



NELSON COUNTY PLANNING COMMISSION

Meeting Agenda: August 26, 2015

General District Courtroom, 3rd Floor, Nelson County Courthouse, Lovingston

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

– **Review of July 22, 2015 meeting minutes**

– **Public Hearing Items:**

○ **Consideration of Application to Expand Existing Davis Creek Agricultural and Forestal District (AFD)**

The purpose of said public hearing is for the Planning Commission to receive public input on one application requesting an expansion of the existing Davis Creek AFD, pursuant to Code of Nelson County, Virginia, Chapter 9 “Planning and Development,” Article V, “Agricultural and Forestal Districts.” The application details for this requested expansion are as follows:

AFD Application #2015-05 (Mr. Michael Scelzi):

- Tax Map Parcel #44-A-29B – Michael Scelzi - 165.08 acres

○ **Consideration of Application to Expand Existing Greenfield Agricultural and Forestal District (AFD)**

The purpose of said public hearing is for the Planning Commission to receive public input on an application requesting an expansion of the existing Greenfield AFD, pursuant to Code of Nelson County, Virginia, Chapter 9 “Planning and Development,” Article V, “Agricultural and Forestal Districts.” The application details for this requested expansion are as follows:

AFD Application #2015-06 (Ms. Joyce Burton):

- Tax Map Parcel #12-A-113A – Erin Johnson & Kim Grosner – 3.83 acres
- Tax Map Parcel #13-A-35C – Freeman Mowrer & Mary Connolly Mowrer – 12.6 acres
- Tax Map Parcel #24-A-8 – Aristedes Avgeris & Despina Avgeris – 74.5 acres
- Tax Map Parcel #24-3-Y – Thomas E. Proulx, Phillipa Proulx, & Maya Proulx – 5.43 acres
- Tax Map Parcel #24-4-B – Paul Gifford Childs & Amy Larson Childs – 162.07 acres

○ **Special Use Permit #2015-05 – “Evans’ Cabins” / Bill & Becky Evans**

Consideration of a Special Use Permit application seeking approval to construct six (6) over-night temporary-stay cabins and one (1) full-time residential house along with necessary utilities and access drives, pursuant to §4-1-25a of the Zoning Ordinance. The subject property is located in Beech Grove in Roseland and is identified as Tax Map Parcel #31-A-39A; it consists of 4.99 acres zoned Agricultural (A-1).

- **Other Agenda Items:**
 - o Referral of Amendments from BOS:
 - o Bed and Breakfast Uses – R2015-66
 - o Temporary Events, Festival Grounds, and Out-Of-Door Accessory Uses – R2015-68
- **Other Business** (as determined by Planning Commission members / as applicable)
- **Adjournment**
- **Next Meeting:** September 23, 2015 | 7:00pm

Draft: 7/24/15
Updated: 8/14/2015

Nelson County Planning Commission
Meeting Minutes
July 22, 2015

Present: Chair Philippa Proulx, Commissioners Linda Russell, Mary Kathryn Allen, Mike Harman, Robert Goad (7:18 p.m.), Larry Saunders (Board of Supervisors Liaison)

Absent: Stormy Hopkins, Secretary

Staff Present: Tim Padalino, Director of Planning and Zoning, and Anna Birkner, Secretary (substitute)

Call to Order: Chair Proulx called the meeting to order at 7:02 p.m. in the General District Courtroom, County Courthouse, Lovington.

Approval of Minutes; May 27, 2015: Chair Proulx asked if there were any further changes to the revised May 27th meeting minutes. She explained that this needed to be revisited because only two commissioners voted to approve this at last meeting. There were no further questions or comments.

Commissioner Allen made a motion that the May 27, 2015 meeting minutes of the Planning Commission be approved. Commissioner Russell provided the second. The vote 4-0 with Commissioner Harman abstaining.

Chair Proulx explained that the June 24, 2015 minutes were not available at this time and would be available at the August meeting.

Chair Proulx requested to change order of agenda and discuss the proposed amendments first, since Commissioner Goad was not present at this time, but was on the way.

AGENDA

1. Public Hearing for Proposed Z.O. Amendments: "Brewery" and "Limited Farm Brewery"

Mr. Padalino explained the definition of *brewery* is currently "a facility for the production of beer." This definition was adopted last year, and it was subsequently brought to the Board's attention that there is an existing brewery company that brews a beverage other than beer. The Board of Supervisors referred these amendments to the Planning Commission on June 9th, 2015. The Planning Commission reviewed these amendments on June 24th and proposed to change the word beer to brewed beverages in the definitions of *Brewery* and *Limited farm Brewery*.

Chair Proulx opened the public hearing 7:06 p.m.

Ethan Zuckerman, Afton: Mr. Zuckerman noted that he and his family would benefit from this amendment. They own a business that brews fermented tea and are looking for a new space within Nelson County. This change to the Zoning Ordinance would allow them to re-locate.

With no further comments Chair Proulx closed the public hearing at 7:07 p.m.

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

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

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

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

Commissioner Russel made the motion: The Planning Commission, having reviewed Resolution R2015-51 from the Board of Supervisors and having advertised and conducted a public hearing on July 22, 2015 in accordance with the Code of Virginia, recommends the approval of changes to the definition of "Brewery and Farm Brewery, Limited" in article 2 of the Nelson County Zoning Ordinance to read as follows: (definitions are quoted here from the staff report)

Commissioner Harman provided the second. The vote was unanimous, 6-0.

2. Public Hearing for Proposed Z.O. Amendments: "Wayside Stands" and "Farmers Markets"

Mr. Padalino listed the amendments and possible changes, and explained that these changes would affect the regulation of the land use as well as the definition of "off-farm retail agricultural sales." He stated in his explanation of the changes that the Wayside Stand would be separated into two different classes based on the type of road the stand is located on as defined by VDOT, known as a "Functional Classification Code." He stated that this seems like the most objective and straightforward way to classify the uses. Mr. Padalino suggested that the PC possibly modify the language for one of the requirements for a class A Wayside Stand to "all setbacks" instead of only "front yard setbacks."

Commissioner Goad entered the meeting and chair Proulx explained reason for change in agenda.

Commissioner Russell questioned the difference in the June report explained as "off-farm agricultural sales" and in the current Powerpoint presentation as "off-farm agricultural retail sales." Mr. Padalino stated to go with definition as contained in the staff report, as that was used for the Legal Notice advertisement.

Chair Proulx opened public hearing at 7:20 p.m. There were no comments from the public. Chair Proulx closed public hearing at 7:20 p.m.

Commissioner Russell made a motion to recommend to the Board of Supervisors approval of the proposed amendments to include the re-definition of Wayside Stand as well as standards to Wayside Stands and Farmers Markets as follows:

➤ ~~Article 2: Definitions~~

~~Remove the following definition:~~

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

~~Add the following definitions:~~

~~Farmers Market: Any structure, assembly of structures, or land used by multiple vendors for the sale of agricultural and/or horticultural products, and/or agriculture-related goods and services; but not to include the sale of merchandise purchased specifically for resale.~~

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

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

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

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

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

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

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

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

- ~~(i) Signed affidavit declaring that any and all products offered for sale have their source from, or are otherwise derived from, an agricultural operation that is owned or controlled by the wayside stand operator~~
- ~~(ii) Proposed frequency and duration of operations (throughout the day, week, month, or calendar year):~~

- a. ~~may not exceed ____ consecutive days; and/or~~
- b. ~~limited to a maximum of ____ hours per day; and/or~~
- c. ~~limited to a maximum of ____ days per week; and/or~~
- d. ~~limited to a maximum of ____ weeks per year~~
- (iii) ~~Location and type of proposed wayside stand equipment or facility:~~
 - a. ~~All wayside stand structures or facilities must be located outside of VDOT right-of-way~~
 - b. ~~All permanent wayside stand structures must comply with the required front yard setback areas of the applicable zoning district~~
- (iv) ~~Location and details of proposed signage:~~
 - a. ~~Maximum of one sign allowed, which may be double-sided~~
 - b. ~~Maximum of twelve (12) square feet of signage~~
- (v) ~~Sketch site plan, including accurate locations and dimensions of:~~
 - a. ~~property boundaries and right-of-way~~
 - b. ~~proposed location of wayside stand equipment and/or facility(s)~~
 - c. ~~proposed signage~~
 - d. ~~proposed layout and provisions for safe vehicular ingress, egress, and parking~~
 - e. ~~lighting plan and lighting details (for any wayside stand request involving any proposed operation(s) after daylight hours)~~
- (vi) ~~Review comments from Virginia Department of Transportation:~~
 - a. ~~VDOT review comments must include a formal "recommendation for approval" by VDOT before a Class A Wayside Stand permit can be approved by the Zoning Administrator~~

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

~~4-1-46a Wayside Stand, Class B~~

~~4-1-47a Farmers Market~~

➤ ~~Article 8: Business District (B-1)~~ _____

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

~~8-1-13a Farmers Market~~

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

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

~~8A-1-7a Farmers Market~~

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

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

~~8B-1-14a Farmers Market~~

~~Commissioner Allen provided the second. Vote Unanimous (6-0) for Board of Supervisors to hold a public hearing.~~

Commissioner Russell made a motion: The Planning Commission having reviewed the current Zoning Ordinance as it relates to off-farm agricultural retail sales and having advertised and conducted a public hearing on July 15, 2015 in accordance with the Code of Virginia recommends that the Board of Supervisors approve the proposed amendments which include redefinition of Wayside Stands in Article 2 as well as standards for Wayside Stands and Farmers Markets as follows: (contents of amendments are quoted here)

Commissioner Allen provided the second. The vote was unanimous (6-0).

3. Conditional Re-zoning #2015-02-Mountain Sports Retail Space/ Mr. Joseph B. "Sepp" Kober

Mr. Padalino reviewed the application submitted by Joseph B. "Sepp" Kober and showed the location of the subject properties, Tax Map Parcels #22-A-19 and #22-A-18. Mr. Padalino then referenced a slide of the Minor Site Plan and explained that it is an essential tool for planning during the SUP review process, but it is not a final site plan document – and that Mr. Kober would need to submit and get approval for a Major Site Plan before being able to obtain any building permits. Mr. Padalino also showed a concept drawing of the front of the proposed building and photos of the site visit that contained pictures of a few trees that would be removed as well as the historic structure close to Route 151.

Mr. Padalino re-iterated VDOT's previous comments concerning access management, sight distance measurements, future development, and the consideration of a joint commercial entrance that would serve the adjoining parcels as well. Mr. Padalino concluded with the staff evaluation and recommendation for the approval of Conditional Rezoning #2015-02.

Chair Proulx wanted to clarify that the Minor Site Plan was not binding and the applicants don't have to even follow it, and that it could change. Mr. Padalino explained a Minor Site Plan is always required with each rezoning request, and that yes, it could change. Chair Proulx asked the applicant if they have any questions or comments prior to the public hearing.

Mr. Kober spoke to Commissioner Harman and apologized for not being prepared at the last meeting, and asked if the commission had any further questions.

Commissioner Russell asked about one proffered-away use, which is a gas filling station, noting that one of the requested uses that was kept is "auto and home appliances service" and asked the applicant what he thought that meant. Mr. Kober stated that he was not sure, but he had no desire to work on automobiles and would gladly proffer that away as well. He had no desire to have a gas station or auto repair garage come to Nellysford. He stated maybe the definition would include home appliance service such as Maytag dishwasher repair, or possibly a retail auto part store such as Fisher's.

Commissioner Russell expressed her concern that spot zoning to Business was frowned upon and found to be discriminatory, and thought this request could be considered a spot zoning if he did not consider VDOT's request of sharing an entrance that would benefit neighbors and allow expansion of Nellysford. Mr. Kober stated he'd be willing to share an entrance and would love to help future businesses, provided it would not deter from his business or move his business onto an awkward position on the property, but he is willing to look into it.

Commissioner Russell stated that they are only here to determine if B-1 zoning is right for this property, but he could build property right up against the right of way like the current building is. The minor site plan does not represent that, but wants to know if he would be willing to commit in writing to build seventy (70) feet away from the road before the commission recommends this to the Board of Supervisors. Mr. Kober stated he could not make that decision before speaking to an architect and before seeing the drawings and plans for shared entrance. Chair Proulx noted that currently there is no one to share the entrance with, and wasn't sure how the plan would look, and suggested Mr. Kober talk to his architect.

