



## NELSON COUNTY PLANNING COMMISSION

Meeting Agenda: May 25, 2016

General District Courtroom, 3<sup>rd</sup> Floor, Nelson County Courthouse, Lovingston

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– **7:00 – Meeting Convenes / Call to Order**

– **Review of meeting minutes:** April 27, 2016

– **Public Hearing Items:**

1. **Special Use Permit #2016-01 – Ms. Elizabeth Jackson**

Consideration of a Special Use Permit (SUP) application made pursuant to Zoning Ordinance Article 5 (“Residential District R-1”), Section 5-1-2a (“Double-wide mobile home mounted on a permanent concrete or block foundation”). Specifically, the applicant requests approval to replace a former single-family dwelling which was damaged in a fire with a double-wide manufactured home. The subject property is a 2.0-acre parcel located in Afton at 1617 Avon Road; it is further identified as Tax Map Parcel #7-A-25 and is zoned Residential (R-1) and Agricultural (A-1).

– **Other Agenda Items:**

▪ **Preliminary Major Site Plan #2016-07 – Evans’ Cabins:**

Mr. Bill & Mrs. Rebecca Evans and Mr. David L. Collins, LS, PE / Tax Map Parcel #31-A-39A Submitted in connection with approved Special Use Permit #2015-05 (“Motel”)

▪ **Proposed Amendments to Zoning Ordinance Article 10 – General Floodplain District (FP):**  
*(referral made at 12/8/2015 BOS meeting; review continued from April 27<sup>th</sup> PC meeting)*

Continued review by the Planning Commission for consideration of possible amendments to Article 10 (General Floodplain District FP)

– **Other Business** *(as determined by Planning Commission members / as applicable)*

– **Adjournment**

– **Next Meeting:** June 22, 2016 | 7:00pm

**NELSON COUNTY PLANNING COMMISSION  
MEETING MINUTES  
April 27, 2016**

**Present:** Chair Philippa Proulx, Commissioners Mike Harman, Linda Russell, Robert Goad and Tommy Bruguere (Board of Supervisors Liaison)

**Absent:** Commissioner Mary Kathryn Allen

**Staff Present:** Tim Padalino, Director of Planning & Zoning and Stormy Hopkins, Secretary

**Call to Order:** Chair Proulx called the meeting to order at 7:00 P. M. in the General District Courtroom, County Courthouse, Lovingson.

**Approval of Minutes – March 23, 2016:**

Commissioner Russell questioned if “disclaimed” is the proper word that should be used on page 3, number 3. It was decided that “disclaimed” would be replaced with “stated.”

**Commissioner Harman made the following motion:**

**I move that the minutes for March 23<sup>rd</sup>, 2016 be approved. Commissioner Goad provided the second; the vote 4-0 with Mr. Bruguere abstaining.**

**Other Agenda Items:**

- 1. Rural Long Range Transportation Plan:** Mr. Padalino noted this was a project that is managed and administered by the Thomas Jefferson Planning District Commission (TJPDC). He then noted that there were two guests present tonight, Mr. Wood Hudson and Mr. Nick Morrison.

Mr. Morrison and Mr. Hudson addressed the Commission. Mr. Morrison stated that they were there to give a brief update on the Rural Long Range Transportation Plan which “serves as a guide for making transportation related decisions, as well as analyzing the networks that are in our rural localities, so it complements the transportation plans that we have in the urbanized area in Charlottesville and Albemarle County.” He further noted that they have been working with the Rural Technical Advisory Committee to update the Rural Long Range Transportation Plan that was last done in 2010.

Mr. Morrison and Mr. Hudson then explained that they have been “analyzing safety related issues, crash data from Virginia Department of Transportation (VDOT), congestion, access, economic development, as well as environmental impacts of potential projects which fits into this House Bill 2 (HB2) methodology of prioritizing transportation projects in a really transparent way.” Mr. Morrison also noted that by using this methodology from the state level, he hopes that it will improve the competitiveness of projects being requested by localities. It is their hope to be able to run a scoring matrix (that is similar to what the state is using) to have a prioritized project list that will help localities understand how their projects might score in terms of receiving state funding. He concluded by noting, “we’ve completed that data analysis and we’ve been going through the existing projects that are in the past 2010 plan, seeing if there are projects that are in our data analysis that have not been identified and adding those. Moving forward, we’ll start getting more in-depth with the prioritization process, but we are in the preliminary stages. We want our localities to be involved in the process from the beginning.” Mr. Hudson added that they want to solicit feedback to see if they are on the right track; and that they want to know if there are projects that are on the list that are not identified, or perhaps should be prioritized ahead of others. He concluded by stating that the TJPDC wants to make sure “this document is responsive to the needs of who we serve.”

Mr. Hudson pointed out that “these regional plans that are done across the state by planning districts, work with rural localities. All of these plans feed into what is called VTRANS, which is the state’s transportation priorities plan.” He noted that with the “shrinking” transportation funding at the state level, it is critical that projects now be contained within these regional planning documents in order to compete for transportation funds. This especially applies to what they referred to as HB2, which is the new six-year improvement plan funding and prioritization mechanism.

Mr. Hudson and Mr. Morrison then provided responses to the following questions and comments from Commissioners:

1. *What is a visioning list?* Projects that are on more of a long-term horizon versus those on a mid-term horizon in terms of their needs and how well they stack up against other projects. This is a first-cut draft to provide organization to a large list of projects that previously did not have any order.
2. *What do the number on the chart correspond to?* That corresponds to a map color code that identifies the type of deficiency; there is no ranking. There is a Map Key that identifies the projects’ deficiency type.
3. *Is there a priority list and was there one in 2010?* There was never a priority list, it was a large unprioritized list of projects. TJPDC will prioritize the list. It is a quantitative model based on the requirements in HB2 which takes into account safety, congestion, economic development, accessibility, and land use.
4. *Is it possible to be on a high priority list and be a long-term project where VDOT would set aside funds each year?* They are not sure but can check into that.
5. *How will priorities be ranked between localities?* They will not be ranked and prioritized between localities – only prioritized within localities. In other words, each locality will have a separate prioritized list of projects that are only ranked against other projects within the same locality.
6. *Has thought been given to how the pipeline will effect VA664 (Beech Grove Road) from VA 151 (Patrick Henry Hwy) to Blue Ridge Parkway?* This has not been factored in, but they will take a look at it and incorporate it into the analysis.
7. *In looking at numbers 29-32 (in the chart) and matching those up to what is shown on the map, they do not match up. Also, #31 indicated I-66, it should be I-64.* There is incorrect numbering in the map. This is a preliminary document, and revisions are necessary.
8. *On the map, is there a reason why the red line (for Rt. 151) goes from the northern county line, down Rt. 6 west and stops at the project at Beech Grove; is there no need there or is it shown incorrectly?* The data was pulled from the Route 151 Corridor Study using a data matrix; there wasn’t a clustering of accidents. It was noted that when looking at congestion, it looks at not only current average annual daily traffic but also uses a projected model from VDOT out to 2040. Most of the networks within the county fall within an average to below average annual daily traffic volume. They are happy to include that corridor in this project list and extend it.
9. *There is confusion with #8 – VA 151 from VA 151 to VA 56; why is it listed this way?* That project description was taken directly from the 2010 plan. They will review and revise the description as necessary.
10. *Adial Road between Rt. 6 and Nellysford is not listed.* They will look into that area.

Mr. Morrison and Mr. Hudson indicated that they would be happy to share their data and maps with the Commissioners, so that the process is transparent and so that the Commissioners are able to see what TJPDC’s decisions are based on. They further noted that they will come before the Commissioners again as the project progresses to get additional feedback.

**2. Proposed Amendments to Zoning Ordinance Article 10 - (General Floodplain District FP):  
(referral made at 12/8/2015 BOS meeting; PC review continued from 3/23/2016 PC meeting)**

Mr. Padalino noted this is a continued meeting of the referred amendments regarding Article 10 – (General Floodplain District FP).

Mr. Padalino provided an update on the overall review process to date, and on procedural issues moving forward. He noted that May 6<sup>th</sup> marks the 100-day deadline for the review process. Per State Code, the Planning Commission (PC) has to conduct a public hearing before voting on formal recommendations to the Board of Supervisors (BOS). He then noted that the PC can request an extension from the BOS to continue their review. Mr. Bruguere indicated that, speaking for the BOS, he does not believe an extension would be an issue due to the fact that it these amendments represent a complex subject, and there is a lot of new material that has come from the state.

Mr. Padalino noted that the Commission will eventually need to make recommendations on the following types of issues: minimum requirements to meet the regular standards contained in the state model ordinance; higher standards; minor housekeeping/editorial changes; and the issue involving the use of the term and procedure of Special Use Permit (SUP) for floodplain development. He indicated that Mr. Phillip D. Payne, County Attorney, was present to discuss the issue of Variances versus SUPs; how our ordinance is constructed; and how that may differ from the model in some ways.

Mr. Phillip Payne, County Attorney: Mr. Payne noted that the structure of the floodplain ordinance comes from the federal government, and the language comes from the federal regulations. He noted that he does not know where the term SUP came from when the floodplain ordinance was being amended. In the model ordinance a “zoning permit” is used to track how zoning permits are issued for all zoning districts. Under the model ordinance, structures are permissible in the underlying districts (A-1) provided they can meet the floodplain standards. He then noted that under the model ordinance a “variance” is hardship based but that it must also meet all the floodplain standards. Variances have to do with physical attributes of a project (setback, size of lot, etc.), and is a way to relieve someone from being unable to use the land. He further noted that under our current ordinance, the standards that are to be applied in determining whether to issue a SUP, or not, are the same for a variance, so they appear to be one in the same.

The Commissioners and Staff had the following questions/concerns/comments:

1. *Mr. Bruguere asked, in the floodplain ordinance, a SUP is almost a variance?* Mr. Payne indicated that it was because the standards in a model ordinance are for a variance. The County added a SUP and imposed the same standards. Except, the variance requires showing undue hardship and the SUP does not.
2. *Is it correct that the storage of gas on a farm, which is specifically ruled out in the “storage of hazardous materials,” would not be allowed in the floodplain, even though in the underlying (A-1) it is permitted?* Mr. Payne indicated that whatever is in the standards governs because the overlay is going to “trump” the underlying zoning district regulations where there is a difference. Mr. Payne referenced Section 10-17 “Permitted Uses in the Floodway Districts.”
3. *Is the existing floodplain ordinance considered an overlay district?* Mr. Payne indicated that it is. Mr. Padalino noted that it is established as an overlay district per Section 10.8B “Overlay concept”.
4. *The term “zoning permit” is used in the model ordinance and “Special Use Permit” is used in the county’s ordinance; does that suggest that a SUP is not required but a variance is? Or is the section about when a variance is necessary when unrelated to floodplains?* Mr. Payne indicated it is not. The variance procedure in the model ordinance is taken directly from code of federal regulations. It is

applicable to a variance issues (setback, size of lot, etc.). Presumably it could deal with the design of the structure.

