



NELSON COUNTY PLANNING COMMISSION

Meeting Agenda: October 26, 2016
General District Courtroom, 3rd Floor, Nelson County Courthouse, Lovingston

- **7:00 – Meeting Convenes / Call to Order**
- **Review of meeting minutes:** August 24, 2016
- **Public Hearing Items:**
 1. **Rezoning #2016-03 – AG Small, Jr. & CW Small**

Consideration of a Rezoning application made pursuant to Zoning Ordinance Article 16, Section 1-1. The subject property is located in Nellysford at 2754 Rockfish Valley Highway (Route 151); it is further identified as Tax Map Parcel #21-A-100, and is zoned Agricultural (A-1) and General Floodplain (FP). The applicant seeks approval to rezone a 2.83-acre portion of the subject property along Rockfish Valley Highway to Business (B-1) to “establish property for commercial use (unspecified at current time).” This Rezoning application proposes to leave a 5.57-acre portion of the subject property in the Agricultural (A-1) zoning district, and the General Floodplain (FP) overlay district would also remain unchanged.
- **Other Agenda Items:**
 - o **Major Site Plan #2016-11 – 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”)
- **Other Business** (*as determined by PC members or County staff / as may be applicable*)
- **Board of Supervisors Report**
- **Adjournment**
- **Next Meeting:** November 16, 2016 | 7:00pm

**NELSON COUNTY PLANNING COMMISSION
MEETING MINUTES
August 24, 2016**

Present: Chair Philippa Proulx, Commissioners Mike Harman, Linda Russell, Mary Kathryn Allen and Tommy Bruguere (Board of Supervisors Liaison)

Absent: Commissioner Robert Goad

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, Lovington.

Approval of Minutes – July 27, 2016:

Commissioner Harman made the following motion:

I move that the meeting minutes of July 27, 2016 be approved; the vote 4-0 with Commissioner Allen abstaining.

Public Hearing Items:

1. Special Use Permit #2016-03 – Mr. John Bradshaw, Jr.:

Mr. Padalino showed a slide that contained information regarding the subject property's location, characteristics, and other information. He explained that the County's records show that the property is located in the Lovington Historic District at 652 Front Street, and is further identified as Tax Map Parcel #58B-3-32; but he noted that he believes the real estate records are incorrect. He noted that the Bradshaw Building is addressed as 605, 607, 609, and 611 Front Street; and exists across three (3) contiguous tax map parcels. He then noted that the Special Use Permit (SUP) request is specific to Tax Map Parcel #58B-3-32, which is the center multi-story portion of the Bradshaw Building.

Commissioner Russell asked if the building "hangs over into" Tax Map #58B-3-32B. Mr. Padalino indicated that he was not sure. He further noted that such information is typically contained on the Minor Site Plan that is required with all SUP applications. However, with this particular request, he indicated that he accepted a waiver from the requirement to prepare a Minor Site Plan based on the following reasons:

1. This is an existing building;
2. There are no exterior development plans, and no new additions being proposed; and
3. The subject property is almost entirely built-out to the property boundary.

Mr. Padalino concluded by providing his analysis of the four (4) evaluation criteria (Zoning Ordinance Article 12, Section 3-2) that must be considered with all SUP applications. He then stated that the opinion of Staff is that the proposed use is appropriate and acceptable (details described in the Staff Report dated August 15, 2016-see attached); and recommended approval of Special Use Permit #2016-03 to authorize the requested dwelling land use in the Business (B-1) District on Tax Map Parcel #58B-3-32, as specified in the application materials.

Commissioner Russell asked a question about the source of one of the maps contained in the meeting materials packet. Mr. Padalino explained that the source of the map came from the County's online GIS mapping service,

and that Mrs. Stormy Hopkins (Secretary, Planning & Zoning) added additional information to the map, such as the list of adjoining property owners.

Mr. John Bradshaw, Jr.: Mr. Bradshaw stated that he appreciates the Commissioner's Commissioners time tonight. Regarding the Bradshaw Building, he noted that, "it was currently being used prior to this [time] as that same use, so I'm just asking that the same use continue."

Chair Proulx asked where the access was to the second floor apartment. Mr. Bradshaw noted that it was the concrete steps at the front and it also has steps on the back of the building. She asked if the main floor was a commercial area. He indicated that it was. He proceeded to show a photo from the 1920's to the Commissioners² and provided details about the building's history.

Mr. Bruguere asked if he had ever considered combining the parcels into one. Mr. Bradshaw noted that right now, he was just trying to get the roof fixed. He also noted that he would like to eventually resurvey everything, in order to get the tax maps fixed.

Mr. Bruguere also noted that since this is in a Historic District, Mr. Bradshaw could apply to get tax credits to help with fixing up the building. Mr. Bradshaw indicated that he has the paperwork, but has not applied.

Chair Proulx then opened a public hearing at 7:12 p.m. No comments were made and the public hearing was closed.

Commissioner Russell asked if this was a request for a SUP to use the top floor of the building for residential use. Mr. Bradshaw indicated that he is requesting to continue the use that it had.

Commissioner Russell made the following motion:

The Planning Commission has received a request for a Special Use Permit #2016-03 for property owned by the John J. Bradshaw Irrevocable Trust, located on Front Street, Tax Map #58B-3-32 in order to permit the top floor of the structure to be used for residential purposes. The Planning Commission recommends approval of this request to the Board of Supervisor. Commissioner Allen provided the second; and the Commissioners voted 5-0 in favor of the motion.

Commissioner Russell added that the Planning Office asked the Nelson County Times to publish a Legal Notice on August 11th and August 18th regarding the public hearing. The newspaper failed to do so on August 11th but it was subsequently published in the Daily Progress, which met the legal requirements contained in the Zoning Ordinance and in the Code of Virginia.

2. Conditional Rezoning #2016-01 – Old Hickory Buildings, LLC:

Mr. Padalino began his staff report by showing slides that contained information regarding the subject property's location, characteristics, and other information. He explained that the property is located in Colleen on Route 29, and is zoned Business (B-1). There are two primary existing structures, addressed as 3907 and 3965 Thomas Nelson Hwy; the property is served by the Nelson County Service Authority's water and sewer utilities. Mr. Padalino noted that the County's GIS data for parcels do not accurately depict the property boundaries in this vicinity; but the Minor Site Plan that was prepared by Acres of Virginia shows the correct property boundaries.

Mr. Padalino explained that the conditional rezoning request is to go from Business (B-1) to Limited Industrial (M-1) with conditions. Mr. Padalino cited the Comprehensive Plan, noting that the Future Land Use Plan designates this area as "Light Industrial / Mixed Commercial," which is "the highest level of commercial activity permitted." He also noted that the subject property has a long history of commercial and quasi-industrial uses, such as the former Mays Farmers Services store and the fuel storage tanks.

Commissioner Harman asked for clarification if the tire shop and the new specialty store (on the left/south) is included in this parcel, and if the tire shop will continue its operation. Mr. Padalino indicated that the tire shop is contained on the subject property, but the specialty shop is not; it is a separate parcel. He further noted that the subject property is listed as Tax Map #76-A-1 and is 7.8-acres; zoned Business (B-1). Mr. Padalino added that the future of the tire shop was discussed during the Site Plan Review Committee meeting (July 13th), and at that time the plan was for the tire shop to not continue and instead be taken over by the manufacturer (Old Hickory Buildings, LLC).