Commissioner Russell stated the entrance could not be built without the current building being torn down. Mr. Kober stated they will be tearing the house down unless someone presented to him that it was a historic landmark. He said he knew it was old, but did not think it was officially designated as historic. They may look at the building to see if anything was reusable in the new development, or could be re-claimed for use in his proposed new building.

Chair Proulx opened the public hearing at 7:50 p.m.

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

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

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

Chair Proulx closed the public hearing at 7:58 p.m.

Chair Proulx asked if there was any further discussion.

Commissioner Russell stated she lives in the area where the study and comp[rehensive] plan was done, and thinks the majority would like to see development in the community. She further stated she was in favor of this, and thinks it is an excellent use of the property as long as it doesn't deter from other properties and future development.

Chair Proulx stated she appreciated that this is a conditional request, and not a straight rezoning request, and thinks the plans are consistent with the image of Nellysford.

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

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

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

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

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

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

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

Also the Planning Commission directs the Planning and Zoning Director to assume the lead in the correction of all county records with the correct positioning of these two properties regardless of final disposition of this application. Also we recommend the Board of Supervisors look at the current development of the east side of Route 151 as well as the comp plans of future development of the area so that it may consider if a joint commercial entrance for this property and a required front yard setback would enhanced future development in this area. Commissioner Harman provided the second. Vote (5-0) with Commissioner Saunders abstaining.

Commissioner Russell made a motion: The applicant Joseph Kober is requesting a rezoning of property designated as Tax Map #18 and 19 located on the east side of route 151 in Nellysford. The property consists of approximately 6 acres which would be rezoned from R-1 with Floodplain area to B-1 Conditional. The Planning Commission supports the staff report of July 15, 2015 and recommends approval by the Board of Supervisors to rezone Tax Map #22-A-19 and 22-A-18 from R-1 to B-1 Conditional rezoning which would limit by right uses to Section 8-1-2, 8-1-13, 8-1-16, 8-1-17, 8-1-18, 8-1-19. Also the Planning Commission directs the Planning and Zoning Director to assume the lead in the correction of all county records with respect to the correct positioning of these 2 properties regardless of the final disposition of this application. However, the Planning Commission asks that the Board of Supervisors look at the current development along the east side of 151 as well as the Comp Plan's position on future development of the area so that it may consider whether a joint commercial entrance for this property and a required 70' front yard setback would enhance future commercial development in the area.

Commissioner Harman provided the second. The vote was (5-0) with Commissioner Saunders abstaining.

Saunders stated this will be presented at the 8/11 Board of Supervisors meeting and Mr. Saunders left at 8:02 p.m.

Other Agenda Items:

Mr. Padalino presented Agricultural and Forestal District applications #2015-05: addition to the existing Davis Creek AFD and #2015-06: addition to the existing Greenfield AFD. He noted that the AFD Advisory Committee already reviewed these applications, and recommends that they be approved by the Planning Commission.

Mr. Padalino clarified that no PC action is required tonight, and that the AFD Committee is requesting acknowledgement of receipt of applications.

Chair Proulx stated she would like the commission to receive applications separately and she will excuse herself from second application since her property is included in the application.

Chair Proulx asked AFD Advisory Committee Chair Andy Wright if he had anything further to add; he did not.

The Commission acknowledged receipt of both applications, with the following motion being made and voted on:

Commissioner Harman motioned for acceptance of AFD Application #2015-06 and to advertise for public hearing. Commissioner Allen provided the second. Commission voted unanimously 5-0.

Commissioner Harman retracted the previous stated motion as acceptance of #2015-06 and changed it to acceptance of AFD Application #2015-05, citing a mix-up in the application numbers and Chair Proulx's previously statement that she did not want to vote for application #2015-06. Commissioner Allen provided the second. Commission voted unanimously 5-0 to accept AFD Application # 2015-05 and advertise for public hearing.

Commissioner Goad motioned for acceptance of AFD Application #2015-06 and to advertise for public hearing. Commissioner Allen provided the second. Commission voted unanimously 4-0 with Chair Proulx abstaining.

Other Business:

Chair Proulx stated there was no Board of Supervisors report since Mr. Saunders had to leave. She suggested to review commission bylaws, and asked if there were any questions.

Commissioner Harman asked if the Board of Supervisor representative was supposed to vote or not. Mr. Padalino stated he didn't think the code specifically addresses that issue. Commissioner Russell stated that the code doesn't specify if there's an option to have supervisor representative or not. Commissioner Allen stated the Supervisor has the full right to vote if they wish.

Commissioner Goad stated there needed to be 4 members present for quorum but there doesn't have to be 4 members voting. Commissioner Harman stated they could be here for the quorum but they could abstain. Mr. Padalino stated he has the same understanding, as long as there were enough votes as to not result in a tie.

Chair Proulx and Commissioner Russell agreed they need to look over quorum and voting rules to understand for any future situations that may arise. Chair Proulx stated she will look over Roberts Rules.

Commissioner Russell motioned Draft Revision to Nelson County Planning Commission presented June 10, 2015 be adopted. Commissioner Harman provided the second. Vote was unanimous 5-0.

Chair Proulx asked if there was anything else to add.

Mr. Padalino stated he just got back from an APA-Virginia annual conference in Norfolk, and that is was very informative.

Adjournment:

At 8:15 p.m. Commissioner Allen made a motion to adjourn, Vote was unanimous 5-0.



DEPARTMENT OF
PLANNING & ZONING

PLANNING COMMISSION
BOARD OF ZONING APPEALS

To: Chair and Members, Nelson County Planning Commission
From: Tim Padalino | Director | Department of Planning & Zoning
Date: August 17, 2015

Subject: Public Hearings for Agricultural & Forestal Districts Applications #2015-05, -06

At the upcoming August 26th Planning Commission (PC) meeting, the PC will conduct public hearings for multiple applications involving Nelson County's Agricultural and Forestal District (AFD) program.

This report provides a detailed summary of the two (2) pending AFD applications that have been received prior to July 1st, 2015, as well as detailed information about the review procedures and requirements. Please see page 3 of this report for detailed information about the overall application review process, including status updates for each step which has been completed to date. Please also review the application submitted by Mr. Scelzi, a copy of which is included with this report.

Summary of AFD Applications under PC review at the 8/26 Public Hearing:

A. AFD Application #2015-05: Addition to Davis Creek AFD (Scelzi)

- *Date received:* 5/26/2015
- *Total size of proposed expansion:* 165.08 acres
- *Parcels and property owners in proposed addition:* 1 total property owner / 1 total parcel
 - Parcel #44-A-29B – Michael Scelzi – 165.08 acres
 - Please see Map 1 and Map 2 on pages 4 – 5.
- *Advisory Committee Recommendation:* The committee reviewed this application on June 29th and unanimously voted to recommend to the Planning Commission and the Board of Supervisors that they approve this proposed expansion of the existing Davis Creek AFD.
- *Staff comment:* The applicant has requested a 4-year “term” (review period); this is the minimum review period permissible by County Code Article V, Section 9-204 (1); see also Va. Code §15.2-4310. Please note that all other AFDs have been created or expanded with 5-year review periods.

B. AFD Application #2015-06: Addition to Greenfield AFD (Burton)

- *Date received: 6/1/2015*
- *Total size of proposed expansion: 258.43 acres*
- *Parcels and property owners in proposed addition: 5 total property owners / 5 total parcels*
 - o Parcel #12-A-113A – Erin Johnson and Kim Grosner – 3.83 acres
 - o Parcel #13-A-35C – Freeman Mowrer and Mary Connolly Mowrer – 12.6 acres
 - o Parcel #24-A-8 – Aristedes Avgeris and Despina Avgeris – 74.5 acres
 - o Parcel #24-3-Y – Thomas E. Proulx, Phillipa Proulx, and Maya Proulx – 5.43 acres
 - o Parcel #24-4-B – Paul Gifford Childs and Amy Larson Childs – 162.07 acres
 - o *Please see Map 3 and Map 4 on pages 6 – 7.*

- *Advisory Committee Recommendation: The committee reviewed this application on June 29th and unanimously voted to recommend to the Planning Commission and the Board of Supervisors that they approve the proposed addition of all parcels to the Greenfield AFD.*

Review Procedures for AFD Applications: “Evaluation Criteria”

All AFD applications are to be reviewed and evaluated using the he following factors, as contained in Nelson County Code Section 9-201, “Creation of District.”

- (5) *Evaluation criteria.* The following factors should be considered by the planning commission and the advisory committee, and at any public hearing at which an application is being considered:
- a. The agricultural and forestal significance of land within the district or addition and in areas adjacent thereto;
 - b. The presence of any significant agricultural lands or significant forestal lands within the district and in areas adjacent thereto that are not now in active agricultural or forestal production;
 - c. The nature and extent of land uses other than active farming or forestry within the district and in areas adjacent thereto;
 - d. Local developmental patterns and needs;
 - e. The comprehensive plan and zoning regulations;
 - f. The environmental benefits of retaining the lands in the district for agricultural and forestal uses; and
 - g. Any other matter which may be relevant.

In judging the agricultural and forestal significance of land, any relevant agricultural or forestal maps may be considered, as well as soil, climate, topography, other natural factors, markets for agricultural and forestal products, the extent and nature of farm structures, the present status of agriculture and forestry, anticipated trends in agricultural economic conditions and such other factors as may be relevant.

Review Procedures for AFD Applications: “Review Process”

The review process for all AFD applications requires the following steps (below) as prescribed by Nelson County Code Section 9-201, “Creation of District.” I have provided a brief summary of each step of the review process, with status updates (below). I have also provided an excerpt of the recently-enacted County Code language pertaining to the review process (attached).

A. [Summary of current review process with status updates]:

- **COMPLETED (6/29):** AFD Advisory Committee receives applications via Program Administrator:
 - Advisory Committee conducts review of applications
 - Advisory Committee provides Planning Commission with recommendations

- **COMPLETED (7/22):** Planning Commission (PC) receives applications from committee:
 - PC directs staff to provide legal notice of the applications to adjoining property owners

