty (150) square feet in total area"

This application will be considered at a public hearing conducted by the PC on Wednesday, July 22, 2015 beginning at 7:00 P.M. in the General District Courtroom on the third floor of the County Courthouse, Lovingson. After the PC conducts a public hearing, they may vote to refer the application, with recommendations, to the BOS.

This applications is also scheduled to be considered at a public hearing conducted by the BOS on Tuesday, August 11, 2015 at beginning at 7:00 P.M. in the same location. After the BOS conducts a public hearing, they may take action on the application to approve it, reject it, or approve it with conditions.

(over)



Parcel ID	Parcel Address	Owner Name
22-A-19	2950 ROCKFISH VALLEY HWY	THARPE JUDY H & HUGHES HERBET F
22-A-18		DODD CLAUDE MALCOLM

ADJACENT PROPERTY OWNERS:

22-A-16	2928 ROCKFISH VALLEY HWY	DODD CLAUDE MALCOLM
22-A-20		SMALL MAXINE
22-A-17		DODD LUCY MAY
22-6-5A	1009 DEER RUN DR	RAY SARAH M
22-6-4	1004 DEER RUN DR	SWEENEY CHERYL LOUISE
22-A-9B	2935 ROCKFISH VALLEY HWY	CENTRAL FIDELITY BANK
22-A-9G		STEPHENS JOHN S & GAYLE
22-A-9H	3033 ROCKFISH VALLEY HWY	UNIV OF VA COMMUNITY CREDIT UN



COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION

4219 CAMPBELL AVENUE
LYNCHBURG, VIRGINIA 24501
VDOT.Virginia.gov

CHARLES A. KILPATRICK, P.E.
COMMISSIONER

May 27, 2015

Timothy M. Padalino
Nelson County Planning & Zoning Director
P.O. Box 588
Lovingsston, Virginia 22949

Reference: Nelson County Site Plan Review Committee Meeting April 8, 2015
Rezoning Application #2015-001: (Route 151) Joseph B. Kober / Mountain Sports

Dear Mr. Padalino;

Tim

I am writing in follow up to VDOT's previous comments of April 6, 2015 and April 17, regarding the referenced rezoning request along Route 151 in the community of Nellysford. In response to VDOT's requests for additional information from the applicant to enable our assessment of potential traffic impacts, the applicant's consultant *Perkins & Orrison* presented the attached traffic report dated May 11, 2015. This report states that the anticipated traffic generated by the proposed 8,000 SF sporting goods store does not warrant turn lanes. The report further states that the proposed commercial entrance location exceeds VDOT's minimum sight distance and entrance spacing requirements. It should be noted that the commercial entrance/street intersection spacing requirements provided in the report are incorrect and should specify 470 feet, not 250 feet as the minimum spacing requirement for a full access commercial entrance along a Minor Arterial Highway with a posted 45 MPH speed limit. The reported distance of 725 feet to the closest adjoining commercial entrance/street intersection still exceeds the 470 feet minimum spacing requirement.

In other observations, the rezoning request is for two parcels of land identified as TM#22-A-19 and TM# 22-A-18 for a total area of approximately 6.06 acres. It should be noted that the proposed construction of an 8,000 SF sporting goods store involves only a portion of the developable area; therefore, additional traffic impacts may occur with the continued development of the remaining land. Subsequent traffic studies may be required by VDOT if future expansion, or change in trip generation occurs.

Nelson County should also consider the potential impacts on future commercial access along this section of the Route 151 corridor for the adjoining parcels. VDOT's access management regulations specify the minimum spacing of commercial entrances and street intersections along this section of Route 151 to be

Mr. Timothy M. Padalino
May 27, 2015
Page 2 of 2

470 feet for full access and 250 feet for partial access (such as right in and right out). This would affect the commercial access to the three parcels located to the south (between this property and Adail Road) and the six or so parcels located immediately to the north along the east side of Route 151. In anticipation of continued commercial development of the corridor, we recommend the consideration of requiring a shared "joint" commercial entrance that would serve both this property and the adjoining parcels as well.

Please notify me if you have any questions.

Sincerely,



Jeffery B. Kessler, P.E.

Area Land Use Engineer

(434) 856-8293

JefferyB.Kessler@VDOT.Virginia.gov

Attachments

CC: Matthew D. Clark

Lexington

Wes Perkins, LS
Russ Orrison, PE, LS

Pierson Hotchkiss, LS
Gavin Worley, PE



Lynchburg

Kenneth Knott, LS
Norman Walton, PE

Aaron Dooley, LS

May 11, 2015

Robin Meyer, Architect
7852 Rockfish Valley Highway
Afton, VA 22920

RE: Mountain Sports Retail Store (Access Management)
TM# 22-A-19 and TM# 22-A-18
State Route 151, Rockfish Valley Highway

Dear Mrs. Meyer,

This letter is to address Access Management per VDOT design standards for the proposed Mountain Sports Retail Store entrance on State Route 151 for the purposes of the rezoning of the property.

Intersection Sight Distance

State Route 151 is a two lane, minor arterial roadway with a posted speed limit of 45 MPH per VDOT's 2014 Functional Classification. The required intersection sight distance (left and right) is 500 linear feet. During our site investigation on 5/8/2015, intersection sight distance left measured approximately 1,750 linear feet. Intersection sight distance right was obstructed by several trees on the subject parcel, but would measure approximately 1,150 linear feet with their removal.

Stopping Sight Distance

The required stopping sight distance for a flat roadway with a 45 MPH speed limit is 360 linear feet. With minimal vertical curves and horizontal alignment changes, the stopping sight distances are slightly greater than or equal to the measured intersection sight distances.

Entrance/Intersection Spacing

The minimum spacing between commercial entrances, intersections, and median crossovers for a minor arterial roadway with a posted speed limit of 45 MPH is 250 linear feet. During the site investigation, the nearest entrances/intersections were measured at 725 linear feet to the left and 2,425 linear feet to the right. The commercial entrance on the opposite side of the roadway is offset 82 linear feet to the right to avoid left-turn lock ups and crash-prone traffic movements.

Trip Generation and Turning Lane Warrants

According to Code 861 (Sporting Goods Superstore) of the ITE Trip Generation Manual-8th Edition, the proposed 8,000 square foot sporting goods retail store will generate 25 peak hour trips with 47% entering

17 W. Nelson Street · P.O. Box 1567
Lexington, Virginia 24450

27 Green Hill Drive
Forest, Virginia 24551

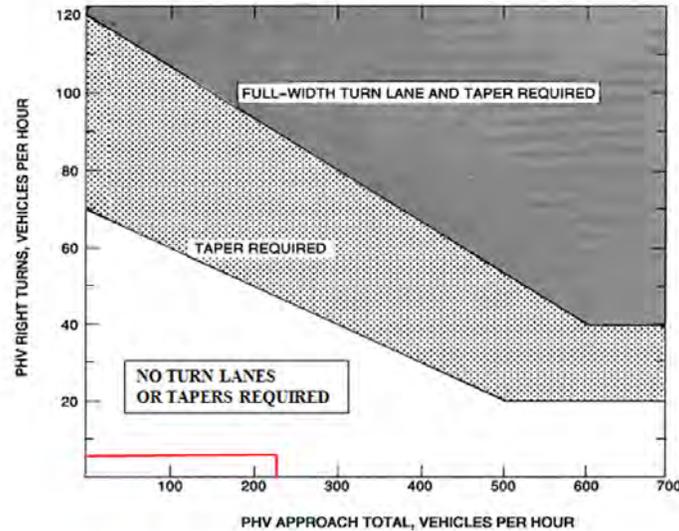
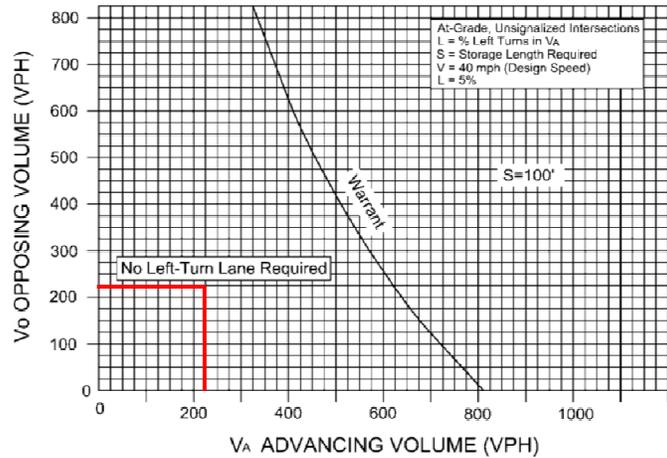
540-464-9001 Fax: 540-464-5009

434-525-5985 Fax: 434-525-5986

Email: pno@perkins-orrison.com

the facility. This equates to 12 peak hour trips entering the facility. Daily trip generation information was not available for this retail land use.

Per the VDOT 2013 Traffic Data, the AADT for State Route 151 between Beach Grove Road and State Route 6 is 4,500 daily trips with a 50/50 directional split and peak hour K-factor of 0.0962. This equates to 433 peak hour trips; 216 opposing and 216 advancing. Based on the information presented above and VDOT design charts below, no left or right turns are warranted for this project.



Per VDOT Access Management design standards, the proposed entrance location is safe and adequate. Should you have any questions or comments regarding this letter, please feel free to contact me.

Sincerely,

Norman B. Walton, Jr., P.E.
Perkins & Orrison, Inc.

J. Scott Stephens

*305 S Front Street
Wilmington, NC 28401
910-251-8607 Home
910-385-7149 Cellular
910-796-1991 Office
910-251-8607 Fax
Rehabservi@AOL.com*

July 29, 2015

Re: Conditional Rezoning #2015-02 Joseph B
Kober

To Whom It May Concern:

I am writing in unsolicited support for the rezoning of property directly across the street from my property on Rt 151 in Nelson County. My wife and I also have a home in the Stoney Creek subdivision of Wintergreen Resort and have been long term property owners in the area. There appears to be no valid reason for opposing this retail development.

Please support the rezoning request with your action.

Yours truly,



J Scott Stephens

ST. RT. 151



TM 22-A-16
CLAUDE M DODD



VICINITY MAP



NOTE:
DIMENSIONS AND LOCATIONS
ARE APPROXIMATE

SITE INFORMATION
ZONING- SITE IS ZONED RESIDENTIAL, REQUESTING COMMERCIAL

AMOUNT OF LAND TO BE DISTURBED:	
BUILDING AND PARKING	18,000
STORM WATER AND SEPTIC	10,000
TOTAL	APPROX: 28,000

NEW OWNER:
ADRENALINE SPORTS
578 BECKONING RIDGE ROAD
CHARLOTTESVILLE, VA 22901

SIGNATURES:
 PLANNING AND ZONING _____
 VIRGINIA DEPARTMENT OF TRANSPORTATION _____
 VIRGINIA DEPARTMENT OF HEALTH _____
 THOMAS JEFFERSON SOIL AND WATER CONSERVATION DISTRICT _____
 NELSON COUNTY SERVICE AUTHORITY _____

TM 22-A-18
5 ACRES

SITE PLAN

SCALE: 1"=20'

MOUNTAIN SPORTS RETAIL SPACE

TM 22-A-19 AND TM 22-A-18
STATE ROUTE 151, ROCKFISH VALLEY HWY.
NELSON COUNTY, VIRGINIA

ROBIN L. MEYER, ARCHITECT
WINTERGREEN AND CHARLOTTESVILLE, VA

DATE:
MARCH 24, 2015

SHEET
1
2



SITE PLAN



MOUNTAIN SPORTS RETAIL SPACE
TM 22-A-19 AND TM 22-A-18
STATE ROUTE 151, ROCKFISH VALLEY HWY.