Mr. Padalino noted that the application was submitted by the contract purchaser, Mr. Brian Berryman of Old Hickory Buildings, LLC. The applicant is seeking County approval to utilize the subject property to, “allow for the manufacturing, storage, and display for the storage buildings for sale to the general public.” He further noted that the application includes an authorization letter from the owners of Tax Map Parcel #76-A-1, Mr. Marshall A. Mays, Jr. and Ms. Marlene M. Fitzgerald; an authorization letter from the applicant (Mr. Berryman) designating Mr. Tom Berry, Esq., and Acres of Virginia (represented by Mr. Tommy Brooks, Jr., Land Surveyor) to act as the agents for this application; and proffers (dated July 20th and signed July 22nd), which voluntarily offer to limit the use of the subject property to, “outside storage, display, and manufacturing of storage buildings for sale to the general public” and “any new or additional lighting will be glare-shielded” and “the underground storage tanks shown on the plan will be removed.” Mr. Padalino clarified that the underground storage tanks that are referenced in the proffers do not exist – they are above ground storage tanks, and they have been previously remediated, and will be removed by the contract purchaser as proffered.

Commissioner Russell asked about the storage tanks. Commissioner Harman noted that there are three pumps that are still there. Mr. Brooks stated that those were gravity fed from the above ground storage tanks.

Mr. Padalino concluded by discussing the Site Plan Review Committee Comments (as described in the Staff Report, dated August 15, 2016 – see attached), and by providing his recommendation. He noted that the conditional rezoning request seems appropriate with respect to the applicant’s proffered conditions; to adjacent zoning districts and land uses; and to the area’s designation as a “Light Industrial / Mixed Commercial” area in the future land use plan. He concluded by recommending approval of Conditional Rezoning #2016-01.

The Commissioners’ had the following questions/comments/concerns:

1. *If approved, will the applicant be required to submit a new Site Plan showing how the entrances will be closed, signage, and outside display?* Mr. Padalino noted a Major Site Plan would not be required unless the scope of the project was modified (increased).
2. *In the Notes section of the Site Plan, the Nelson County (NCSA) Service Authority indicated there may be a need for an easement regarding water and sewer involving Parcel 1A.* Mr. Padalino noted that on July 13th, Mr. George Miller of NCSA thought that the water line crossed the edge of 1A as it went from the main over to the old building, but that status is apparently up for debate. He deferred to Mr. Brooks, Jr. who prepare the Site Plan, and who has coordinated directly with Mr. Miller.
3. *Commissioner Russell noted that there is a lot on the Site Plan, but most of it is “this is what we are going to do” and there is no date for when those improvements would be implemented; she expressed her concern about providing approval without County control over the implementation of the Site Plan.* Mr. Padalino noted that he thinks it’s implicit that the terms and details on an approved Site Plan must be met by the owner or developer. He also noted that the “key County mechanism” to enforce Site Plan compliance would be to withhold the issuance of the Certificate of Occupancy, or to not sign the required Building Permit for the proposed renovations or rehab to the farmer’s service store.
4. *What is limited Business (B-1) district?* Mr. Padalino noted that there is no Limited Business District; the Minor Site Plan is incorrect in that regard. The adjoining property is actually zoned Business (B-1) District. The original Site Plan submission listed that same property as Business (B-2), and that was also incorrect.

Thomas Brooks, Jr.: Mr. Brooks noted that he is a Land Surveyor with Acres of Virginia, Inc. and is representing the project. Mr. Brooks addressed the storage tanks. He indicated that on the Site Plan, there are lines coming from the tanks, into the building and to the pumps. Those are all underground lines that were gravity fed into the

pumps from the above ground tanks. He further noted that there are no underground storage tanks. He added that the storage tanks site has been properly remediated.

The Commissioners had the following questions/comments/concerns:

1. *Does the State control the removal of the storage tanks?* Mr. Brooks noted that the State does control it but that the Department of Environmental Quality (DEQ) is also involved.
2. *Will the gas pumps be removed?* The underground lines will not be removed but the gas pumps will be taken off of the concrete pads.
3. *Is there a need for a right-of-way for the water lines?* Mr. Padalino noted that Mr. George Miller raised that issue at the Site Plan Review Committee meeting but did not specify that it was a requirement. He was concerned that the water line crossed parcel 1A. Mr. Brooks noted that he had spoken to Mr. Miller in detail about the issue. He further noted that once a utility line leaves a right-of-way, it becomes a private line and the Nelson County Service Authority has no control over where the lines are located after the line leaves the right-of-way and enters on to private property. Mr. Miller does not know where the water lines are, but he was going to try and figure that out. He assured the owner (contract purchaser) wants to get the issue properly resolved.
4. *Is the existing grass and gravel entrance from Stage Road going to stay open?* Mr. Brooks noted that it was going to remain open. It will be used for access through the property from front to back. It will not be used as a main entrance. No trucks will be coming in on the Stage Road entrance. He noted that he had talked with Mr. Jeff Kessler (VDOT) and there was no mention of any required changes on Stage Road; VDOT was concerned about the front entrance.

Mr. Brooks noted that in regards to the question related to the concern of “*how is this controlled and how do you make them do what’s on the Site Plan and how are they going to be made to do this.*” He then noted that, “this is a waiver that they have to apply for and VDOT actually controls that, so if these conditions are not met, then the final Site Plan approval cannot happen. And VDOT will go to Tim and say, you know what, before you can sign off on the Site Plan this has got to be done. Matter of fact, they will even put an injunction against them if they try to use those entrances after they’ve applied for the waiver. So, VDOT is going to be very strict and stringent concerning those entrances.”

5. *There had been talk about VDOT, over the next several years doing new entrance permits to the buildings, closing off some of them from the Dairy Isle down to this point. Since the middle entrance is going to be closed, is this in VDOT’s long-range plans or for just this property?* Mr. Brooks noted that VDOT’s access management regulations come in to effect when a property owner makes an application. He added that, conversely, “as long as the Dairy Isle or nobody does any changes to their stuff and they don’t come to you to ask anything, VDOT can’t require it.” He then noted that if someone came before the Commission for something, then VDOT would look at the access management regulations. He added that it was possible that VDOT could get involved at some point in the future.
6. *Is there a 25’ easement built into this for the future?* Mr. Brooks noted that VDOT wants the applicant to provide access to the parcel located to the west. He explained that VDOT does not intend to issue any entrance permits for that parcel in question; the parcel cannot directly access Route 29 and cannot meet entrance spacing requirements on Cooperative Way. So VDOT is forcing the applicant to put an access easement on that side. **They are VDOT is** also forcing **them the applicant** to put an additional access easement on the north side. VDOT is requiring all access easements to be put into a deed.
7. *Is there access off of Cooperative Ways?* They do not have the ability to put a new entrance on Cooperative Way.

Chair Proulx then opened a public hearing at 7:44 p.m. No comments were made and the public hearing was closed.

Commissioner Russell indicated that proffer #3 is incorrect due to the fact that there are no underground storage tanks. Mr. Padalino noted that was correct. She would like to have proffer #3 deleted or corrected. Mr. Padalino suggested leaving the proffer as-is and request that the applicant provide a clarification letter.

Commissioner Russell made the following motion:

“In the matter of the application by Old Hickory Buildings for Conditional Rezoning #2016-01 for property located at 3907 and 3965 Thomas Nelson Highway in Colleen, Tax Map #76-A-1: the request is to rezone property from B-1 to M-1 Conditional, subject to three proffers dated July 22, 2016, which the Planning Commission recommends that the Board of Supervisors approve.” Commissioner Harman provided the second; and the Commissioners voted 5-0 in favor of the motion.