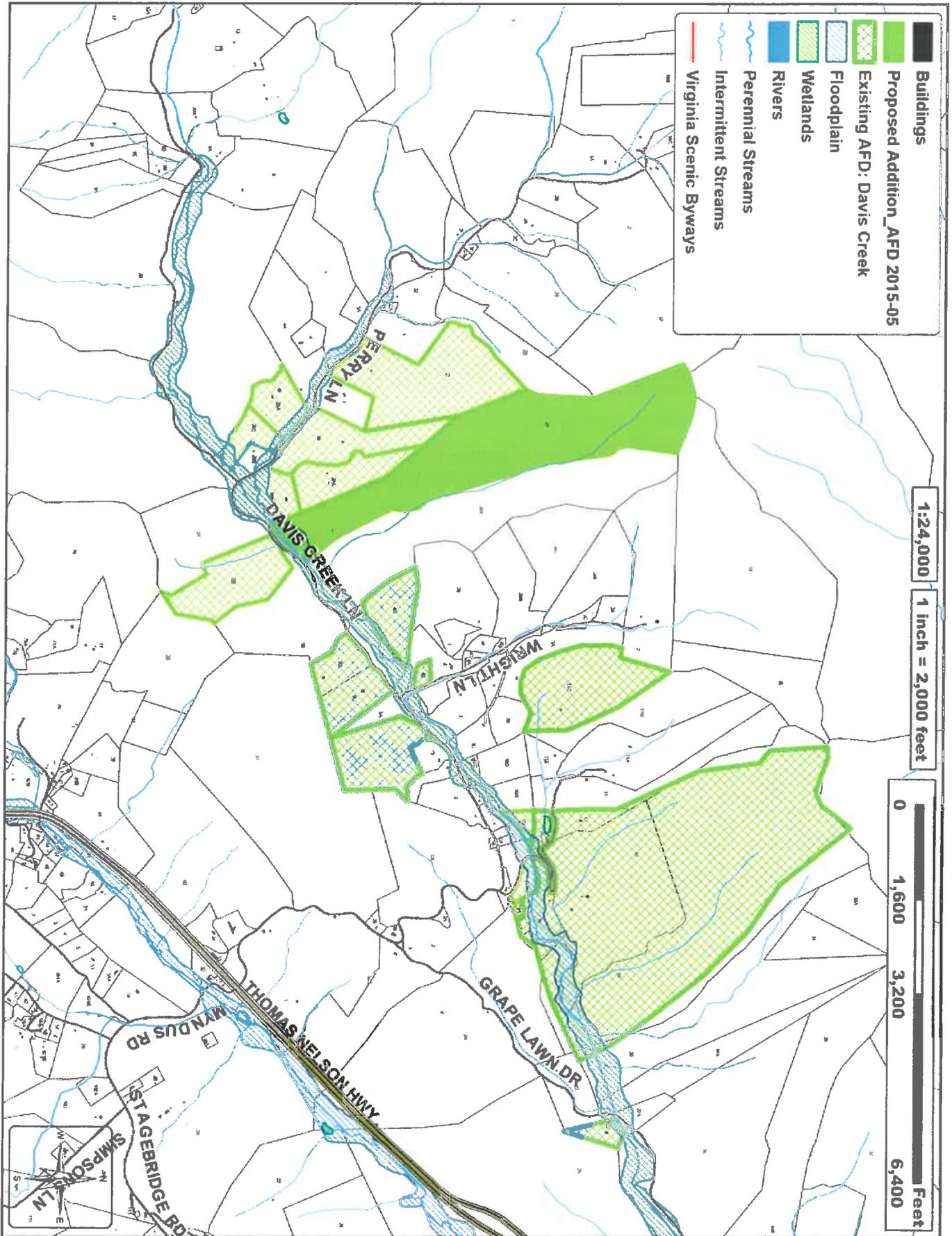
- **SCHEDULED (8/26):** PC conducts review of applications:
 - PC conducts public hearing on the applications and Advisory Committee recommendations
 - PC provides the Board of Supervisors (BOS) with recommendations

- **[FUTURE DATE(S) TO BE DETERMINED]:** Board of Supervisors (BOS) conducts review of applications:
 - Within one hundred eighty (180) days from the date the application was received, the BOS shall:
 - Conduct a properly-advertised public hearing
 - Vote to create / expand a district (as applied for); or create / expand a district with any modifications it deems appropriate; or reject the application

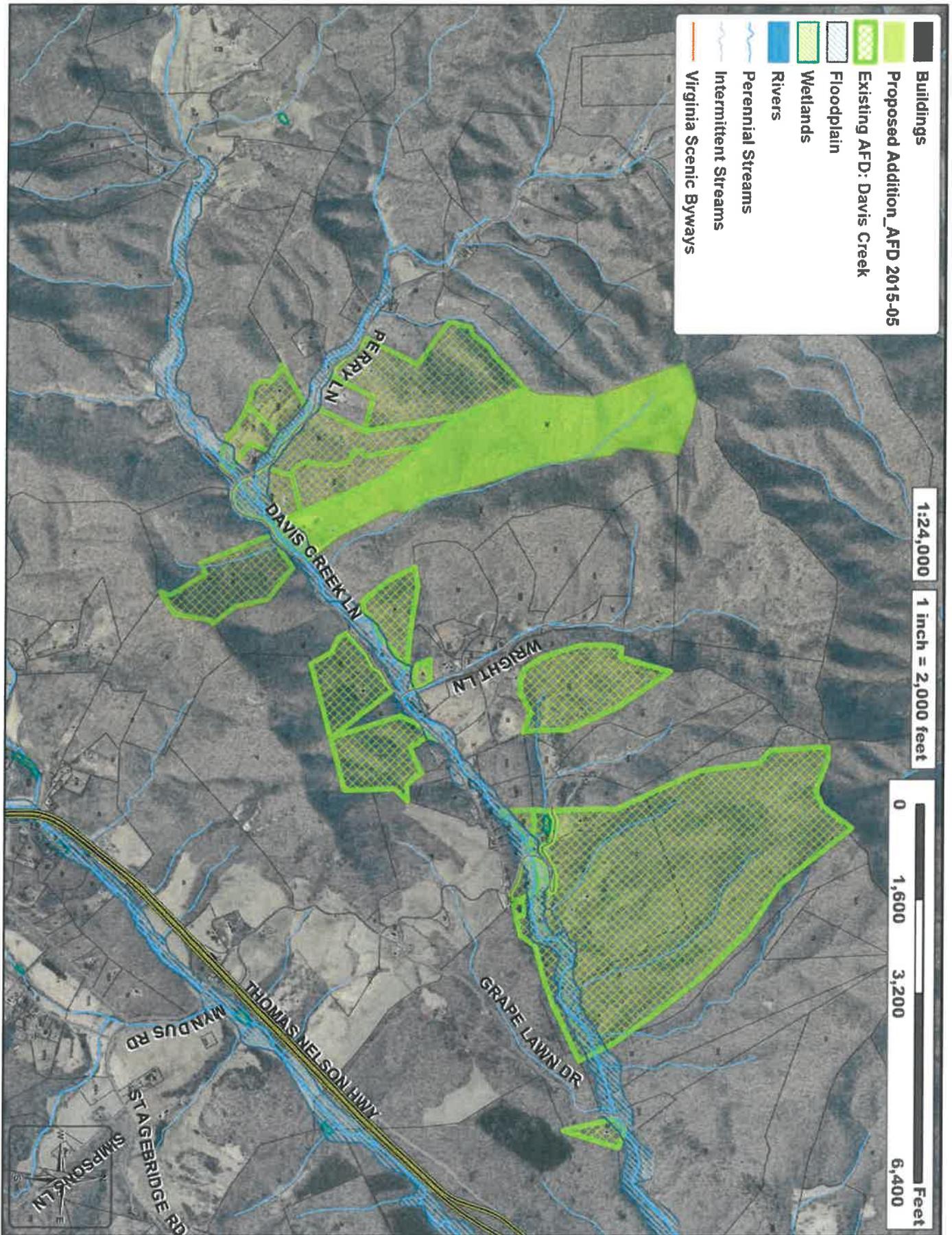
Conclusion

Thank you for your attention to these two (2) AFD applications. Please reference the attached maps and applications for more details.

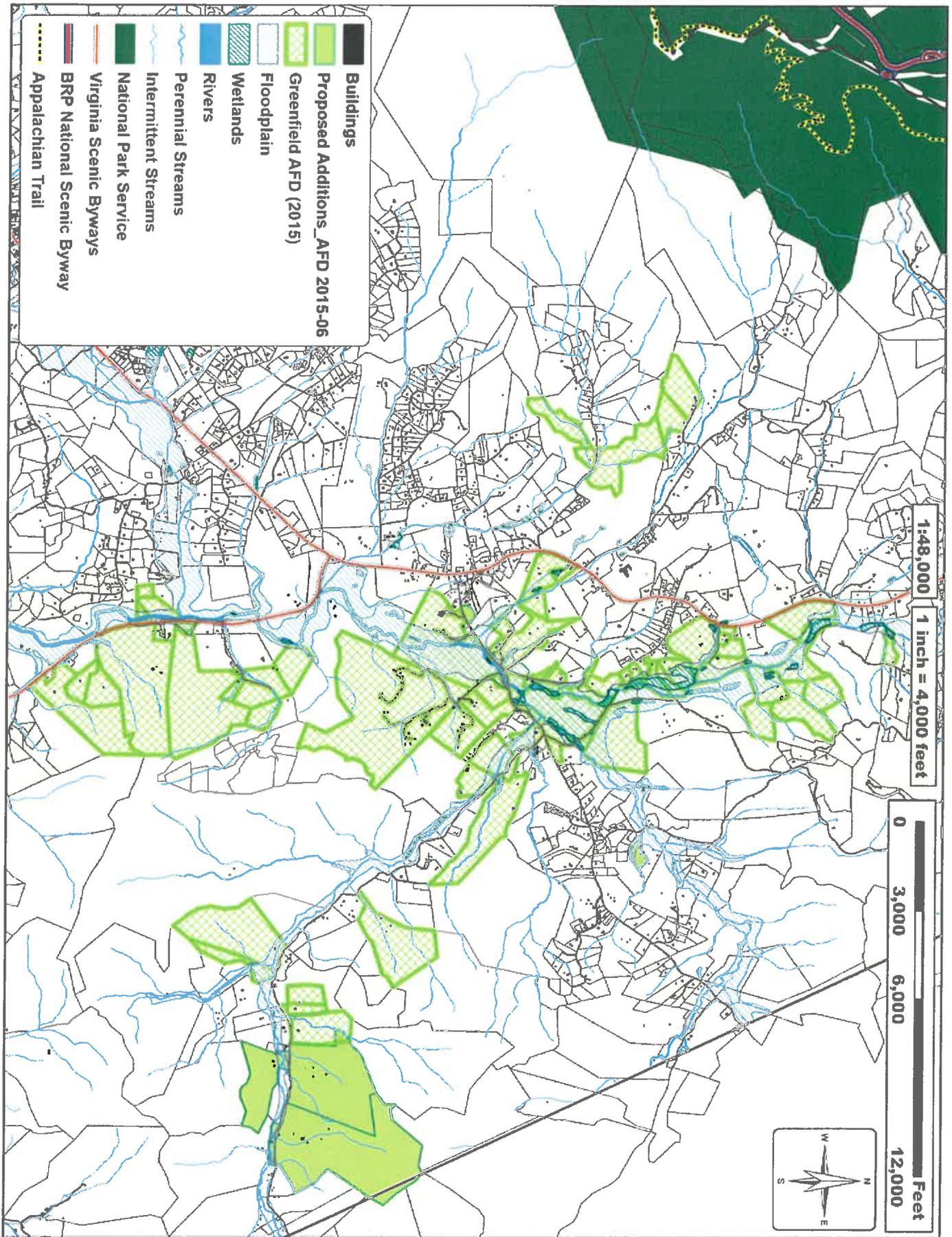
Please feel free to contact me prior to the public hearing on the 26th with any questions you may have regarding the information contained in this report or in the applications.



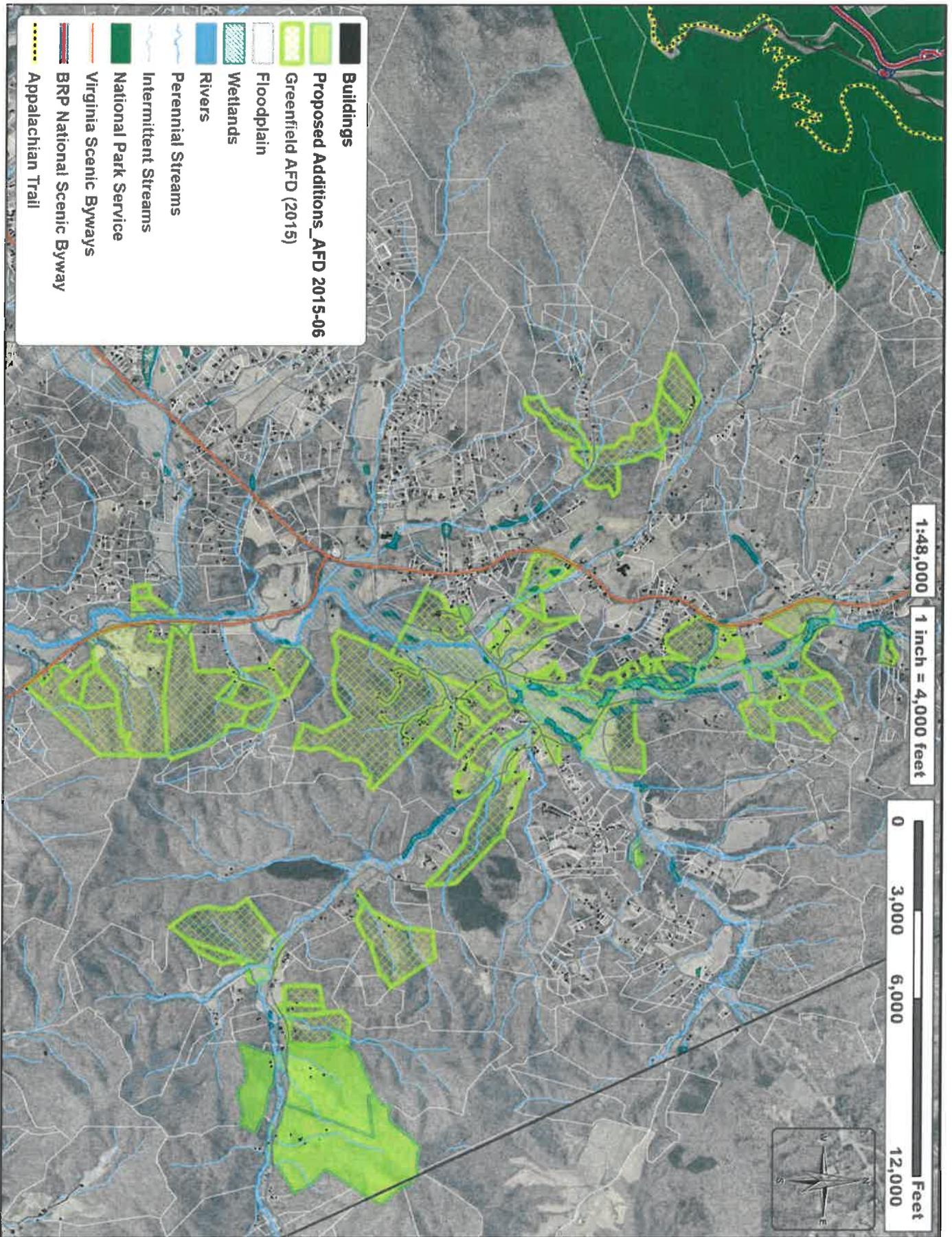
Map 1. Existing Davis Creek AFD with proposed addition (zoning map).