ROBIN L. MEYER, ARCHITECT
WINTERGREEN AND CHARLOTTESVILLE, VA

March 25, 2015

J. Scott Stephens

*305 S Front Street
Wilmington, NC 28401
910-251-8607 Home
910-385-7149 Cellular
910-796-1991 Office
910-251-8607 Fax
Rehabservi@AOL.com*

July 29, 2015

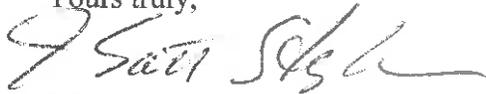
Re: Conditional Rezoning #2015-02 Joseph B
Kober

To Whom It May Concern:

I am writing in unsolicited support for the rezoning of property directly across the street from my property on Rt 151 in Nelson County. My wife and I also have a home in the Stoney Creek subdivision of Wintergreen Resort and have been long term property owners in the area. There appears to be no valid reason for opposing this retail development.

Please support the rezoning request with your action.

Yours truly,



J Scott Stephens

DEPARTMENT OF
PLANNING & ZONING



PLANNING COMMISSION
BOARD OF ZONING APPEALS

To: Chair and Members, Nelson County Board of Supervisors

From: Tim Padalino | Planning & Zoning Director

Date: August 5, 2015

Subject: Public Hearing for Zoning Ordinance amendments regarding “Brewery” and “Limited Farm Brewery” (BOS Resolution R2015-51)

Issue Review:

The Department of Planning & Zoning has recently coordinated with the Department of Economic Development & Tourism in assisting an existing Nelson County business (“Barefoot Bucha”) with their efforts to relocate and expand their operations to a new location in Nelson County.

The existing business currently brews a non-alcoholic beverage called “kombucha,” which is essentially fermented tea infused with natural flavors such as berries, herbs, etc. *(Please see the attached summary provided by the existing business.)*

This existing operation is currently permitted as a Home Occupation. Barefoot Bucha’s proposed new facility would not be eligible as a home occupation, as the new facility would not be located at their residence.

Additionally, even though this existing business is a brewery, the proposed new facility is not eligible under the recently-adopted “limited farm brewery” land use, which is provided as a by-right use in the Agricultural (A-1) District. The issue primarily involves the extremely narrow and limiting definition of “brewery,” which is:

Brewery: A facility for the production of beer.

The existing business does not brew beer; as noted above, they brew kombucha. Otherwise, they would be eligible to relocate and expand under the “limited farm brewery” land use, as it meets the following requirements to be defined as a limited farm brewery:

- The proposed new facility would be located in the Agricultural (A-1) District;
- They would brew less than 15,000 barrels per year; and
- They would produce agricultural products on premises at the proposed new facility. The co-owners have submitted in writing their calculations that they produce approximately 30% - 90% of their total ingredients on site, depending on whether or not “water” is

considered an eligible ingredient for the purposes of calculating the proportion of on-site agricultural operations or products.

Accordingly, in order to assist this existing Nelson County brewing operation in relocating to an expansion site in Nelson County, the proposed text amendments would broaden the definition of “brewery” and “limited farm brewery” to accommodate the production of brewed beverages other than just beer.

Issue History & Previous Actions:

On June 9th, 2015, the Nelson County Board of Supervisors (BOS) approved Resolution R2015-51, which referred proposed Zoning Ordinance (Z.O.) amendments to the Planning Commission (PC) for review and recommendation.

On June 24th, the PC received these referred amendments, reviewed the text amendments, identified potential modifications that would (in the Commission’s opinion) improve the clarity of the referred amendments, and authorized staff to advertise for the (modified) referred amendments to be reviewed at a public hearing at the July 22nd PC meeting.

On July 22nd, the PC conducted a properly-advertised public hearing; Mr. Ethan Zuckerman of Afton (and co-owner of Barefoot Bucha) spoke in favor of the proposed ordinance amendments, noting they would be beneficial to his enterprise. After closing the hearing:

Commissioner Russell made the motion for R2015-51 from BOS, and having advertised and conducted a public hearing on July 22, 2015 in accordance to the Code of Virginia, recommends the approval of change to the definition of Brewery and Farm Brewery, Limited in Article 2 of the Nelson County Zoning Ordinance which would read as follows:

Brewery: A facility for the production of brewed beverages, including beer or other fermented beverages.

Farm Brewery, Limited: A brewery that manufactures no more than 15,000 barrels of brewed beverages per calendar year, provided that (i) the brewery is located on a farm owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its brewed beverages are grown on the farm. The on-premises sale, tasting, or consumption of brewed beverages during regular business hours within the normal course of business of such licensed brewery, the direct sale and shipment of brewed beverages to licensed wholesalers and out-of-state purchasers in accordance with law, the storage and warehousing of brewed beverages, and the sale of limited farm brewery-related items that are incidental to the sale of brewed beverages are permitted.

Commissioner Harmon provided the second. The vote was unanimous, 6-0 to recommend these changes to the Board of Supervisors.

See below for the exact proposed amendments as contained in R2015-51 ([red](#)) and as modified by the Planning Commission ([blue](#)), for the proposed amendments to Article 2: “Brewery” and “Limited Farm Brewery” definitions.

Proposed Zoning Ordinance Text Amendments:

Brewery: A facility for the production of [brewed beverages, including](#) beer [or other fermented beverages](#).

Farm Brewery, Limited: A brewery that manufactures no more than 15,000 barrels of beer [brewed beverages](#) per calendar year, provided that (i) the brewery is located on a farm owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer [brewed beverages](#) are grown on the farm. The on-premises sale, tasting, or consumption of beer [brewed beverages](#) during regular business hours within the normal course of business of such licensed brewery, the direct sale and shipment of beer [brewed beverages](#) and the sale and shipment of beer [brewed beverages](#) to licensed wholesalers and out-of-state purchasers in accordance with law, the storage and warehousing of beer [brewed beverages](#), and the sale of beer [limited farm brewery](#)-related items that are incidental to the sale of beer [brewed beverages](#) are permitted.

Issue Summary & Next Steps:

The Board of Supervisors may proceed with conducting a public hearing and taking action on these proposed amendments according to their discretion. The public hearing for these proposed amendments has been properly advertised in the Nelson County Times by County Administration, and is scheduled to be conducted at the August 11th meeting.

Thank you for your attention to these proposed Zoning Ordinance amendments; and please contact me with any questions you may have regarding the information contained in this report.

Kombucha Brewing: A Case for Broadening the Definition of a Limited Farm Brewery

"I have worked with Ethan and Kate on a brew collaboration and have seen first hand the kombucha brewing process at Barefoot Bucha. It is really interesting to me how similar kombucha brewing is to brewing beer. Just like we do when making beer, kombucha brewers take a sweet liquid, ferment it with yeast and bacteria, carbonate, bottle and keg. It is truly a brewed beverage". - Matt Nucci, Brewer and Co-Owner of Blue Mountain Brewery

Definition of a Brewery:

- Brewing is defined as, "the preparation of a fermented beverage by a process of steeping, boiling, and fermentation."
- Kombucha is a fermented tea.
- Businesses that make kombucha are typically referred to as breweries.
- Some kombucha contains alcohol. Nelson County company Barefoot Bucha produces a nonalcoholic beverage.

Equipment: *Beer and kombucha brewing require nearly identical equipment. (See attached equipment images.)*

- Kettles for steeping the ingredients
- Fermenters for first stage fermentation
- Bright tanks for clarification and carbonation
- Kegs or bottles for sending the fermented beverage to market

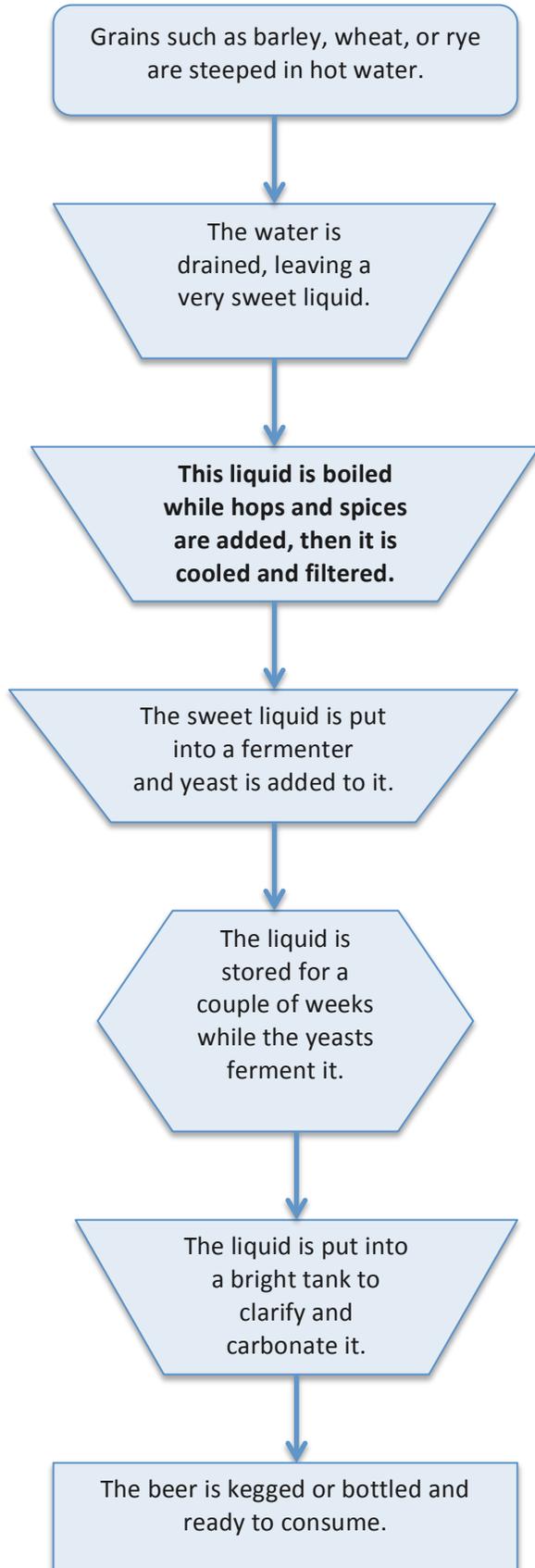
Process: *Beer and kombucha brewing is a nearly identical process. (See attached detailed Comparison Flowchart.)*

- Steep ingredients and create a very sweet liquid
- Ferment this liquid using yeast and/or bacteria
- Clarify and carbonate the fermented liquid
- Keg and/or bottle the finished product and send it to market