5. *Can you clarify if the model ordinance requires a variance for all floodplain development similar to the way our ordinance currently requires a SUP for all floodplain development? Or is the section in the model ordinance pertaining to variance there only for instances in which a variance comes in to play on the merits of a particular property?* Mr. Payne stated that the variance requirement in the model ordinance does not pertain to all situations, only to situations involving cases of hardship.
6. *In the model ordinance, does the Planning & Zoning (P&Z) Director make the decision if the application meets the standards of Article 10 and if so, the permit is issued?* Mr. Payne stated that was correct.
7. *If the zoning director denies a permit, what's the process?* Mr. Payne noted the applicant would go before the Board of Zoning Appeals (BZA) for a variance.
8. *Would it be a recommendation that SUP be removed from Article 10?* Mr. Payne suggested that it should be removed and replaced with zoning permit as the model ordinance suggests.
9. *In the model ordinance, it allows the BZA to refer an application to an engineer or other qualified party; can the shared cost philosophy be added?* Mr. Payne indicated that he had not researched the matter. He further noted that such cost-sharing is allowed, and indicated that he believes it can be done.
10. *In (proposed) Article 10.15 (E) "Higher Standards and Critical Facilities" it views activities that would require special regulations...would this include something like a pipeline that would go over a river that would be used for transport and what would the standards be in such a case?* Mr. Payne indicated that he would have to investigate underground lines in the floodplain areas. Mr. Padalino noted that Department of Conservation and Recreation (DCR) distributed two statewide memos specifically addressed to the localities that were in the path of the proposed Atlantic Coast Pipeline (ACP). To Mr. Padalino's knowledge and memory, the first memo stated that the floodplain management regulations would not apply if they were to tunnel underground before reaching the floodplain boundary; and the second memo then offered a revised conclusion that if a pipeline crosses any area in or underneath the two-dimensional boundaries on a floodplain map, it is subject to the floodplain management regulations that a county has adopted.
11. *Is there a problem with using the term "transport"?* Mr. Payne indicated that the unintended consequences need to be thought about and that he does not have an answer at this time. He will look into this.

Mr. Padalino then addressed the Commission, referencing the March 14<sup>th</sup> Staff Report and providing an overview of proposed amendments by issue and by affected sections. He then asked the Commissioners if they had recommendations for the proposed amendments. The Commission discussed the proposed amendments and agreed to keep them all as written (as detailed in the Staff Report dated March 14, 2016 – see attached).

- Amendments intended to bring existing ordinance into compliance with model ordinance;
- Increase freeboard from existing 12" requirement to 18" requirement;
- Define "critical facilities" and prohibit them in all Special Flood Hazard Areas (SFHA);
- Restrict "hazardous materials" and fuels in all Special Flood Hazard Areas;
- Limit land uses in the Floodway to only non-structural uses;
- Modify the requirements for when the Base Flood Evaluation needs to be identified and included on subdivision plats; and
- Restrict the placement of fill in all Special Flood Hazard Area (SFHA).

It was noted that the capitalization needs to be consistent throughout the ordinance for Special Flood Hazard Areas (SFHA). Mr. Padalino indicated that he would make the changes where needed.

Chair Proulx noted that she would like to see another draft of the proposed amendments before the next meeting. Mr. Padalino indicated that he would get an updated version of the proposed amendments to the Commissioners.

**Commissioner Harman made the following motion:**

**I make a motion the Planning Commission request from the Board of Supervisors an extension of 100-days from the May 6, 2016 to provide recommendations on Article 10 (“General Floodplain District FP”). Commissioner Russell provided the second; the vote 4-0 with Mr. Bruguere abstaining.**

**Other Business:**

Mr. Padalino noted that the TJPDC is assisting with the Rockfish Valley Area Plan (RVAP). The TJPDC is currently working on revising about twenty-four (24) maps and a public survey. An Ag Working Group was established as part of a grant requirement. A meeting of the Ag Working Group was held on Monday, and a lot of good comments were received from that meeting during the review process. A work session will be held with TJPDC staff tomorrow to address the review comments that were received on Monday. There is a lot of interest in the project.

**Board of Supervisors Report:** Mr. Bruguere provided the following details:

1. No action was taking on the M-1 District proposed amendment. The one individual has some issues that need to be resolved before a recommendation will be made. The BOS feels whatever recommendation is made needs to fit everyone.
2. The BOS adopted the “Farmers Market,” “Roadside Stands,” and “Bed & Breakfast” amendments.
3. There is a Citizen Working Group that is reviewing the proposed “Temporary Events” amendments.

**Adjournment:**

Commissioner Harman made a motion to adjourn at 8:56 pm; vote 5-0.

Respectfully submitted,

Stormy V. Hopkins  
Secretary, Planning & Zoning

**Please publish Thurs. May 12 and Thurs. May 19 in The Nelson County Times:**

**LEGAL NOTICE  
NOTICE OF PUBLIC HEARING**

In accordance with Volume 3A, Title 15.2, Counties, Cities and Towns, of the Code of Virginia, 1950, as amended, and pursuant to §15.2-107, §15.2-2204, §15.2-2285, §15.2-2310, and §15.2-4307, the Nelson County Planning Commission hereby gives notice that a Public Hearing will start at **7:00 p.m., Wednesday, May 25<sup>th</sup>** in the **General District Courtroom** on the third floor of the Nelson County Courthouse located at 84 Courthouse Square, Lovingson, for the following:

**Public Hearing**

**1. Special Use Permit #2016-01 – Ms. Elizabeth Jackson**

Consideration of a Special Use Permit (SUP) application made pursuant to Zoning Ordinance Article 5 (“Residential District R-1”), Section 5-1-2a (“Double-wide mobile home mounted on a permanent concrete or block foundation”). Specifically, the applicant requests approval to replace a former single-family dwelling which was damaged in a structure fire with a double-wide manufactured home. The subject property is a 2.0-acre parcel located in Afton at 1617 Avon Road; it is further identified as Tax Map Parcel #7-A-25 and is zoned Residential (R-1) and Agricultural (A-1).

Following the hearing, the Planning Commission may vote to forward this SUP application to the Board of Supervisors (with a recommendation for approval; a recommendation for approval with recommended conditions; or a recommendation for denial) for action by the Board. Prior to taking any vote to approve, modify, or reject this application, the Board of Supervisors will also conduct a public hearing. A date for the public hearing by the Board of Supervisors has not yet been determined.

Copies of the above files are available for review in the Dept. of Planning & Zoning office, 80 Front Street, Lovingson, Virginia, Monday through Friday, 9:00 a.m. to 5:00 p.m. Telephone inquiries may also be directed to the Dept. of Planning & Zoning, (434) 263-7090, or toll free at 888-662-9400, selections 4 and 1. Nelson County does not discriminate on the basis of handicapped status in admission or access to its programs and activities. Accommodation will be made for handicapped persons upon advance request.



To: Chair and Members, Nelson County Planning Commission  
From: Tim Padalino | Planning & Zoning Director  
Date: May 16, 2016  
Subject: **Public Hearing for Special Use Permit #2016-01**  
**("Double-Wide Home in R-1" / Ms. Elizabeth Jackson)**

### Summary of Application(s)

<b>Site Address / Location:</b>	1617 Avon Road / Afton / North District
<b>Tax Parcel(s):</b>	#7-A-25
<b>Parcel Size:</b>	2.0 acres
<b>Zoning:</b>	Residential (R-1) and Agricultural (A-1)
<b>Applicants:</b>	Ms. Elizabeth Jackson
<b>Request:</b>	Review and Approval of Special Use Permit #2016-01
<ul style="list-style-type: none"><li>▪ <i>Application and SUP Fee Payment Received On:</i> May 3, 2016</li><li>▪ <i>Note:</i> Minor Site Plan not submitted; per multiple discussions with applicant, a request for a Waiver of Requirements for a Site Plan was to be prepared and submitted by the applicant pursuant to Z.O. 13-7-C; however, to date, no such request (or Minor Site Plan) has been received.</li></ul>	

On May 3<sup>rd</sup>, the Department of Planning & Zoning received a Special Use Permit (SUP) application from Ms. Elizabeth Jackson (property owner). Specifically, the application materials include the following submittals:

- Special Use Permit application #2015-18, which requests approval to replace a former single-family dwelling (which was irreparably damaged in a fire) with a double-wide manufactured home. This application is being made pursuant to Zoning Ordinance Article 5 ("Residential District R-1"), Section 5-1-2a ("Double-wide mobile home mounted on a permanent concrete or block foundation").

#### **Subject Property Location and Characteristics:**

The subject property is a 2-acre parcel in Afton with frontage on Avon Road. It is further identified as Tax Map Parcel #7-A-25, which is zoned Residential (R-1) and Agricultural (A-1). The proposed location for the double-wide mobile home is in the R-1 District. *Please see the enclosed maps.*

**Site Plan Review Committee Comments:**

As noted above, a Minor Site Plan was not prepared or submitted with this SUP application. At the time of this report, Planning & Zoning staff have not received the anticipated request for a “Waiver of Requirements for a Site Plan” per Z.O. 13-7-C. We will continue our attempts to coordinate with the applicant regarding this important element of the SUP request.

**Staff Evaluation:**

Per Zoning Ordinance Article 12, Section 3-2, there are four criteria which must be evaluated when reviewing all requests for Special Use Permits, as listed below:

- 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.***
- 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.***

**Staff Recommendation(s):**

The opinion of Staff is that the requested Special Use Permit would not change the established pattern of development along this portion of Avon Road; and would not produce a negative impact to the character of the area, or otherwise result in an unharmonious outcome with adjoining and nearby properties. The author emphasizes that these opinions should be considered in connection with any public comments which may be received during the public hearing.

Overall, the applicant’s request to replace the fire-destroyed dwelling with a double-wide mobile home seems to be acceptable relative to all four evaluation criteria (above) – contingent upon the following:

- Documented approval by the Department of Health that the proposed new double-wide mobile home is permitted to utilize the existing private septic system

Therefore, contingent upon documented VDH issuance of a septic permit for this proposed new double-wide mobile home, I recommend that the Planning Commission recommend to the Board of Supervisors approval of SUP #2016-01.

In conclusion, please contact me with any questions, concerns, or requests for assistance leading up to the May 25<sup>th</sup> Planning Commission public hearing for Special Use Permit #2016-01. Thank you very much for your time and attention to this application.



# PERMIT APPLICATION:

## Nelson County Department of Planning & Zoning

TO THE ZONING ADMINISTRATOR: Special Use Permit # 2016-01  
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 \_\_\_\_\_, Section \_\_\_\_\_ of the Nelson County Zoning Ordinance.  
 Pursuant to Section \_\_\_\_\_, Subsection \_\_\_\_\_ of the Nelson County Subdivision Ordinance.