Map 2. Existing Dutch Creek AFD with proposed addition (aerial image).



Map 3. Existing Greenfield AFD with proposed additions (zoning map).



Map 4. Existing Greenfield AFD with proposed additions (aerial image).

- AFD # 2015-05
- Received: 5-26-2015

APPLICATION FOR ADDITION TO AN EXISTING AGRICULTURAL AND FORESTAL DISTRICT

This completed form and required maps shall be submitted by applicant landowners to the Nelson County Planning Department on or before June first of the calendar year in which additions to an existing District are to be effective. This form shall be accompanied by a United States Geological Survey 7.5 minute topographic map that clearly shows the boundaries of the District and the boundaries of each individual parcel that is to be added to the District. A Department of Transportation highway map that shows the general location of the District and addition(s) shall also accompany this form.

TO BE COMPLETED BY APPLICANT

1. *Name of the District:*

Davis Creek Agricultural and Forestal District

2. *General Location of the District:*

Along Grape Lawn Drive, Huffman Way, Davis Creek Lane and onto Perry Lane

3. *Total Acreage of the Addition(s):* 165.08 acres

4. *Landowners applying for the District:* See attached list with signatures

5. *Designated Landowner Contact:*

2642 Davis Creek Lane, LLC
Michael Scelzi
11219 Nuckols Road, Suite D
Glen Allen, Va 23059
804 647 1371
Michaelscelzi@gmail.com

6. *Conditions for Addition to the District Pursuant to §15.2-4309 of the Code of Virginia:*

As a condition for the addition of parcels to the Davis Creek Agricultural and Forestal District, the requirements stated in Chapter 9, Article V, Section 202 of the Code of Nelson County will apply. Any additional conditions currently in effect for the District will also apply. The date of review for additional parcels will be the same as for the already established District.

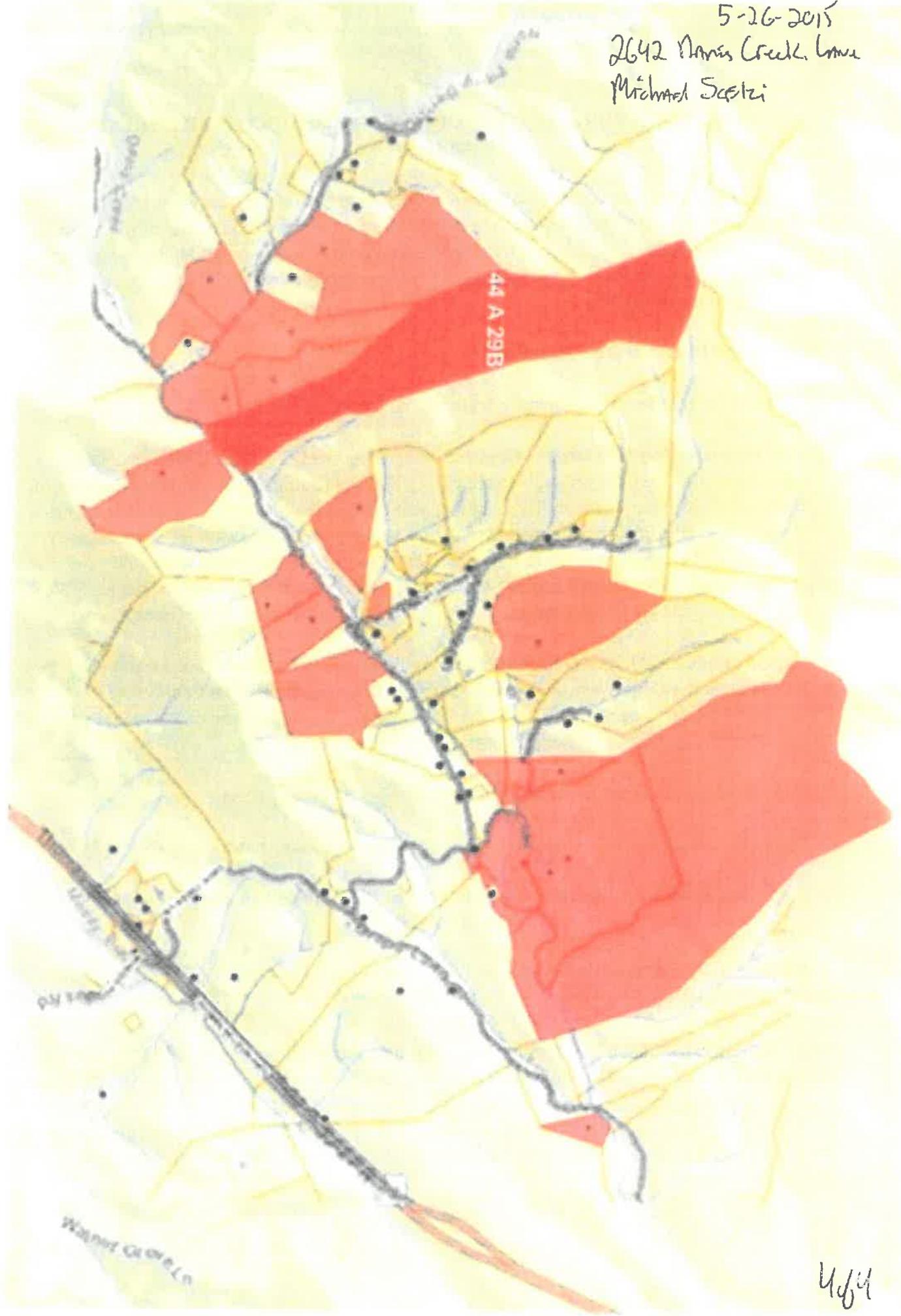
6. *Date of Application:* 5/26/2015

7. 4 Year Term requested

184

NAME	ADDRESS	SIGNATURE	WITNESS	TOTAL ACREAGE	TAX MAP & PARCEL NUMBERS
Michael Sceder 2642 Davis Road LVC	11217 Mustang Rd Suite D Clem 19111 New York 19055		Valerie Bence	165.08	44-A-29B

5-26-2015
2642 Morris Creek Lane
Michael Sestri



MS

- AFD # 2015-06
- Received: 6-1-2015

APPLICATION FOR CREATION OF AN AGRICULTURAL AND FORESTAL DISTRICT

This completed form and required maps shall be submitted by applicant landowners to the Nelson County Planning Department on or before June first of the calendar year in which the District is to be created. Included with the submission shall be a map or aerial photograph that clearly shows the boundaries of the District and the boundaries of each individual parcel that is to be included in the District.

TO BE COMPLETED BY APPLICANT

1. *Name of the District:* Greenfield Agricultural and Forestal District
2. *General Location of the District:* Centered along Greenfield Road (Rte 635) near Shannon Farm Lane (Rte 843), the original Greenfield Ag/Forestal District roughly follows the route of the North Fork of the Rockfish River starting near the intersection of Rte 151 and Pounding Branch Road (Rte 709), extending due south in a nearly continuous swath for approximately 5.1 miles, and ending just south of the river's North/South Fork confluence (near the intersection of Rte 6 and Hill Hollow Road/Rte 810). Additionally the District extends NW and SE to include properties flanking Rte 633 (Blundell Hollow and Taylor Creek Roads).

Current proposed additions to the Greenfield Ag/Forestal District are in three locations:

- 1) on both sides of Taylor Creek Road approx. 0.5 miles west of the County line.
- 2) on the east side of Ennis Mountain Road, approx. 0.3 miles north of Rte. 635
- 3) on the north side of Rte 635, approx 0.2 miles east of Rte. 151

3. *Total Acreage in the District Addition:* 258.43 acres

4. *Landowners applying for the District:* See attached list with signatures.

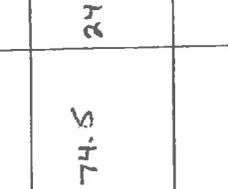
5. *Designated Landowner Contact:* Joyce Burton, 82 Wild Orchid Lane, Afton VA 22920
(434-361-2328)

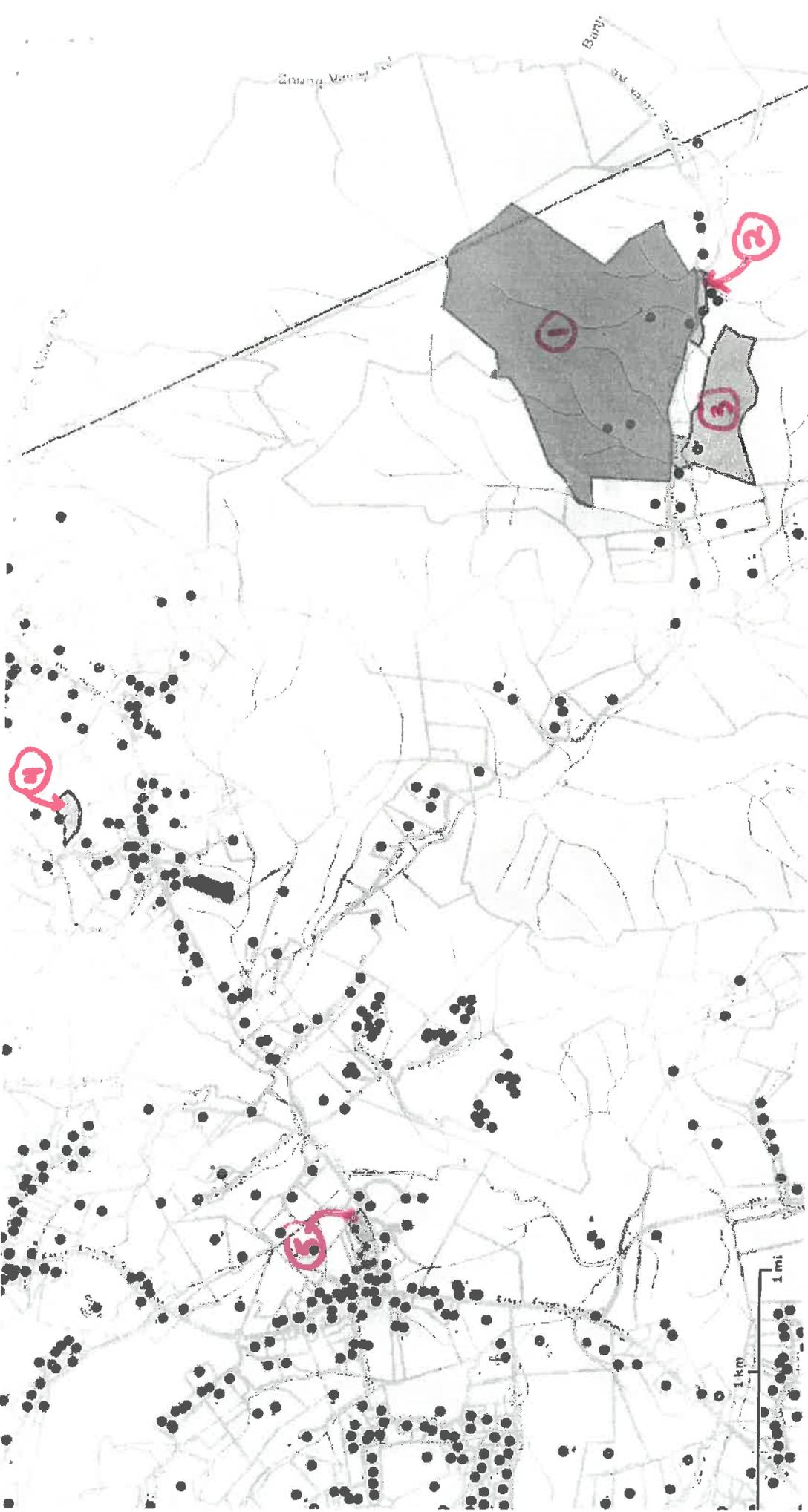
6. *The Proposed Conditions to Creation of the District Pursuant to §15.2-4309 of the Code of Virginia:*

