



## NELSON COUNTY PLANNING COMMISSION

Meeting Agenda: July 22, 2015

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

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- **7:00 – Meeting Convenes / Call to Order**
- **Review of previous Meeting Minutes**
- **Public Hearing Items:**
  - o **Conditional Rezoning #2015-02 (Kober / Mountain Sports)**  
Consideration of an application to rezone (with conditions) two parcels, consisting of 6.06 total acres, from Residential (R-1) to Business (B-1) Conditional. The subject properties are identified as Tax Map Parcels #22-A-18 (owned by Claude Malcolm Dodd) and #22-A-19 (owned by Herbert F. Hughes), and are located at 2950 Rockfish Valley Highway in Nellysford. Specifically, the applicant wishes to rezone (with conditions) the properties to construct an 8,000 square foot “retail store” and accompanying parking lot on the subject properties. The applicant has attached conditions to the application by voluntarily proffering away some potential Business (B-1) land uses.
  - o **Proposed Amendments: “Brewery” and “Limited Farm Brewery”**  
Consideration of proposed amendments to the Nelson County Zoning Ordinance as originally referred to the Planning Commission by Board of Supervisors Resolution R2015-51 at the June 9<sup>th</sup> BOS meeting, inclusive of proposed modifications requested by the PC at their June 24<sup>th</sup> meeting, and as shown in a staff report dated June 26<sup>th</sup>. The proposed amendments contain a revised definition for “brewery” and “limited farm brewery” which would provide for the production of beer as well as additional types of brewed beverages.
  - o **Proposed Amendments: “Wayside Stands” and “Farmers Markets”**  
Consideration of proposed amendments to the Nelson County Zoning Ordinance as requested by the Planning Commission at their June 24<sup>th</sup> meeting, and as contained in a staff report dated June 10<sup>th</sup>. The proposed amendments would revise the definitions, application requirements, and regulations for “off-farm agricultural retail sales” land uses, including Wayside Stands and Farmers Markets.
- **Other Agenda Items:**
  - o **Ag-Forestal District Application #2015-05 (Scelzi):**  
Consideration of a proposed addition (expansion) to the existing Davis Creek AFD.
  - o **Ag-Forestal District Application #2015-06 (Burton):**  
Consideration of a proposed addition (expansion) to the existing Greenfield AFD.
- **Other Business** (as determined by Planning Commission members / as applicable)
- **Adjournment**
- **Next Meeting:** July 22, 2015 | 7:00pm



To: Chair and Members, Nelson County Planning Commission  
From: Tim Padalino | Director | Department of Planning & Zoning  
Date: July 15, 2015  
Subject: **Public Hearing for Conditional Rezoning #2015-02 (Joseph B. "Sepp" Kober / Mountain Sports)**

### Application Summary

<u>Site Address / Location:</u>	2950 Rockfish Valley Highway / Nellysford / Central District
<u>Tax Parcel(s):</u>	#22-A-19 and #22-A-18
<u>Parcel Size:</u>	1.27 acres and 4.79-acres, respectively
<u>Zoning:</u>	Residential (R-1) with General Floodplain District (FP) on portion of #22-A-18
<u>Applicant:</u>	Mr. Joseph "Sepp" Kober of Mountain Sports
<u>Request:</u>	Approval of Conditional Rezoning #2015-02 to rezone Tax Map Parcels #22-A-18 and #22-A-19 to Business (B-1) Conditional, in order to construct an 8,000 SF retail store and accompanying parking pursuant to Article 8, Section 1-2
<ul style="list-style-type: none"><li>• <i>Completed Application Received On: June 24<sup>th</sup>, 2015</i></li><li>• <i>The applicant (Mr. "Sepp" Kober) has noted that, "This request is being submitted to determine the feasibility of applicant's future intended use prior to purchase. Applicant has attached a separate document containing the requested uses along with the uses that would be proffered away."</i></li><li>• <i>The application includes documented permission from both property owners: Dodd signed the affidavit; and Hughes provided a typed document (dated April 9) signed by Ms. J. H. Tharpe, "Executrix of the Estate of Frances H. Hughes."</i></li></ul>	

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

*Our reasoning for this [rezoning] request is fourfold:*

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

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

### **Subject Property Location, Characteristics, and Comprehensive Plan Designation:**

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

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

The subject properties are located in the heart of Nellysford, with some adjoining properties zoned Agricultural (A-1), Residential (R-1), and Residential Planned Community (RPC) (“Multiple Use – Village Center” designation). Additionally, some properties designated Business (B-1) zoning are located in close proximity. *Please see maps on pages 6-9.*

As noted above, the rear portion of parcel 18 contains FEMA-designated “Special Flood Hazard Areas.” Specifically, parcel 18 contains both the 100-year floodplain and the floodway for the South Fork of the Rockfish River. During my initial site visit on April 17<sup>th</sup>, I observed that the flat, low-lying landscape contains ephemeral pools, wet soils, and other features characteristic of river bottoms. *Please see site visit photos on page 10.*

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

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

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

## Site Plan Review Committee Comments:

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

- Director of Planning & Zoning:
  - The applicant noted that the existing structure may be retained, or may be demolished. The applicant is undecided on how to proceed. The structure’s historic character, reuse potential, and poor condition were all discussed.
  - The proposed facility would be 8,000 SF with approximately 6,000 SF dedicated to public floor area. 32 parking spaces and additional handicap parking spaces would be made available in a parking lot on the side and rear of the proposed retail building.
  - The applicant has submitted a conceptual rendering of the proposed facility’s facade; this elevation was included in your
  - The applicant team will be prepared to address specific site details (such as landscaping, exterior lighting, and signage) at later stages of the permitting process and on the Major Site Plan, if the conditional rezoning request is approved.
  