Reason(s) for request: Customer home burnt down  
and Insurance will only cover enough  
to install a Double wide. (Manufactured  
home)

*(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: Elizabeth Jackson  
Mailing Address: 1617 Avon Rd, Afton VA 22920  
Telephone # 434-962-1024 E-mail Address: MAZEV36D6A01.COM  
Relationship (if applicable): \_\_\_\_\_

Applicant  Property Owner Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
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.):

1617 AVON Rd, APTON VA 22920

b. Official tax map number: 7 A 25

c. Acreage of property: 2.0

d. Present use: Residence

e. Present zoning classification: R-1

f. Zoning classification of surrounding properties: R-1

4. Names of Adjacent Property Owners: STEVEN Sullivan,  
Myra Wood

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: Elizabeth Jackson Printed Name: Elizabeth Jackson  
Signature: \_\_\_\_\_ Printed Name: \_\_\_\_\_

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

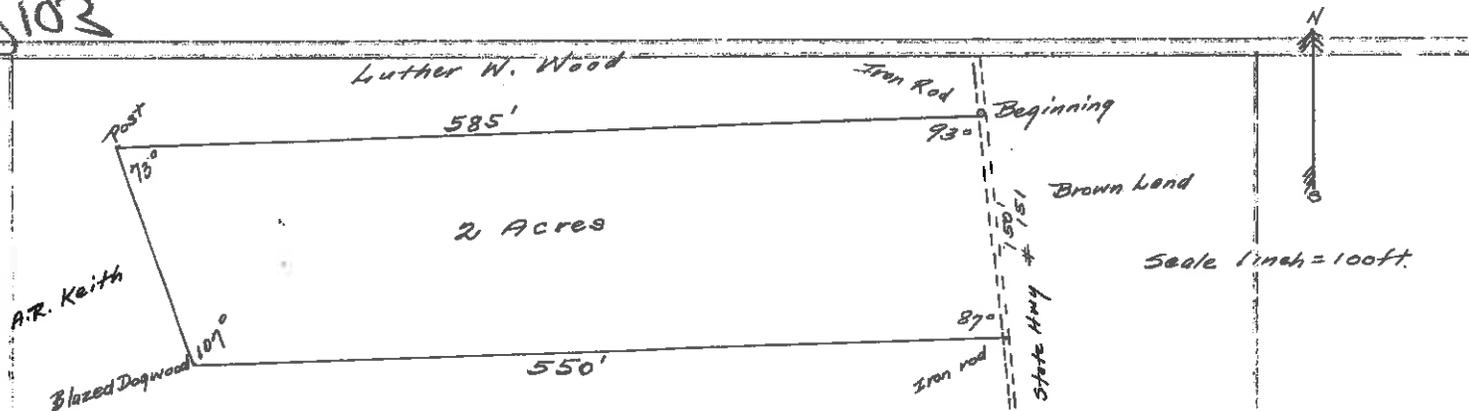
6. **Additional information:** *(Please attach separate sheet for additional details, explanations, etc.)*

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 (\$ 200.00 ) received on 5-3-16
- o Hearing Notice published on May 12<sup>th</sup> & May 19<sup>th</sup>, 2016
- o Planning Commission action: Date of Meeting / Hearing: May 25<sup>th</sup>, 2016  
Recommendation: \_\_\_\_\_
- o Board of Supervisors action: Date of Hearing: \_\_\_\_\_ Date of Decision: \_\_\_\_\_  
Action: \_\_\_\_\_

DB92  
Pg 103



This is a plat of a two acre tract of land about a quarter mile south of Avon on west side of State Highway 151 in Rockfish District of Nelson County, Virginia, surveyed by plane table for John Jackson and bounded as follows:

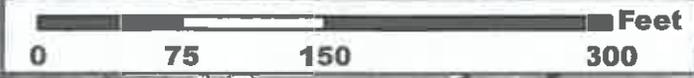
Beginning in center of State Highway 151, opposite Iron Rod, corner with Luther W. Wood, thence west along Wood at  $93^\circ$  angle 585' to post, corner with A.R. Keith, thence south at  $73^\circ$  angle along Keith 155' to blazed dogwood, corner with Essie Awkard, thence east at  $107^\circ$  angle along Essie Awkard 550' to center of State Highway 151 opposite Iron Rod, thence north at  $87^\circ$  angle along center of said highway 150' to beginning.

Surveyed 3/28/1958  
McDonald R. Kemp



**SPECIAL USE PERMIT #2016-01**

<b>Parcel ID</b>	<b>Owner Name</b>	<b>Parcel Address</b>
7-A-25	JACKSON OCTAVIA Y & ELIZABETH & REGINALD L JACKSON	1617 AVON ROAD
7-A-24	WOOD MYRA C/O RUBY GRAVES	1665 AVON ROAD
7-A-26B	SULLIVAN STEVEN T & CAROLINE M	1575 AVON ROAD
7-A-55C	CRAIGHEAD BARBARA A	
7-A-30	BROWN J H	
7-A-29	CHRISTOPHER BARBARA W	
7-A-27A	LYNCH BARBARA A	1544 AVON ROAD



1 inch = 100 feet

23

24

25

26B

26

26A

MICKENS RD

AVON RD

31

30

2

2



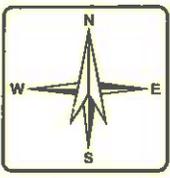
- Tax Map Parcels
- Rivers
- Perennial Streams

0 150 300 600 Feet

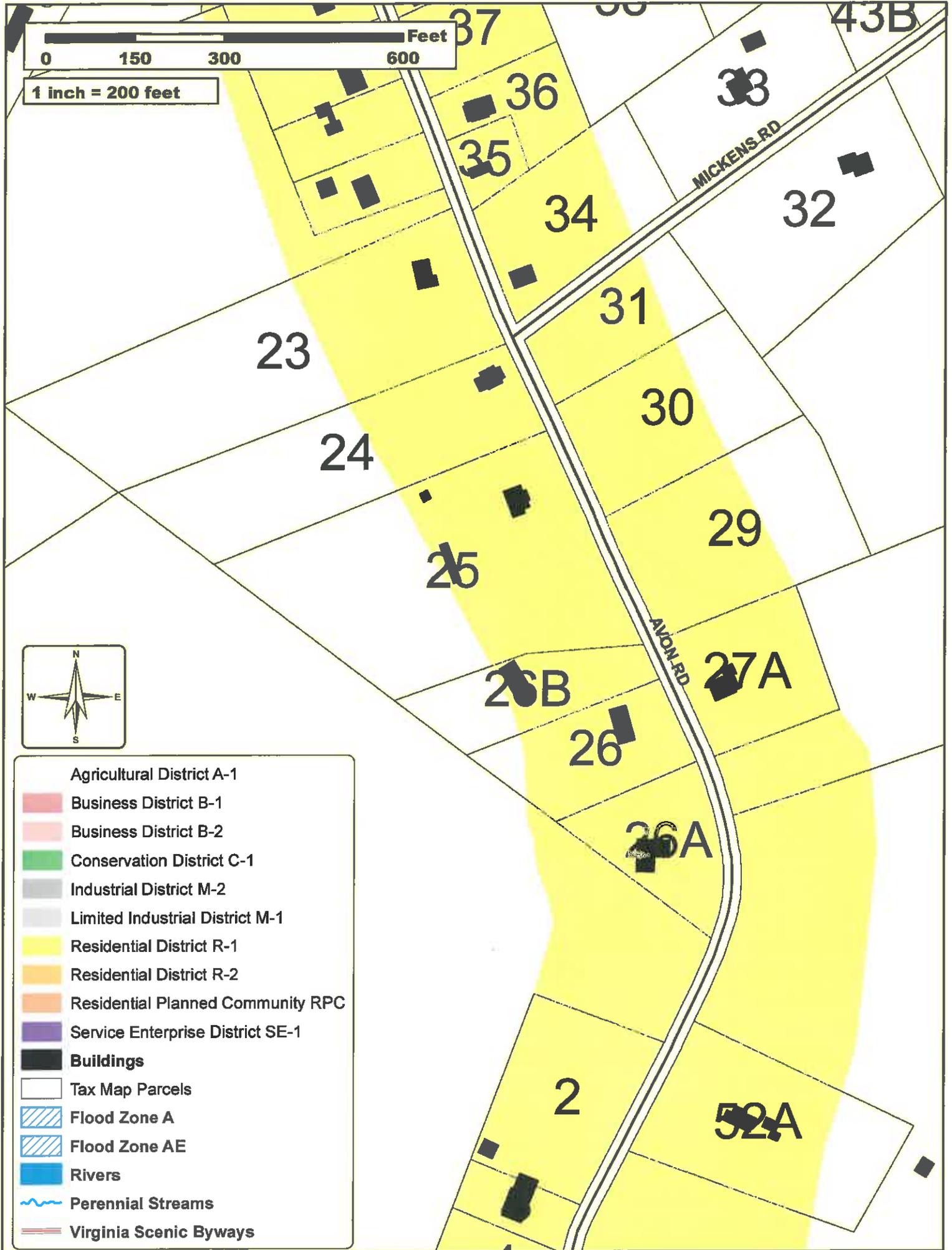
1 inch = 200 feet



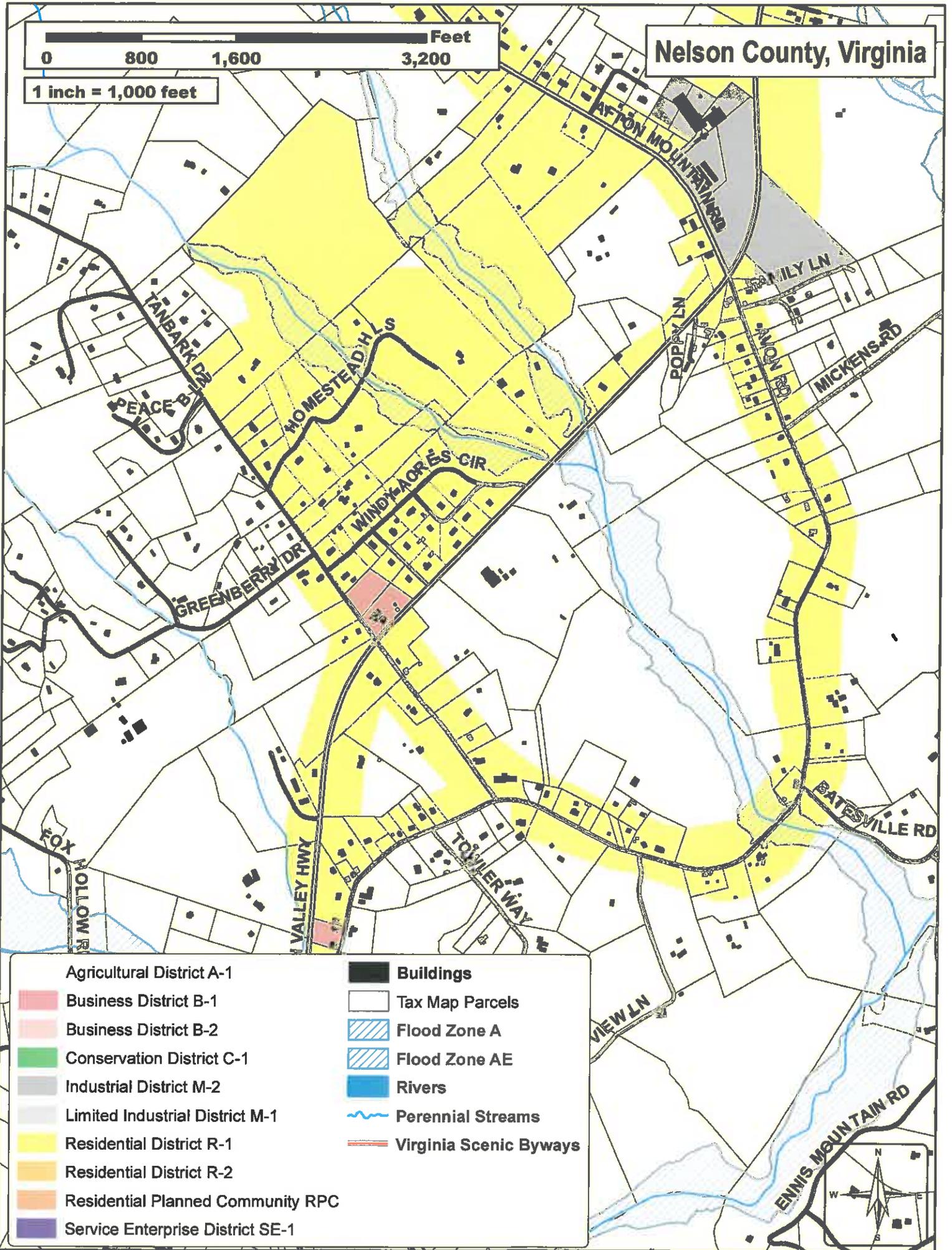
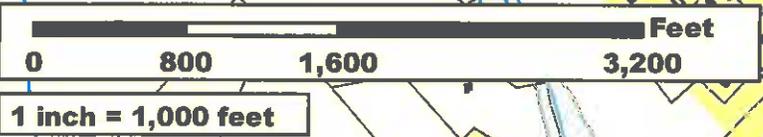
- Tax Map Parcels
- Rivers
- Perennial Streams