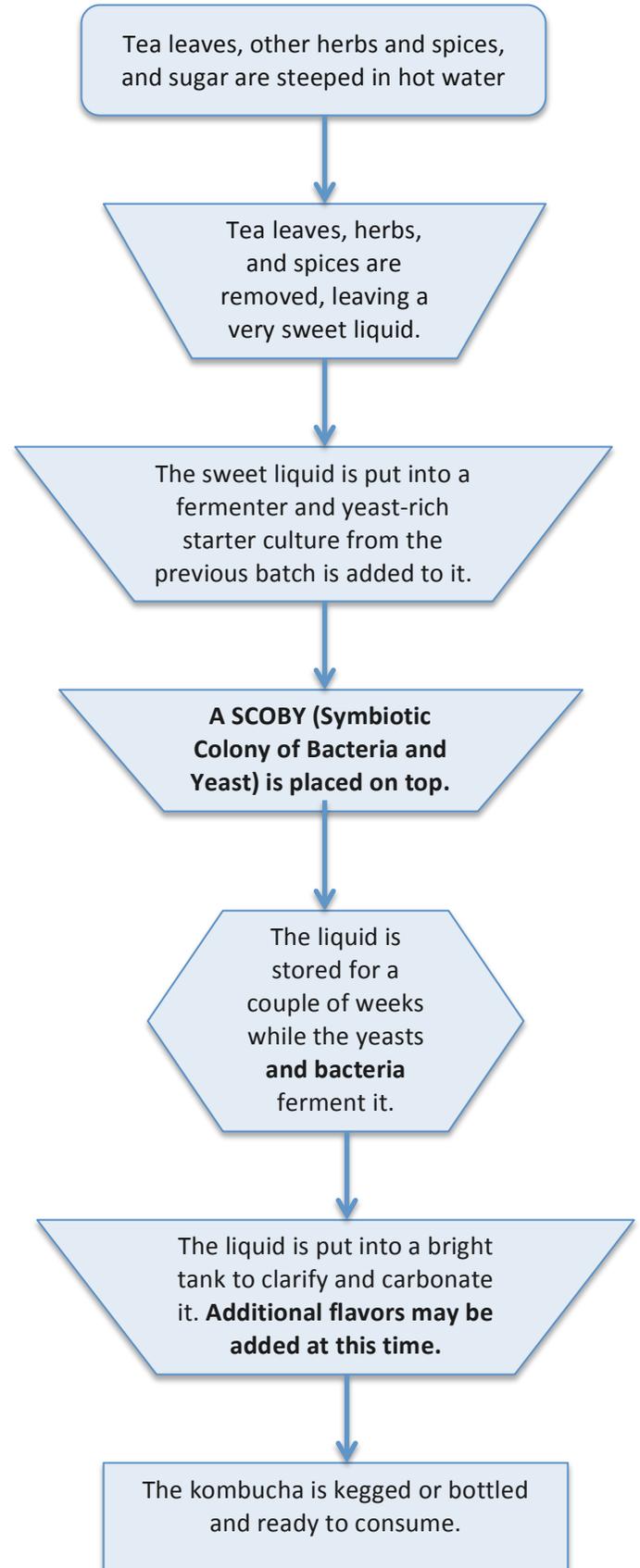
There are other traditional fermented beverages, both alcoholic and nonalcoholic, that are not currently included in the definition of limited farm brewery: mead, kvass, fez, and others.

A COMPARISON FLOWCHART OF BEER AND KOMBUCHA BREWING

Beer Brewing Process:



Kombucha Brewing Process:



Note: Bolded text above indicates areas where the two brewing processes differ.

PUBLIC HEARING NOTICE
NELSON COUNTY BOARD OF SUPERVISORS
CONDITIONAL REZONING #2015-02 KOBER/MOUNTAIN SPORTS &
ZONING ORDINANCE AMENDMENT – DEFINITION OF “BREWERY” &
“LIMITED FARM BREWERY”

In accordance with Volume 3A, Title 15.2, Counties, Cities and Towns, of the Code of Virginia, 1950, as amended, the Nelson County Board of Supervisors hereby gives notice that a Public Hearing will start at **7:00 p.m., Tuesday, August 11^h** in the **General District Courtroom** on the third floor of the Nelson County Courthouse located at 84 Courthouse Square, Lovingston. The purpose of said public hearings is to receive public input on an Ordinance proposed for passage and a Conditional Rezoning Application as follows:

1. Conditional Rezoning #2015-02 – Mountain Sports Retail Space / Mr. Joseph B. Kober

Consideration of an application to rezone (with conditions) two parcels, consisting of 6.06 total acres, from Residential (R-1) to Business (B-1) Conditional. The subject properties are identified as Tax Map Parcels #22-A-18 (owned by Herbert F. Hughes) and #22-A-19 (owned by Claude Malcolm Dodd), and are located at 2950 Rockfish Valley Highway in Nellysford. Specifically, the applicant wishes to rezone (with conditions) the properties to construct an 8,000 square foot “retail store” and accompanying parking lot on the subject properties.

The applicant has attached conditions to the application by voluntarily proffering away all potential Business (B-1) land uses, except for the following requested by-right uses, which the applicant would retain as by-right uses if the Conditional Rezoning is approved:

8-1-2: “Retail drugstores, feed and seed stores, food sales and restaurants, wearing apparel shops, auto and home appliance services, banks, barber and beauty shops, hardware stores, offices and personal and professional services. Wholesale and processing activities that would be objectionable because of noise, fumes, or dust are excluded.”

8-1-13: “Off-street parking as required by this ordinance”

8-1-16 “Business signs advertising for sale or rent of premises only, up to fifty (50) square feet in total area”

8-1-17: “Business signs, up to one hundred fifty (150) square feet in total area. One sign less than five (5) feet beyond building.”

8-1-18: “Directional signs, up to two (2) square feet in total area”

8-1-19: “Location signs, up to one hundred fifty (150) square feet in total area”

2. Consideration of Proposed Amendments to Zoning Ordinance – Definitions “Brewery” & “Limited Farm Brewery”

Consideration of proposed amendments to the Nelson County Zoning Ordinance as originally referred to the Planning Commission (PC) by Board of Supervisors (BOS) Resolution R2015-51 at the June 9th BOS meeting, inclusive of proposed modifications requested by the PC at their June 24th meeting, and as shown in a staff report dated June 26th. The proposed amendments contain a revised definition for “brewery” and “limited farm brewery” which would provide for the production of beer as well as additional types of brewed beverages.

Affected Sections of the Zoning Ordinance include: Article 2 – Definitions

Copies of the above files are available for review in the Dept. of Planning & Zoning office, 80 Front Street, Lovington, Virginia, Monday through Friday, 9:00 a.m. to 5:00 p.m. or for more information call the Dept. of Planning & Zoning, (434) 263-7090, or toll free at 888-662-9400, selections 4 and 1.



BOARD OF
SUPERVISORS

THOMAS D. HARVEY
North District

LARRY D. SAUNDERS
South District

ALLEN M. HALE
East District

THOMAS H. BRUGUIERE, JR.
West District

CONSTANCE BRENNAN
Central District

STEPHEN A. CARTER
County Administrator

CANDICE W. MCGARRY
Administrative Assistant/
Deputy Clerk

DEBRA K. MCANN
Director of Finance and
Human Resources

**RESOLUTION R2015-51
NELSON COUNTY BOARD OF SUPERVISORS
REFERRAL OF AMENDMENTS TO APPENDIX A, NELSON COUNTY
ZONING ORDINANCE-DEFINITIONS OF "BREWERY" & "FARM BREWERY,
LIMITED" TO THE NELSON COUNTY PLANNING COMMISSION**

WHEREAS, the Nelson County Board of Supervisors (the Board) has received and reviewed in public session conducted on June 9, 2015, a staff report on changes proposed to Appendix A-Zoning (Nelson County Zoning Ordinance) of the Code of the County of Nelson, Virginia; and,

WHEREAS, the staff report proposed changes to the Zoning Ordinance in order to revise the definitions of "Brewery" and "Farm Brewery, Limited";

NOW, THEREFORE, BE IT RESOLVED by the Nelson County Board of Supervisors, pursuant to the applicable provisions of Title 15.2 Chapter 22, Planning, Subdivision of Land and Zoning of the Code of Virginia, 1950 with specific reference to §15.2-2285 of said Code, that the proposed amendments to the Code of Nelson County to revise the definitions of "Brewery" and "Farm Brewery, Limited" be referred to the Nelson County Planning Commission for review and development of a report on the Commission's findings and recommendations to the Board, in accordance with §15.2-2285 of the Code of Virginia.

Approved: June 9, 2015

Attest: Stephen A. Carter, 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
 From: Tim Padalino | Director | Department of Planning & Zoning
 Date: July 10, 2015
 Subject: Public Hearing for SUP #2015-03 (“Dance Hall”) – Mr. Jose & Mrs. Elpidia Gaona

Application Summary

<u>Site Address / Location:</u>	37 Tanbark Plaza / Lovingson / East District
<u>Tax Parcel(s):</u>	#58-A-36 and #58-A-37 ... (see maps on pages 4-6)
<u>Parcel Size:</u>	1.26 acres (total)
<u>Zoning:</u>	Business (B-1)
<u>Applicant:</u>	Mr. Jose Gaona and Mrs. Elpidia Gaona
<u>Request:</u>	Approval of Special Use Permit #2015-03 / application made pursuant to §8-1-3A in connection with recently-approved Minor Site Plan #2015-03
<u>Planning Commission:</u>	Recommendation for <u>approval</u> of SUP #2015-03 (with recommended conditions; see page 3)
<ul style="list-style-type: none"> • <i>Completed Application Received On:</i> April 24th, 2015 • Mr. Edgar Gaona, representative for (and son of) the applicants, has noted that the SUP application is seeking County approval to operate a “dance hall” on Friday nights and Saturday nights, remaining in operation until 2:00AM the following morning(s). • The requested dance hall would be co-located with “La Michoacana Authentic Mexican Taqueria & Restaurant” (which is a permissible by-right use, and which received County zoning approval via Minor Site Plan #2015-03 on May 27th, 2015) • The application includes documented permission from the property owners: Mr. Joe Lee McLellan signed the affidavit on the application. 	

Subject Property Location, Characteristics, and Other Information:

The subject property is located at the intersection of Main Street and Thomas Nelson Highway. The subject property(s) also fronts along a small private road (Tanbark Plaza). The subject property(s), comprising a total of 1.26-acres, are located in the Business (B-1) zoning district. The existing building was formerly a grocery store and is currently vacant. *Please see maps on pages 4-6.*

Site Plan Review Committee Meeting and Comments:

Please note that the Planning Commission approved Minor Site Plan #2015-03 for the proposed redevelopment of the existing vacant structure, for use as a restaurant. Minor Site Plan #2015-03 was also re-submitted with this Special Use Permit application, in order to satisfy the application requirement contained in §12-3-4-c-1. Since this proposed dance hall would be located within the same structure depicted on the approved Major Site Plan #2015-03, and since the dance hall would simply utilize the space currently designated as a “private dining area,” the approved site plan was determined to be acceptable for this application and did not go through the Site Plan Review Committee process a second time.

However, a summary of the original review comments from the May 13th Site Plan Review Committee meeting are included for your reference, in Appendix A. Full-size copies of the (approved) Minor Site Plan are available for review in the Planning & Zoning office.

Remarks from Staff:

The following are the review comments and recommendations of the Planning & Zoning Director, as presented to the Planning Commission at their public hearing for this application.

Per Zoning Ordinance Article 12, Section 3-2, the following criteria must be evaluated when reviewing a request for a Special Use Permit:

- A. The use shall not tend to change the character and established pattern of development of the area or community in which it proposes to locate;
- B. The use shall be in harmony with the uses permitted by right in the zoning district and shall not affect adversely the use of neighboring property;
- C. The proposed use shall be adequately served by essential public or private services such as streets, drainage facilities, fire protection and public or private water and sewer facilities; and
- D. The proposed use shall not result in the destruction, loss or damage of any feature determined to be of significant ecological, scenic or historic importance.

The opinion of Staff is that the proposed “Dance Hall” use, as proposed in the application materials for SUP #2015-03 and as depicted on Minor Site Plan #2015-03, seems to be satisfactory relative to evaluation criteria C and D. However, the proposed use appears to be questionable with respect to evaluation criteria A (“shall not change the community character”) and evaluation criteria B (“shall be in harmony with by-right uses and shall not affect adversely the use of neighboring property”).

Specifically, the applicant has requested County approval to operate the proposed “dance hall” on Friday nights and Saturday nights, remaining in operation until 2:00AM the following morning(s). This particular proposed “dance hall” use, combined with the proposed pattern of operations, could:

- Potentially alter the character of the village of Lovington; and/or
- Potentially be unharmonious with proximal by-right uses (including the multi-family dwelling units in the Residential (R-2) zoning district); and/or
- Potentially affect adversely the use of neighboring properties, including residential district properties.