- VDOT: Mr. Jeff Kessler, Virginia Department of Transportation representative, did not attend the meeting but provided the following preliminary comments regarding the proposed rezoning by Joseph B. Kober “Sepp” for a 8,000 square foot retail center “Mountain Sports” in the Nellysford area. These preliminary comments included the need for the following items to be provided to VDOT in order to advise the County of the potential traffic impacts and to assist the developer in assessing the viability and magnitude of his project:
  - A brief narrative of the proposed use along with a traffic analysis of this use including ITE Trip Generation, peak hour turning movements and turn lane analysis.
  - Location of the proposed commercial entrance and its spacing to the next adjoining commercial entrance and or public roadway in each direction to determine if it meets VDOT’s Access Management Spacing Requirements.
  - Sight Distances (Stopping and Intersection) at the proposed commercial entrance location.

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

- The “access management report” correctly concludes that no turning lane is required;
- The sight distance measurements are acceptable;
- Future (additional) development of the site would require re-review by VDOT; and
- Due to VDOT access management regulations and commercial spacing requirements, the proposed location of this project’s commercial entrance would, “...affect the commercial access to the three parcels located to the south (between this property and Adail [sic] Road) and the six or so parcels located immediately to the north along the east side of Route 151. In anticipation of continued commercial development of the corridor, we recommend the consideration of requiring a shared “joint” commercial entrance that would serve both this property and the adjoining parcels as well.

Please note that a copy of this access management report and a copy of VDOT's response from May 27<sup>th</sup> are included in the PC meeting materials packet.

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

#### **Staff Evaluation and Recommendation(s):**

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

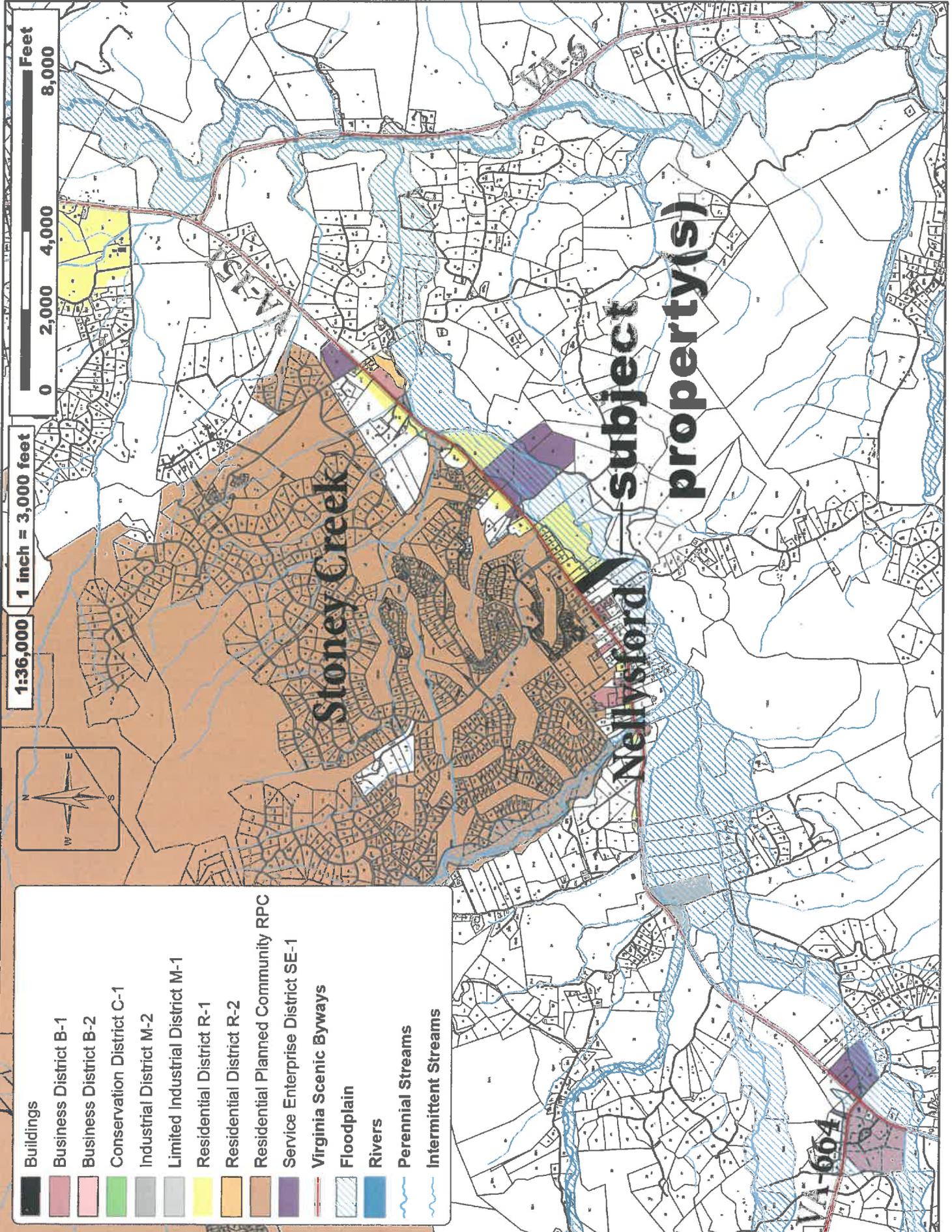
- The Comprehensive Plan designation of Nellysford as a "Neighborhood Mixed Use Development Model" indicates that a new retail commercial development would be appropriate in the center of Nellysford.
- The Zoning Map and surrounding land uses currently contain a variety of residential, commercial, retail,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

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

- The applicant's request to rezone Tax Map Parcel #22-A-19 from Residential (R-1) to Business (B-1) be approved; and

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

Please contact me with any questions, concerns, or requests for assistance leading up to the July 22<sup>nd</sup> Planning Commission public hearing for Conditional Rezoning #2015-02. Thank you very much for your time and attention to this application.