- Agricultural District A-1
- 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
- Buildings**
- Tax Map Parcels
- Flood Zone A
- Flood Zone AE
- Rivers
- Perennial Streams
- Virginia Scenic Byways



# Nelson County, Virginia



- |                                   |                        |
|-----------------------------------|------------------------|
| Agricultural District A-1         | Buildings              |
| Business District B-1             | Tax Map Parcels        |
| Business District B-2             | Flood Zone A           |
| Conservation District C-1         | Flood Zone AE          |
| Industrial District M-2           | Rivers                 |
| Limited Industrial District M-1   | Perennial Streams      |
| Residential District R-1          | Virginia Scenic Byways |
| Residential District R-2          |                        |
| Residential Planned Community RPC |                        |
| Service Enterprise District SE-1  |                        |



To: Chair and Members, Nelson County Planning Commission  
From: Tim Padalino | Planning & Zoning Director  
Date: May 17, 2016  
Subject: Review of Preliminary Major Site Plan #2016-07 ("Evans Cabins")

### Application Summary

<b>Site Address / Location:</b>	South side of Route 664 / Beech Grove / West District
<b>Tax Parcel(s):</b>	#31-A-39A ... (Please reference the attached maps)
<b>Parcel Size:</b>	4.99 acres (total)
<b>Zoning:</b>	Agricultural (A-1)
<b>Applicant:</b>	Mr. Bill & Mrs. Rebecca Evans and Mr. David L. Collins, LS, PE
<b>Request:</b>	Approval of Special Use Permit #2015-05 / application made pursuant to §4-1-25a
• Submitted in connection with approved Special Use Permit #2015-05 ("Motel")	

### Subject Property Location, Characteristics, and Other Information:

The subject property is located on the southern side of Beech Grove Road and is currently undeveloped. The subject property, comprising a total of 4.99-acres, is located in the Agricultural (A-1) zoning district. *Please reference the enclosed maps.*

### Site Plan Review Committee Meeting and Comments:

Preliminary Major Site Plan #2016-07, prepared by Mr. David L. Collins, LS, PE, was reviewed at the May 11<sup>th</sup> Site Plan Review Committee meeting. Please note that this submission has been made subject to the optional provision contained in Z.O. 13-4-HH:

*Option: A Preliminary Major Site Plan may be submitted to the Planning Commission for review and comment prior to submittal of the Final Site Plan for review and approval.*

Please also note that, following the May 11<sup>th</sup> meeting, the applicants have prepared and submitted new (revised) site plan drawings (dated May 16<sup>th</sup>).

Copies of the written review comments provided by members of the Review Committee have been included in your packet. Please also note that Mr. Collins has submitted a response letter to VDOT, summarizing the revisions he made between May 11<sup>th</sup> and May 16<sup>th</sup> in response to VDOT's initial review comments.

The Department of Health did not provide review comments in writing; Mr. Tom Eick instead provided the following comments via telephone on May 11<sup>th</sup>:

- He acknowledged the proposed drainfield locations for the proposed private septic system, but was awaiting submission of a technical report from a licensed AOSE regarding the proposed septic system.

Similarly, Mr. Michael Ramsey of the Thomas Jefferson Soil & Water Conservation District did not provide written review comments; but Mr. Ramsey did attend the May 11<sup>th</sup> Site Plan Review Committee meeting and provided his review comments and questions directly to the applicant. Those comments generally pertained to the Erosion & Sediment Control Plan, which is reviewed separately by the TJSWCD, and which must be approved prior to any site development and prior to any issuance of any building permit or land disturbing permit from the Building Inspections Department.

Mr. Ramsey also confirmed that the proposed project will require an approved VSMP plan – and the applicants will need to obtain VSMP permit coverage – from the VA Department of Environmental Quality (DEQ). Similar to the E&S Control Plan, the VSMP permitting process is technically a review and approval process which is separate from the Major Site Plan.

The following comments and issues have been raised by Planning & Zoning staff:

- During the SUP review and approval process, Mr. Collins noted that the property owners/developers would like to explore the possibility of building new private roads that are slightly narrower than what is specified by the private road standards contained in the Subdivision Ordinance; this concept would include the provision of several “bulb-outs” where passenger vehicles, motor homes, and/or emergency response vehicles could safely pull aside to pass one another with ease. At that time, it was agreed that this issue would be resolved during the subsequent Major Site Plan submission and review.
  - Please note that this issue of private road standards only applies to the portion of the project serving the dwellings used for transient lodging (the proposed gravel road between the proposed commercial entrance and the proposed gate); the private residential driveway ((the proposed 10’ gravel drive between the commercial entrance and the garage) would not be subject to private road standards other than what is contained in Z.O. 12-7-9 (“Residential Driveway Standards”)
  - Please see the enclosed detail (road section) submitted by the applicant on May 16<sup>th</sup>, which is the proposed design standard intending to meet the private road standards as required by Z.O. 13-6-1 and S.O. 4-6-C.
- An extensive tree survey was conducted, identifying the existing hardwoods and pines which are the most desirable, and will be retained to the greatest extent possible during construction. This preservation of desirable trees will enhance the project, and will help to minimize the visual impact of the new development from the Scenic Byway. This planned

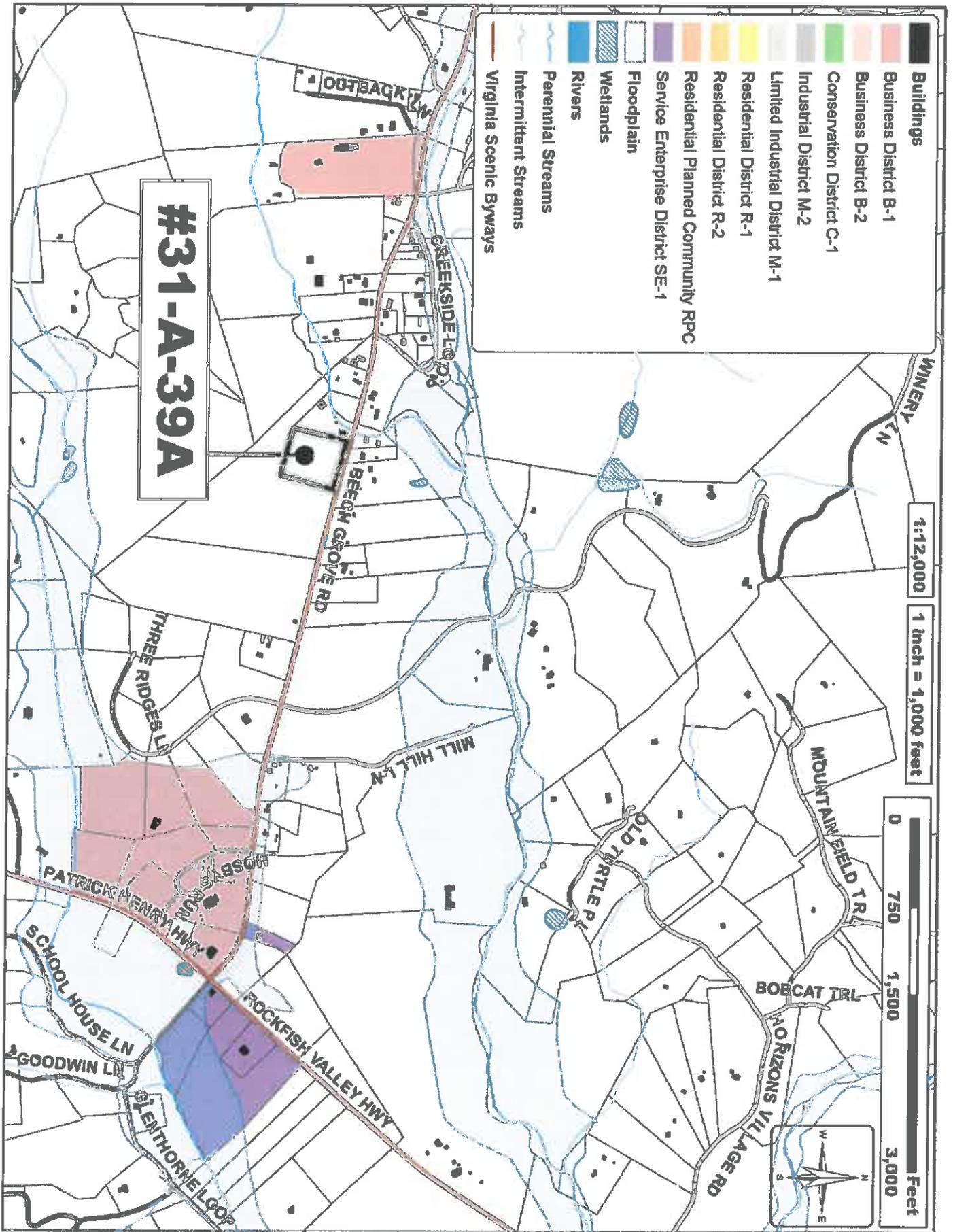
preservation of the existing natural forest canopy may be considered part of the landscaping plan. The applicant has also indicated an agreement to install an off-site vegetative buffer on the adjoining property to the west (Tax Map Parcel #31-A-39B) to achieve more extensive screening.

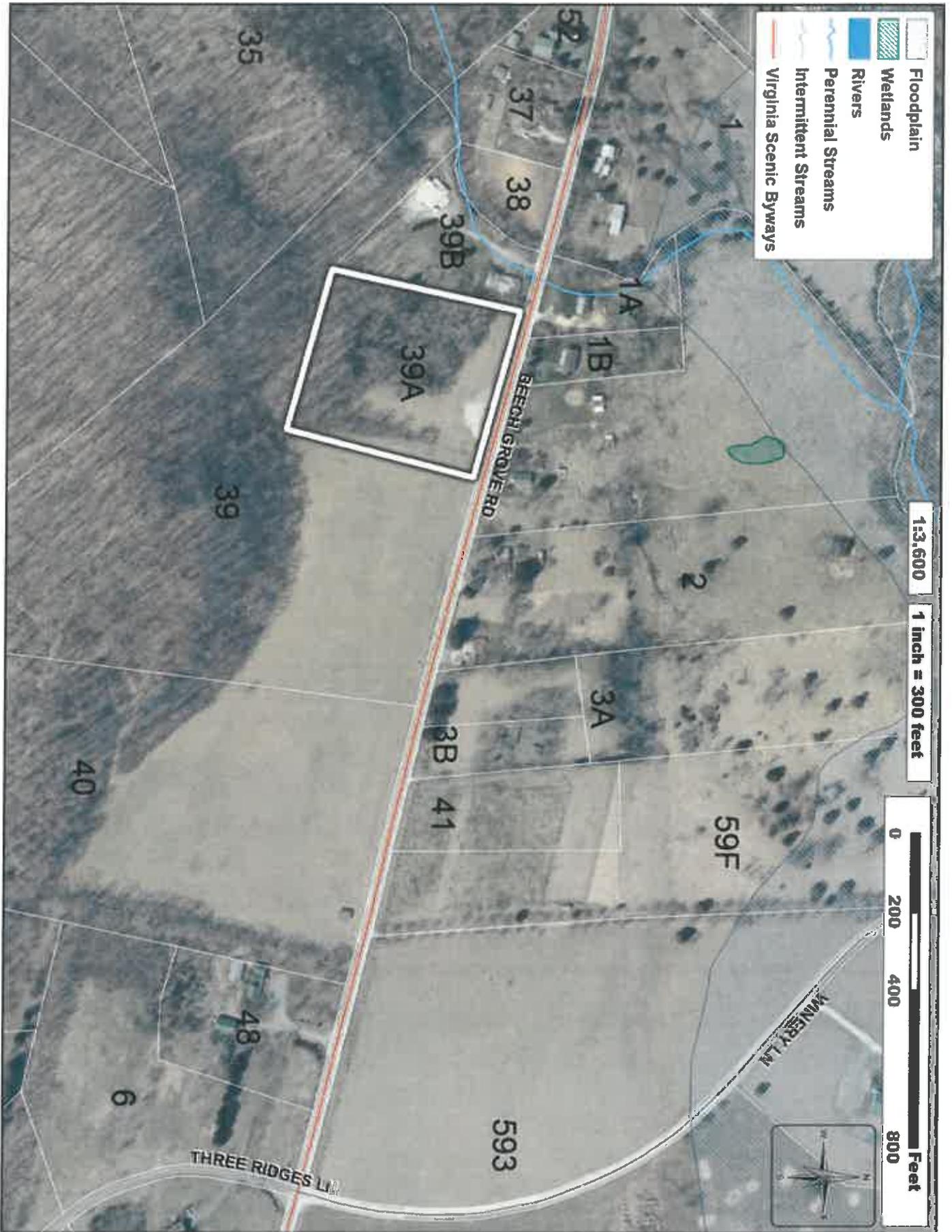
- Eleven (11) parking spaces would be provided for the commercial (transient lodging) portion of the project, which exceeds the required minimum number of spaces (eight – 8). These required improvements must comply with the applicable design standards contained in Z.O. 12-7-8.
  - Additionally, the private residential dwelling will be served by two parking spaces, which satisfies the minimum requirement.