Other Agenda Items:

Continued Review of Class C Communication Tower Permit Application #2016-08 (Shentel):

Mr. Padalino provided information regarding the subject property’s location and characteristics. Mr. Padalino showed maps of the subject property, identified as Tax Map Parcel #45-A-40, which is zoned Agricultural (A-1). He stated it is an existing tower site known as “CV221” which contains two (2) communication towers.

Mr. Padalino noted that the request from Shentel is to replace an existing 97.5’ wood tower with a proposed 130’ Class C steel monopole; and the purposes of the request are to achieve better coverage, to address a drop call area (south of site), and to have better structural integrity to accommodate new/larger equipment.

Mr. Padalino noted that during the last Planning Commission (PC) meeting, there were several follow up items that were identified: providing information regarding potential co-location (as required by ordinance); evaluating the possibility of tower redesign to a lower overall height which would accommodate coverage objectives but not accommodate co-location for future providers; and revising the “Tree Survey” to identify which trees would be removed or “adversely impacted.” In response, on August 15th, the following materials were received: a revised “Tree Survey,” and revised coverage maps corresponding with multiple co-location scenarios. He stated that the applicant’s letter indicates there is concern about the feasibility of co-locating in this area, and there **is are** no **feasibility** resources to create a new tower site between CV221 and Lovingsston. Mr. Padalino then summarized the propagation maps and reviewed those in detail (as described in the Staff Report dated August 15, 2016).

Jessie Wilmer, Shentel: Ms. Wilmer noted that she has Mr. Jamey Dennis, Radio Frequency Engineer with Shentel with her this evening. Mr. Dennis does the design and technical work for the tower sites. Ms. Wilmer noted that they would like to propose the higher height tower at 130’. It provides continuous coverage along Route 29 and it would eliminate the drop call area. Ms. Wilmer then reviewed the propagation maps for the Commissioners.

Ms. Wilmer noted they did look into which site would be better visually if they raised the height at CV221, or if they increased the tower height at site at CV150 (in Lovingsston) – and they chose to pursue a taller height at CV221 because they believed it was visually less obtrusive. Ms. Wilmer added that Shentel must replace the existing pole at CV221 because the twenty (20) year old wood pole failed structurally. She also characterized the co-location alternative as a net-addition of a site for Shentel, with associated costs; and the big costs are the base station equipment, the utilities, and the ground rent. Ms. Wilmer further noted that they probably wouldn’t be able to co-locate on the existing Verizon or AT&T towers in the vicinity because of the trees.

The Commissioners had the following questions/concerns/comments:

1. *Where did the coverage generation maps come from for the tower that would give them the 94’ height?* Ms. Wilmer noted that those were computer models.
2. *Is co-location possible with other providers?* Ms. Wilmer indicated co-location is possible but it is not in the budget. She also noted they would have to investigate further if co-location would be available at one of the existing poles, or if they would need to add a new pole
3. *Are they interested in co-locating at the 94’ tower?* Ms. Wilmer indicated that they were not interested, but submitted the information because it is a requirement of the Zoning Ordinance.
4. *Plan D indicates a replacement of the current tower at the same height, is that correct?* Ms. Wilmer indicated that Plan D is to raise the tower in Lovingsston.

5. *Commissioner Allen asked how tall the other towers in Lovington are.* Commissioner Russell indicated that 120' is the highest of the cell towers but does not know how tall the television towers are; she added that it's a "tower farm." Ms. Wilmer indicated that the tower heights are 120', 90', and 75'.
6. *Commissioner Harman indicated that he would prefer to see them replace CV150 to a 120' tower.* Ms. Wilmer noted that they were not planning to replace the tower at CV150 site; it is to remain as a wooden pole.
7. *How old is the wood tower at the CV150 site?* Ms. Wilmer said it was about the same age as the others, but it is structurally sound.
8. *Does the rescue and emergency services depend on private cell phone service?* Mr. Bruguere noted that from his experience, they would call in using a cell phone. Commissioner Allen noted that they all have radios but the problem is they have different equipment that is used in the back of an ambulance to transfer **information, which** uses cell phone service.

Commissioner Russell made the following motion:

The Planning Commission has received an application from Shentel for Class C Commission Tower permit #2016-08 to install a 130' tower on west side of Route 29 in Lovington on Tax Map Parcel #45-A-40. The Planning Commission recommends that the Board of Supervisors deny this application for several reasons. The Planning Commission feels a more appropriate location to maximize cell phone service along 29 would be to replace the existing CV221 tower at its existing height and to raise the CV150 tower from 75' to 120', which would accomplish the desires of the applicant. The reasons for denial of the application is that the Commission wishes to retain the rural character of the area where the proposed tower would be, which would be approximately 40' above the tree line and feels that the goal of the applicant can be accomplished by two (2) shorter towers. Commissioner Harman provided the second; the vote 3-2 in favor of the motion with Commissioner Allen and Mr. Bruguere voting against the motion.

Other Business:

Mr. Padalino did not have any other business to discuss.

Board of Supervisors Report: Mr. Bruguere noted the following:

1. The Board did not take any action on the Planning Commission's recommendations for the (proposed) amendments to the Floodplain Ordinance.
2. The Board has authorized a public hearing for their September meeting on the (proposed) amendments for "Temporary Events."
3. The Board has authorized a public hearing for their September meeting on the (proposed) addition to the existing Greenfield Ag-Forestal District.

Adjournment:

Commissioner Allen made a motion to adjourn at 8:34 pm; vote 5-0.

Respectfully submitted,

Stormy V. Hopkins
Secretary, Planning & Zoning

DEPARTMENT OF
PLANNING & ZONING



PLANNING COMMISSION
BOARD OF ZONING APPEALS

To: Chair and Members, Nelson County Planning Commission
From: Tim Padalino | Planning & Zoning Director
Date: October 18, 2016
Subject: **Public Hearing for Rezoning #2016-03 (AG Small, Jr. & CW Small)**

Summary of Application	
<u>Site Address:</u>	2754 Rockfish Valley Highway / Nellysford / Central District
<u>Tax Map Parcel:</u>	#21-A-100
<u>Parcel Size:</u>	8.4 (+/-) acres
<u>Zoning:</u>	Agricultural (A-1) and General Floodplain (FP) overlay
<u>Applicants:</u>	Mr. Alvin G. Small, Jr. & Mr. Carlton Wayne Small
<u>Request:</u>	Partial rezoning of subject property (a 2.83-acre portion along Rockfish Valley Highway / Route 151) from Agricultural (A-1) to Business (B-1), pursuant to ZO 16-1-1
▪ <i>Completed Application Received On:</i> August 30 th 2016	

Application Overview:

On August 30th the Department of Planning & Zoning received Rezoning application #2016-03 from Mr. Ralph Turpin, Jr., Attorney, and Mr. W. Morris Foster, LS, acting as agents on behalf of the property owners of the subject property. The application seeks County approval to rezone a 2.83-acre portion of the subject property (fronting Rockfish Valley Highway) to Business (B-1) to, “*establish property for commercial use (unspecified at current time).*” This proposed rezoning would leave a 5.57-acre portion of the subject property in the Agricultural (A-1) zoning district, including the rear portion of the property (fronting the South Fork Rockfish River) where the General Floodplain (FP) overlay district is located.