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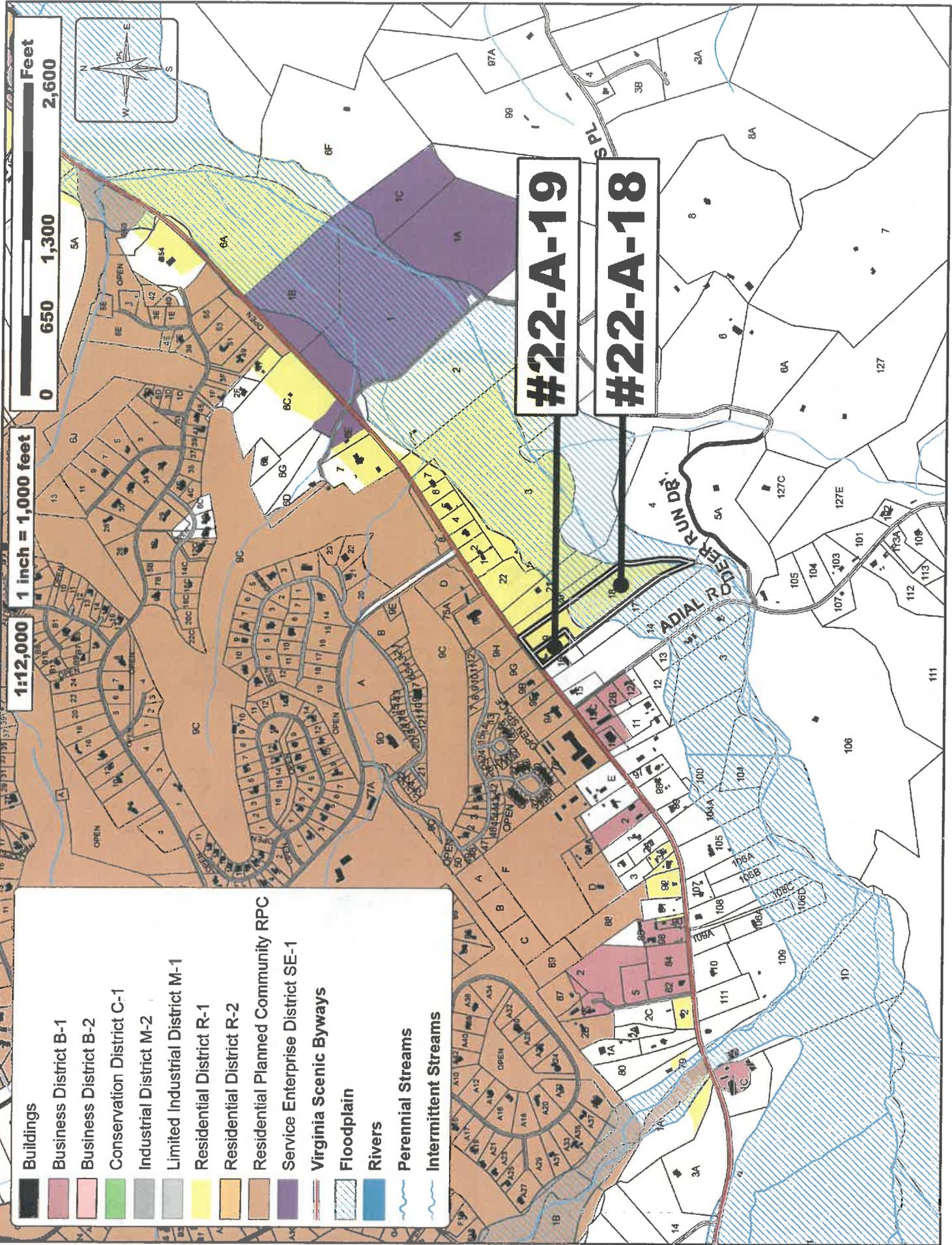
- Buildings
- Business District B-1
- Business District B-2
- Conservation District C-1
- Industrial District M-2
- Limited Industrial District M-1
- Residential District R-1
- Residential District R-2
- Residential Planned Community RPC
- Service Enterprise District SE-1
- Virginia Scenic Byways
- Floodplain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

subject property(s)