As a condition to creation of the district, the requirements stated in Section 9-202 of the Code of Nelson County will apply; in addition, the following conditions will also apply:

- a. No parcel within the District shall be developed to a use more intensive than that existing on the date of creation of the district, other than uses resulting in more intensive agricultural or forestal production;

Greenfield Agricultural/Forestal District Participants

NAME	LEGAL ADDRESS	SIGNATURE	WITNESS	TOTAL ACREAGE	PARCEL NUMBERS
Erin Johnson Kim Grosner	265 Greenfield Road Afton, VA 22920		Joyce Bunt 5/18/15	3.83	12 A 113A
Paul Gifford Childs Amy Larson Childs	5596 Taylor Creek Road Afton, VA 22920	Paul Gifford Childs Amy Larson Childs	Joyce Bunt 5/14/15	162.07	24 4 B
Thomas E. Proulx Phillipa Proulx Maya Proulx	5145 Taylor Creek Rd Afton, VA 22920	Thomas E. Proulx Phillipa Proulx Maya Proulx	Joyce Bunt 5/19/15	5.43	24 3 Y
Freeman Mowrer Mary Connolly Mowrer	324 Ennis Ntn Rd Afton VA 22920	Freeman Mowrer Mary Connolly Mowrer	Joyce Bunt 5/30/15	12.6	13 A 35C
Aristedes Augenis Despina Augenis	5725 Taylor Creek Rd Afton VA 22920		Joyce Bunt 6/1/15	74.5	24 A 8



- 1) Childs
- 2) Froulx
- 3) Angeris
- 4) Nowner / Connolly
- 5) Johnson / Grosner



- 1) Childs
- 2) Proix
- 3) Angeris
- 4) Mowrer / Connolly
- 5) Johnson / Grosner

Each agricultural and forestal district shall have a core of no less than two hundred (200) acres in one (1) parcel or in contiguous parcels. A parcel not part of the core may be included in a district (i) if the nearest boundary of the parcel is within one (1) mile of the boundary of the core, (ii) if it is contiguous to a parcel in the district, the nearest boundary of which is within one (1) mile of the core, or (iii) if the board of supervisors finds, in consultation with the advisory committee or planning commission, that the parcel not part of the core or within one mile of the boundary of the core contains agriculturally and forestally significant land. The land included in such a district may be located in more than one (1) locality provided that the requirements of Virginia Code §15.2-4305 for such districts are satisfied. All included tracts shall be shown as separate parcels in the county real estate records.

State law reference— Va. Code §15.2-4305.

Sec. 9-201. - Creation of district.

Each agricultural and forestal district shall be created as provided herein:

- (1) *Application.* On or before June first of each year, an owner or owners of land may submit an application to the planning department for the creation of a district. An application shall be signed by each owner of land to be included within the district. Parcels of land owned by sole owners, co-owners, partnerships, trusts or corporations shall be eligible for inclusion in a district so long as all involved owners sign the application indicating their desire that the parcel be included in the district.
- (2) *Initiation of application review.* Upon receipt of an application for a district or for an addition to an existing district, the program administrator shall refer such application to the advisory committee. The *advisory committee* shall review and make recommendations concerning the application or modification thereof to the planning commission.

The *planning commission* shall:

1. Notify, by first-class mail, adjacent property owners, as shown on the maps of the locality used for tax assessment purposes, and where applicable, any political subdivision whose territory encompasses or is part of the district, of the application. The notice shall contain (i) a statement that an application for a district has been filed with the program administrator pursuant to this chapter; (ii) a statement that the application will be on file open to public inspection in the office of the clerk of the board of supervisors; (iii) where applicable a statement that any political subdivision whose territory encompasses or is part of the district may propose a modification which must be filed with the planning commission within thirty days of the date of the notice; (iv) a statement that any owner of additional qualifying land may join the application within thirty days from the date of the notice or, with the consent of the board of supervisors, at any time before the public hearing the board of supervisors must hold on the application; (v) a statement that any owner who joined in the application may withdraw his land, in whole or in part, by written notice filed with the board of supervisors, at any time before the board of supervisors acts, pursuant to

Virginia Code § 15.2-4309; and (vi) a statement that additional qualifying lands may be added to an already created district at any time upon separate application pursuant to this chapter;

2. Hold a public hearing as prescribed by law; and
3. Report its recommendations to the board of supervisors including but not limited to the potential effect of the district and proposed modifications upon county planning policies and objectives.

(3) *Evaluation criteria.* The following factors should be considered by the planning commission and the advisory committee, and at any public hearing at which an application is being considered:

- a. The agricultural and forestal significance of land within the district or addition and in areas adjacent thereto;
- b. The presence of any significant agricultural lands or significant forestal lands within the district and in areas adjacent thereto that are not now in active agricultural or forestal production;
- c. The nature and extent of land uses other than active farming or forestry within the district and in areas adjacent thereto;
- d. Local developmental patterns and needs;
- e. The comprehensive plan and, if applicable, zoning regulations;
- f. The environmental benefits of retaining the lands in the district for agricultural and forestal uses; and
- g. Any other matter which may be relevant.

In judging the agricultural and forestal significance of land, any relevant agricultural or forestal maps may be considered, as well as soil, climate, topography, other natural factors, markets for agricultural and forestal products, the extent and nature of farm structures, the present status of agriculture and forestry, anticipated trends in agricultural economic conditions and such other factors as may be relevant.

(4) *Hearing by board of supervisors.* After receiving the reports of the planning commission and the advisory committee, the board of supervisors shall hold a public hearing on the application as provided by law, and, after such public hearing, may by ordinance create the district or add land to an existing district as applied for, or with any modifications it deems appropriate.

- a. The ordinance shall be adopted pursuant to the conditions and procedures provided in Virginia Code § 15.2-4309, and shall be subject to section 9-202(1). Virginia Code § 15.2-4309 provides, in part:

Any conditions to creation of the district and the period before the review of the district shall be described, either in the application or in a notice sent by first-class mail to all landowners in the district and published in a newspaper having a general circulation within the district at least two (2) weeks prior to adoption of the ordinance creating the district. The ordinance shall state any conditions to creation of the district and shall prescribe the period before the first review of the district, which shall be no less than four (4) years but not more than ten (10) years from the date of its creation. In prescribing the period before the first review, the local governing body shall consider the period proposed in the application. The ordinance shall remain in effect at least until such time as the district is to be reviewed. In the event of annexation by a city or town of any land within a district, the district shall continue until the time prescribed for review.

- b. The board of supervisors shall act to either adopt the ordinance creating the district, with or without modification, or reject the application, no later than one hundred eighty (180) days from the date by which the application was received.
- c. Upon the adoption of an ordinance creating a district or adding land to an existing district, the board of supervisors shall submit a copy of the ordinance with maps to the local commissioner of the revenue, and the state forester, and the commissioner of agriculture and consumer services for information purposes. The commissioner of the revenue shall identify the parcels of land in the district in the land book and on the tax map, and the board of supervisors shall identify such parcels on the zoning map, where applicable and shall designate the districts on the official comprehensive plan map each time the comprehensive plan map is updated.

State law reference— Va. Code §§15.2-4303 through 15.2-4309.

Sec. 9-202. - Effect of district creation.

The land within an agricultural and forestal district shall be subject to the following upon the creation of the district.

(1) Prohibition of development to more intensive use.

- a. The board of supervisors may require, as a condition to creation of the district, that any parcel in the district shall not, without the prior approval of the board, be developed to any more intensive use or to certain more intensive uses, other than uses resulting in more intensive agricultural or forestal production, during the period which the parcel remains within the district. The board of supervisors shall not prohibit as a more intensive use, construction and placement of dwellings for persons who earn a substantial part of their livelihood from a farm or forestry operation on the same property, or for members of the immediate family of the owner, or for one (1) dwelling unit for the purpose of a guest cottage, or divisions

Minutes for the June 29, 2015 Meeting - Draft

Agricultural & Forestal District Advisory Committee

County Courthouse - Old Board of Supervisors room

Committee members present: Connie Brennan, Andre Derdeyn, Bill Halverson, Susan McSwain, Billy Newman, Jean Payne, Bruce Vlk, Andy Wright

Absent: Chapin Wilson

Invited guests present: Joyce Burton, Tim Padalino

Meeting called to order

Meeting was called to order at 4:04 p.m. by Mr. Wright, chairperson. Mr. Wright verified that all Committee members had received copies of the applications under consideration via email ahead of the meeting. He also verified that no members had requested paper copies of the applications.

Program Administrator Designation

Mr. Padalino brought to our attention that since our last Committee meeting, the BOS had passed resolutions to repeal the previous version of the AFD ordinance and replace it with an updated version that incorporated important changes that had been made to the State Code during the past few years. One of the new provisions is to allow the appointment of a Program Administrator for the AFD program. In most localities, the Planning Director becomes the Program Administrator. However, the BOS has not yet formally appointed Mr. Padalino to the position of Program Administrator. This is probably merely an oversight, but several Committee members voiced a desire to request the official appointment of the Planning Director as Program Administrator in order to save time and money in the consideration process of new applications.

A motion was made (McSwain) and seconded (Vlk) to recommend to the Board of Supervisors that they appoint the County Planning Director to the position of AFD Program Administrator. With minimal further discussion, the motion was passed unanimously. Mr. Padalino indicated that he would speak with the County Administrator about this.

Consideration of application to add 165 acres to the Davis Creek AFD

Andre Derdeyn reported that Michael Scelzi has applied to put a 165 acre parcel (44 A 29B) that he recently purchased into the Davis Creek AFD. The property has a cabin that is leased by a hunt club. Other than about 5 acres of meadow surrounding the cabin, the rest of the property is in forest. The shape of the parcel is narrow, and there is a 1,500 foot change of elevation from the lowest to the highest point. On June 28, the Committee officers visited the property.

A motion was made (Halverson) and seconded (Vlk) to recommend to the Planning Commission and the Board of Supervisors that they approve the addition of parcel 44 A 29B to the Davis Creek AFD.

During following discussion, Mr. Derdeyn allowed that the addition of this parcel will significantly fill in a gap between the east and west sides of the AFD, and he is hopeful that other adjoining landowners will consider joining the AFD in the future.

With no further discussion, the vote was unanimous to approve the motion.