**Conclusion:**

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Please contact me with any questions, concerns, or requests for assistance leading up to the May 25<sup>th</sup> Planning Commission review of Preliminary Major Site Plan #2016-07 for “Evans’ Cabins.” Thank you very much for your time and attention to this application.







# PERMIT APPLICATION:

## Nelson County Department of Planning & Zoning

TO THE ZONING ADMINISTRATOR: Major Site Plan # 2016-07  
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 checked="" type="checkbox"/> Major Site Plan   | <input type="checkbox"/> Special Use Permit                       |
| <input type="checkbox"/> Minor Site Plan              | <input type="checkbox"/> Other: _____                             |

- Pursuant to Article 13, Section 4 of the Nelson County Zoning Ordinance.  
 Pursuant to Section \_\_\_\_\_, Subsection \_\_\_\_\_ of the Nelson County Subdivision Ordinance.

Reason(s) for request: to develop site for residential house  
And 4 CABINS for over-night rental

*(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: Bill & Becky EVANS  
Mailing Address: 4514 Good Adams Lane, VA Beach, Va. 2345  
Telephone # 757-676-2405 E-mail Address: \_\_\_\_\_  
Relationship (if applicable): \_\_\_\_\_

Applicant  Property Owner Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
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.):

Beech Grove Road (Immediately adjacent to and East of Butternut Construction office)

b. Official tax map number: TM 31-A-39A

c. Acreage of property: 4.99

d. Present use: hay field, wood lot, [Parking]

e. Present zoning classification: A-1, SUP (10-13-2015)

f. Zoning classification of surrounding properties: A-1

4. Names of Adjacent Property Owners:

Peter Farley (TM 31-A-39)  
John Szelagiewicz (TM 31-A-39B)

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: David L. Collins (Agent) Printed Name: David L. Collins dlc.l.s.pe@gmail.com  
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 .....

- Completed application and fee (\$ 500.00 ) received on April 29, 2016
- Hearing Notice published on \_\_\_\_\_
- Planning Commission action: Date of Meeting / Hearing: \_\_\_\_\_  
Recommendation: \_\_\_\_\_
- Board of Supervisors action: Date of Hearing: \_\_\_\_\_ Date of Decision: \_\_\_\_\_  
Action: \_\_\_\_\_



**MAJOR SITE PLAN #2016-07**

Parcel ID	Owner Name	Parcel Address
31-A-39A	EVANS, WILLIAM N & REBECCA T	
31-A-39B	SZELAGIEWICZ, JOHN	1089 BEECH GROVE ROAD
31-A-39	FARLEY, PETER V	
20-3-1	TURNER, MATTHEW LEE	
20-3-1B	TURNER, RODGER LEE & JOYCE RAE FALLS	1058 BEECH GROVE ROAD
20-3-1A	CAMPBELL, DOUGLAS L & REBECCA SELL	1086 BEECH GROVE ROAD



# COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION  
4219 CAMPBELL AVENUE  
LYNCHBURG, VIRGINIA 24501  
VDOT.Virginia.gov

CHARLES A. KILPATRICK, P.E.  
COMMISSIONER

May 13, 2016

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

Reference: Nelson County Site Plan Review Committee  
Preliminary Major Site Plan #2016-07 Evan's Cabins  
Route 664

Dear Mr. Padalino; *Tim*

In follow-up our May 11, 2016 Site Plan Review Committee's discussion, VDOT offers the following final comments regarding the referenced preliminary site plan application for Evans' Cabins:

1. Based on the anticipated traffic volume and type this development will generate a VDOT Moderate Volume Type Commercial Entrance with minimum geometric requirements of 25 foot radii, 24 foot throat width, and a minimum 20 foot landing of 2percent maximum grade is required. The entrance is to include a 4 foot wide shoulder along the entrance radii.
2. Provide a centerline profile grade for the commercial entrance on the site plan. The addition of spot grade point elevations is recommended.
3. Provide culvert design computation (VDOT Form LD-269) for the entrance and depict culvert type, size, location, length and elevations on site plan.
4. Include the following entrance pavement design to be constructed to the back catch point of the entrance:
  - 8 inches Type I, No. 21-A Aggregate
  - VDOT Spec. Class D Blotted Seal Coat Surface Treatment or 2 inches of Bituminous Asphalt Concrete, Type SM-9.5 D.
5. Include VDOT Site Plan Notes provided in my email of May 10, 2016. The following Plan Notes may be excluded: #19, 23, 26, 29, 30, 33, 35, 36, 38, 39, 41, 42, 43, 44 & 48.
6. Include a plan note stating "Saw cut edge line at entrance tie in" to ensure an even joint.
7. Include a plan note stating "All disturbed areas within the right-of-way is to be graded to drain and blend with the surrounding area, compacted and stabilized." This is to supplement the notation to refer to the E&S plan.

Mr. Timothy M. Padalino

May 13, 2016

Page 2 of 2

8. As discussed during the meeting, the existing field entrance at the eastern property line which serves the adjoining property should be removed. If access is to be provided, VDOT will require that the entrance be reconstructed to meet current private entrance standards for field entrances, and included as part of this site plan.
9. Modify VDOT's signature block and include disclaimer as follows:  
**ACCEPTABLE TO VDOT**

**VDOT REPRESENTATIVE: \_\_\_\_\_ DATE: \_\_\_\_\_**  
**VDOT'S REVIEW IS NOT INTENDED TO BE EITHER COMPLETE OR**  
**COMPREHENSIVE AS IT IS THE RESPONSIBILITY OF THE SUBMITTING**  
**ENGINEER/SURVEYOR THAT SIGNS AND SEALS 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**

Please notify me if I may be of further assistance.

Sincerely,



Jeffery B. Kessler, P. E.

Area Land Use Engineer

(434) 856-8293

[JefferyB.Kessler@VDOT.Virginia.gov](mailto:JefferyB.Kessler@VDOT.Virginia.gov)

CC: David Collins, L. S., P. E.

Matthew D. Clark

## Tim Padalino

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**From:** Kessler, Jeffery B., P.E. (VDOT) <JefferyB.Kessler@VDOT.Virginia.gov>  
**Sent:** Tuesday, May 10, 2016 1:10 PM  
**To:** Tim Padalino  
**Cc:** Clark, Matthew D. (VDOT); 'David Collins'  
**Subject:** RE: Nelson Co. Preliminary Major Site Plan #2016-07: Evans' Cabins )Beech Grove Road (Rte.664)  
**Attachments:** LD\_269\_Culvert Computation.xls; VDOT\_Site\_Plan\_Notes\_2015.pdf; Evans Cabins Site Plan REV.04.26.16\_Rte 664\_Beech Grove Rd.Nelson.VDOT Comments.05.09.16.pdf

Tim,

In review of the preliminary site plan (#2016-07) by David L. Collins, L.S., P.E. sealed on April 26, 2016, VDOT has the following comments:

1. Refer to my email of August 17, 2015 (below) regarding commercial entrance type (Moderate Volume) and corresponding minimum geometric requirements. As stated before, a Low Volume Commercial Entrance is not applicable to this project.
2. Provide culvert design computation (VDOT Form LD-269) for the entrance and depict culvert type, size, location, length and elevations on site plan.
3. Include the following entrance pavement design to be constructed to the back catch point of the entrance:
  - a. 8 inches Type I, No. 21-A Aggregate
  - b. VDOT Spec. Class D Blotted Seal Coat Surface Treatment or 2 inches of Bituminous Asphalt Concrete, Type SM-9.5 D.
4. Include VDOT Site Plan Notes (attached). The following Plan Notes may be excluded: #19, 23, 26, 29, 30, 33, 35, 36, 38, 39, 41, 42, 43, 44 & 48.
5. Include a plan note stating "Saw cut edge line at entrance tie in" to ensure an even joint.
6. Include a plan note stating "All disturbed areas within the right-of-way is to be graded to drain and blend with the surrounding area, compacted and stabilized."
7. The site plans are not clear as to the removal of the eastern most entrance that serves as a field access to the adjoin property to the east. Please provide a legend indicating the symbol being used to remove existing gravel parking area and entrances.
8. Modify VDOT's signature block and include disclaimer as follows:  
**ACCEPTABLE TO VDOT**

**VDOT REPRESENTATIVE: \_\_\_\_\_ DATE: \_\_\_\_\_**  
**VDOT'S REVIEW IS NOT INTENDED TO BE EITHER COMPLETE OR COMPREHENSIVE AS IT IS THE RESPONSIBILITY OF THE SUBMITTING ENGINEER/SURVEYOR THAT SIGNS AND SEALS 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.**

A quick summary of these comments is provided on the attached marked site plan sheet. Please notify me if you have any questions or if I may be of further assistance.

Best Jeff

Jeffery B. Kessler, P.E.  
Area Land Use Engineer

VDOT - Lynchburg  
434.856.8293  
[JefferyB.Kessler@VDOT.Virginia.gov](mailto:JefferyB.Kessler@VDOT.Virginia.gov)

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**From:** Kessler, Jeffery B., P.E. (VDOT)  
**Sent:** Monday, August 17, 2015 3:14 PM  
**To:** 'David Collins'  
**Cc:** Timothy M. Padalino; Clark, Matthew D. (VDOT)  
**Subject:** FW: Evans' Cabins )Beech Grove Road (Rte.664) Nelson County

David,

I am sorry to have missed you by telephone earlier this afternoon. Understanding that you are only looking for a special use permit from Nelson County at this time, and if approved, a final entrance design will follow, I offer the following comments regarding the special use permit application:

Based on the attached entrance sketch, both the stated sight distances and commercial entrance spacing meet VDOT's requirements for the posted 55 mph speed limit along this functionally classified collector roadway. Please include the distance to the nearest state road from the proposed entrance. Considering the current traffic volume along this section of Beech Grove Road and the projected traffic volume that will use the proposed commercial entrance, a VDOT Moderate Volume Commercial Entrance design with a minimum 25 foot radii and a minimum 24 foot entrance width at the return (back catch point of the radii) will be acceptable. Please revise the entrance sketch accordingly for this special use permit application to avoid confusion later in the process.

At such time when the entrance design will be submitted for approval by VDOT, additional details of the Moderate Volume Commercial Entrance, including grades, shoulders, drainage and pavement designs along with the appropriate VDOT site plan notes, will be required.

Please notify me if I may be of further assistance.