Stoney Creek

Nellysford

VI-604



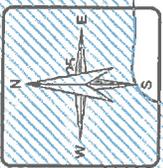
#22-A-19

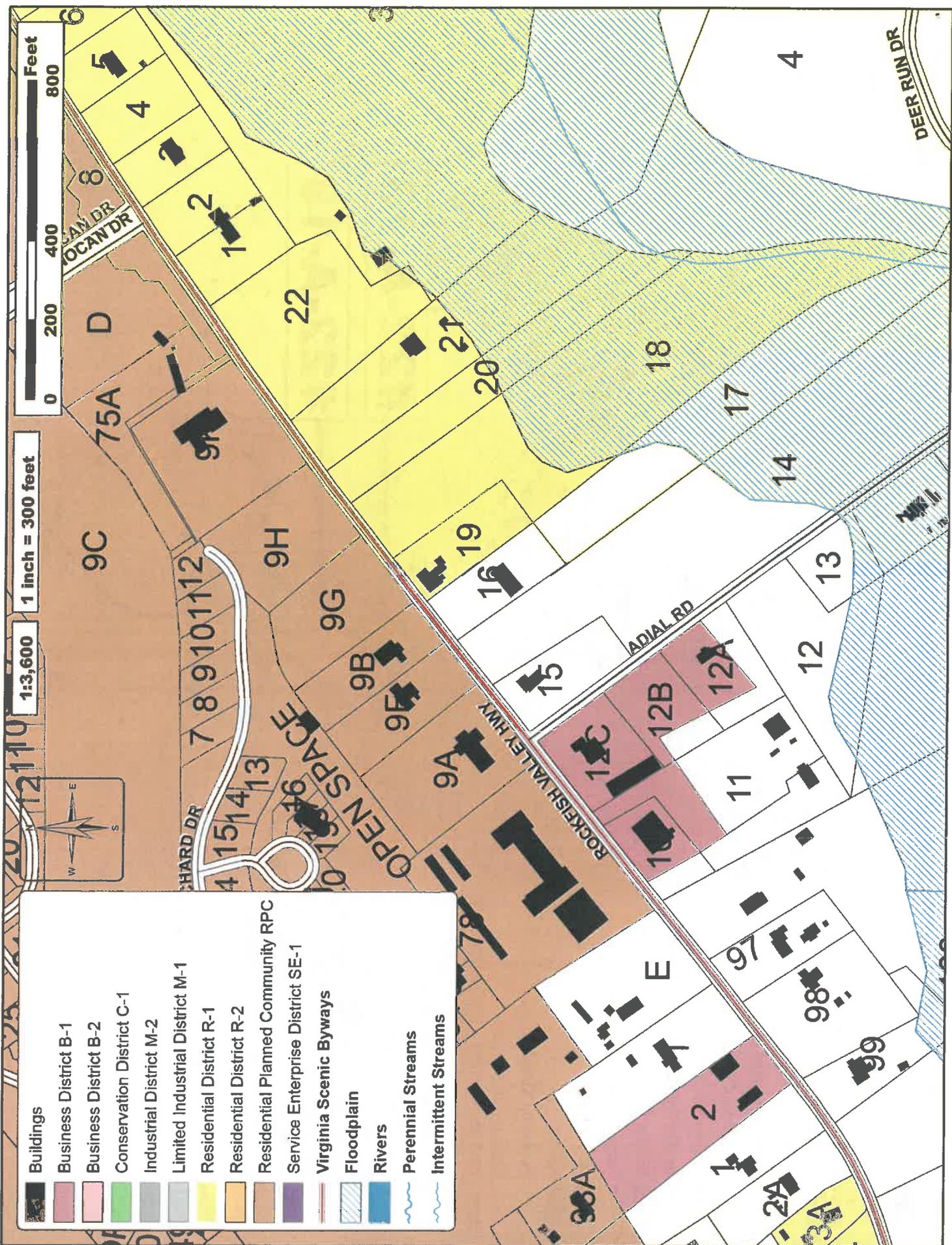
#22-A-18

- 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
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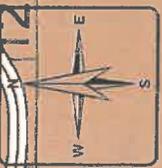
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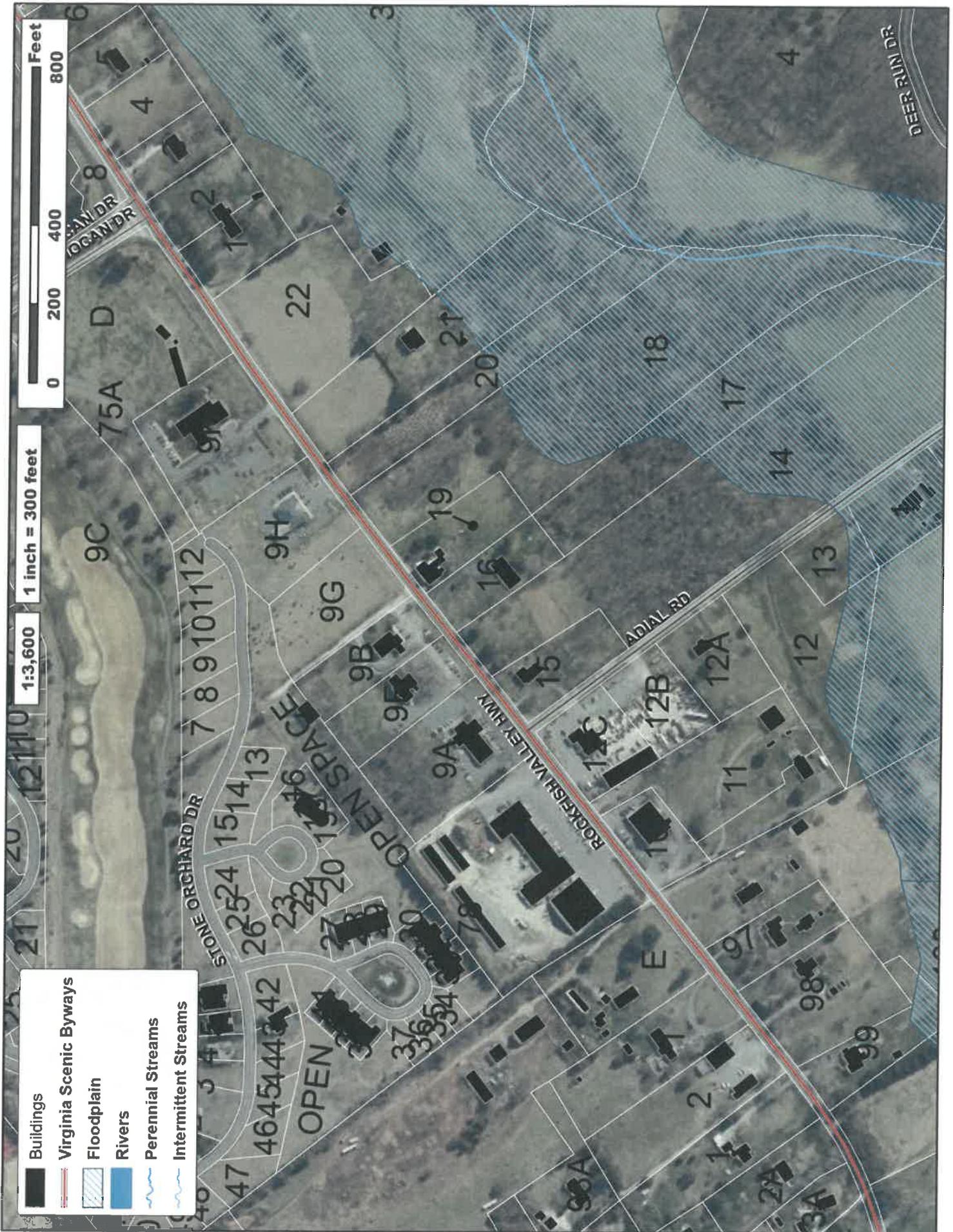