Because downtown Lovington – which is officially designated as a Historic District – is relatively quiet in the evenings and at night, and because the village of Lovington is substantially residential in nature, the County must give careful attention to operational issues (and potential public nuisances) related to project details such as the noise from amplified music, increased vehicular traffic, and increased social / recreational activities during late night hours (and/or early morning hours) within the village of Lovington.

With respect to those concerns associated with the evaluation criteria, and with respect to the details of the “dance hall” proposal as provided by the applicant, Staff cannot recommend a straight approval of SUP #2015-03. Instead, staff recommends approval for the “dance hall” special use with some combination of the following conditions, subject to the Board of Supervisors’ review and determination:

- Approval is conditional upon the applicant documenting a strategy for ensuring that the Nelson County Noise Control Ordinance is complied with, that the Nelson County Sheriff’s Office reviews and endorses said strategy, and that such strategy for compliance is implemented and maintained;
- Approval is conditional upon Dance Hall operations being permitted no later than 11:00PM on any night of operation;
- Approval is conditional for 18 months from the issuance of a Certificate of Occupancy, at which time the SUP will be reviewed at public hearing in order for the Board of Supervisors to determine if the SUP will continue or be revoked (pursuant to §12-3-8).

Planning Commission Review and Public Hearing:

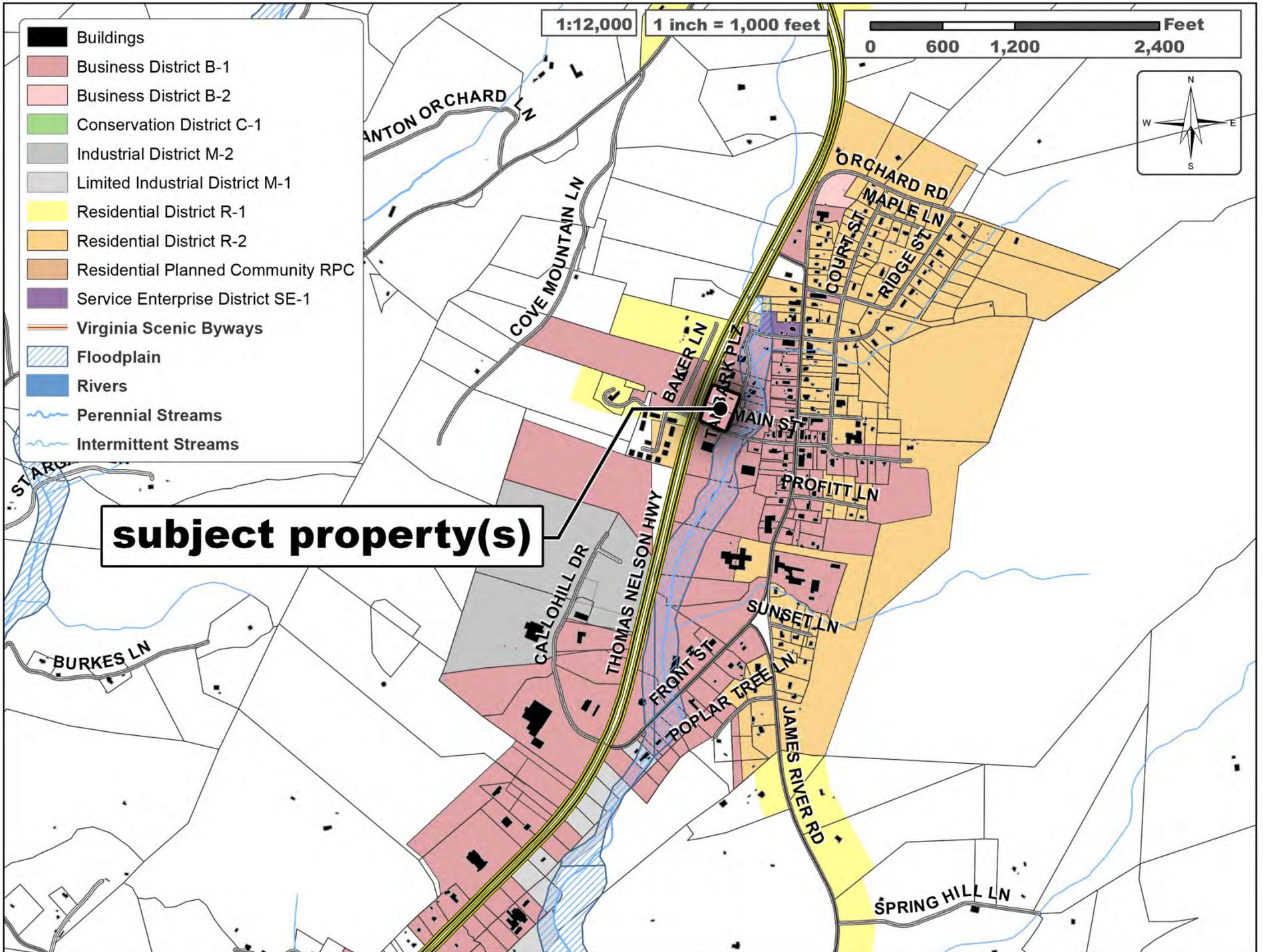
On June 24th, the Planning Commission conducted a review and public hearing for this SUP application. Members of the public spoke in favor of the application, while also acknowledging and discussing the potential concerns associated with a dance hall. Please reference the meeting minutes for detailed information regarding public comments made at the public hearing.

After closing the public hearing, the Planning Commission spent time deliberating whether or not to recommend conditions, such as limiting the dance hall to only one night per weekend instead of two, or limiting the hours of operation to 11:00 PM or 12:00 midnight (instead of 2:00 AM as proposed). After not reaching any consensus on those issues of discussion, the PC passed the following motion:

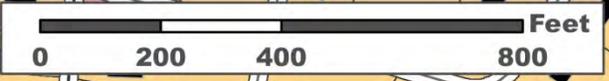
Commissioner Goad moves that the Planning Commission recommend approval to Special Use application #2015-03 “Dance Hall” by Mr. Jose and Mrs. Elpidia Gaona, and impose the conditions that were included in the application, along with the condition that the Special Use Permit be specific to the Gaona’s lease at the business. Commissioner Harman provided a second; the vote 3-0 with Mr. Saunders abstaining.

Please note: The language in the motion about “conditions that were included in the application” refers to the operational details provided in Note 8 on the Minor Site Plan, which state that the dance hall would be in operation on Friday and Saturday nights, remaining in operation until 2:00 AM the following mornings.

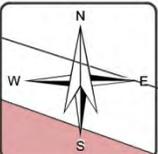
In conclusion, please contact me with any questions, concerns, or requests for assistance leading up to the July 14th Board of Supervisors public hearing for Special Use Permit #2015-03 for “Dance Hall.” Thank you very much for your time and attention to this application.



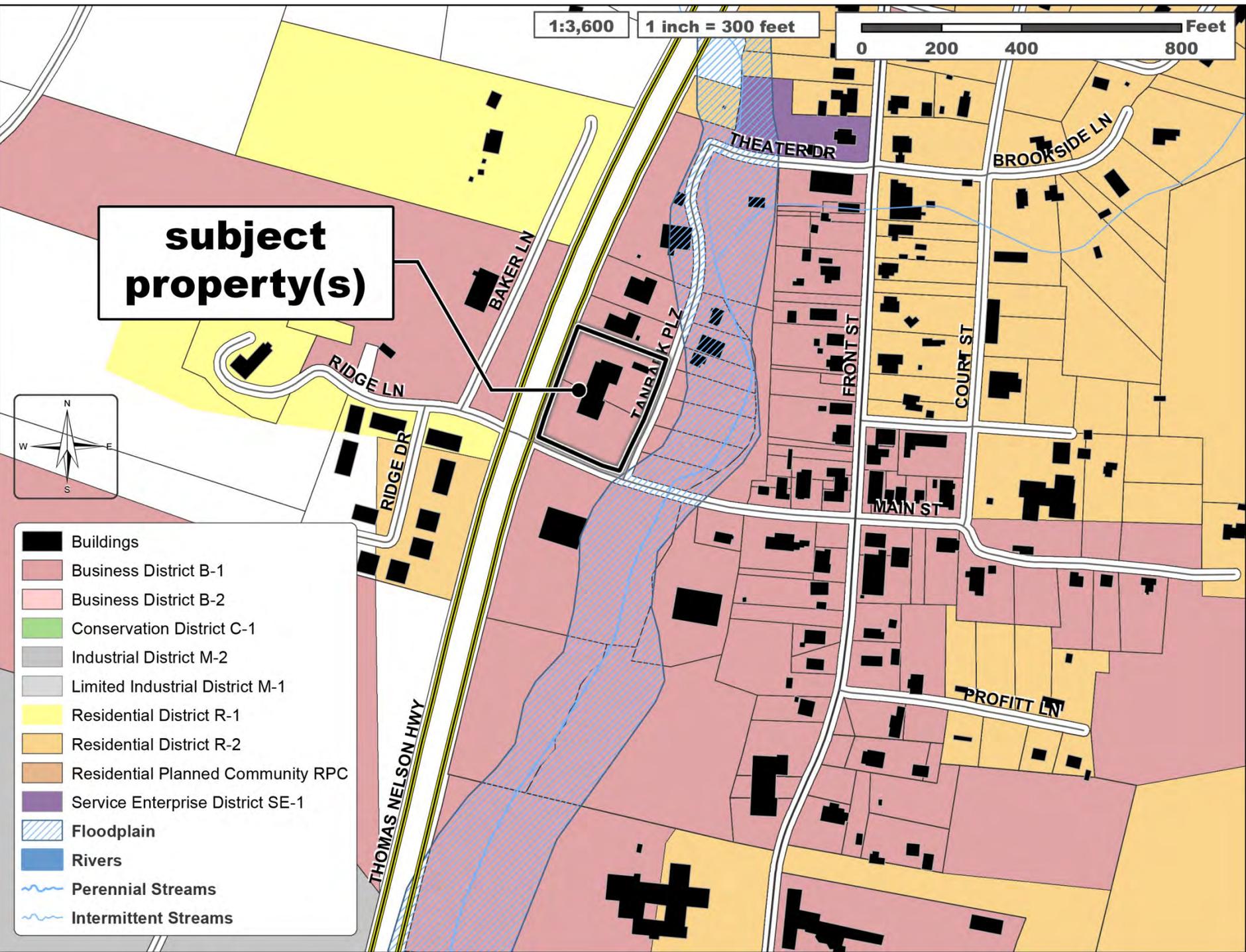
1:3,600 1 inch = 300 feet



subject property(s)



-  Buildings
-  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
-  Intermittent Streams





Appendix A:

Summary of review comments from the May 13th Site Plan Review Committee meeting

- **Director of Planning & Zoning:**

- The Minor Site Plan is being reviewed for a proposed restaurant, which is a permissible by-right use. However, an approved site plan is required for a by-right land use in the Business District per §8-5 and §13-1-1.
- The proposed renovation and reuse would include 3,150 SF of restaurant area; 1,080 SF of food prep area; and 2,260 SF of private dining area as an accessory to the restaurant use.
 - **Note:** The 2,260 SF private dining area would eventually be utilized as a dance hall, pending County review of Special Use Permit #2015-03.
- 48 parking spaces, including dedicated handicap parking spaces, would be available. There are no minimum parking requirements per §12-7-3.
- There is “minimal land disturbance” proposed for the installation of a dumpster and solid fence beside the existing greenhouse. *Please see Notes 9, 10, and 11 on the site plan.*
- Details for exterior lighting and signage include the following:
 - The existing sign structure in the western corner of the property will be reused for a new “La Michoacana” sign.
 - The existing “SUPERMARKET” sign on the end of the building (facing Main Street) will be removed and eventually replaced by lettering for “La Michoacana.”
 - An additional 24 SF sign is proposed over the entrance to the restaurant near the northern end of the building.
 - The existing light poles will be reused and outfitted with LED light fixtures. One existing pole will be moved slightly to avoid conflict with an existing canopy tree; it will also be outfitted with an LED light fixture.
 - Two new light poles with LED lighting fixtures are proposed in the parking lot along the frontage of Main Street.
 - Several LED light fixtures are proposed for the existing building, some of which would replace existing lights that are inefficient and which currently cast glare out from the building.