Please review the following enclosed application materials:

- Two authorization letters from the co-owners of Tax Map Parcel #21-A-100 (one from Mr. Alvin G. Small, Jr., signed and notarized September 1; and one from Mr. Carlton Wayne Small, signed and notarized August 31), authorizing Mr. Ralph E. Turpin, Jr., Attorney, and/or Mr. W. Morris Foster, LS, as agents for this Rezoning application; and
- Minor Site Plan prepared by Mr. W. Morris Foster, LS (dated August 25, 2016).

Subject Property Location, Characteristics, and Comprehensive Plan Designation:

The subject property is listed as 2754 Rockfish Valley Highway, and is further identified as Tax Map Parcel #21-A-100. This approximately 8.4-acre property is currently zoned Agricultural (A-1), and the rear portion of the property (fronting the South Fork Rockfish River) contains extensive General Floodplain (FP) overlay zoning district. *Please reference the enclosed maps.*

This A-1 property is adjacent to parcels zoned Business (B-1) to the east; it adjoins parcels zoned Agricultural (A-1) to the west; and is adjacent to parcels zoned Residential (R-1) across Route 151.

The Future Land Use Plan contained in the *Nelson County Comprehensive Plan* identifies the Nellysford vicinity as the County's only "Neighborhood Mixed Use Development Model" area. Please note the following elements of the "Neighborhood Mixed Use" language in the Comp Plan:

- *Neighborhood Mixed Use Development Model: "A central gathering place able to fulfill the diverse needs and interests of nearby residents and visitors to the county, all within a focused, walkable and identifiable place."*
- *"[This model] allows for a variety of uses focused around a central gathering place... [and] emphasizes a walkable community with many amenities available. Located off a primary road (and not divided by a primary road), the [model] creates a system of internal roads that alleviate the pressures on the primary road and keep new development focused within a quarter mile diameter. This enhances the internal walkability of this model by allowing visitors to park their cars and walk to services within."*
- *"Appropriate 'Neighborhood Mixed Use' land uses include both single family and multi-family residential, a variety of commercial establishments, professional offices, civic and public uses, and parks or recreation facilities. Some of the preferred uses include a grocery store, restaurants, cultural and entertainment opportunities, a drugstore, doctor and dentist offices, and churches. For public use, a library, farmers market, and space for recreation are appropriate. ... Multifamily dwellings, commercial and office buildings may be up to three stories in height."*
- *"Parking lots should be placed behind buildings or in other areas where the impact of the lot on the neighborhood is minimized. Dark sky lighting and unobtrusive signage is appropriate for all new development. Water and sewer service is needed to manage the density proposed in [this] model."*

Certain portions of the Nellysford vicinity are served by a private water and sewer utility; however, the subject property is not currently connected to these private utilities, and the applicants have not indicated whether or not such utilities can or would be extended to the subject property in connection with any business rezoning or commercial redevelopment.

Additionally, please note the Comp Plan information for the "Neighborhood Mixed Use Development Model" includes particular language ["...located off a primary road (and not divided by a primary road)..."] which indicates that the Comp Plan envisions the "neighborhood mixed use" development occurring only on the west side of Route 151.

Site Plan Review Committee Comments:

The Site Plan Review Committee reviewed the Minor Site Plan for this Rezoning application on September 14th, which resulted in the following review comments:

- **VDOT**: Mr. Jeff Kessler, Area Land Use Engineer for Virginia Department of Transportation – Lynchburg District, provided written review comments on September 16th, noting, *“As the proposed business use of this request for rezoning has not been determined, VDOT’s comments are limited to the following:*
 - 1) *Commercial access to the property will have to satisfy the applicable VDOT access management design standards for entrances and intersections which includes, but not limited to the following:*
 - a. *Entrance spacing.*
 - b. *Sight distance(s).*
 - c. *Provide recorded access easement and construct vehicular connections to the boundaries of the adjoining undeveloped property.*
 - d. *Geometric design of access point(s) based on ITE Trip Generation of its commercial use including turn lane warrant analysis, and pavement design.*
 - e. *Consistency with highway or corridor plans for the area.*
 - 2) *Please be advised that current VDOT access spacing requirements are not meet along the frontage of this property due to the location of the adjoining commercial entrances. Shared access and/or access management exceptions will need to be obtained.*
 - 3) *Without the aforementioned basic information associated with a VDOT Traffic Impact Statement, we are unable to endorse this site plan at this time.”*

- **Nelson County Building Official**: Mr. David Thompson provided brief written review comments on September 8th, noting, *“No comments – regulatory requirements involve development, buildings, and structures.”* This comment reflects the speculative nature of the rezoning request, and the fact that the use(s) and structures associated with this request are currently unknown. Mr. Thompson has since indicated that, prior to any site disturbance or development, an approved Erosion & Sediment Control Plan would need to be prepared, submitted, and approved and a land disturbing activity permit would need to be obtained.

- **TJSWCD**: Mr. Michael Ramsey provided written review comments on September 16th, noting, *“The following [are] my concerns for anyone wanting to create any land changes to the site in the future:*
 - 1) *Nelson County does not recognize the provision found in sub-section 19 b. (1). This is important to recognize, since this property borders a floodplain.*
 - a. *Another issue with bordering a floodplain is that infiltration practices may be impractical, since the water table is so high in these areas. It would be very important for any future land disturber to retain as much forested/open space as possible.*
 - 2) *If land disturbance is over an acre, a VSMP is required [from VA DEQ].”*

- **VDH**: Mr. Tom Eick has not provided written review comments, possibly due to the nature of (potential) future use(s) being unspecified at this time.

Staff Evaluation and Recommendation(s):

County staff have evaluated the application materials for this rezoning request, and have identified the following considerations:

- *Comprehensive Plan designation:* The Nellysford vicinity is designated as the County's only "Neighborhood Mixed Use Development Model" – but, as noted above, that designation is only for one side of Route 151, which is a "primary highway." Although the Planning & Zoning Director considers that policy impractical and inappropriate, it is still the official concept contained in the Comp Plan. As such, that language (narrowly) suggests that continued development in Nellysford on the east side of Route 151 would not be in conformity with the vision specified in the Future Land Use Plan for Nellysford.
- *Surrounding zoning designations:* Although the subject property adjoins or is in proximity to other parcels zoned Business (B-1) or zoned as the "Multiple Use Sector (MU)" of the Residential Planned Community (RPC), this request is not a straightforward proposal to simply expand an existing business district. For example, the subject property also adjoins properties zoned Residential (R-1) and also Agricultural (A-1). Further, the adjoining property to the west zoned (A-1) is residential in nature and is characterized by a single-family dwelling located very close to the subject property. More generally, Nellysford lacks any coherent zoning "patterns" – it is truly a random mixture of uses in a small vicinity; and the adjacent uses and zoning classifications do not offer any simple or clear examples what would be most appropriate.
- *Nature of proposed uses/structures:* The speculative, open-ended nature of this rezoning proposal creates significant concerns. The applicant has not provided any information other than the intent, "to establish [the] property for commercial use." As such, any use listed in Article 8 ("Business District B-1"), Section 1 ("Uses permitted by-right") would be permissible, if the rezoning is granted. As such, the potential impacts to neighbors, to the surrounding vicinity, and to the public road network are unknown. This leaves the County unable to make any reasonable determination about the suitability or appropriateness of this request (with respect to the types of land uses which may occur, and also with respect to the physical construction and operation of any such uses).
- *Scope of rezoning request:* The Planning & Zoning Director has significant concerns about rezoning actions in this area being done in isolation. While recognizing that Nellysford zoning and land use issues need to be carefully reviewed and potentially amended, the Director firmly believes any such processes and actions should be undertaken in a holistic way (and not in a piecemeal, single-property fashion).
- *Timing of rezoning request:* The Planning & Zoning Director also has significant concerns about rezoning actions in this area being done while the Rockfish Valley Area Plan is in progress. Any and all significant development or zoning issues would be best evaluated and most appropriately decided on after the completion and (potential) adoption of Area Plan analysis and recommended strategies. (Note: Area Plan completion is expected to occur in early 2017).