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- Buildings
- Business District B-1
- Business District B-2
- Conservation District C-1
- Industrial District M-2
- Limited Industrial District M-1
- Residential District R-1
- Residential District R-2
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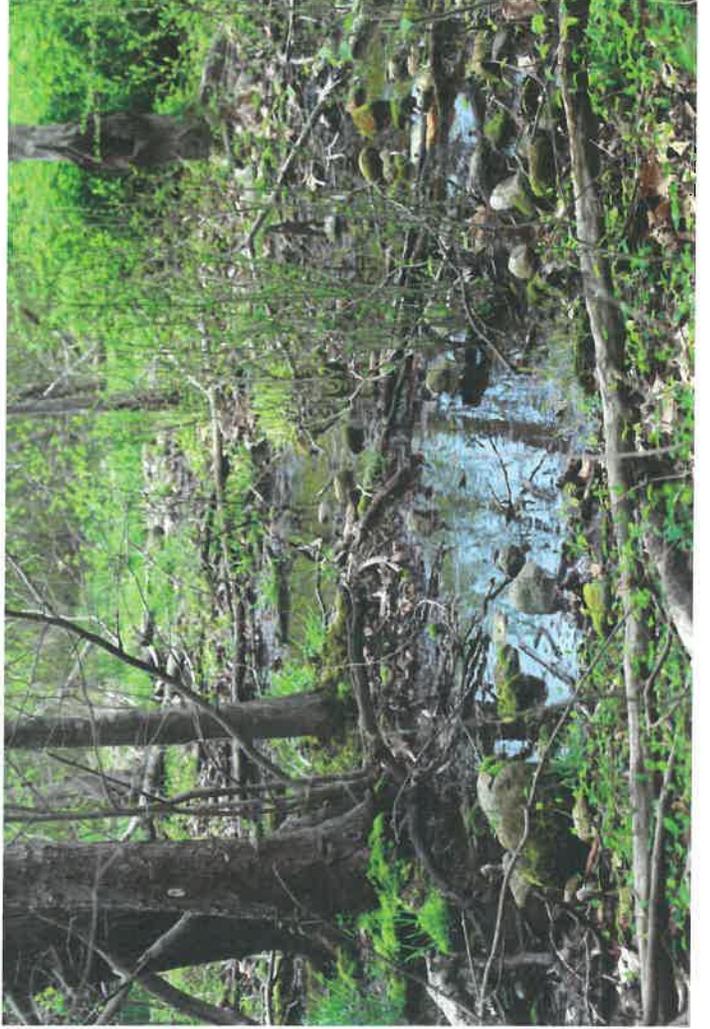
-  Buildings
-  Virginia Scenic Byways
-  Floodplain
-  Rivers
-  Perennial Streams
-  Intermittent Streams

1:3,600 1 inch = 300 feet





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





# PERMIT APPLICATION:

## Nelson County Department of Planning & Zoning

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

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

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

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

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

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

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

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

Applicant    Property Owner   Name: Joseph B. "Sepp" Kober  
 Mailing Address: 1578 Beckoning Ridge Rd • Charlottesville, VA 22901  
 Telephone # 434.906.0807   E-mail Address: seppkober@icloud.com  
 Relationship (if applicable): \_\_\_\_\_

Applicant    Property Owner   Name: 22-A-18 Claude Malcolm Dodd • 22-A-19 Herbert F. Hughes  
 Mailing Address: Uncertain  
 Telephone # \_\_\_\_\_   E-mail Address: \_\_\_\_\_  
 Relationship (if applicable): \_\_\_\_\_

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

**3. Location and Characteristics of Subject Property:**

- a. Address of property (specific location, route numbers, street names, voting district, etc.):  
2950 Rockfish Valley Highway
- b. Official tax map number: Tax Map 22-A-19 & Tax Map 22-A-18
- c. Acreage of property: Approximately 6.06 acres
- d. Present use: Vacant
- e. Present zoning classification: R-1
- f. Zoning classification of surrounding properties: R-1 • PUD • B-1

**4. Names of Adjacent Property Owners:**

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

Signature:  Printed Name: Joseph B. "Sepp" Kober

Signature: \_\_\_\_\_ Printed Name: \_\_\_\_\_

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

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

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

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

- o Completed application and fee (\$ 300.00 ) received on June 24, 2015
- o Hearing Notice published on July 9<sup>th</sup> + 16<sup>th</sup>, 2015
- o Planning Commission action: Date of Meeting / Hearing: July 22, 2015
- Recommendation: \_\_\_\_\_
- o Board of Supervisors action: Date of Hearing: \_\_\_\_\_ Date of Decision: \_\_\_\_\_
- Action: \_\_\_\_\_

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

Proffered B-1 Uses

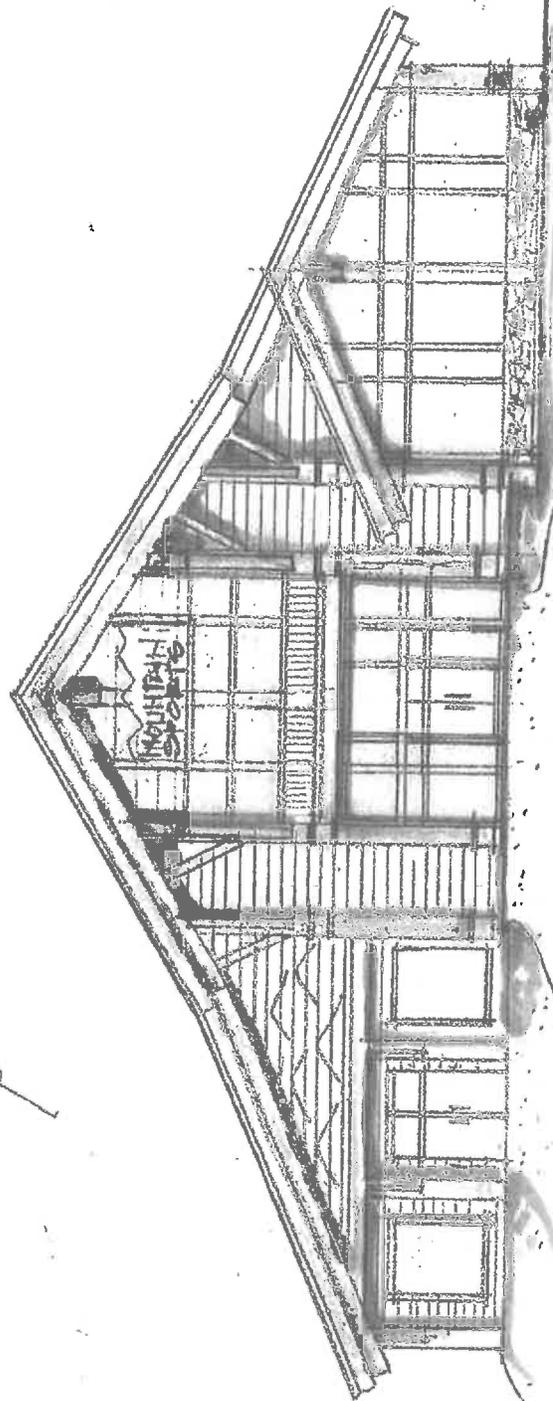
- 8-1-1 Boardinghouse, hotel, motel
- 8-1-3 Fire departments and rescue squad facilities
- 8-1-4 Funeral home/crematorium
- 8-1-5 Gasoline filling stations and/or the servicing and minor repairing of motor vehicles when in an enclosed structure
- 8-1-6 Golf driving ranges and miniature golf courses
-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