- **VDOT:** Mr. Jeff Kessler had extremely brief review comments, and did not have any requirements or requests regarding the proposed use.

- **TJSWCD:** Mrs. Alyson Sappington of the Thomas Jefferson Soil & Water Conservation District did not attend the meeting and did not provide review comments, as no new development or surface disturbance was being proposed at the time of her original review.

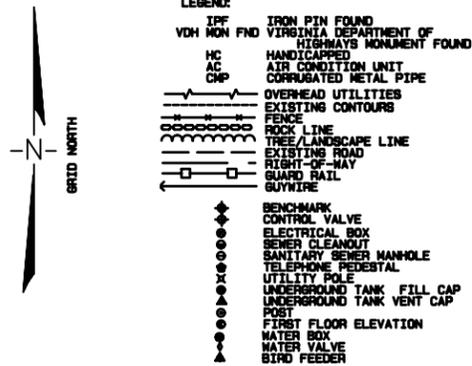
- **Update:** The installation of a dumpster and solid fence beside the existing greenhouse would require “minimal land disturbance.” *Please see Note 11 on the site plan.*

- **VDH:** Mr. Tom Eick of the Nelson County Health Department noted that a food license permit would need to be obtained, and the pertinent applications were provided to Mr. Edgar Gaona during the meeting. Mr. Eick noted that VDH has no required minimum number of commodes, but hand sink requirements will need to be met.

- **Nelson County Service Authority:** Mr. George Miller noted the following:

- The existing 4” gravity sewer line would be adequate.

- The existing 1” water meter for this business would probably not be a problem, either – but it ultimately depends on the floor plan and building uses, regarding the “fixture count” of total number of sinks, commodes, etc.
 - A cross-connection and back-flow prevention device would need to be installed on the water line.
 - A grease arrester (trap) would need to be installed on the sewer line. He recommended the installation of a 40-gallon grease trap under the sink, but noted that an underground tank might potentially be required depending on the performance of the smaller grease trap under the sink(s).
- Nelson County Building Code Official: Mr. David Thompson provided written review comments:
 - “Asbestos certification for any permit application is required from the owner of the building for any renovations.”
 - “A permit application is required for a change of use group (M) to a use group (A-2) with plans drawn by a registered design professional licensed by the Commonwealth of Virginia. The application must be submitted to the Building Inspections Department for the required permits prior to any alterations / renovations / changes, etc. for the A-2 use group.”
 - “Final inspections and a certificate of occupancy for a restaurant / dance hall must be obtained from the Nelson County Inspections Department for the existing building prior to opening or operations for private or public use of the occupancy classification.”
 - Planning Commission Representative: Commissioner Russell inquired about the location of the dumpster and the method by which it would be screened. The approved site plan includes a dumpster located beside the existing greenhouse, which would be fully screened by a solid fence. The installation of the dumpster pad and fence would require “minimal land disturbance.” *Please see Note 11 on the site plan.*



THE DEVELOPMENT, AS IT APPEARS ON THIS SITE PLAN, IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNER.

FOR JOE LEE MCCLELLEN, INC. DATE _____

TITLE _____

COMMONWEALTH AT LARGE TO WIT:
STATE OF VIRGINIA

COUNTY/CITY OF: _____ A NOTARY PUBLIC IN AND FOR THE STATE AFORESAID, DO HEREBY CERTIFY THAT THE PERSON WHOSE NAME IS SIGNED HEREON HAS ACKNOWLEDGED THE SAME BEFORE ME THIS _____ DAY OF _____ 20____ MY COMMISSION EXPIRES: _____ NOTARY.

NOTARY REGISTRATION NUMBER _____

SOURCE OF TITLE, TAX MAP #58-A-36:

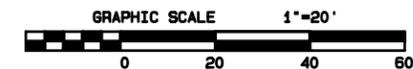
SEE INSTRUMENT #060000132 OF THE CIRCUIT COURT CLERKS OFFICE OF NELSON COUNTY, VIRGINIA.

PLAT OF REFERENCE:
SEE INSTRUMENT #080002552

SOURCE OF TITLE, TAX MAP #58-A-37:

SEE INSTRUMENT #050001996 OF THE CIRCUIT COURT CLERKS OFFICE OF NELSON COUNTY, VIRGINIA.

PLAT OF REFERENCE:
PMS #1522



APPROVAL:

FOR NELSON COUNTY DATE _____

RECOMMENDED APPROVAL:

FOR VIRGINIA DEPARTMENT OF TRANSPORTATION DATE _____

VDOT'S REVIEW IS NOT INTENDED TO BE EITHER COMPLETE OR COMPREHENSIVE AS IT IS THE RESPONSIBILITY OF THE SUBMITTING ENGINEER/SURVEYOR TO SIGN AND SEAL THESE PLANS TO ENSURE THE COMPLETENESS AND ACCURACY OF THEIR PLANS IN ACCORDANCE WITH GOVERNING LAWS, REGULATIONS, SPECIFICATIONS AND STANDARDS. PLAN ERRORS AND/OR OMISSIONS THAT ARE DISCOVERED DURING CONSTRUCTION REMAINS THE RESPONSIBILITY OF THE SUBMITTING ENGINEER/SURVEYOR.

RECOMMENDED APPROVAL:

NELSON COUNTY SERVICE AUTHORITY DATE _____

RECOMMENDED APPROVAL:

NELSON COUNTY HEALTH DEPARTMENT DATE _____

NOTES:

- THIS DRAWING HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT THEREFORE, NECESSARILY, INDICATE ALL ENCUMBRANCES ON THE PROPERTY.
- THIS DRAWING HAS BEEN PREPARED FROM AN ACTUAL FIELD SURVEY MADE AS PER DATE OF THIS DRAWING. MONUMENTATION AS INDICATED.
- THIS DRAWING WAS PREPARED AT THE REQUEST OF EDGAR SAGNA, 3008 MONAHAN TRAIL ROAD, NORTH GARDEN, VA 22959.
- PROPERTY SHOWN IS TAX MAP #58-A-36 AND TAX MAP #58-A-37 AND IS ZONED BUSINESS DISTRICT, B-1. THE PROPERTY IS CURRENTLY IN THE NAME OF JOE LEE MCCLELLEN, INC., 400 FRONT STREET, LOVINGSTON, VA. 22949.
- THE PARCELS SHOWN ARE SERVED BY THE EXISTING UTILITIES ON THE PROPERTY.
- THE PURPOSE OF THIS DRAWING IS TO SHOW DETAILS ABOUT THE PROPOSED RESTAURANT AND POTENTIAL FUTURE DANCE HALL TO UTILIZE THE EXISTING SITE AND BUILDING.
- THE AREA SHOWN FALLS IN FLOOD ZONE "X" AND DOES NOT FALL WITHIN FLOOD HAZARD ZONE "A" FOR A 100 YEAR FLOOD AS DETERMINED BY THE U. S. DEPARTMENT OF HOMELAND SECURITY, FEDERAL EMERGENCY MANAGEMENT AGENCY, AND AS SHOWN ON THEIR MAP DATED JUNE 18, 2010, MAP NUMBER #51125C02655.
- HOURS OF OPERATION: RESTAURANT - 11 AM TO 10 PM MONDAY THRU SATURDAY. FUTURE DANCE HALL (SEPARATE PERMIT), ONLY OPEN ON FRIDAY AND SATURDAY WITH EXTENDED HOURS TO 2 AM.
- FIVE ADDITIONAL POLE LIGHTS ARE TO BE INSTALLED AS A PART OF THIS PROJECT. 2 ON THE SOUTH END OF THE PARKING LOT, 1 IN THE ISLAND ON THE SOUTH SIDE OF THE SOUTHERN ENTRANCE AND 2 ON EXISTING POLES BETWEEN THE SOUTH ENTRANCE AND THE NORTH ENTRANCE ON THE EDGE OF THE PARKING LOT. THESE ADDITIONAL LIGHTS SHALL BE ON A TIME CLOCK WITH DARKNESS SENSORS SET UP TO GO OFF 1 HOUR AFTER CLOSING.
- THERE ARE 4 EXISTING LIGHTS SHINING INTO THE PARKING LOT FROM THE BUILDING THAT WILL BE CHANGED OUT FOR MORE EFFICIENT LIGHTING OF THE PARKING AREA. ALSO, THERE ARE LIGHTS UNDER THE COVERED PORCH AREA DIRECTED DOWNWARD. ALL THE EXTERIOR BUILDING LIGHTS SHALL BE ON A TIME CLOCK WITH DARKNESS SENSORS SET UP TO GO OFF 1 HOUR AFTER CLOSING.
- THERE IS MINIMAL LAND DISTURBANCE AS A PART OF THIS SITE DEVELOPMENT. THE ONLY LAND DISTURBANCE IS FOR THE DUMPSTER SITE NEAR THE NORTHEAST CORNER OF THE PROPERTY.
- ALL OLD SIGNAGE ON SITE SHALL BE TAKEN DOWN. 3 ADVERTISEMENT SIGNS ARE PROPOSED FOR THE RESTAURANT. THE FIRST SIGN SHALL BE INTERNALLY LIGHTED AND MOUNTED ON THE EXISTING POLE STRUCTURE, REPLACING THE "HOMETOWN GROCERY" SIGN ALONG THE RT. #29 R/W. THE SECOND SIGN WILL POTENTIALLY BE ON THE SOUTH END OF THE BUILDING AND REPLACE THE "SUPERMARKET" SIGN WITH THE NAME OF THE RESTAURANT. THE THIRD SIGN WILL BE LOCATED ON THE EAST SIDE OF THE BUILDING, ABOVE THE CONCRETE PAD, IN THE "A" OF THE ROAD LINE. THIS SIGN SHALL BE APPROXIMATELY 4'X8" IN SIZE AND BE INTERNALLY LIGHTED.

DANCING:
SEE DEFINITION OF RESTAURANT IN NELSON COUNTY ZONING ORDINANCE: "DANCING BY PATRONS SHALL BE CONSIDERED AS ENTERTAINMENT ACCESSORY TO A RESTAURANT, PROVIDED THE SPACE MADE AVAILABLE FOR SUCH DANCING SHALL NOT BE MORE THAN ONE-EIGHTH OF THAT PART OF THE FLOOR AREA AVAILABLE FOR DINING".