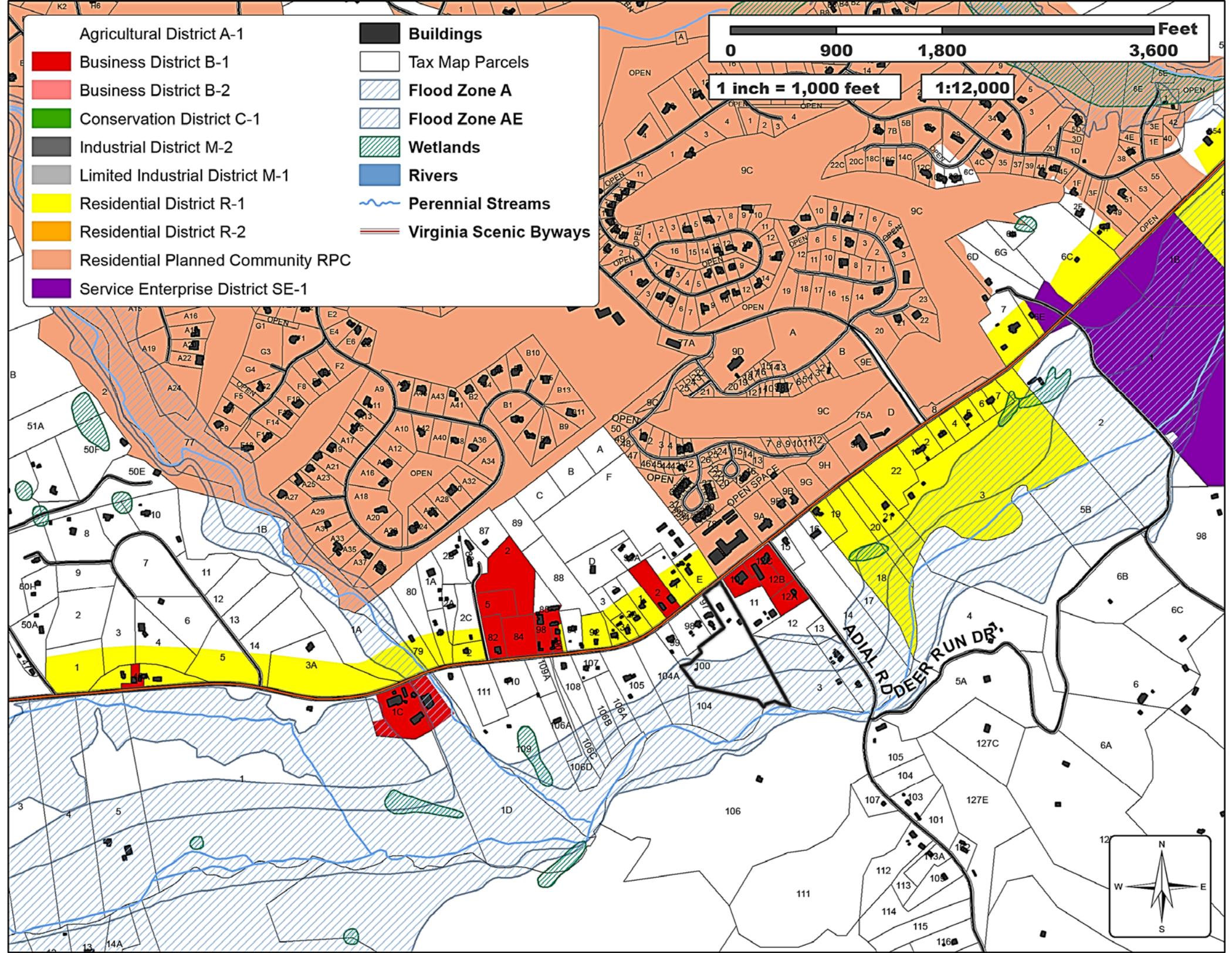
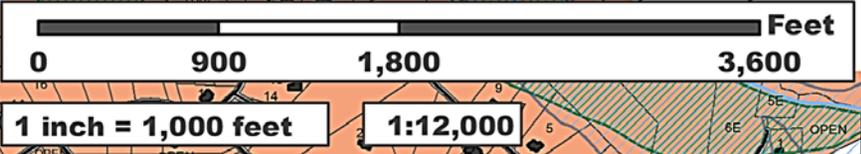
Therefore, with respect to the above considerations, the Planning & Zoning Director recommends denial of Rezoning #2016-03.

In conclusion, please contact me with any questions, concerns, or requests for assistance leading up to the October 26th Planning Commission public hearing for Rezoning #2016-03. Thank you very much for your time and attention to this application.