Consideration of the application to add 258 acres to the Greenfield AFD

Ms. Burton, spokesperson for the new Greenfield AFD, presented the application. Ms. Burton said that subsequent to the creation earlier this year of the Greenfield AFD, 5 families owning land in the area contacted her about their desire to add their parcels to the AFD. The largest parcel (24 4 B) is 162 acres in size, and, if approved, will become the westernmost parcel in the AFD. Two of the other parcels in the application (24 3 Y and 24 A 8) are adjacent to this large parcel. The smallest parcel in the application (12 A 113A) is only 4 acres in size, but it is adjacent to Shannon Farms, which formed the core of the AFD when its creation was initially contemplated. The remaining parcel (13 A 35C) is just under 13 acres and lies about a half mile to the northeast of the core of the AFD. The land is being used as a horse and vegetable farm. It is adjacent to an 800 acre property under conservation easement with the VA Outdoors Foundation. The Committee officers visited the area to look at all of the proposed additions, and stopped to speak with the owners of 13 A 35C. The owners of that parcel hope that some of their neighbors will consider joining the AFD in the future and fill in some of the gaps between them and the core of the AFD.

A motion was made (Derdeyn) and seconded (Newman) to recommend to the Planning Commission and the Board of Supervisors that they approve the addition of the parcels in this application to the Greenfield AFD.

During the discussion period, Mr. Wright pointed out that a tiny sliver of the 165 acre parcel lies west of the Nelson County line and is in Albemarle County. He asked Ms. Payne and Mr. Padalino if either of them thought this was an issue. Neither of them thought it would be, but Mr. Padalino said he would check the AFD ordinance to make certain. Ms. McSwain noted that there was a clause in the AFD ordinance that allows parcels that lie in two different counties to be in an AFD. She also noted that Albemarle has an AFD ordinance, but the bulk of the parcel being discussed lies in Nelson, and the house that is on the property is in Nelson. She said that it is her understanding that taxes on the residence are collected in Nelson, and it is possible that taxes on the entire property are also collected in Nelson. Ms. Payne said that this was likely the case, but there are exceptions on a few properties where part of the land is over the county line with Albemarle. Ms. Burton requested that either Mr. Padalino or Ms. Payne verify whether there are any issues that need to be considered regarding parcels that have a portion of land lying in Albemarle County. She noted that the Greenfield AFD is the only AFD in Nelson that lies close to the edge of the county line, and there may be applications in the future from landowners whose properties straddle the county line.

With no further discussion, the vote was unanimous to approve the motion.

Other/New Business

1) Ms. McSwain reported that in response to comments she had heard during the PC and BOS public hearings for the AFD applications in the first half of the year, she did some research on AFDs in other states. She learned that quite a few states have ordinances that either combine Ag and Forestry into Districts as in VA, or have ordinances that create just Ag Districts. The states with ordinances for Ag land only tend to be states that do not have much forestry. She noted that there were a lot of similarities in the various state ordinances. For instance, all of the ordinances allow for a period between 4 and 10 years before the first review of a newly created district. Some states have specific periods, such as 5 years, and one state specifies a 10 year period. All of the districts in every state are voluntary, and it appears that the language is similar in regards to topics such as withdrawal of parcels, taxes, eminent domain issues, and prohibition of subdivision of parcels. The latest state to adopt an AFD ordinance is Hawaii, and this was in 2013.

2) Ms. McSwain and Ms. Burton noted that they are looking at venues for the fall AFD potluck. Ms. McSwain said that she has a tentative speaker lined up for the potluck, depending on the actual date selected. October is the earliest that the current AFD applications could complete the process, and the potluck will likely be in early November.

3) Mr. Newman announced that VA Cooperative Extension in cooperation with the Dept. of Forestry will host a bus tour in October that will visit several forestry operations in Nelson County. It has been quite a

few years since this type of tour has been organized in Nelson, and, in the recent past, anyone in Nelson wishing to join such a tour had to drive to another county. The tour will probably cost \$40/person, but will include lunch. Mr. Newman will send details to Ms. McSwain as soon as he has a schedule, and Ms. McSwain will email the information to the AFD community.

Adjournment

Meeting was adjourned at 4:49 p.m.

Minutes

Minutes were prepared by Ms. McSwain, AFD Committee secretary, July 13, 2015.



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: August 17, 2015
Subject: Public Hearing for SUP #2015-05 (“Cabins”) – Mr. Bill & Mrs. Rebecca Evans

Application Summary

<u>Site Address / Location:</u>	South side of Route 664 / Beech Grove / West District
<u>Tax Parcel(s):</u>	#31-A-39A ... (Please reference the attached maps)
<u>Parcel Size:</u>	4.99 acres (total)
<u>Zoning:</u>	Agricultural (A-1)
<u>Applicant:</u>	Mr. Bill & Mrs. Rebecca Evans
<u>Request:</u>	Approval of Special Use Permit #2015-05 / application made pursuant to §4-1-25a
<ul style="list-style-type: none">• <i>Completed Application Received On:</i> June 25th, 2015• The applicants have noted that the SUP application is seeking County approval “to construct six (6) overnight temporary-stay cabins and one (1) full-time residential house along with necessary utilities and access drives.”• The applicants have submitted a project narrative for the “Evans’ Cabins Project” – please review this supplemental submission as it contains important application details.• The application includes documentation that the applicants have authorized Mr. David L. Collins, LS, PE, to operate as their agent. Mr. Collins prepared the Minor Site Plan that was submitted in conjunction with this SUP request.	

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 attached maps.*

Site Plan Review Committee Meeting and Comments:

The Minor Site Plan submitted with SUP #2015-05 was reviewed at the July 8th Site Plan Review Committee meeting. Although the site plan is non-binding, and although the proposed project will require the submission and approval of a Major Site Plan if the SUP application is approved, the following review comments are included for your reference:

- Director of Planning & Zoning:
 - The applicant’s agent noted that the applicant 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.
 - Specifically, the Minor Site Plan notes that interior drives to cabins will be a minimum of 12’ driving surface width with 2’ wide shoulders, with a surface treatment of 6” of gravel (minimum). This appears to be acceptable with the language contained in Subdivision Ordinance Section 4-6, Item C, “Class 1” standards, which specify that private roads must have a minimum width of sixteen (16) feet of surfaced roadway, with the road surface consisting of a minimum of six (6) inches of compacted crushed aggregate.
 - It was agreed that this specific design detail can be tabled during the review of the Special Use Permit application review process, as this is an issue to be resolved during any subsequent Major Site Plan submission and review.
 - The proposed use would include six (6) cabins totaling 3,456 SF. The proposed project also includes a residential dwelling (estimated at 1,340 SF) which is a permissible by-right use.
 - The minor site plan notes that the proposed impervious area would increase to 12.2% (from approximately 1%); and that the project would leave 48% of the property wooded, and would leave 39% of the property in “open” space.
 - An extensive tree survey was conducted, identifying existing hardwoods and pines which will be retained during construction and which will leave many mature specimens intact. 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.
 - Thirteen (13) parking spaces would be provided. This exceeds the required minimum number of spaces which is nine (9).
 - Specific project details such as signage, landscaping, and exterior lighting were identified as issues which would be addressed in detail, and in full accordance with Zoning Ordinance requirements, during the Major Site Plan review process, which would be a required “next step” if the SUP request is granted by the Board of Supervisors (BOS).
- VDOT: The applicant’s agent has been working proactively with Mr. Jeff Kessler of VDOT to determine what design and engineering specifications will be necessary for obtaining a commercial entrance permit, if the SUP is approved.

Mr. Kessler and Mr. Matt Clark had previously requested additional project information, including measurements for the stopping sight distance and intersection sight distance; ITE trip generation estimates; and other technical details. The applicant’s agent has indicated that a revised site plan (inclusive of the data requested by VDOT) will be prepared and submitted for review by the Board of Supervisors (BOS) in conjunction with their SUP review and public hearing.

- **TJSWCD:** Mrs. Alyson Sappington of the Thomas Jefferson Soil & Water Conservation District did not attend the meeting and did not provide review comments.

The Minor Site Plan proposes 1.76 acres of land disturbance, which would require an approved E&S Control Plan and an approved Stormwater Management Plan. The applicant's agent has noted that both of these plans will be provided as required by law; and that a "combination of bio-filters and shallow ponding are proposed for stormwater management, along with minimal disturbance while maintaining permanent undisturbed areas."

- **VDH:** Mr. Tom Eick of the Nelson County Health Department simply noted that the proposed project "is a commercial venture, so a private soil consultant and/or PE will be required to submit septic plans for VDH to review."

Staff Evaluation and Recommendation:

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

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

The opinion of Staff is that the proposed "Cabins" use, as proposed in the application materials for SUP #2015-05 and as depicted on the Minor Site Plan prepared by Mr. David Collins, LS, PE, seems to be acceptable relative to all four evaluation criteria.

Staff encourage the applicants to consider the proximity of the neighbors to the west if/when developing a Major Site Plan, with specific focus on the potential need to minimize the effects of their cabin project on the neighboring property by strategically locating new fencing and/or landscaping materials. Staff encourages the use of full cut-off light fixtures (as the Minor Site Plan notes the project would do), as well as the use of other materials and features which attempt to minimize the effects of the proposed project's operations on neighboring properties.

With respect to the evaluation criteria, and with respect to the details of the "cabins" proposal as provided by the applicant, Staff recommends approval of SUP #2015-05.

Conclusion:

Please contact me with any questions, concerns, or requests for assistance leading up to the August 26th Planning Commission review of Special Use Permit #2015-05 for "Evans' Cabins." Thank you very much for your time and attention to this application.

Special Use Permit No. 2015-05

TO THE ZONING ADMINISTRATOR:

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

- Rezoning from ... to ...
Special Use Permit
Site Plan - Preliminary (Optional)
Site Plan - Final
Amend text of Zoning Ordinance
Subdivision - Regular Preliminary
Subdivision - Regular Final
Site Plan - Minor
Site Plan - Major
Other -

Pursuant to Article 4, Section 1-25A of the Nelson County Zoning Ordinance. Pursuant to Section, Subsection of the Nelson County Subdivision Ordinance.

Reason(s) for request: To construct 6 over-night, temporary stay cabins and 1 full-time residential house along with necessary utilities and access drives.

2. Applicant(s) and Property Owner(s): (Please print names of applicants and property owners and indicate applicable title. If applicant is not the property owner, show relationship, i.e. lessee, contract purchaser, etc.)

Applicant Property Owner Name: Bill & Rebecca EVANS
Address: 4514 Good Adams Lane, Virginia Beach, Virginia 23455
Tel. No.: 757-676-2905 Cell No. E-mail addr. billbeckyevans@gmail.com
Relationship (if applicable):

Applicant Property Owner Name:
Address:
Tel. No.: Cell No. E-mail addr.

Relationship (if applicable):
Applicant Property Owner Name:
Address:
Tel. No.: Cell No. E-mail addr.

Relationship (if applicable):
Applicant Property Owner Name:
Address:
Tel. No.: Cell No. E-mail addr.

Relationship (if applicable):
Applicant Property Owner Name:
Address:
Tel. No.: Cell No. E-mail addr.

(Use reverse if more space is needed.)

3. Location and Characteristics of Property:

- a. Address of property including specific location, route numbers, street names, direction (NSEW), Magisterial District, etc.; Approx. 0.8 mi. N.W. of Rt. 151 on Rt. 664. Undeveloped parcel in Beech Grove, adjoining 1089 Beech Gr Rd. on the East. In Rockfish District. Official tax map number: 31-A-39A
b. Acreage of property: 4.99 Ac.
c. Present use: Agricultural - Open/Wooded
d. Present zoning classification: A-1
e. Zoning classification of surrounding properties: A-1

(Continued on reverse.)

4. Names of Adjacent Property Owners: John Szelagiewicz
Peter V. Farley

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; David L. Collins (Agent)
Signature: _____
Signature: _____
Signature: _____

6. Additional information: _____

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. The fee will be based on the actual cost of the ad, and will not apply in cases of Planning Commission or Board of Supervisor deferments.

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

Completed application and fee (\$ 300.00) received on June 25, 2015
Hearing Notice published on July 9th & 16th, 2015 August 13th & 20th, 2015
Planning Commission action: Date of Hearing: July 22, 2015 August 26, 2015
Recommendation: _____

Board of Supervisor action: Date of Hearing: _____
Date of Decision: _____
Action: _____



June 29, 2015

Timothy M. Padalino
Planning & Zoning Director
Nelson County
Post Office Box 558
Lovingston, VA 22949

Dear Mr. Padalino:

Please accept this letter as notice that we have retained the services of David L. Collins, L.S., P.E, to act as our agent regarding the submission of the minor site plan and our request for a special use permit, in addition to any future correspondence, submissions and applications required by Nelson County Planning and Zoning for the property described as Tax Map Number 31 A 39A. A hard copy of this e-mail with our signatures will follow.