DINING FLOOR AREA:
3150 SQ. FT. + 2260 SQ. FT. = 5410 SQ. FT.
5410 SQ. FT. x 1/8 = 676 SQ. FT. DANCE AREA AVAILABLE WITH RESTAURANT

PARKING REQUIREMENTS:

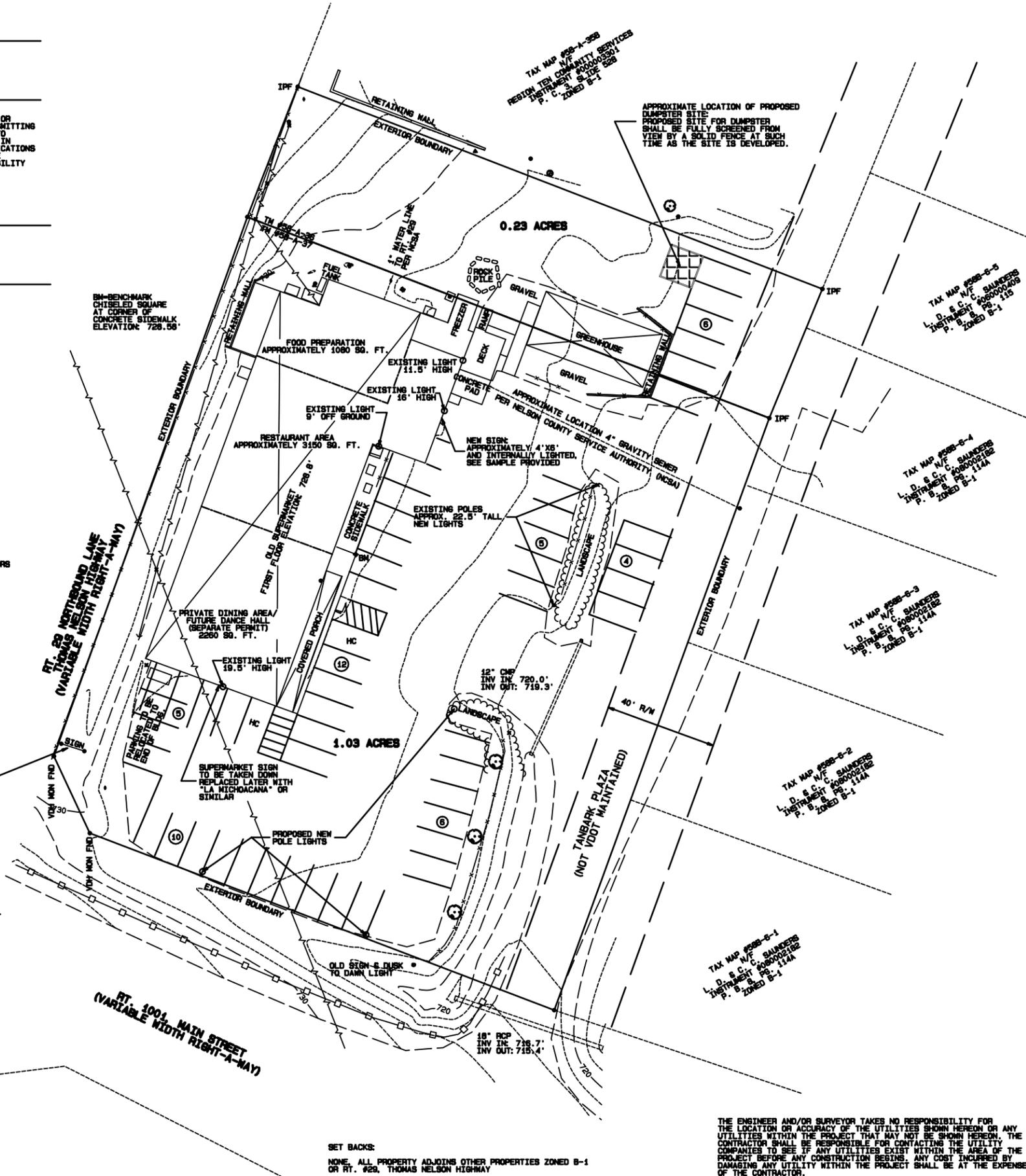
RESTAURANT:
1 SPACE FOR EACH 100 SQ. FT. OF PUBLIC FLOOR AREA

DANCE HALL:
1 SPACE FOR EACH 200 SQ. FT. OF PUBLIC FLOOR AREA

PARKING SPACES REQUIRED:

THIS AREA IS EXEMPT FROM THE MINIMUM OFF-STREET PARKING REQUIREMENTS UNDER ARTICLE 12-7-3 OF THE NELSON COUNTY ZONING ORDINANCE.

PARKING SPACES PROVIDED: 48 SPACES, HANDICAPPED SPACES AS SHOWN FROM PREVIOUS BUSINESS



RT. 1001 MAIN STREET
(VARIABLE WIDTH RIGHT-A-WAY)

RT. 29 NORTHBOUND LANE
(VARIABLE WIDTH RIGHT-A-WAY)

SET BACKS:
NONE. ALL PROPERTY ADJOINS OTHER PROPERTIES ZONED B-1 OR RT. #29, THOMAS NELSON HIGHWAY

THE ENGINEER AND/OR SURVEYOR TAKES NO RESPONSIBILITY FOR THE LOCATION OR ACCURACY OF THE UTILITIES SHOWN HEREON OR ANY UTILITIES WITHIN THE PROJECT THAT MAY NOT BE SHOWN HEREON. THE CONTRACTOR SHALL BE RESPONSIBLE FOR CONTACTING THE UTILITY COMPANIES TO SEE IF ANY UTILITIES EXIST WITHIN THE AREA OF THE PROJECT BEFORE ANY CONSTRUCTION BEGINS. ANY COST INCURRED BY DAMAGING ANY UTILITY WITHIN THE PROJECT SHALL BE AT THE EXPENSE OF THE CONTRACTOR.

SITE PLAN FOR
LA MICHOACANA
AUTHENTIC MEXICAN TAQUERIA & RESTAURANT
WITHIN THE PROPERTIES OF
JOE LEE MCCLELLEN, INC.
LOVINGSTON DISTRICT, COUNTY OF NELSON, VIRGINIA

PRELIMINARY

REVISIONS:
REVISED 5/14/15 FOR COMMENTS FROM NELSON COUNTY PLANNING MEETING

FILE #2675-0
CON. #215025
PRO. #215025
CRD. #215025
DATE MARCH 31, 2015
SCALE: 1" = 20'

SAUNDERS' SURVEYS, INC.
329 CRABTREE FALLS HIGHWAY
ROSELAND, VIRGINIA 22967
434-277-8574
www.saunderssurveys.com



PERMIT APPLICATION:

Nelson County Department of Planning & Zoning

TO THE ZONING ADMINISTRATOR: Special Use Permit # 2015-03
application type application number

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

- | | |
|---|---|
| <input type="checkbox"/> Rezoning from _____ to _____ | <input type="checkbox"/> Conditional Rezoning from _____ to _____ |
| <input type="checkbox"/> Subdivision – Preliminary | <input type="checkbox"/> Site Plan – Preliminary (optional) |
| <input type="checkbox"/> Subdivision – Final | <input type="checkbox"/> Site Plan – Final |
| <input type="checkbox"/> Major Site Plan | <input checked="" type="checkbox"/> Special Use Permit |
| <input type="checkbox"/> Minor Site Plan | <input type="checkbox"/> Other: _____ |

- Pursuant to Article 8, Section 1-3-2 of the Nelson County Zoning Ordinance.
 Pursuant to Section _____, Subsection _____ of the Nelson County Subdivision Ordinance.

Reason(s) for request: Plan to open a Restaurant with
dance Hall

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

2. Applicant(s) and Property Owner(s):

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

Applicant Property Owner Name: Jose + Elpidia Gaona
Mailing Address: 3808 Monacan trail Rd North Garden VA 22959
Telephone # (434) 825-0104 E-mail Address: ajgona89@ymail.com
Relationship (if applicable): _____

Applicant Property Owner Name: Joe Lee McEllon
Mailing Address: 380 Front St, PO Box 395 Lovingson
Telephone # (434) 263-4411 E-mail Address: Joe.lee.m@att.net
Relationship (if applicable): None

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

3. Location and Characteristics of Subject Property:

a. Address of property (specific location, route numbers, street names, voting district, etc.):

37 Tanbark Plaza, Lovingson VA. 22949

b. Official tax map number: 58B-A-36 ; 58B-A-37

c. Acreage of property: _____

d. Present use: _____

e. Present zoning classification: Business (B-1)

f. Zoning classification of surrounding properties: Business (B-1)

4. Names of Adjacent Property Owners: Region ten, family dollar

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

Signature: [Signature] Printed Name: Jose Ganna / Elpidia Ganna

Signature: [Signature] Printed Name: Joe Lee McClinton

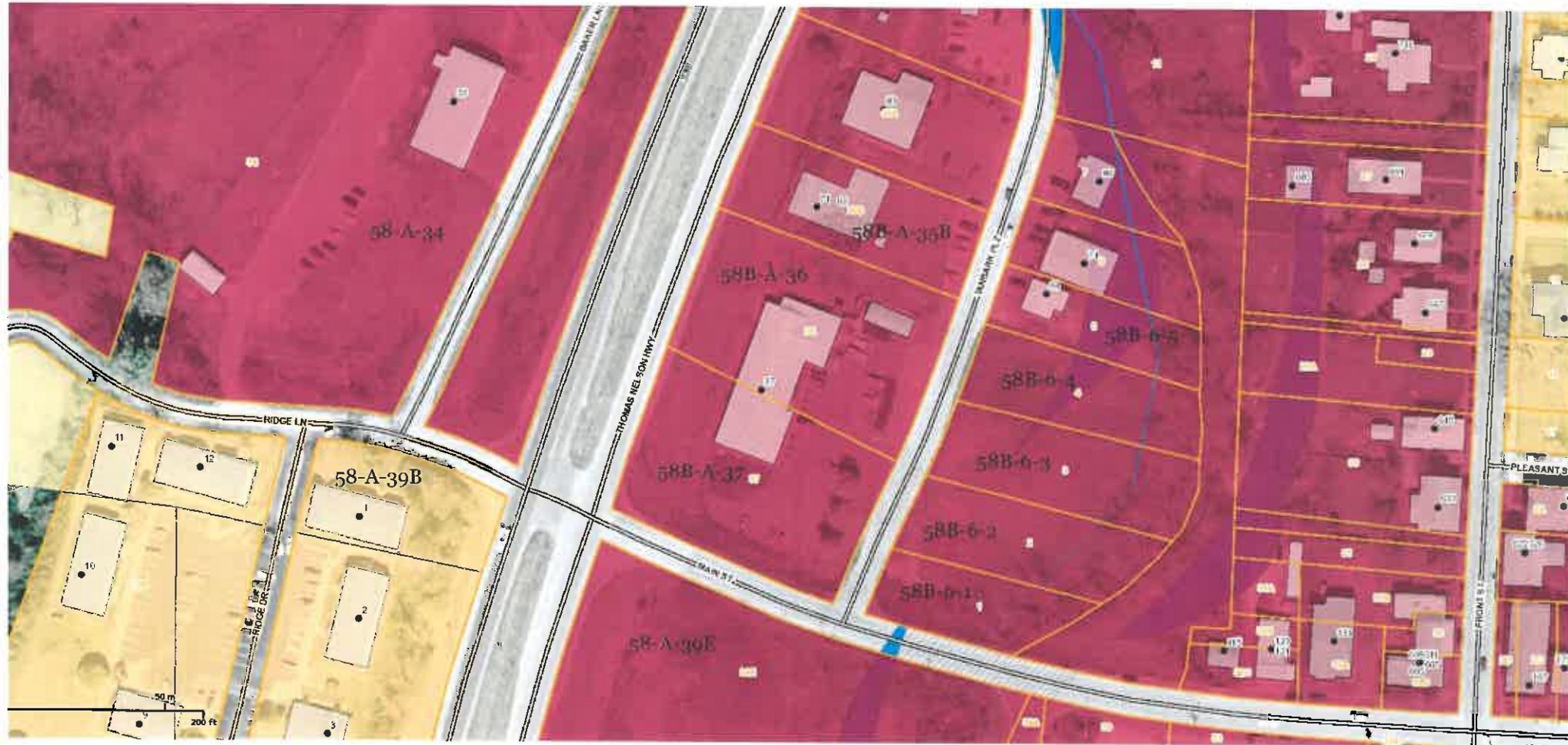
(Please attach additional sheet if more space is needed for applicant(s) / property owner(s) signatures.)