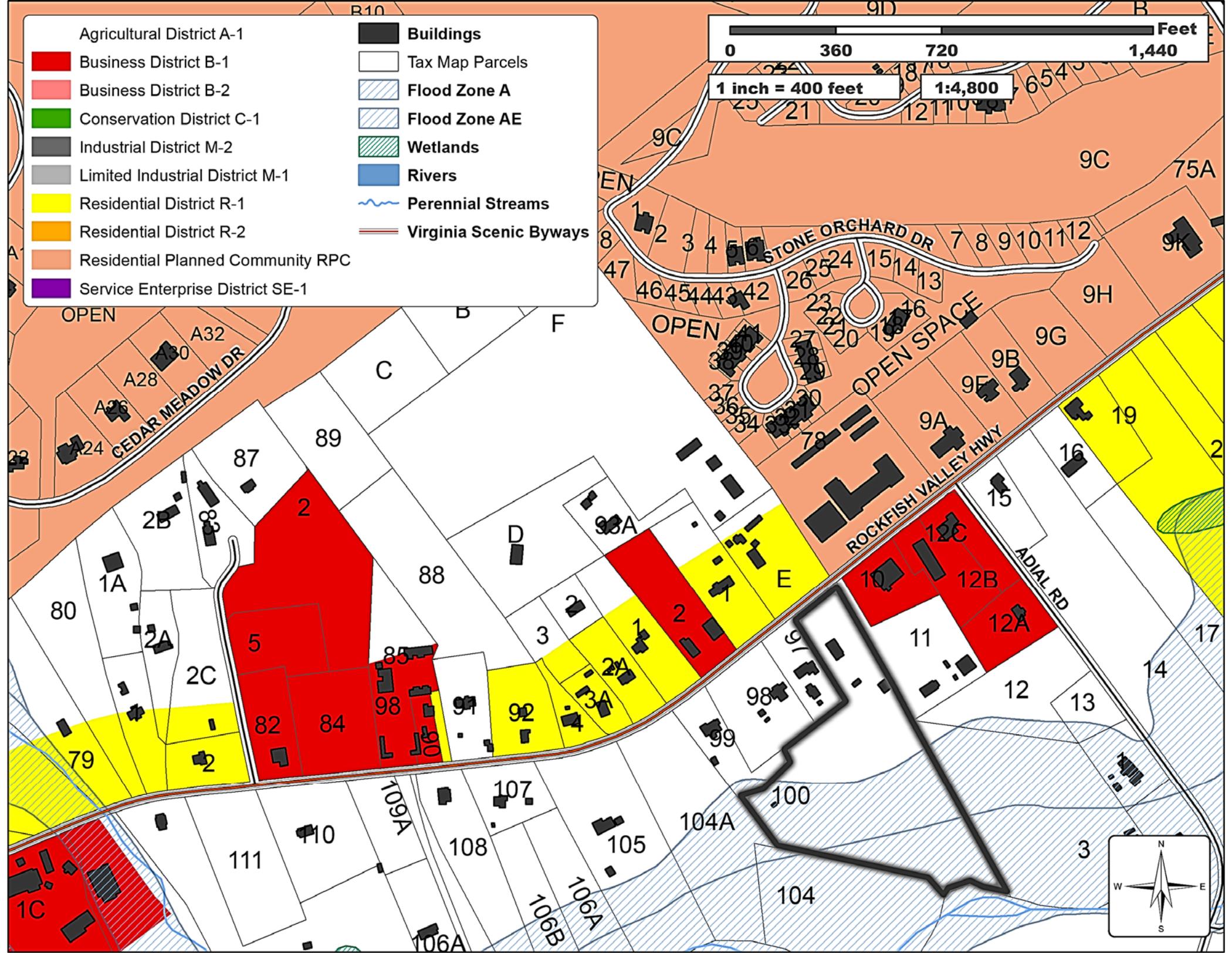
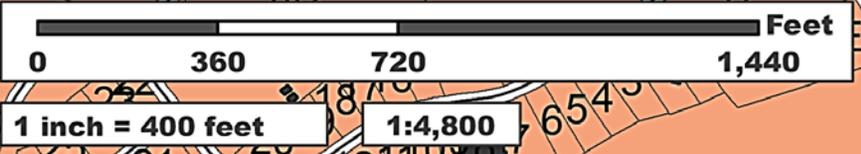


Existing dwelling (2754 Rockfish Valley Hwy – left) shown next to adjoining dwelling (bottom right).

- 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
- Wetlands
- Rivers
- Perennial Streams
- Virginia Scenic Byways



- | | |
|--|--|
|  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 |  Wetlands |
|  Limited Industrial District M-1 |  Rivers |
|  Residential District R-1 |  Perennial Streams |
|  Residential District R-2 |  Virginia Scenic Byways |
|  Residential Planned Community RPC | |
|  Service Enterprise District SE-1 | |





PERMIT APPLICATION:

Nelson County Department of Planning & Zoning

TO THE ZONING ADMINISTRATOR: Rezoning # 2016-03
application type application number

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

- Rezoning from A-1 to B-1 Conditional Rezoning from _____ to _____
- Subdivision – Preliminary Site Plan – Preliminary (optional)
- Subdivision – Final Site Plan – Final
- Major Site Plan Special Use Permit
- Minor Site Plan Other: _____

- Pursuant to Article 16, Section 1-1 of the Nelson County Zoning Ordinance.
- Pursuant to Section _____, Subsection _____ of the Nelson County Subdivision Ordinance.

Reason(s) for request: to establish property for commercial use (unspecified at current time)

(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: Alvin G. Small, Jr., & Carlton Wayne Small

Mailing Address: 712 Squire Lane, Wilmington, NC 28411

Telephone # 910-319-7922 E-mail Address: alsmalljr@gmail.com

Relationship (if applicable): _____

Applicant Property Owner Name: Carlton Wayne Small

Mailing Address: 1630 West Abington Drive, #201, Alexandria, VA 22314

Telephone # 202-557-8191 E-mail Address: zwayne@aol.com

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.):
State Route 151, Rockfish District
- b. Official tax map number: 21-A-100
- c. Acreage of property: 2.82 acres
- d. Present use: residential
- e. Present zoning classification: A-1
- f. Zoning classification of surrounding properties: 22-A-10 (B-1) portion of 22-A-11 (R-1)
all others A-1

4. Names of Adjacent Property Owners: Robert R. Newell (22-A -10); Audrey C. Small (21-A-97);
Douglas L. & Imogene S. Ponton (22-A -11); Alvin G. Small, Jr., & Carlton Wayne
Small (21-A-100A)

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: *Alvin G. Small, Jr.* Printed Name: Alvin G. Small, Jr.
 Signature: *Carlton Wayne Small* Printed Name: Carlton Wayne Small

(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 (\$ 400.00) received on 8-30-2016
- Hearing Notice published on _____
- Planning Commission action: Date of Meeting / Hearing: _____
Recommendation: _____
- Board of Supervisors action: Date of Hearing: _____ Date of Decision: _____
- Action: _____

SPECIAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS that I, CARLTON WAYNE SMALL, hereby make, constitute and appoint RALPH E. TURPIN, Jr., and/or W. MORRIS FOSTER as my true and lawful attorney to represent me and execute any and all necessary documents related to my Rezoning Permit Application with the County of Nelson.

This Special Power of Attorney shall not terminate upon disability, but shall continue in full effect.

WITNESS the following signature and seal:

Carlton Wayne Small (SEAL)
Carlton Wayne Small

STATE OF Virginia
to-wit:
CITY/COUNTY OF Arlington

The foregoing instrument was acknowledged before me this 31 day of August, 2016, by Carlton Wayne Small.

My commission expires: Aug 31, 2018

[Signature]
NOTARY PUBLIC
SAMAH SAID ALI HASSAN
Notary Public
Commonwealth of Virginia
7588808
My Commission Expires Aug 31, 2018

This is a Certified True Copy of the foregoing instrument consisting of 1 pages.

[Signature]
Attest

NOTARY PUBLIC
EMMAGENE MCGRAE OLAH
REG # 156643
COMMISSION EXPIRES 8/31/2020
COMMONWEALTH OF VIRGINIA

SPECIAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS that I, ALVIN G. SMALL, JR., hereby make, constitute and appoint RALPH E. TURPIN, Jr., and/or W. MORRIS FOSTER as my true and lawful attorney to represent me and execute any and all necessary documents related to my Rezoning Permit Application with the County of Nelson.

This Special Power of Attorney shall not terminate upon disability, but shall continue in full effect.

WITNESS the following signature and seal:

 (SEAL)
Alvin G. Small, Jr.

STATE OF NC
to-wit:
CITY/COUNTY OF New Hanover

The foregoing instrument was acknowledged before me this 1st day of September, 2016, by Alvin G. Small, Jr.

My commission expires: 2-15-21


NOTARY PUBLIC



This is a Certified True Copy of the foregoing Instrument Consisting of 1 page.