Requested B-1 Uses

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

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

  
\_\_\_\_\_  
Joseph B. "Sepp" Kober



MOUNTAIN SPORTS  
HELLSFORD, VA  
MAY 7, 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: June 26, 2015

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

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### **Issue Introduction:**

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

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

This report contains the [BOS-referred amendments](#), inclusive of the Planning Commission’s [suggested modifications](#), as well as a summary of the issues that predicated these potential amendments. The Legal Notice of Public Hearing for these proposed amendments is also enclosed.

### **Issue Background & Explanation:**

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

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

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

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

*Brewery:* A facility for the production of beer.

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

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

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

#### **Proposed Zoning Ordinance Text Amendments:**

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

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

#### **Issue Summary & Next Steps:**

The Planning Commission must review these proposed amendments and conduct a public hearing, and formally provide recommendation(s) back to the Board of Supervisors within 100 days of the date of the June 24<sup>th</sup> meeting (or by Friday, October 2<sup>nd</sup>, 2015).

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

BOARD OF  
SUPERVISORS

THOMAS D. HARVEY  
North District

LARRY D. SAUNDERS  
South District

ALLEN M. HALE  
East District

THOMAS H. BRUGUIERE, JR.  
West District

CONSTANCE BRENNAN  
Central District



STEPHEN A. CARTER  
Administrator

CANDICE W. MCGARRY  
Administrative Assistant/  
Deputy Clerk

DEBRA K. McCANN  
Director of Finance and  
Human Resources

15 June, 2015

To: T. Padalino, Director, Department of Planning and Zoning  
From: S. Carter, County Administrator SA  
Re: Referral to Nelson County Planning Commission of Proposed Amendments to Nelson County Zoning Ordinance

Transmitted herewith is Resolution R2015-51, as approved on June 9, 2015 by the Board of Supervisors, referring proposed amendments (attached) to Nelson County's Zoning Ordinance to the Nelson County Planning Commission.

The proposed amendments pertain to revising the current definitions of "Brewery" and "Farm Brewery, Limited" to provide for broader application of these two terms than as presently defined.

Please proceed in accordance with the Board's resolution.

I am available at your convenience should you require additional information on the subject of this communication.

Your assistance and cooperation are appreciated.

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

Attachments:



BOARD OF  
SUPERVISORS

THOMAS D. HARVEY  
North District

LARRY D. SAUNDERS  
South District

ALLEN M. HALE  
East District

THOMAS H. BRUGUIERE, JR.  
West District

CONSTANCE BRENNAN  
Central District

STEPHEN A. CARTER  
County Administrator

CANDICE W. MCGARRY  
Administrative Assistant/  
Deputy Clerk

DEBRA K. MCANN  
Director of Finance and  
Human Resources

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

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

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

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

Approved: June 9, 2015

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



DEPARTMENT OF  
PLANNING & ZONING

PLANNING COMMISSION  
BOARD OF ZONING APPEALS

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

From: Tim Padalino | Planning & Zoning Director

Date: June 2, 2015

**Subject: Introduction of possible Zoning Ordinance amendments pertaining to existing definitions for "Brewery" and "Limited Farm Brewery"**

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

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

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

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

*Brewery:* A facility for the production of beer.

The existing business does not brew beer; as noted above, they brew kombucha. Otherwise, they would be eligible to relocate and expand under the "limited farm brewery" land use, as follows:

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

Agricultural and Consumer Services (VDACS) "State Food Laws" seem to define water as "food ... intended for human consumption" as follows:

- o § 3.2-5105. Definition of term "food" – The term "food" as used in this article means all articles used for food, drink, confectionery or condiment, whether simple, mixed or compound, and all substances or ingredients used in the preparation thereof, intended for human consumption and introduction into commerce.

Accordingly, in order to assist this existing Nelson County brewing operation in relocating to an expansion site in Nelson County, the following text amendments are proposed for your consideration:

*Brewery:* A facility for the production of beer or other fermented beverages.

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

If the Board wishes for this proposed amendment process to move forward, the next step would be to refer these proposed amendments to the Planning Commission for their review and public hearing, and for their recommendation back to the Board of Supervisors.

Thank you for your attention to this introduction of these proposed amendments; and please contact me with any questions you may have regarding the information contained in this report. I am happy to provide clarifying information at your request.