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

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

..... TO BE COMPLETED BY PLANNING & ZONING STAFF

- o Completed application and fee (\$ 200.00) received on 4-24-2015
- o Hearing Notice published on May 14th + 21st, 2015
- o Planning Commission action: Date of Meeting / Hearing: May 27th, 2015
- Recommendation: _____
- o Board of Supervisors action: Date of Hearing: _____ Date of Decision: _____
- Action: _____



Parcel ID

****58B-A-37; 58B-A-36**

ADJACENT PROPERTY OWNERS:

58B-A-35B

58B-6-5

58B-6-4; 58B-6-3; 58B-6-2; 58B-6-1

58-A-39E

58-A-34

58-A-39B

****Confirmed with Jean Payne - Parcel ID is #58-A-37; #58-A-36****

Parcel Address

71 TANBARK DRIVE

64 TANBARK DRIVE

THOMAS NELSON

53 BAKER LANE

9 RIDGE DRIVE

Owner Name

MCCLELLAN, JOE LEE

REGION TEN COMMUNITY SERVICES

SAUNDERS LARRY D & CAROLE C

SAUNDERS LARRY D & CAROLE C

PC PARWAY INVEST HOLDINGS LLC

NELSON CO VOLUNTEER FIREMAN ASSOC

LOVINGSTON RIDGE VA LLC



FILE COPY

DEPARTMENT OF
PLANNING & ZONING

PLANNING COMMISSION
BOARD OF ZONING APPEALS

June 11, 2015

Dear Property Owner:

The following petition has been made to the Planning Commission (PC) regarding a tract of land adjacent to or near property you own in Nelson County:

Special Use Permit #2015-03 – “Dance Hall” / Jose & Elpidia Gaona

Consideration of a Special Use Permit application seeking approval to operate a “dance hall” pursuant to §8-1-3a of the Zoning Ordinance. Specifically, the applicant wishes to operate a dance hall on Friday nights and Saturday nights, remaining in operation until 2:00AM the following morning(s). The requested dance hall would be co-located with “La Michoacana Authentic Mexican Taqueria & Restaurant” (which is a permissible by-right use, and which received County zoning approval via Planning Commission approval of Minor Site Plan #2015-03 on May 27, 2015). The subject property is owned by Mr. Joe Lee McClellan and is located in Lovingson at 37 Tanbark Place; it is further identified as Tax Map Parcels #58B-A-36 and #58B-A-37 which are zoned Business (B-1).

This application will be considered at a public hearing conducted by the PC on Wednesday, June 24, 2015 at 7:00 P.M. in the General District Courtroom on the third floor of the County Courthouse, Lovingson. After the PC conducts a public hearing, they will vote to refer the application, with recommendations, to the BOS.

As required by law, this notice is being sent to inform adjoining property owners of this request. If you wish to learn more about this request and/or to comment on it, you may contact and/or visit the Department of Planning & Zoning, and/or attend the meeting(s). Please contact staff with any questions and/or requests for assistance.

Sincerely,

Timothy M. Padalino
Nelson County Planning & Zoning Director

TMP/svh

Copy to: Jose & Elpidia Gaona
Joe Lee McClellan

Draft Minutes, July 14, 2015 Board of Supervisors meeting – Evening Session 7:00 PM

I. Public Hearings and Presentations

- A. **Public Hearing: Special Use Permit #2015-03 – “Dance Hall” / Jose & Elpidia Gaona** Consideration of a Special Use Permit application to operate a “dance hall” pursuant to §8-1-3a of the Zoning Ordinance. Specifically, the applicant wishes to operate a dance hall on Friday nights and Saturday nights, remaining in operation until 2:00AM the following morning(s). The requested dance hall would be co-located with “La Michoacana Authentic Mexican Taqueria & Restaurant” (which is a permissible by-right use, and which received County zoning approval via Minor Site Plan #2015-03 on May 27, 2015). The subject property is owned by Mr. Joe Lee McClellan and is located in Lovington at 37 Tanbark Place; it is further identified as Tax Map Parcels #58B-A-36 and #58B-A-37 which are zoned Business (B-1).

Mr. Padalino noted the location of the subject property is in Lovington at 37 Tanbark Place; it is further identified as Tax Map Parcels #58B-A-36 and #58B-A-37 which are zoned Business (B-1) and owned by Mr. Joe Lee McClellan. He noted on a map that the property was surrounded by the same types of zoning (Business B-1). He further noted that the property was located at the intersection of Main Street and Thomas Nelson Highway and also fronts along a small private road (Tanbark Plaza). He added the property was a total of 1.26 acres and the existing building was formerly a grocery store and is currently vacant.

Mr. Padalino showed an aerial view of the property and noted it was not in the floodplain .

Mr. Padalino then noted that the request for the Special Use Permit for a “dance hall” was made pursuant to §8-1-3a of the Zoning Ordinance. He added that the request was made in connection with the minor site plan submitted and approved to operate a restaurant as a by right use; and the Special Use Permit would be in addition to that previous approval.

He then advised that Massie Saunders had prepared the site plan for the restaurant and a new one was not required. He then showed some pictures of the site and noted the process of the permit review was that the Planning Commission held a public hearing on June 24th and voted 3-0-1 to recommend approval of the Special Use Permit without conditions. He added that members spoke in favor of the application with some concerns regarding the dance hall operating late at night.

Mr. Padalino then listed the criteria for the review of Special Use Permits as follows:

- A. The use shall not tend to change the character and established pattern of development of the area or community in which it proposes to locate;
- B. The use shall be in harmony with the uses permitted by right in the zoning district and shall not affect adversely the use of neighboring property;

C. The proposed use shall be adequately served by essential public or private services such as streets, drainage facilities, fire protection and public or private water and sewer facilities; and

D. The proposed use shall not result in the destruction, loss or damage of any feature determined to be of significant ecological, scenic or historic importance.

He noted that the opinion of Staff was that the proposed “Dance Hall” use, as proposed in the application seemed to be satisfactory relative to evaluation criteria C and D. However, the proposed use appears to be questionable with respect to evaluation criteria A (“shall not change the community character”) and evaluation criteria B (“shall be in harmony with by-right uses and shall not affect adversely the use of neighboring property”). He added that operating until 2 am could alter the character, be unharmonious, or could adversely affect use of neighboring properties. He noted that he recommended the Board consider the potential noise from amplified music, traffic etc. and that the Planning Commission forwarded the application with a recommendation of approval.

Ms. Brennan inquired if a house in a business district could be transferred over to a business and Mr. Padalino noted this was determined by the Zoning. He noted that there were people living in residences along Front Street; however there were no residents on Tanbark Plaza. He advised that on the east side of Front Street the residences are zoned R-2 and the residences on the other side are zoned B-1.

Mr. Padalino then confirmed that the subject property was not in the floodplain; although there is some property on the other side of the road that is in the floodplain.

Mr. Padalino also advised that the Village of Lovington was exempt from parking requirements; however there were forty-eight (48) spaces with at least 2 designated handicapped spaces.

Ms. Brennan then inquired if there was anything to prohibit people from parking along Tanbark Road and Mr. Padalino advised that there was not and Mr. Carter added that the concentration of parking was near Region Ten and Rite Aid.

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

1. Patty Avalon, Lovington

Ms. Avalon noted she was curious about the nuisances brought up and noted that they were also her concerns. She then read aloud the following statement:

To the Nelson County Board of Supervisors,

“I am a 13 year resident of the Village of Lovington, and am I writing to ask that you NOT approve the request for the Mexican restaurant dance/hall, as it is currently proposed, for these reasons...

Lovingston is working hard to keep good residents and businesses, as are many rural small towns around the country. We have created a safe, family friendly environment through the efforts of many individuals by developing programs such as a Neighborhood Watch, the Adopt-a-Bed Flower barrel plantings, Holiday Decorating of the Village etc. We even paint our town curbs safety yellow ourselves as we have no government funds for this. We want our community to flourish and remain inviting and safe to live in and visit. A Mexican Restaurant would be fantastic here in Lovingston! I whole heartedly support that.

The three serious problems with the current proposal are:

Serving alcohol. When you allow alcohol into the equation, suddenly there are too many opportunities for violence, noise, and late night lingerers after closing hours. Drugs will most likely find their way in and around the dance hall as well as dark corners of our neighborhood, (and there are many).

Noise. We already have noise problems with the local Firehouse dances...the music can be heard throughout the Village. Fortunately these are held only occasionally. If the music can be guaranteed to NOT BE HEARD 25 ft from the establishment (as the local ordinance states) that could work. Can you imagine in YOUR OWN NEIGHBORHOOD having loud music filtering into your homes all night long? Unacceptable of course. Please put yourself in our place.

The 2 a.m. closing time. There will be drunk drivers driving in and out of the Village into the wee hours, perhaps motorcycles as well. The "boom box" car stereos come through this village enough as it is, and with a nightly dance hall, we'll be inundated with loud traffic. Would you and your children want to live with this? And what would happen to YOUR property values if this were in YOUR neighborhood?

I know that you listen to us and that you will make every effort to help grow Lovingston to its greater potential to be a safe, fun and inviting town in which to raise families, work and visit."

She then read aloud the Board of Supervisors Mission Statement as follows:

"It is the mission of the Board of Supervisors to maintain Nelson County as a beautiful, safe, healthy, and prosperous rural county; where public services are effective, efficient, adequate and responsive to the needs of its citizens; where education is a life-long process; where citizens are involved in all aspects of their governance; and where the community is well planned to assure respect for and dedication to its traditions and resources, while continuing to improve its economic viability."

2. Mike Crabill, Lovingston

Mr. Crabill noted he lives across the creek from the proposed site and his morning alarm goes off at 4 am and he noted if the noise was going on until 2 am, he would be personally upset. He noted he was not in favor of the dance hall unless the Board limited the hours or the noise. He

then asked what the decibel limit was in the Noise Ordinance. Supervisors noted they could get him a copy of the Ordinance.

3. Joe Lee McClellan, Lovington

Mr. McClellan noted that the Planning Commission held a public hearing and passed the Special Use Permit with no reservations because they wanted to give people the leeway to operate a profitable business and to not restrict it. He added he felt that the Sheriff's Department could take care of any disruptions. He added that he thought that if the business owners could not maximize their potential, they would not be successful and that they should be given the opportunity to operate and if there was a problem, then it could be addressed. He added that he thought citizens were getting the wrong idea about a dance hall and noted that there used to be one in Lovington.

4. Mary Elnidge, Lovington

Ms. Elnidge noted that 2 am was too late to operate, it was too late and would be too loud. She added that she knew there was a noise ordinance; however the Sheriff's Office did not know what it says. She added that the Village was not patrolled by Deputies and this was a problem. She added that they come in the Village and go out to other areas of the County and she questioned who would take care of monitoring the noise. She added that the County did not have the resources for that. She then noted that she thought patrons would be parking out on Main Street regardless of the number of existing parking spaces; and with no traffic control, they would park wherever they wanted. She added that if they were serving alcohol, there was no mention of a cutoff time and she questioned who would patrol this for drunk driving. Ms. Elnidge then noted that she lived in a house zoned R-2 and could be a business; however she was not and she was very concerned about the associated alcohol use.

5. Joe Lee McClellan, Lovington

Mr. McClellan disputed Ms. Elnidge's comment that the Sheriff's Department did not patrol Lovington. He added that once a week, they would leave a business card in the door of the grocery store building to show they'd been there. He added that the dance hall was meant for the fifteen (15) going out party and was a community affair and it was his understanding that this was the primary reason for the request. He added that State law required no sale of alcohol after midnight.