Thank you,  
Jeff

Jeffery B. Kessler, P.E.  
Area Land Use Engineer  
VDOT - Lynchburg  
434.856.8293  
[JefferyB.Kessler@VDOT.Virginia.gov](mailto:JefferyB.Kessler@VDOT.Virginia.gov)

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**From:** David Collins [<mailto:dlc.ls.pe@gmail.com>]  
**Sent:** Monday, August 17, 2015 8:44 AM  
**To:** Kessler, Jeffery B., P.E. (VDOT)  
**Subject:** Evans' Cabins

Jeff,  
I expect to be in the office most of today.

Is there a chance we could discuss this?

Thanks,



To: **Timothy M Padalino**, Director of Planning & Zoning  
From: David L Thompson, Building Code Official  
Date: May 4, 2016  
Re: May 11, 2016 Plan Review Meeting

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**COMMENTS:**

1. **Major Site Plan # 2016-05 – Quarry Gardens at Schuyler**  
Mr. Armand Thiebolt and Mr. Christopher E. Sonne, PE, LEED AP/ Tax Map Parcel #51-A-23 **“Banquet Hall”**
  - An Erosion & Sedimentation Control plan review fee of \$500 must be paid to the County of Nelson prior to the plan submittal to Thomas Jefferson Soil & Water Conservation District for plan review and approval. (A registration statement of storm water management permit issuance from DEQ must be provided to the county before the local erosion & sediment control permit is finalized and issued if applicable.) A Nelson County Land Disturbing Activity Permit application to the Inspections Department and permit fee of \$450 is required to be paid at the time of application. The Land Disturbing Activity permit & approved plan is required prior to any site development.
  - Nelson County Building permit(s) are required to authorize construction of facilities, structures and buildings regulated by the Uniform Statewide Building Code (USBC). 13VAC5-63-20 section 102.3. **Two (2) sets of plans accompanying a permit application and permit fee payment must be completed before a permit application is reviewed for issuance.**  
\* Note - Applicable permits must be obtain prior to a building permit issuance for all functional state agencies. (Includes VDOT, DEQ, VDOT, etc....)
  
2. **Minor Site Plan # 2016-06 – Cottages at Afton Mountain Vineyards**  
AMV Properties, L.L.C. and Mr. Brian Ray, LS/ Tax Map Parcel #3-A-131A **Z.O. 401031 (Class B Bed & Breakfast)**
  - An Erosion & Sedimentation Control plan review fee of \$500 must be paid to the County of Nelson prior to the plan submittal to Thomas Jefferson Soil & Water Conservation District for plan review and approval. The plan limits of construction activities must address all areas of the proposed development including but not limited to the construction staging areas, construction access roads, utility disturbances, soil stockpiles, and address local & VSMP MS-19 regs for stormwater runoff. (A registration statement of storm water management permit issuance from DEQ must be provided to the county before the local erosion & sediment control permit is finalized and issued if applicable.) A Nelson County Land Disturbing Activity Permit application to the Inspections Department and permit fee of \$450 is required to be paid at the time of application. The Land Disturbing Activity permit & approved plan is required prior to any site development.

- Nelson County Building permit(s) are required to authorize construction of facilities, structures and buildings regulated by the Uniform Statewide Building Code (USBC). 13VAC5-63-20 section 102.3. **Two (2) sets of plans accompanying a permit application and permit fee payment must be completed before a permit application is reviewed for issuance.**

**\*Note the cabins will require a USE GROUP designation of “R”. All USE GROUP “R” designations require sprinkler system protection with the exception of a separate building permit for each cabin and each cabin is designed is a single family dwelling.**

The USBC limits occupants and bedrooms of a bed and breakfast unless it conforms to an R-1 use group. Applicable permits must be obtain prior to a building permit issuance for all functional state agencies. (Includes VDOT, DEQ, VDOT, etc....)

3. **Preliminary Major Site Plan #2016-07 – Evans’ Cabins**

Mr. Bill & Rebecca Evans and David L. Collins, LS, PE/Tax Map Parcel #31-A-39A  
**SUP #2015-05 “Motel”**

- An Erosion & Sedimentation Control plan review fee of \$500 must be paid to the County of Nelson prior to the plan submittal to Thomas Jefferson Soil & Water Conservation District for plan review and approval. The plan limits of construction activities must address all areas of the proposed development including but not limited to the construction staging areas, construction access roads, utility disturbances, soil stockpiles, and address local & VSMP MS-19 regs for stormwater runoff. (A registration statement of storm water management permit issuance from DEQ must be provided to the county before the local erosion & sediment control permit is finalized and issued if applicable.) A Nelson County Land Disturbing Activity Permit application to the Inspections Department and permit fee of \$450 is required to be paid at the time of application. The Land Disturbing Activity permit & approved plan is required prior to any site development.
- Nelson County Building permit(s) are required to authorize construction of facilities, structures and buildings regulated by the Uniform Statewide Building Code (USBC). 13VAC5-63-20 section 102.3. **Two (2) sets of plans accompanying a permit application and permit fee payment must be completed before a permit application is reviewed for issuance.**

**\*Note the cabins will require a USE GROUP designation of “R”. All USE GROUP “R” designations require sprinkler system protection with the exception of a separate building permit for each cabin and each cabin is designed is a single family dwelling.** Applicable permits must be obtain prior to a building permit issuance for all functional state agencies. (Includes VDOT, DEQ, VDOT, etc....)

APPENDIX A - ZONING

Draft: May 16 2016

ARTICLE 10. GENERAL FLOODPLAIN DISTRICT FP

ORDINANCE NO.

AN ORDINANCE AMENDING APPENDIX A OF THE CODE OF THE COUNTY OF NELSON, VIRGINIA; THE ZONING ORDINANCE OF NELSON COUNTY, VIRGINIA, BY ESTABLISHING FLOODPLAIN DISTRICTS; BY REQUIRING THE ISSUANCE OF PERMITS FOR DEVELOPMENT; AND BY PROVIDING FACTORS AND CONDITIONS FOR VARIANCES TO THE TERMS OF THE ORDINANCES.

BE IT ENACTED AND ORDAINED BY THE COUNTY OF NELSON, VIRGINIA, as follows:

10.1 Purpose.

This ordinance is adopted pursuant to the authority granted to localities by Va. Code §15.2 – 2280. The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and necessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- A. Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies.
B. Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding.
C. Requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage.
D. Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

10.2 Applicability.

These provisions shall apply to all lands within the jurisdiction of Nelson County and identified as being in the 100-year floodplain by the Federal Insurance Administration.

10.3 Compliance and liability.

- A. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations, which apply to uses within the jurisdiction of this ordinance.

Comment [CBK1]: Need citation of statutory authority – see Model Ordinance 1 1.
Need section for administration – see Model Ordinance Article 2
FEMA reviewers will need to see adoption date and date ordinance went into effect as well as signatures of officials certifying this adoption See Model Ordinance Article VII
Comment [TMP2]: Statutory authority cited (15 2-2280), Administration is proposed Section 10 24; Enactment clause is proposed Section 10 25

## APPENDIX A - ZONING

- B. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district or that land uses permitted within such district will be free from flooding or flood damages.
- C. Records of actions associated with administering this ordinance shall be kept on file and maintained by the Floodplain Administrator.
- D. This ordinance shall not create liability on the part of Nelson County or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

Deleted:

Deleted: Planning and Zoning Director

### 10.4 *Abrogation and greater restrictions.*

This ordinance supersedes any ordinance currently in effect in flood prone districts. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this ordinance.

### 10.5 *Severability.*

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect and for this purpose, the provisions of this ordinance are hereby declared to be severable.

### 10.6 *Penalties.*

- A. Any person who fails to comply with any of the requirements or provisions of this ordinance or directions of the Floodplain Administrator or any other authorized employee of Nelson County shall be guilty of a misdemeanor and subject to the penalties as provided in Section 15-2 of the Zoning Ordinance.
- B. In addition to the above penalties, all other actions are hereby reserved, including an action of equity for the proper enforcement of this ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with, this ordinance shall not excuse the violation or noncompliance to permit it to continue, and all such persons shall be required to correct or remedy such violations or noncompliance within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this ordinance may be declared by the Board of Supervisors to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this ordinance.

Deleted: Planning and Zoning Director

### 10.7 *Definitions*

For the purpose of this Article, words and terms are defined as follows:

Comment [CBK3]: Include definitions from model ordinance glossary

Appurtenant or accessory structure: Accessory structures not to exceed 200 sq. ft.

## APPENDIX A - ZONING

*Base flood:* The flood having a one percent chance of being equaled or exceeded in any given year.

*Base Flood Elevations (BFE):* The Federal Emergency Management Agency designated one hundred (100)-year water surface elevation. The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. For the purposes of this ordinance, the one hundred (100) year flood or 1% annual chance flood.

*Basement:* Any area of the building having its floor sub-grade (below ground level) on all sides.

*Board of Zoning Appeals:* The board appointed to review appeals made by individuals with regard to decisions of the zoning administrator in the interpretation of this ordinance, and to review and approve Special Use Permits (as appropriate) as explicitly specified in this ordinance.

*Building:* Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or equipment of any kind.

*Critical facilities:* Structures, improvements, or uses that, by virtue of their importance to the community and/or their sensitivity to the risks of flooding, are prohibited from being located within any Special Flood Hazard Area. Critical facilities include but are not limited to: emergency services and rescue squads, schools, medical facilities, senior care centers, evacuation centers, hazardous materials or fuel storage, and other similar improvements and uses. See 10.14 and 10.15.

*Development:* Any man made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

*Drop-down Fence:* A fence design that gives way under the pressure of flood flows to lay flat on the ground, and which can be re-erected after the flood.

*Elevated building:* A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

*Encroachment:* The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

*Existing construction:* For the purposes of determining rates, structures for which the "start of construction" commenced before August 1, 1978. "Existing construction" may also be referred to as "existing structures."  
O2010-4

*Existing manufactured home park or subdivision:* A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.  
O2010-4

## APPENDIX A - ZONING

*Expansion to an existing manufactured home park or subdivision:* The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads). **O2010-4**

### *Flood or flooding:*

- (a) A general or temporary condition of partial or complete inundation of normally dry land areas from:
- (1) the overflow of inland or tidal waters; or
  - (2) the unusual and rapid accumulation or runoff of surface waters from any source; or
  - (3) mudslides (i.e. mudflows) which are proximately caused by flooding as defined in paragraph (a) (2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined in (a) (1) of this definition.

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*Flood-prone area:* Any land area susceptible to being inundated by water from any source.

*Flood Insurance Rate Map (FIRM):* An official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Deleted: Insurance Administrator

*Flood Insurance Study (FIS):* a report by FEMA that examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards,

Deleted: An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

### *Floodplain:*

- (a) A relatively flat or lowland area adjoining a river, stream or watercourse which is subject to partial or complete inundation;
- (b) An area subject to the unusual and rapid accumulation or runoff of surface water from any source.

*Flood-proofing:* Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

*Floodway:* The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point within the community,

Deleted: The designated area of the floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this ordinance, the floodway shall be capable of accommodating a flood of the 100-year magnitude.

*Freeboard:* A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the

## APPENDIX A - ZONING

watershed.

Functionally dependent use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

*Highest adjacent grade:* The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

*Historic structure:* Any structure that is:

- (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) by an approved state program as determined by the Secretary of the Interior; or
  - (2) directly by the Secretary of the Interior in states without approved programs.

Hydrologic and Hydraulic Engineering Analysis: Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

Letters of Map Change (LOMC): A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), and Conditional Letters of Map Revision.

Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated Special Flood Hazard Area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a land as defined by meets and bounds or structure is not located in a Special Flood Hazard Area.

Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. A Letter of Map Revision Based on Fill (LOMR-F), is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements

## APPENDIX A - ZONING

for such projects with respect to delineation of Special Flood Hazard Areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study.

Lowest adjacent grade: the lowest natural elevation of the ground surface next to the walls of a structure.

*Lowest floor:* The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.

*Manufactured home:* A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

*Manufactured home park/subdivision:* A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale. **O2010-4**

*New construction:* For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after August 1, 1978 (the effective date of the initial FIRM) and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. Such structure is also referred to as "post-FIRM." **O2010-4**

*New manufactured home park or subdivision:* A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community. **O2010-4**

Post-FIRM structures: A structure for which construction or substantial improvement occurred after August 1, 1978.

Pre-FIRM structures: A structure for which construction or substantial improvement occurred on or before August 1, 1978.

*Recreational vehicle:* A vehicle which is:

- (a) built on a single chassis;
- (b) four hundred (400) square feet or less when measured at the largest horizontal projection;
- (c) designed to be self-propelled or permanently towable by a light duty truck; and
- (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

**Deleted:** A structure subject to federal regulations which is transportable in one or more sections, is eight (8) body feet or more in width and forty (40) body feet or more in length in the traveling mode, or is three hundred twenty (320) or more square feet when erected on site, is built on a permanent chassis, is designed to be used as a single family dwelling, with or without a permanent foundation when connected to the required facilities, and includes the plumbing, heating, air conditioning and electrical system contained in the structure.

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Repetitive Loss Structure: A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions in a 10-year period, in which the cost of the repair, on the average, equaled or exceeded 25 percent of the market value of the structure at the time of each such flood event; and at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage.

Severe repetitive loss structure: A structure that:

- (a) is covered under a contract for flood insurance made available under the NFIP; and
- (b) has incurred flood related damage –
  - (i) for which 4 or more separate claims payments have been made under flood insurance coverage with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or
  - (ii) for which at least 2 separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the market value of the insured structure.

Shallow flooding area: A Special Flood Hazard Area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Special Flood Hazard Area: The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Section 10.8.A.1 of this ordinance.  
**O2010-4**

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Start of construction: The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. **O2010-4**

Substantial damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its predamaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have

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incurred repetitive loss or substantial damage regardless of the actual repair work performed, The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) any alteration of a "historic structure," provided that the alteration will not preclude the structures continued designation as a "historic structure."
- (3) Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement, as defined above, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

*Suspended cable fence:* A steel cable or chain suspended across the waterway between two secured posts. From the cable a fence made of galvanized chain, chain mesh, galvanized mesh or prefabricated fencing or netting is attached. The suspended cable remains taut during the flood while the flood gate fence remains flexible and rises with the flow. Some variations of the flood gate fence have foam or plastic floats at the bottom of the fence to aid in flotation on the surface of the flood flow.

*Violation:* The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

*Watercourse:* A lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

### 10.8 Establishment of Floodplain Districts

#### A. Description of districts.

1. *Basis of districts.* The various floodplain districts shall include special flood hazard areas. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) and the Flood Insurance Rate Maps (FIRM) for Nelson County, prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated June 18, 2010 and any subsequent revisions or amendments thereto.

The boundaries of the Special Flood Hazard Area and Floodplain Districts are established as shown on the Flood Insurance Rate Map which is declared to be a part of this ordinance and which shall be kept on file at the Nelson County Planning and Zoning office.

**Deleted:** This term includes structures, which have incurred "structural damage" regardless of the actual repair work performed.

**Deleted:** Code of Federal Regulations, Title 44: Emergency Management and Assistance, Part 60-Criteria For Land Management and Use, Subpart A-Requirements for Land Management Regulations, Sec. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5)

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2. The Floodway District is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one hundred (100)-year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in Table 4 of the above-referenced Flood Insurance Study and shown on the accompanying Flood Insurance Rate Map.
3. The Special Floodplain District shall be those areas identified as an AE Zone on the maps accompanying the Flood Insurance Study for which one hundred (100)-year flood elevations have been provided.
4. The Approximated Floodplain District shall be those areas identified as an A or A99 Zone on the maps accompanying the Flood Insurance Study. In these zones, no detailed flood profiles or elevations are provided, but the one hundred (100)-year floodplain boundary has been approximated. For these areas, the one hundred (100)-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Flood Plain Information Reports, U.S. Geological Survey Flood-prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the governing body.

#### B. *Overlay concept.*

1. The floodplain districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.
2. Any conflict between the provisions or requirements of the floodplain districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.
3. In the event any provision concerning a floodplain district is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

10.9 *Official Zoning Map.* The boundaries of the floodplain districts are established as shown on the Flood Insurance Rate Map dated June 18, 2010 which is declared to be a part of this ordinance and which shall be kept on file at the Nelson County Planning and Zoning office.

10.10 *District boundary changes.* The delineation of any of the floodplain districts may be revised by the Board of Supervisors where natural or manmade changes have occurred and/or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of

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Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

10.11 *Interpretation of district boundaries.* Initial interpretations of the boundaries of the floodplain districts shall be made by the **Floodplain Administrator**. Should a dispute arise concerning the boundaries of any of the districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

**Deleted:** Planning and Zoning Director

10.12 *Submitting Technical Data.* A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but no later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

10.13 *Permit and Application Requirements.*

A. *Permit requirement.* All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a **zoning permit**. Such development shall be undertaken only in strict compliance with the provisions of the ordinance and with all other applicable codes and ordinances, **as amended**, such as the Virginia Uniform Statewide Building Code (VA USBC) and the Nelson County Subdivision **Ordinance**. **Prior to the** issuance of any **such zoning permit**, the **Floodplain Administrator** shall require all applications to include compliance with all applicable state and federal laws, **and shall review all sites to assure they are reasonably safe from flooding**. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodway of any watercourse, drainage ditch, or any other drainage facility or system.

**Deleted:**

**Deleted:** Special Use Permit

**Deleted:** Regulations

**Deleted:** Planning and Zoning Director

B. *Alteration or relocation of watercourse.* Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U.S. Corps of Engineers, the Virginia State Water Control Board, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Division of Soil and Water Conservation (Department of Conservation and Recreation), and the Federal Insurance Administration.

**Comment [TMP4]:** These revisions include language taken directly from model ordinance dated Feb 2015

**Comment [CBKS]:** Needs to include permit review to ensure development is 'reasonably safe from flooding'

C. *Site plans and permits applications.* All applications for **zoning permit** for development in the floodplain district and all building permits issued for the floodplain shall incorporate the information contained in subparagraph 1., 2., 3., 4., and 5., and the **Floodplain Administrator** may require the applicant to furnish any and all of the following information in subparagraphs 6. through 8. As deemed necessary for determining the suitability of the particular site for the proposed use, the following is required:

**Deleted:** Special Use Permit

**Deleted:** Planning and Zoning Director

#### APPENDIX A - ZONING

1. Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the channel, floodway, and the flood protection elevation.
2. For structures to be elevated, the elevation of the lowest floor (including basement).
3. For structures to be flood proofed (nonresidential only), the elevation to which the structure will be flood proofed.
4. The elevation of the 100-year flood.
5. Topographic information showing existing and proposed ground elevations.
6. A typical valley cross section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross sectional areas to be occupied by the proposed development, and high water information.
7. Plans (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage of all proposed and existing structures on the site; location and elevations of streets, water supply, sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream, soil types, and other pertinent information.
8. Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply, and sanitary facilities.

#### 10.14 General Standards

The following provisions shall apply to all permits:

- A. New construction and substantial improvements shall be according to the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.
- B. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State anchoring requirements for resisting wind forces.
- C. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- D. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- E. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

In addition to provisions A. – H. above, in all Special Flood Hazard Areas (SFHA), these additional provisions shall apply:

- I. Prior to any proposed alteration or relocation of any channels or of any watercourse,

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## APPENDIX A - ZONING

stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and the Federal Insurance Administrator.

- J. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.
- K. Fences shall be installed parallel to a waterway. When a fence crosses a waterway, it shall be designed as a drop-down fence or a suspended cable fence.
- L. No zoning permit shall be granted for any proposed critical facilities as defined by this ordinance within any SFHA. See 10.15-E.
- M. No zoning permit shall be granted for the storage of hazardous materials for any time period longer than 30 days within any SFHA. See 10.15-F.
- N. No zoning permit shall be granted for the placement of any non-native fill materials (such as fly ash or other waste by-products) within any SFHA. Only locally-borrowed mineral materials may be used as fill within a SFHA, and all such uses must first obtain the necessary permit approval(s) as required by this ordinance.

Comment [TMP6]: "zoning permit" to replace "Special Use Permit or Variance"

Comment [TMP7]: "zoning permit" to replace "Special Use Permit or Variance"

Comment [TMP8]: "zoning permit" to replace "Special Use Permit or Variance"

### 10.15 Specific Standards

In all special flood hazard areas where Base Flood Elevations have been provided in the Flood Insurance Study or generated according to Section 10.18, the following provisions shall apply:

- A. Residential Construction  
New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated eighteen (18) inches or more above the Base Flood Elevation.
- B. Non-Residential Construction  
New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured/mobile home) shall have the lowest floor, including basement, elevated eighteen (18) inches or more above the Base Flood Elevation. Buildings located in all A1-30, AE, and AH zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are flood-proofed, shall be maintained by the Floodplain Administrator.
- C. Elevated Buildings – Space Below the Lowest Floor  
Fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:
  - 1. Not be designed or used for human habitation, but shall only be used for parking of

Comment [CBK9]: RECOMMENDED.  
Increase freeboard to at least 18 inches

Deleted: one foot

Comment [CBK10]: RECOMMENDED  
Increase freeboard to at least 18 inches

Deleted: one foot

Deleted: Planning and Zoning Director

Comment [CBK11]: Recommend changing to "Space Below the Lowest Floor" to avoid confusion. See Model Ordinance 4.3C.

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vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator);

2. Be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
3. Include, in Zones A, AO, AE, and A1-30, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
  - a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding;
  - b. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
  - c. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit;
  - d. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade;
  - e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions;
  - f. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

#### D. Standards for Manufactured Homes and Recreational Vehicles

1. All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, must meet all the requirements for new construction, including the elevation and anchoring requirements in Section 10.13 A. and B. and Section 10.15 A.
2. All recreational vehicles placed on sites must either:
  - a. be on the site for fewer than 180 consecutive days;
  - b. be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or,
  - c. meet all the requirements for manufactured homes in Section 10.13 and Section 10.15 D.

In addition, the following higher standards which go beyond National Flood Insurance Program

## APPENDIX A - ZONING

minimum requirements shall apply to all Special Flood Hazard Areas, pursuant to 44 CFR 60.1(d):

### E. Higher Standards and Critical Facilities.

For some activities and uses, even a slight chance of flooding poses too great a threat to public health, safety, and welfare. Critical facilities, as defined in this ordinance, are examples of such activities and uses which require special regulation. Therefore, critical facilities are prohibited from being constructed or operated within a SFHA. The following list of critical facilities provides examples of uses or improvements which are prohibited in a SFHA:

1. Structures or facilities that produce, use, store, or transport highly volatile, flammable, explosive, toxic, and/or water-reactive materials.
2. Hospitals, nursing homes, or other housing likely to have occupants who may not be sufficiently capable of avoiding injury or death during a flood.
3. Police stations, fire departments, rescue squads, and/or emergency operations centers and equipment storage facilities which are needed for flood response activities before, during, and after a flood.
4. Public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during, and after a flood.