NOTARY PUBLIC Attest



Please publish Thurs. October 13 and Thurs. October 20 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 (PC) hereby gives notice that a Public Hearing will start at or shortly after **7:00 p.m., Wednesday, October 26, 2016** in the **General District Courtroom** on the third floor of the Nelson County Courthouse located at 84 Courthouse Square, Lovingson, for the following:

Public Hearings

1. Rezoning #2016-03 – Agricultural (A-1) to Business (B-1) / AG Small, Jr. & CW Small

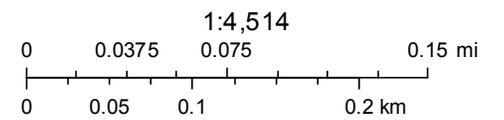
The purpose of said public hearing is for the PC to receive public input on a Rezoning application made pursuant to Zoning Ordinance Article 16, Section 1-1. The subject property is located in Nellysford at 2754 Rockfish Valley Highway (Route 151); it is further identified as Tax Map Parcel #21-A-100, and is zoned Agricultural (A-1) and General Floodplain (FP). The applicant seeks approval to rezone a 2.83-acre portion of the subject property along Rockfish Valley Highway to Business (B-1) to “establish property for commercial use (unspecified at current time).” This Rezoning application proposes to leave a 5.57-acre portion of the subject property in the Agricultural (A-1) zoning district, and the General Floodplain (FP) overlay district would also remain unchanged.

Following these public hearings, the Planning Commission may vote to forward the application to the Board of Supervisors (BOS) (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 the application, the BOS will also conduct a public hearing. A date for a public hearing by the BOS has not yet been determined.

Copies of the above files are available for review in the Department 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 Department 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.



October 17, 2016



REZONING #2016-03 / AG SMALL JR & CW SMALL

Parcel ID	Parcel Address	Owner Name	Add1	CITY, STATE ZIP
21-A-100	2754 ROCKFISH VALLEY HWY	SMALL ALVIN G JR & CARLTON WAYNE SMALL	712 SQUIRE LANE	WILMINGTON, NC 28411
21-A-104		SMALL ALVIN G JR & CARLTON WAYNE SMALL	712 SQUIRE LANE	WILMINGTON, NC 28411
21-A-104A		HESS TIMOTHY C & OTHERS	PO BOX 747	NELLYSFORD, VA 22958
21-A-99	2646 ROCKFISH VALLEY HWY	PATRICK IRIS D	PO BOX 44	NELLYSFORD, VA 22958
21-A-98	2692 ROCKFISH VALLY HWY	MCGANN JAMES W & SUE H	PO BOX 72	NELLYSFORD, VA 22958
21-A-97	2712 ROCKFISH VALLEY HWY	SMALL AUDREY C	PO BOX 95	NELLYSFORD, VA 22958
21-8-1	2703 ROCKFISH VALLEY HWY	SMALL MAXINE	PO BOX 102	NELLYSFORD, VA 22958
21-11-E	2757 ROCKFISH VALLEY HWY	SMALL MAXINE H	PO BOX 102	NELLYSFORD, VA 22958
21-A-78		JOE LEE MCCLELLAN INC	PO BOX 395	LOVINGSTON, VA 22949
22-A-10	2788 ROCKFISH VALLEY HWY	NEWELL ROBERT R & NANCY A	709 BURCHS CREEK ROAD	CHARLOTTESVILLE, VA 22903
22-A-11	2768 ROCKFISH VALLEY HWY	PONTON DOUGLAS L & IMOGENE S	2768 ROCKFISH VALLEY HWY	NELLYSFORD, VA 22958
22-A-12		MULLIN PHYLIS A	4267 ADIAL ROAD	FABER, VA 22938
22-3-3		HUGHES ZACHARIAH P & BONNIE M	4207 ADIAL ROAD	FABER, VA 22938
22-A-106	4109 ADIAL ROAD	NICHOLS WILLIAM R & JOAN H	PO BOX 14505	RICHMOND, VA 23221-4505



To: Chair and Members, Nelson County Planning Commission
From: Tim Padalino | Planning & Zoning Director
Date: October 18, 2016
Subject: Review of Final Major Site Plan #2016-11 (“Evans Cabins”)

Application Summary	
<u>Site Address / Location:</u>	South side of Route 664 / Beech Grove / West District
<u>Tax Parcel(s):</u>	#31-A-39A ... <i>(Please reference the attached maps)</i>
<u>Parcel Size:</u>	4.99 acres (total)
<u>Zoning:</u>	Agricultural (A-1)
<u>Applicant:</u>	Mr. Bill & Mrs. Rebecca Evans and Mr. David L. Collins, LS, PE
<u>Request:</u>	Review and approval of Final Major Site Plan #2016-11 / application made pursuant to §13-1 and 13-4
• <i>Submitted in connection with approved Special Use Permit #2015-05 (“Motel”)</i>	

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:

This application seeks approval for a Final Major Site Plan in connection with the proposed “Evans Cabins” transient lodging project in Beech Grove. Please note that a previous iteration of these plans was reviewed earlier this year as “Preliminary Major Site Plan #2016-07,” which was also prepared by Mr. David L. Collins, LS, PE. That Preliminary Major Site Plan was reviewed at the May 11th Site Plan Review Committee meeting, and a revised version was then reviewed by the Planning Commission at the May 25th PC meeting.

Due to the timing of the submission of this Final Major Site Plan relative to the deadline for preparing and mailing staff reports, a thorough review and evaluation of this application will be

forthcoming at the October 26th PC meeting. However, please note that the following issues were previously the subject of the review comments from Site Plan Review Committee members, regarding the May 2016 review of Preliminary Major Site Plan #2016-07:

Department of Health: Mr. Tom Eick was waiting for submission of a technical report from a licensed AOSE regarding the proposed septic system.

Thomas Jefferson Soil & Water Conservation District: Mr. Michael Ramsey had noted that an approved Erosion & Sediment Control Plan is required for this project, and 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.

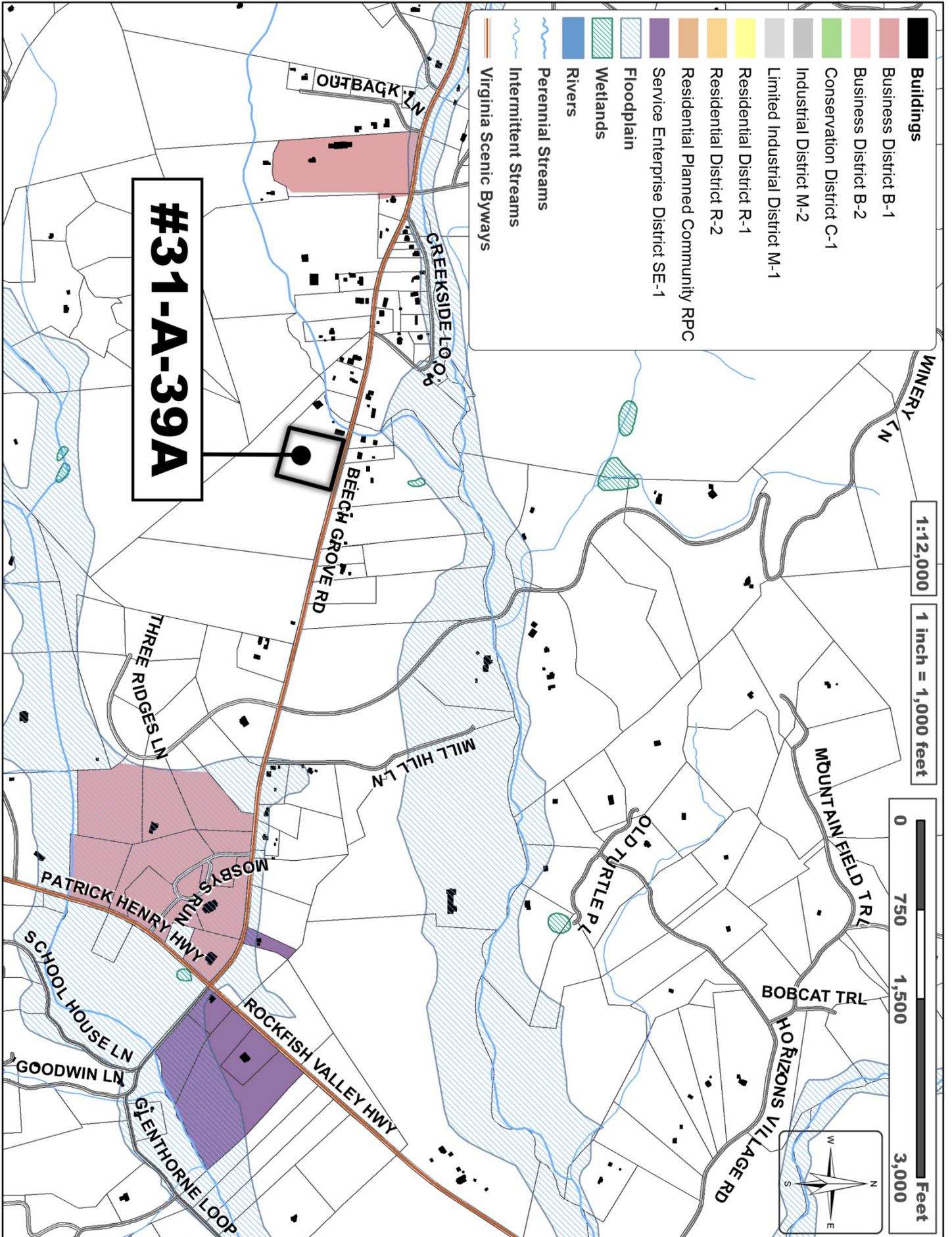
Department of Environmental Quality: The proposed project will require Virginia Stormwater Management Plan permit coverage from DEQ.