6. Ed Hicks, Lovington

Mr. Hicks noted he was in favor of the restaurant, but was not in favor of the 2 am dance hall hours. He noted that the Board would be tying their hands if they set the times. He advised that he had spoken with Devil's Backbone and Wild Wolf Brewing Company to see when they closed. He noted that WWB closed at 10pm Monday through Thursday and were open until 11pm on weekends. He noted Devil's Backbone was open until 9pm during the week and until 10pm on weekends. Mr. Hick's then stated that he did not think fifteen (15) year olds needed to be out until 2am. He added that he did hear everything that went on at the Firehouse; has called and

complained and nothing was done. He then questioned whether or not Mr. Hale had polled the Lovington residents personally on the matter and noted that he did not think he had.

7. Celine Thelen, Lovington

Ms. Thelen noted she thought the restaurant was fine; however she was seriously opposed to the dance hall. She noted that serving alcohol and being open until 2am was asking for disaster. She noted that she hears the Lovington Firehouse and other businesses that are noisy all hours of the night. She noted that she purchased a home in Lovington because it was a nice, quiet, safe place to live and it would not be if the Board allowed things like this in and she did not want it in her backyard.

8. David Boor, Lovington

Mr. Boor spoke to the Village being patrolled by deputies and noted that there had recently been a break in at Front Street Garage and at American National Bank that were unsolved. He noted that the Sheriff's Department was undermanned and did not need to be taxed anymore. He noted he was not opposed to the restaurant; however he did not think a beer joint was needed. He then referenced an email from Mr. Hale noting that he, Mr. Hale was in favor of the dance hall with conditions. He added that the Planning Commission had referred this to the Board with stipulations and he requested that Mr. Hale abstain from voting because he had made his mind up before hearing any public comments.

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

Mr. Saunders then asked for the Applicants to address the Board.

Mr. Massie Saunders addressed the Board representing the Applicant. He noted that Mr. Gaona understood good English and could answer; however he would work with him and the Board to answer questions.

He noted that Mr. Gaona had a security team that worked within the restaurant and alcohol serving shut down at midnight.

Supervisors then asked what was the anticipated maximum capacity and Mr. Saunders noted that the Building Official would determine this at some point. Supervisors then asked what would be a typical crowd for this type of activity and Mr. Saunders noted that this was hypothetical because they did not know how many people would come. He added that there was an architect involved with the layout, the Fire Marshall was involved and there would be a large amount of renovation involved.

Mr. Harvey then asked about the building, noting one side was 2,260 square feet and the other was 3,150 square feet and he inquired as to which part was open to the public. Mr. Saunders noted that the space designated as restaurant was where the food was prepared and was a 1,080 square foot area. He added that these were round figures from measures pulled between existing walls.

Mr. Harvey then noted he would like to hear from Mr. Gaona.

Mr. Harvey asked Mr. Gaona if these types of events were going on in the County now and he answered that they had these in Albemarle County, was from there and had a restaurant in Charlottesville.

Mr. Harvey asked how many people usually attended the dances and Mr. Gaona replied 65-75 people in the Charlottesville restaurant along with five (5) employees who were mostly family members.

Mr. Harvey asked how many seats were in the proposed restaurant and Mr. Gaona noted 40-45.

Ms. Brennan then inquired if this number was determined by the size of the restaurant by the Department of Health and Mr. Saunders noted that this had been based on the Architect's recommendation based on the building plans. He noted that the overall layout was dictated by what was a part of the operations.

Mr. Harvey asked what square footage the restrooms would take up and Mr. Saunders noted they would have to be large for ADA compliance.

Ms. Brennan noted it sounded like the applicant had experience with this and Mr. Saunders noted that they have been successful in Charlottesville and wanted to expand.

Mr. Carter then asked if the City had imposed any restrictions on the Charlottesville business and they noted that they had an abc permit in Charlottesville, the hours were 11am to 9pm with no dance hall.

Mr. Carter asked if the dance were not approved, would they still open the business and Mr. Saunders related that they would need to relook at the financials of this since the building was so big it would be hard to fill.

Mr. Saunders then noted that a small dance hall could be had within the restaurant by right; however if the SUP application were not approved, it would have to be discussed. Mr. Saunders advised that they had done a business plan because they had a financing plan in place.

Mr. Harvey then asked if the dances were special events or if they would be held every weekend. Mr. Saunders noted that this had been discussed a lot and they were not sure which night they would be held or if it would be both nights; they wanted to leave it open. He noted that there had been discussion at the Planning Commission of limiting the number held per month etc. and then they just rolled back to the original plan. He added that there was discussion about 1 night or 2 nights per month and then if it went well, they could get other nights approved. He added that no one spoke against this at the Planning Commission public hearing and it was properly advertised.

Mr. Harvey then supposed that if these dances were done as a private party then it was not really a dance hall. Mr. Padalino noted this was correct and that they had included a private dining area

that would be used for private functions, in connection with the restaurant operation. He added that if the dance hall were not approved, they would still be able to rent this area out for quinceaneras and private events, but only during the normal operating hours of the restaurant use.

Ms. Brennan then asked for clarification on this, noting that she understood that they could do what they wanted without the SUP. Mr. Padalino noted this was not the case; but that they could rent out the space for private events during business hours with 1/8 of the restaurant being able to be used for dancing per the Ordinance definition of restaurant.

Mr. Saunders then noted that Mr. Gaona was in a band and has not had a problem with alcohol. He added that Mr. Gaona would be willing to operate the dance hall one night a week on Saturday night to see how it went and would be willing to stop at 1am. He added that most people come out late after dinner and stay out. He noted he was used to that timeframe and wanted to stay open past midnight. He noted that they typically started playing music around 10pm that alcohol was only served at the bar and none was allowed in the dance hall, and there would be security on site.

Ms. Brennan then asked if they were requesting the Special Use Permit for one night or both nights and Mr. Saunders noted that it was for just Saturday night and if all were content with it, they may come back to ask for a second night.

It was noted that the Board could restrict the Special Use Permit to this particular business.

Mr. Carter then asked if the music was acoustic or amplified and Mr. Saunders noted some of it was amplified.

Ms. Brennan noted that she appreciated the applicant's concession of one night per week; however she would like it to stop at midnight. She added she was appreciative of them having security on site and was confident that the noise ordinance could be met and that she was in favor of a trial period. She noted that she knew quinceaneras were important to Mexican families and there was a need for a safe place for these to occur and added she had no problem with this.

Mr. Hale noted he thought that it was important for Lovington to have commercial viability and he noted that businesses had been lost one after the other; he reiterated he was in favor of commercial opportunities being available. He added that when he reviewed the material the previous day and responded to an email about his thoughts, he said he was not in favor of a 2:00 am closing time. He noted that nothing much good happened between Midnight and 4:00 am so he was not in favor of the proposed hours. He noted that it had been stated in the email that the Planner had recommended that these things be addressed through possible condition; one of which was to permit it until a certain time. He then noted that the Board could apply conditions to Special Use Permits. He noted that it was also suggested by the Planner that the Special Use Permit have a condition that after 18 months of their certificate of occupancy that it be subject to review with an additional public hearing. He added that he thought that the applicant should limited this to a few nights each month rather than having it open every weekend; and he would

like to see these conditions. He added that this would be a compromise to some extent that would enable the operators to have as many opportunities to succeed as possible.

Mr. Harvey stated that he thought the dance hall was a terrible idea; however he supported the restaurant. He noted that at the Rockfish Volunteer Fire Department, these events were held and there had been a minimum of 500 people and they were open to anyone. He added that he knew what happened and the required that security be there. He noted that they have had a lot of damage and they had gotten a call that week to rent the building for 1,000 attendees. Mr. Harvey then noted that the proposed location did not have the capability to handle this type of event. He added that there being only one way in and out of the property was a problem because if something happened, the whole place would be bottle necked. He noted he would love to see the restaurant and if they wanted to have a private party then that would be okay; however if it were open to the general public, the tendencies were known. Mr. Harvey then noted that it was the wrong place for this and there were only 48 parking places; meaning cars were going to line up the whole area.

Mr. Harvey then recommended that a decision be tabled so the Board could hear more and give the applicant an opportunity to see if it needed to go to the extent proposed. He added that eighteen months was a long time and the noise ordinance changed at 10:00 pm. He noted that the only enforcers of this was the Sheriff's Department and he noted that the noise ordinance says the sound cannot be over 65 decibels at the property line and was an average taken over a 15 minute period; so it was hard to violate the noise ordinance. He then noted that he felt for the people of Lovingson, as sound carried over the creek there. He again suggested that this be deferred until they had a full Board and could give it more thought.

Mr. Harvey then moved to defer consideration of the Special Use Permit until next month's Board of Supervisors meeting on August 11, 2015 with the understanding that it's a public meeting; however the public hearing was over. He noted this would give the Board time to learn more and He thought there was something wrong for nobody to show up at the Planning Commission's public hearing.

Mr. Hale seconded the motion and then the Board had the following discussion:

Mr. Saunders noted at the Planning Commission meeting he was quiet and did not vote because he has adjacent property across from the subject property and did not want to influence the outcome either way. He added that he would not comment or vote now.

Ms. Brennan reiterated that at the next meeting there would be no public hearing; however the public could speak under public comments. She added that she thought it was a good idea to study it better and the applicant could have more time to consider concessions. She noted that she thought that economic development was important and she cared about those living in Lovingson; however she did not think it would be like Mr. Harvey suggested.

Mr. Saunders asked what the applicant should use as a gauge of how many people would attend these things and Mr. Harvey noted that the Fire Department had hosted three or four per year and they had all been the same and this was hard to judge.

Mr. Hale noted that these had been held at the Faber Rescue Squad building and he would find out what their experience has been.

There being no further discussion, Supervisors voted (3-0-1) by roll call vote to approve the motion with Mr. Saunders abstaining.

July 31, 2015

Nelson County Board of Supervisors
84 Courthouse Square
Lovington, VA 22949

Dear Members of the Board of Supervisors:

The residents of Lovington, Virginia and the surrounding area are petitioning to prevent the approval of a bar/dance hall in the old IGA building in Lovington. This is a petition still in progress. The final petition will be submitted to you by August 11, 2015.

Thank you for your consideration of wishes and your attention to this matter.

Petition to "VOTE NO" on opening a dance hall/bar in the former IGA building in the historic district of Lovington, VA. (continued)

	Mary Ellen Lynch	Mary Ellen Lynch	559 Front St Lovington Va 22949
	Brian West	Brian M. West	667 Front St. Lovington, VA 22949
	Candice Boor	Candice Boor	833 Front Street Lovington VA 22949
	Toni's Boor	Toni's Boor	833 Front Street Lovington, VA 22949
	Sandra Wilkins	Sandra Wilkins	788 Front St Lovington Va 22949
	Julius E Viro	Julian Vian	906 Front Street
18.	Linda D Vair	Linda D. Vair	906 Front Street Lovington Va 22949
	Edward Hicks	Edward Hicks	711 Front Str Lovington VA 22949
	Camille Hicks	Camille Hicks	711 Front St. Lovington, VA
	Celene Thelen	Celene Thelen	770 Short St. Lovington, Va.
	T. DAVID Thelen	David Thelen	770 Front St, Lovington, Va
	MARGARET S. Floyd	Margaret S. Floyd	19 Court St, Lovington, Va
	Ann Campbell	Ann Campbell	36 Maple Ln Lovington, Va.
	Vicki Vestal	Vicki Vestal	46 Court St. Lovington Va.
	BARBARA Allen	Barbara Allen	49 Court St Lovington, VA
17.	Anni & Giles	Annie Miles	64 Maple Lane