**Comment [TMP12]:** This clause ("or transport") was added to these recommendations by staff and is not explicitly listed in the VA DCR "Guidance for Local Floodplain Ordinances in VA" document

### F. Higher Standards and Hazardous Materials.

Some items and products are extremely hazardous and vulnerable to flood conditions, and would pose an unacceptable risk to public health, safety, and welfare during flooding. Therefore, the following hazardous materials are prohibited as follows:

1. The storage of Acetone, Ammonia, Benzene, Calcium carbide, Carbon disulfide, Celluloid, Chlorine, Hydrochloric acid, Magnesium, Nitric acid, Oxides of nitrogen, Phosphorus, Potassium, Prussic acid, Sodium, and/or Sulfur is prohibited in a SFHA.
2. The storage of Acetylene gas containers, Storage tanks, Lumber/buoyant items, Gasoline, Charcoal/coal dust, Petroleum products, and/or Natural gas for any time period longer than 30 days is prohibited in a SFHA.

**Comment [TMP13]:** This specific hazardous material ("Natural gas") was added to these recommendations by staff and is not explicitly listed in the VA DCR "Guidance for Local Floodplain Ordinances in VA" document

### 10.16 *Standards for the Floodway District*

The following provisions shall apply within the Floodway District:

- A. Encroachments, including fill, new construction, substantial improvements and other developments are prohibited unless certification such as hydrologic and hydraulic analyses (with supporting technical data) is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator,

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**APPENDIX A - ZONING**

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the property owner first applies and obtains the following:

1. Receives an endorsement from the State’s Floodplain Program Engineer;
  2. Receives an endorsement from The Nelson County Board of Zoning Appeals for a Conditional Letter of Map Revision (CLOMR); and
  3. Receives the approval of the Federal Emergency Management Agency.
- B. If Section 10.19 is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Article.
- C. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.

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10.17 *Permitted Uses in the Floodway District.* The following non-structural uses and activities are permitted, provided they are in compliance with the provisions of the underlying area and are not prohibited by any other ordinance and provided that they do not require structures, fill, or storage of materials or equipment:

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- A. Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- B. Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming area, horseback riding and hiking trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas.
- C. Accessory residential uses, such as yard areas, gardens, play areas, and pervious loading areas;
- D. Accessory industrial and commercial uses, such as yard areas, pervious parking and loading areas, airport landing strips, etc.
- E. Flood warning aids and water measurement devices.

10.18 *Standards for the Special Floodplain District*

The following provisions shall apply within the Special Floodplain District:

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30 and AE on the Flood Insurance Rate Map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within Nelson County.

Development activities in Zones A1-30, AE, and AH, on the Nelson County’s Flood Insurance Rate Map which increase the water surface elevation of the base flood by more than one foot may be allowed, provided the property owner first applies, with the Nelson County Board of Zoning Appeal’s endorsement, for a Conditional Letter of Map Revision (CLOMR), and receives the approval of the Federal Emergency Management Agency.

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10.19 Standards for Approximated Floodplain

The following provisions shall apply with the Approximated Floodplain District:

The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the Flood Insurance Study. For these areas, the one hundred (100)-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available.

Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation. For development proposed in the Approximated Floodplain District the applicant must use technical methods that correctly reflect currently accepted technical concepts, such as point on boundary, high water marks, or hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

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The Floodplain Administrator reserves the right to require a hydrologic and hydraulic analyses for any development.

When such base flood elevation data is utilized, the lowest floor shall be elevated to one foot above the base flood elevation. During the permitting process, the Floodplain Administrator shall obtain:

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1. the elevation of the lowest floor (including the basement) of all new and substantially improved structures; and,
2. the elevation (in relation to mean sea level) to which the structure has been flood-proofed if the structure has been flood-proofed in accordance with the requirements of this article

10.20 Standards for Subdivision Proposals

- A. All subdivision proposals shall be consistent with the need to minimize flood damage;
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and
- D. Base Flood Elevation data shall be provided for subdivision proposals and other development proposals (including manufactured home parks and subdivisions) that exceed eleven lots or five acres, whichever is the lesser.

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10.21 Design criteria for utilities and facilities.

- A. *Sanitary sewer facilities.* All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of flood waters into the systems

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and discharges from the systems into the flood waters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.

- B. *Water facilities.* All new or replacement water facilities shall be designed to minimize or eliminate infiltration of flood waters into the system and be located and constructed to minimize or eliminate flood damages.
- C. *Drainage facilities.* All storm facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and on site waste disposal sites. The Board of Supervisors may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate large, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.
- D. *Utilities.* All utilities, such as gas lines, electrical and telephone systems being placed in flood prone areas should be located, elevated (where possible), and constructed to minimize the chance of impairment during a flooding occurrence.
- E. *Streets and sidewalks.* Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

**10.22 Variances**

Variances shall be issued by the Board of Zoning Appeals upon:

- A. A showing of good and sufficient cause;
- B. Determination by the Board of Zoning Appeals that failure to grant the variance would result in exceptional hardship to the applicant; and
- C. Determination by the Board of Zoning Appeals that the granting of such Variance will not result in:
  1. Unacceptable or prohibited increases in flood heights;
  2. Additional threats to public safety;
  3. Extraordinary public expense;
  4. Nuisances being created;
  5. Fraud or victimization of the public; or
  6. Conflict with local laws or ordinances.

While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. Variances may be issued by the Board of Zoning Appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section.

Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of

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this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

In passing upon applications for Variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

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- A. The danger to life and property due to increased flood heights or velocities caused by encroachments. No Variance shall be granted for any proposed use, development, or activity within any floodway district that will cause any increase in the Base Flood Elevation (BFE).
- B. The danger that materials may be swept on to other lands or downstream to the injury of others.
- C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- D. The susceptibility of the proposed facility and its contents to flood damage and effect of such damage on the individual owners.
- E. The importance of the services provided by the proposed facility to the community.
- F. The requirements of the facility for a waterfront location.
- G. The availability of alternative locations not subject to flooding for the proposed use.
- H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the area.
- J. The safety of access by ordinary and emergency vehicles to the property in time of flood.
- K. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
- L. The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- M. Such other factors which are relevant to the purposes of this ordinance.

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The Board of Zoning Appeals may, at the applicant's expense, refer any application and accompanying documentation pertaining to any request for a Variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

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Variances shall be issued only after the Board of Zoning Appeals has determined that Special Variance will be the minimum required to provide relief from any hardship to the applicant.

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The Board of Zoning Appeals shall notify the applicant for a Variance, in writing, that the issuance of a Variance to construct a structure below the Base Flood Elevation: (a) increases the risks to life and property; and (b) will result in increased premium rates for flood insurance.

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A record shall be maintained of the above notification as well as all Variance actions, including justification for the issuance of the variances. Any Variance which is issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

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### 10.23 Existing Structures in Floodplain Districts

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions but which is not in conformity with these provisions may be continued subject to the following conditions:

- A. Existing structures in the Floodway District shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed expansion would not result in any increase in the Base Flood Elevation.
- B. Any modifications, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, located in any floodplain area to an extent or amount of less than fifty (50) percent of its market value, shall be elevated and/or flood-proofed to the greatest extent possible.
- C. The modifications, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty (50) percent or more of its market value, shall be undertaken only in full compliance with the provisions of this ordinance and the Virginia Uniform Statewide Building Code.

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### 10.24 Administration.

- A. Designation of the Floodplain Administrator. The Nelson County Planning & Zoning Director (or authorized designee) shall be designated as the Floodplain Administrator and is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:
  1. Do the work themselves. In the absence of a designated Floodplain Administrator, the duties are conducted by the chief executive officer for Nelson County.
  2. Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
  3. Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.
- B. Duties and Responsibilities of the Floodplain Administrator. The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:
  1. Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).
  2. Interpret floodplain boundaries and provide available Base Flood Elevation and flood hazard information.
  3. Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
  4. Review applications to determine whether all necessary permits have been obtained

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- from the Federal, State, or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.
5. Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Virginia Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (such as Virginia Department of Environmental Quality and U.S. Army Corps of Engineers), and have submitted copies of such notifications to FEMA.
  6. Advise applicants for new construction or substantial improvement of structures that are located within an area of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that Federal flood insurance is not available on such structures; areas subject to this limitation are shown on Flood Insurance Rate Maps as Coastal Barrier Resource System Areas (CBRS) or Otherwise Protected Areas (OPA).
  7. Approve applications and issue zoning permits to develop in Special Flood Hazard Areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
  8. Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.
  9. Review Elevation Certificates and require incomplete or deficient certificates to be corrected.
  10. Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for Nelson County, within six months after such data and information becomes available if the analyses indicate changes in Base Flood Elevations.
  11. Maintain and permanently keep records that are necessary for the administration of these regulations, including:
    - a. Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and
    - b. Documentation supporting issuance and denial of zoning permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, inspection records, other required design certifications, Variances, and records of enforcement actions taken to correct violations of these regulations.
  12. Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.
  13. Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a Variance, prepare a staff report and recommendation.
  14. Administer the requirements related to proposed work on existing buildings:
    - a. Make determinations as to whether buildings and structures that are located in Special Flood Hazard Areas and that are damaged by any cause

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- have been substantially damaged.
- b. Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct. Prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.
15. Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in Special Flood Hazard Areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.
  16. Notify the Federal Emergency Management Agency when the corporate boundaries of Nelson County have been modified and:
    - a. Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
    - b. If the FIRM for any annexed area includes Special Flood Hazard Areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.
  17. Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of Variances issued for development in the SFHA.
  18. It is the duty of the Community Floodplain Administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the Community, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).
- C. Use and Interpretation of FIRMs. The Floodplain Administrator shall make interpretations, where needed, as to the exact location of Special Flood Hazard Areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:
1. Where field surveyed topography indicates that adjacent ground elevations:
    - a. Are below the base flood elevation, even in areas not delineated as a Special Flood Hazard Area on a FIRM, the area shall be considered as Special Flood Hazard Area and subject to the requirements of these

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### regulations:

- b. Are above the Base Flood Elevation, the area shall be regulated as a Special Flood Hazard Area unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.
  2. In FEMA-identified special flood hazard areas where Base Flood Elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.
  3. Base Flood Elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over Base Flood Elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.
  4. Other sources of data shall be reasonably used if such sources show increased Base Flood Elevations and/or larger floodway areas than are shown on FIRMs and in FISs.
  5. If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:
    - a. Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
    - b. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section 3.1.A.3, and used where no Base Flood Elevations and/or floodway areas are provided on the effective FIRM.
    - c. Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary Base Flood Elevations or floodway areas exceed the Base Flood Elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.
- D. *Jurisdictional Boundary Changes.* The Nelson County Floodplain Ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the National Flood Insurance Program. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards. If the FIRM for any annexed area includes Special Flood Hazard Areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22 (a) (9) (v) all NFIP participating communities must notify the Federal Insurance

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Administration and optionally the State Coordinating Office in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

In order that all Flood Insurance Rate Maps accurately represent the community's boundaries, a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority must be included with the notification.

E. *District Boundary Changes.* The delineation of any of the Floodplain Districts may be revised by Nelson County where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency. A completed LOMR is a record of this approval.

F. *Interpretation of District Boundaries.* Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Floodplain Administrator. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

G. *Submitting Model Backed Technical Data.* A community's Base Flood Elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data. The community may submit data via a LOMR. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

H. *Letters of Map Revision.* When development in the floodplain will cause or causes a change in the Base Flood Elevation, the applicant, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision and then a Letter of Map Revision. Example cases:

- Any development that causes a rise in the Base Flood Elevations within the floodway.
- Any development occurring in Zones A1-30 and AE without a designated floodway, which will cause a rise of more than one foot in the Base Flood Elevation.
- Alteration or relocation of a stream (including but not limited to installing culverts and bridges) 44 Code of Federal Regulations §65.3 and §65.6(a)(12).

10.25 Enactment.

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Enacted and ordained this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. This ordinance, number \_\_\_\_\_ of Nelson County, Virginia, shall become effective upon passage.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Attested