If you have any questions or concerns, please do not hesitate to contact us at these numbers: Bill Evans (c) (757) 676-2405, Becky Evans (c) (757) 676-2417 or David Collins (o) 434-361-1113.

Sincerely yours,

Bill Evans

Becky Evans

Bill and Becky Evans

June 29, 2015

**Timothy M. Padalino
Planning & Zoning Director
Nelson County
Post Office Box 558
Lovingsston, VA 22949**

Re: Evans' Cabins Project

Dear Mr. Padalino:

Attached is a narrative of how our planned project will comply with and fit into the Nelson County Comprehensive Plan. This is presented in conjunction with the Site Plan already submitted by David Collins.

We hope you, the Planning Commission, and the Board of Supervisors will look upon our project plan favorably and we can begin to make this project a reality. We are very excited about the entire prospect.

If it would help you, we can mail you enough copies for all the Planning Commission and Board of Supervisors' members so you do not have to incur any extra expense. Please just let me know and I will put them in the mail today.

If you have any questions or concerns, please do not hesitate to contact us or David Collins at (434) 361-1113.

Sincerely,

**Bill and Becky Evans
Bill (C) (757) 676-2405**

1500 3.17

Becky (C) (757) 676-2417

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

Evans' Cabins Project

Our proposed business, an on-site log cabin residence, and eventually six (6) similar in style smaller cabins for rentals, will support the economic development of Nelson County by offering attractive lodging for people visiting the area. Whether they are visiting the wineries, the breweries and cideries, traveling and visiting the Blue Ridge Parkway, or skiing at Wintergreen, our cabin rentals will offer a beautiful place to stay while they are enjoying the area.

In the same vicinity are Devil's Backbone Brewery and Restaurant, Wintergreen Winery, The Ski Barn, Hickman's Grocery and Gas Station, Butternut Construction, Tectonics II (Lindal Cedar Homes) and a hair salon. There is certainly a diversity of small businesses in this area but no log cabin overnight accommodations that we are aware of are available on Route 664 before you get to Wintergreen.

Our site plan shows a 50' setback from Beech Grove Road, with a gravel road that mimics the roads of Douthat State Park. We anticipate the traffic in and out of our cabins will be minimal and will be at varied times. We believe that a wider road than proposed will not be necessary, and will detract from the natural setting that we are trying to provide.

Even though we are a small-scale project, our plan is to protect and preserve every tree and piece of vegetation possible while constructing our project. We will replace/provide living vegetation, shrubs, trees and flowers to provide a screen between neighbors and the road in front of the property and to provide an aesthetically pleasing look for our project. We plan to utilize open areas as wildflower gardens/meadows, again to further enhance the natural beauty of the area. We have already chosen to utilize dark sky lighting on our entrance sign and throughout the property. We will be providing an unobtrusive and tasteful sign at the entrance which will meet or exceed the standards.

We believe our cabin project is the perfect infill development for this area.

Because our ability to rent cabins hinges on the availability, quality and quantity of interesting and fun things to do and see in Nelson County and the surrounding areas, we will wholeheartedly be promoting all the attractions of the area, including but not limited to the breweries, wineries, cideries, distilleries, hiking trails, skiing at Wintergreen, and the Blue Ridge Parkway. We want to develop partnerships with the other businesses so that we can help them and they can help us be successful.

As we are history buffs ourselves, we will be encouraging our guests to take advantage of the many historic sites and opportunities that the area offers. We plan to do this by providing information on our website, providing brochures and guides in the cabins and weekly "things to do" itineraries for special events, festivals, concerts, fairs, etc. We will, of course, be promoting all these things by talking to our guests as they check in, since we will be managing the property from our residence on-site.

We are already big proponents of “buying local” and will do everything we can to encourage patronage of our local farmers’ markets, and buying local produce, etc. We want to showcase local products in our cabins whenever possible.

We will provide reminders to keep our guests safe regarding the posted speed limits, the need to drive safely and some information on driving on rural roads in our “welcome” notebook. We will post a “stop” sign at the exit to the property to insure the guests realize they should stop and look before proceeding.

We will provide bins for guests to put their recyclables in and will provide information to our guests as to what is recyclable and what is not. We will be dutiful and diligent in taking all the recyclables to a nearby recycling facility. We personally have been recycling for over 30 years and it seems unnatural to throw away anything that can be recycled. Solid waste will be removed as needed and on a regular basis. We will always be good stewards of our environment and do our best to ensure that our guests are the same.

The look of log cabins is well suited for the rural character of the area. Having vacationed at Douthat State Park in Millboro, Virginia for over two decades, we have a very definite affinity towards providing a secluded cabin rental experience for our guests and for our own residence. We hope to replicate the look and feel guests experience at Douthat but with an updated cabin experience both inside and out. The natural setting is a priority for us and will be a feature of our project that we hope will draw guests seeking such an experience/setting and persuade them to stay with us versus more sterile accommodations such as a hotel room or condo. Our cabins will provide our guests with a simpler, more relaxed experience.

As stated earlier, our intention is to protect and preserve every tree and piece of vegetation possible in constructing our rental cabins and residence. We will replace/provide living vegetation, shrubs, trees and flowers to provide a screen between neighbors and the road in front of the property and to provide an aesthetically pleasing look for our project.

Replacement vegetation will be chosen with the upmost care and will be considered based on the criteria of its ability to recreate the original look of the property, blend with the remaining flora, enhance the natural beauty of the property and serve as a natural safeguard to prevent erosion and runoff.

In accordance with the direction of the professional engineer and the soil engineer, we will meet or exceed all guidelines of the Department of Health and any other applicable zoning requirements for the full protection of the natural resources, including groundwater, air, wetlands and forest resources.

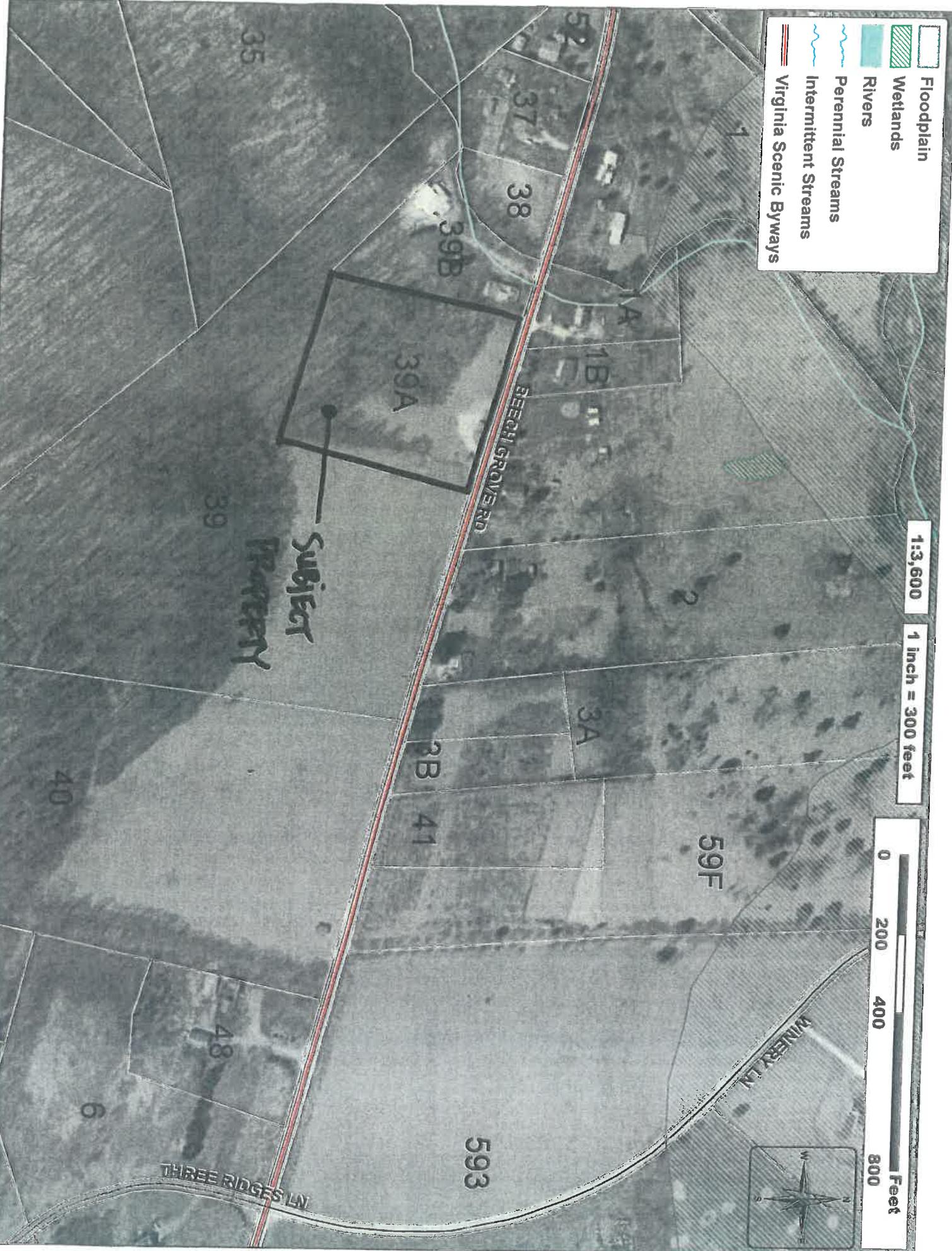
We envision our cabin project to be unobtrusive in every possible way, so much that the casual traveler will not really recognize that we are even there. We are not going to be relying on “walk in” traffic as much as we will rely on word of mouth advertising, social media, our website, mailing lists and promotion from other local businesses. So the need for large, gaudy, over lit signage will not be necessary. We want to blend well with the established character of the area, not detract from it.

We want to be good neighbors and good members of the Nelson County community. That will be our goal. We believe our cabin project will be something that Nelson County will be proud to be a part of. We hope you, the Planning Commission and the Board of Supervisors will look favorably upon this project and grant us permission to proceed. Thank you for your time and consideration.