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

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

### **Definition of a Brewery:**

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

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

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

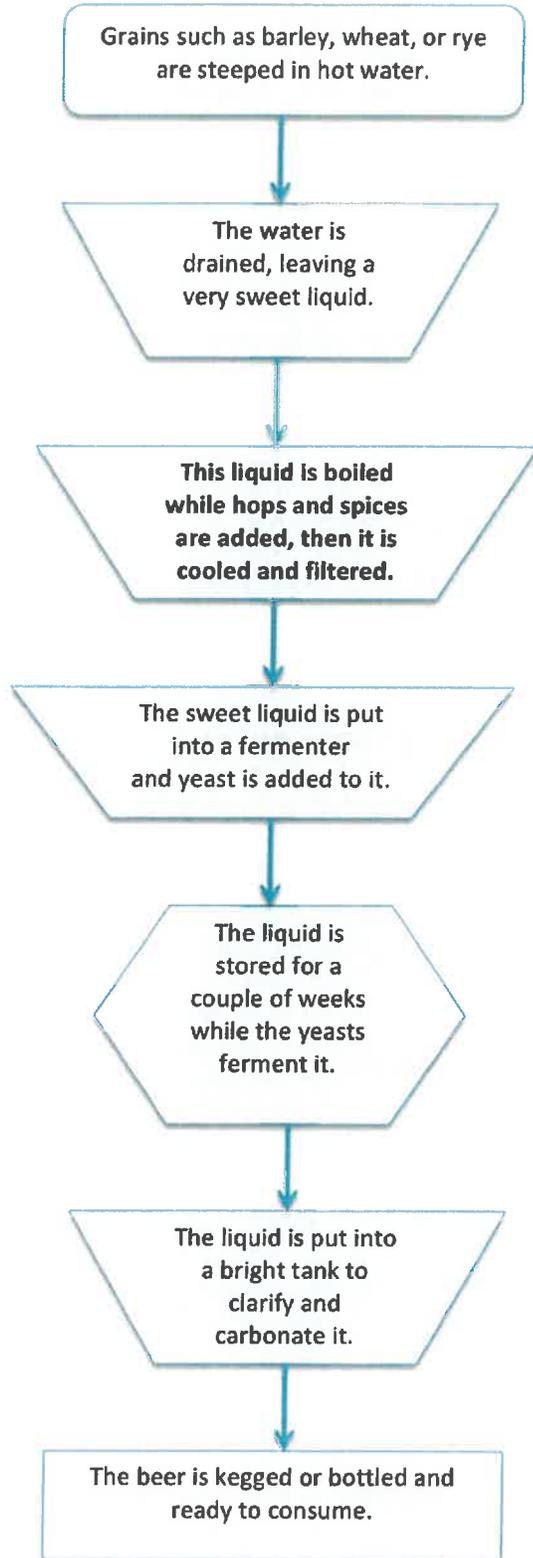
**Process:** *Beer and kombucha brewing is a nearly identical process. (See attached detailed Comparison Flowchart.)*

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

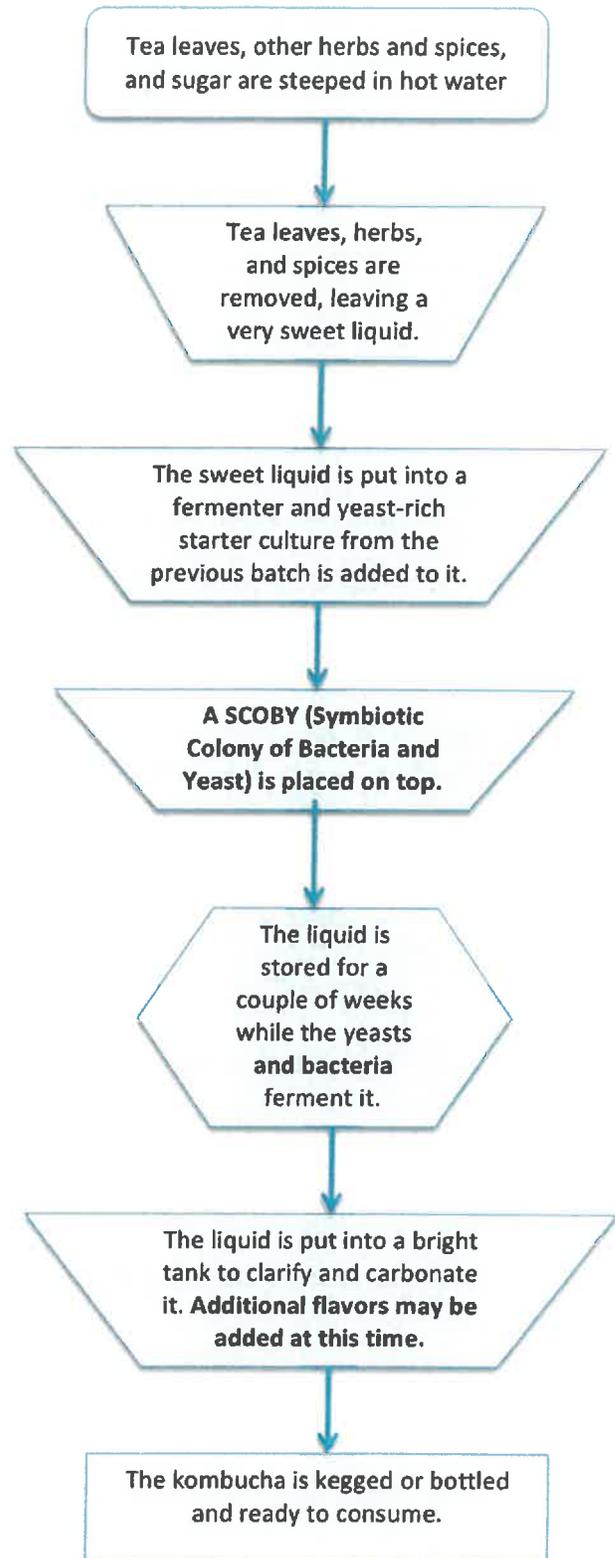
There are other traditional fermented beverages, both alcoholic and nonalcoholic, that are not currently included in the definition of limited farm brewery: mead, kvass, fez, and others.

## A COMPARISON FLOWCHART OF BEER AND KOMBUCHA BREWING

### Beer Brewing Process:



### Kombucha Brewing Process:



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

**Please publish Thurs., July 9<sup>th</sup> and Thurs., July 16<sup>th</sup> in The Nelson County Times:**

**LEGAL NOTICE  
NOTICE OF PUBLIC HEARING**

In accordance with Volume 3A, Title 15.2, Counties, Cities and Towns, of the Code of Virginia, 1950, as amended, and pursuant to §15.2-107, §15.2-2204, §15.2-2285, §15.2-2310, and §15.2-4307, the Nelson County Planning Commission hereby gives notice that a Public Hearing will start at **7:00 p.m., Wednesday, July 22<sup>nd</sup>** in the **General District Courtroom** on the third floor of the Nelson County Courthouse located at 84 Courthouse Square, Lovingson, for the following:

**Public Hearing**

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

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

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

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

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

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

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

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

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

**2. Consideration of Proposed Amendments to Zoning Ordinance**

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

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

**3. Consideration of Proposed Amendments to Zoning Ordinance**

Consideration of proposed amendments to the Nelson County Zoning Ordinance as requested by the Planning Commission (PC) at their June 24<sup>th</sup> meeting, and as contained in a staff report dated June 10<sup>th</sup>. The proposed amendments would revise the definitions, application requirements, and regulations for “off-farm agricultural retail sales” land uses, including Wayside Stands and Farmers Markets. These proposed amendments would not affect land uses located on properties used for agricultural operations; they would only apply to the retail sale(s) of agricultural products at locations “off the farm.”