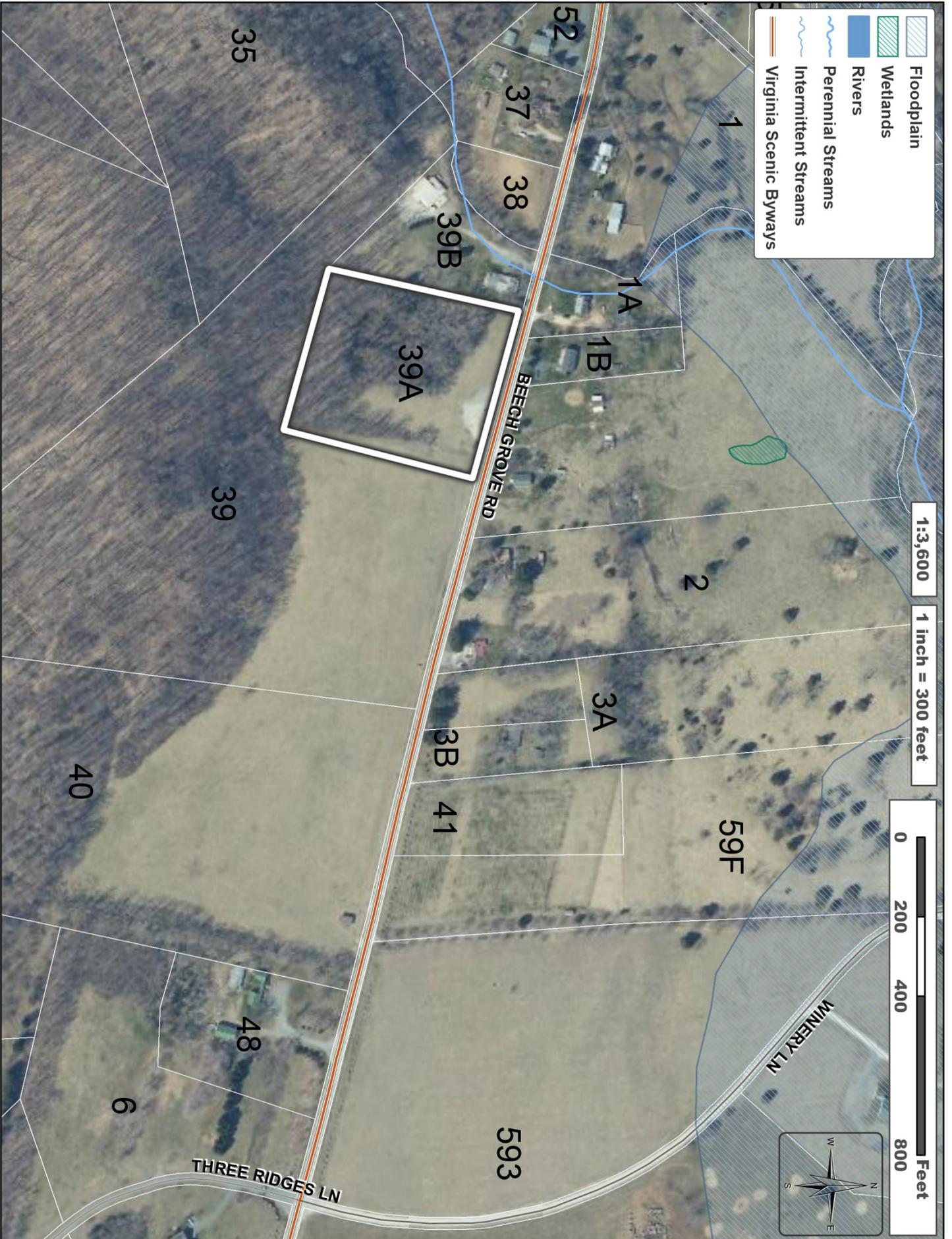
Department of Transportation: VDOT review comments had been incorporated into the design and notes of the Preliminary Major Site Plan.

As noted above, an updated report on all of these issues will be presented to the Planning Commission (by both the Planning & Zoning Director and also by the applicant) during the upcoming PC meeting on October 26th. Thank you for your patience.

Conclusion:

Please do not hesitate to contact me with any questions, concerns, or requests for assistance leading up to the October 26th Planning Commission review of Final Major Site Plan #2016-11 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 (Final) # 2016-11
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 _____, Section _____ of the Nelson County Zoning Ordinance.
 Pursuant to Section _____, Subsection _____ of the Nelson County Subdivision Ordinance.

Reason(s) for request: Site Plan Approval for "EVANS' CABINS"

(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. 23455
Telephone # _____ E-mail Address: _____
Relationship (if applicable): _____

Applicant Property Owner Name: David Collins
Mailing Address: 1188 Berry Hill Rd., Nellysford, VA. 22958
Telephone # 434-361-1113 E-mail Address: djc.l.s.pc@gmail.com
Relationship (if applicable): Agent - Engineer

(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 Rd., property adjoins Butter Nut Construction on the east.

b. Official tax map number: 31-(A)-39A

c. Acreage of property: 4.99 Ac.

d. Present use: Open w/ woods & turf

e. Present zoning classification: A-1 w/ SUP 10-13-2015 (*2015-05)

f. Zoning classification of surrounding properties: A-1

4. Names of Adjacent Property Owners: Peter Farley & John SzelaGiewicz

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 Printed Name: DAVID L. COLLINS

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 (\$ 100.00) received on 10-14-16

o Hearing Notice published on _____

o Planning Commission action: Date of Meeting / Hearing:

Recommendation: _____

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

Action: _____