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

1:3,600

1 inch = 300 feet



Special Use Permit #2015-05

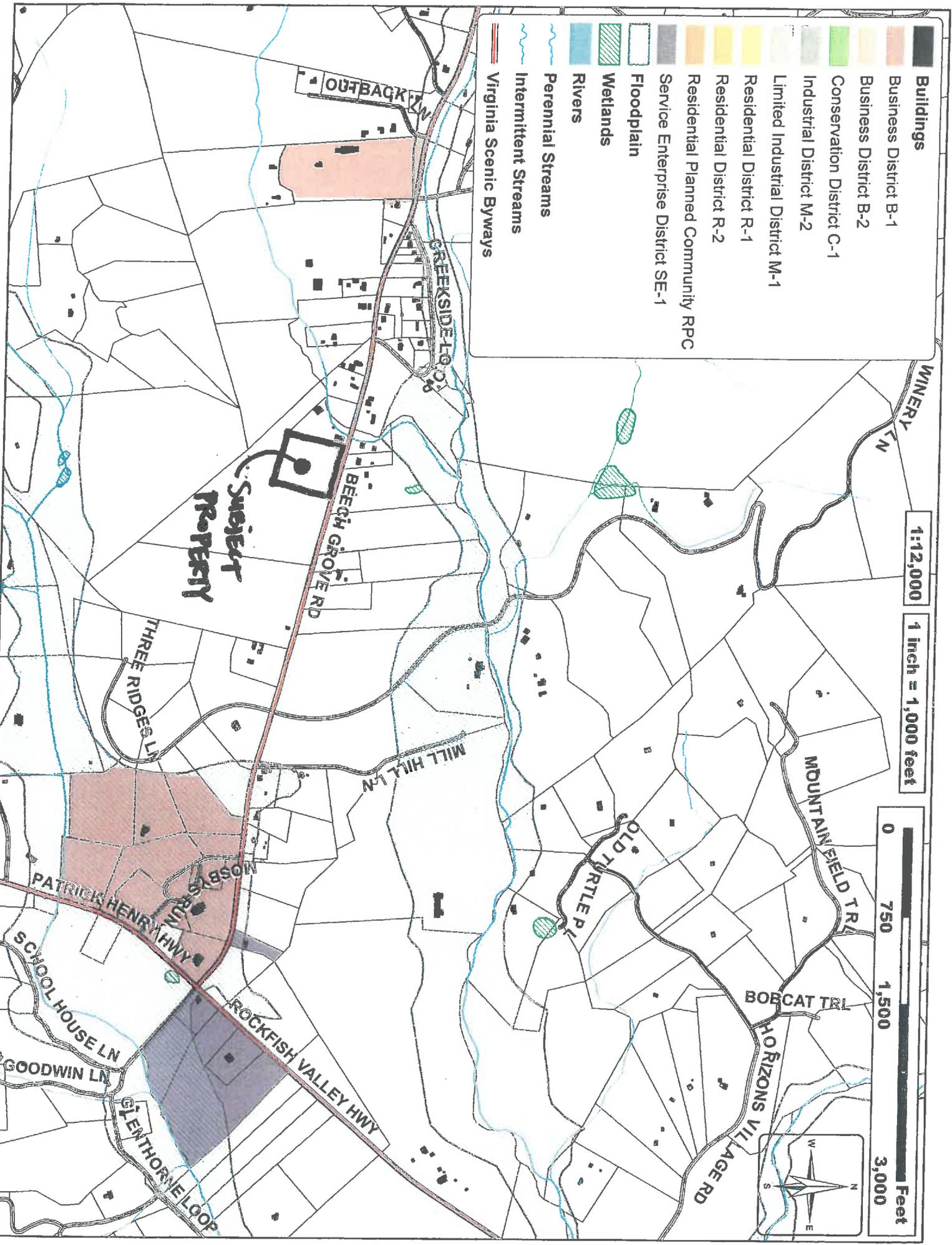
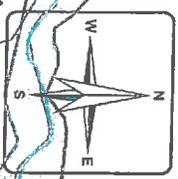
31-A-39A

EVANS, WILLIAM N & REBECCA T

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

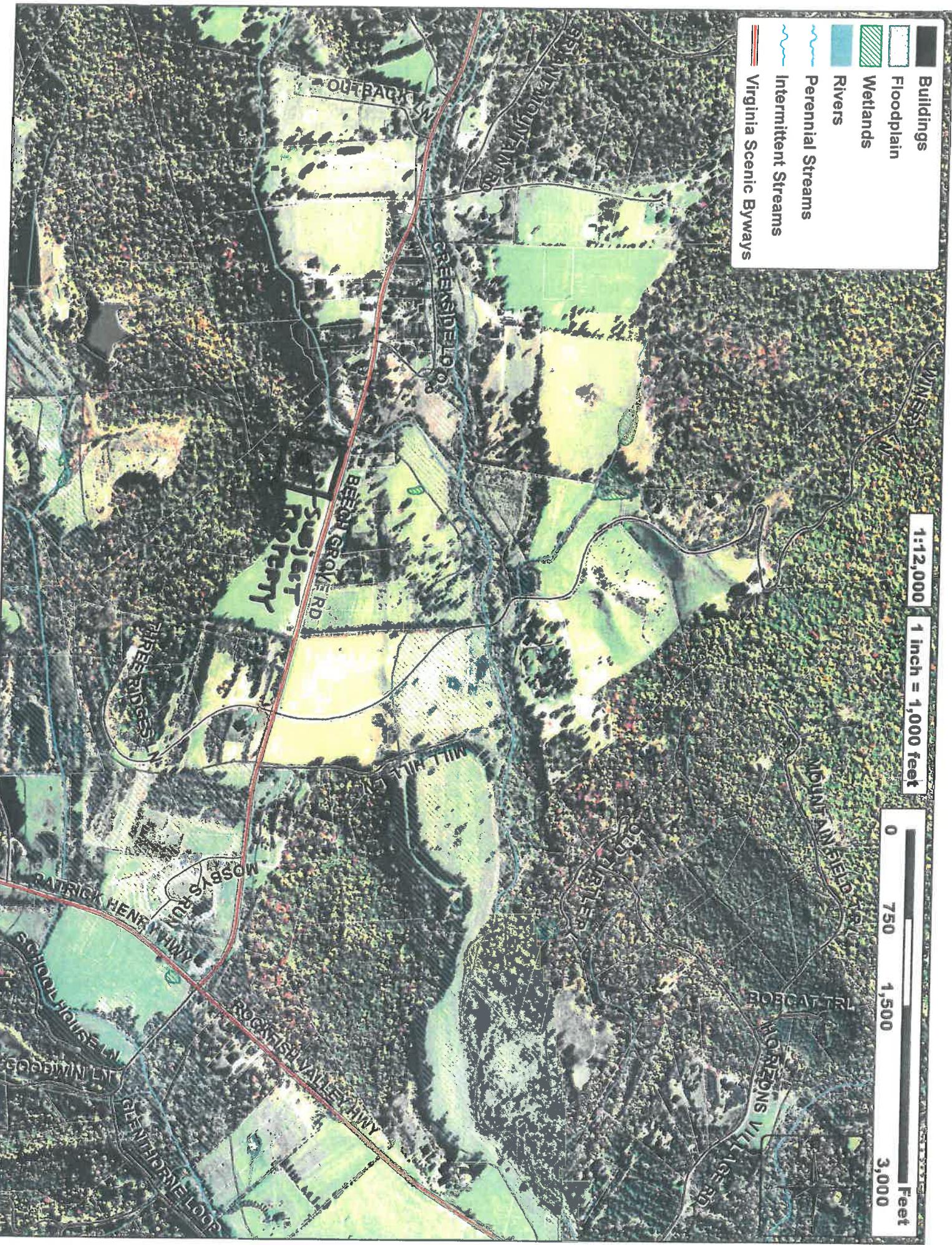
	Buildings
	Business District B-1
	Business District B-2
	Conservation District C-1
	Industrial District M-2
	Limited Industrial District M-1
	Residential District R-1
	Residential District R-2
	Residential Planned Community RPC
	Service Enterprise District SE-1
	Floodplain
	Wetlands
	Rivers
	Perennial Streams
	Intermittent Streams
	Virginia Scenic Byways

1:12,000
1 inch = 1,000 feet



	Buildings
	Floodplain
	Wetlands
	Rivers
	Perennial Streams
	Intermittent Streams
	Virginia Scenic Byways

1:12,000
1 inch = 1,000 feet





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DEBRA K. MCANN
Director of Finance and
Human Resources

13 August, 2015

To: T. Padalino, Director, Department of Planning and Zoning
From: S. Carter, County Administrator *SAC*
Re: Referral to Planning Commission of Proposed Amendment(s)
To Nelson County Zoning Ordinance

Transmitted herewith are Resolutions R2015-66 and 68 (Referral of Amendments to Appendix A, Nelson County Zoning Ordinance, Bed and Breakfast Uses and Temporary Events, Festival Grounds and Out-Of-Doors Accessory Uses), as authorized by the Board of Supervisors on August 11, 2015 to provide for referral of proposed zoning amendments denoted in the two resolutions to the Nelson County Planning Commission in accordance with the state law and local ordinance requirements

Please submit these subjects to the Planning Commission, as immediately as possible, taking note of the provisions within each of the herein referenced resolutions providing for the Planning Commission's review and development of a report on the Commission's findings and recommendations to the Board of Supervisors in accordance §15.2-2285 of the Code of Virginia..

Please advise should the Commission or you require additional assistance or information pertinent to the subject of this communication.

The Commission's and your cooperation are very much appreciated.

Cc: Board of Supervisors
C. McGarry, Deputy Clerk
File



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

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

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

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

Approved: August 11, 2015

Attest: STEPHEN A. CARTER, Clerk
Nelson County Board of Supervisors

DEPARTMENT OF
PLANNING & ZONING



PLANNING COMMISSION
BOARD OF ZONING APPEALS

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

Issue Introduction:

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

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

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

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

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

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

Initial Draft Amendments for Possible Referral to Planning Commission:

▶ Article 2: Definitions

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

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

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

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

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

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

Hotel: Any hotel, inn, hostelry, tourist home or house, motel, rooming house, dwelling, or other place used for overnight lodging which is rented by the room to transients, is not a residence, and where the renting of the structure is the primary use of the property. Hotels are subject to the requirements contained in Article 13, Site Development Plan.

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

Transient: A guest or boarder; one who stays for a short period of time and whose permanent address for legal purposes is not the lodging or dwelling unit occupied by that guest or boarder.

Travel Trailer: A vehicular, portable structure built on a chassis, designed as a temporary dwelling for travel, recreational, and vacation uses. The term "travel trailer" does not include mobile homes or manufactured homes.

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

Conclusion and Summary:

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

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

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



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

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

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

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

Approved: August 11, 2015

Attest: Stephen A. Carter, Clerk
Nelson County Board of Supervisors

DEPARTMENT OF
PLANNING & ZONING



PLANNING COMMISSION
BOARD OF ZONING APPEALS

To: Chair and Members, Nelson County Board of Supervisors

From: Tim Padalino | Planning & Zoning Director

Date: August 6, 2015

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

Issue Introduction:

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

- There is ongoing confusion (among members of the public and among County staff) regarding how to determine which events require Special Events Permits, and which do not. “Special events” are not defined in the ordinance, and there are no clear boundaries for types of activities which may be exempt from the permit requirement, or which types of events absolutely need to obtain permits. This lack of clarity will continue to be a recurring issue, based on the ongoing, successful proliferation of the agritourism and events industries.
- The ordinance does not contain specific evaluation criteria to guide the County’s decision-making process during the review and approval/denial of Special Events Permit applications. Staff have done the best we can to develop processes and apply common-sense criteria on a case-by-case basis; and the results have been mostly successful. But the decision-making process should be based on clear criteria that are consistently applied to each and every event.
- The ordinance makes no distinction between small events (such as a brief parade down Front Street in Lovington) and major events (such as Lockn’ Festival or other mass gatherings). Currently, the same application and same \$25 application fee apply to all events.
- The ordinance currently only contemplates the proposed special event in isolation, and does not account for how the venue / property should be addressed (especially if the special events, which are temporary, propose to include permanent improvements such as roads, utilities, structures, etc.).

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

Proposed Amendments for Possible Referral to Planning Commission:

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

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

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

Conclusion and Summary:

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

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

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

Statement of Intent

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

23-1 *Definitions*

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

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

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

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

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

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

23-2 Temporary Event Permits

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

23-2-1 Exempt Events

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

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

23-2-2 Temporary Event, Category 1

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

23-2-3 Temporary Event, Category 2:

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

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

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

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

23-2-5 Temporary Event, Category 3

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

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

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

23-3 Issuance of Temporary Event Permits

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

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

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

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

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

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

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

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

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

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

Remove the following:

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

Add the following:

4-1 Uses – Permitted by right:

Agritourism activity

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

Category 1 Temporary Event

Category 2 Temporary Event

Category 3 Temporary Event

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

Festival Grounds

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

Add the following:

8-1 Uses – Permitted by right:

Category 1 Temporary Event

Category 2 Temporary Event

Category 3 Temporary Event

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

Festival Grounds

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

Add the following:

8A-1 Uses – Permitted by right:

Category 1 Temporary Event

Category 2 Temporary Event

Category 3 Temporary Event

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

Festival Grounds

LAW:

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

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

B, C. [Expired.]

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

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

1. The production and harvesting of fruit and other agricultural products and the manufacturing of wine;
2. The on-premises sale, tasting, or consumption of wine during regular business hours within the normal course of business of the licensed farm winery;
3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title 4.1 and regulations of the Alcoholic Beverage Control Board;
4. The sale and shipment of wine to the Alcoholic Beverage Control Board, licensed wholesalers, and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law;
5. The storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or
6. The sale of wine-related items that are incidental to the sale of wine.

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

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

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

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

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

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

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

§ 15.2-2288.6

Land use tax consideration:

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

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

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

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

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

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

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

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

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

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

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