The proposed amendments would maintain Wayside Stands as a permissible land use in the Agricultural (A-1) District. Two separate Wayside Stand categories would be established, with separate application requirements and regulations, as determined by the VDOT “functional classification code” of the road on which the proposed use would be located or from which the proposed use would be accessed. A Class A Wayside Stand would be located on lower-volume roads, and would be permissible by-right if an administrative zoning permit is obtained. A Class B Wayside Stand would be located on higher-volume roads, and would only be permissible with a Special Use Permit.

The proposed amendments would also establish Farmers Market as a permissible land use requiring a Special Use Permit in the Agricultural (A-1), Business (B-1 and B-2), and Service Enterprise (SE-1) Districts. Farmers Market is currently a land use which the Zoning Ordinance does not define or provide for.

Affected Sections of the Zoning Ordinance include: Article 2; Article 4, Sections 1-a and 11-2; Article 8, Section 1-a; Article 8A, Section 1-a; and Article 8B, Section 1-a.

Following the hearing, the Planning Commission may vote to approve or deny an agenda item, or to forward an agenda item to the Board of Supervisors, as applicable. The agenda items requiring Board of Supervisors’ review and approval will be forwarded (with a recommendation for approval, a recommendation for approval with conditions, or a recommendation for denial) for action by the Board, which may adopt a resolution or ordinance to approve, modify, or reject an item.

The Nelson County Board of Supervisors will hold a public hearing on **Tuesday, August 11<sup>th</sup>, 2015 at 7:00 p.m.** on those items referred to it by the Planning Commission. The meeting will be held at the location listed above. The following items are scheduled to be considered:

- 1. Conditional Rezoning #2015-02 – Mountain Sports Retail Space / Mr. Joseph B. Kober**  
Consideration of an application as described above in Item 1.

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



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: July 15, 2015

**Subject: public hearing for proposed amendments re: "off-farm agricultural retail sales"**

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The Planning Commission will conduct a public hearing at the July 24<sup>th</sup> meeting regarding proposed amendments to Zoning Ordinance provisions involving definitions and regulations for "wayside stands" and "farmers markets." For the purposes of discussion, these types of land uses are being informally referred to as "off-farm agricultural retail sales."

Please find the following materials enclosed with this introduction:

- The staff report dated June 10<sup>th</sup>, which provides history, background, and context for these issues, and which also contains the language for the proposed text amendments; and
- The Legal Notice of Public Hearing which also contains the proposed text amendment language, and which staff have caused to be advertised in the Nelson County Times on July 9<sup>th</sup> and July 16<sup>th</sup>.

Thank you for your attention to these proposed amendments regarding "wayside stands" and "farmers markets." Please contact me with any questions you may have prior to the July 22<sup>nd</sup> public hearing, regarding any of the information contained in this packet.

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: June 10, 2015  
**Subject: Final draft of proposed amendments regarding “off-farm agricultural sales”**

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The Planning Commission (PC) has long been undertaking a review of the existing Zoning Ordinance provisions for the “wayside stand” land use, which is permissible in the Agricultural (A-1) District. Per §2 and §4-11-2, the operation of a wayside stand requires an administrative zoning permit to be obtained, and sales at wayside stands are by definition limited only to products produced by the seller on an agricultural operation owned or controlled by the seller.

The PC has also reviewed “farmers markets” – a land use not currently defined or provided for by ordinance. I will informally refer to these two land uses (collectively) as “off-farm ag retail sales.”

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

Specifically, the PC’s ongoing review of “off-farm ag retail sales” land uses attempts to address one broad category of “direct-to-consumer” sales of ag products that were not addressed in the recently-adopted “Agricultural Operations” amendments: *the retail sale of ag products off-site from the actual ag operation*. That category can further be divided into two types of land uses:

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

At the request of the Planning Commission, I have prepared a final draft of proposed amendments that would substantially modify the way these off-farm sales are permitted and regulated. The specific (draft) language for the proposed amendments is contained on pages 2-4.

For additional background information on this subject, please reference these previous staff reports:

- 2/20/2014 staff report with subject line: “Policy Review of “Wayside Stands” and other direct-to-consumer issues in A-1”
  - Provides overview of existing Zoning Ordinance provisions
  - Contains analysis of existing provisions and identifies common issues and questions
  - Contains recommended policy changes for review / discussion
  - Includes a reminder about “Agricultural operations” legislation (passed in the 2014 General Assembly as “Senate Bill 51”) and the resulting limitations on local zoning authority
- 11/12/2014 staff report with subject line: “Recommendations to revise and improve “Wayside Stand Permits” review process and application procedures”
  - Analysis and recommendations for “wayside stand” provisions
  - Analysis and recommendations for “farmers market” provisions
- 2/20/2015 staff report with subject line: “Recommendations for improved policies and procedures for ‘off-farm retail sales”
  - Contains recommended policy changes for review / discussion, including:
    - the proposed bifurcation of wayside stand permits into “class A” and “class B” according to the type of roadway the proposed stand would be located on
    - specific regulations, application requirements, and review procedures for each of the two proposed classes of permits
- 3/18/2015 staff report: “Proposed (draft) amendments for ‘off-farm retail sales”
  - Includes the introduction of proposed application requirements
- 4/15/2015 staff report: “Proposed (draft) amendments for ‘off-farm retail sales”
  - Includes revisions (proposed “performance requirements” or regulatory standards) to the proposed application requirements which were introduced in the 3/18/2015 report
  - Includes new language about one-year limits, annual permit renewals, and other details

### Final Draft Language for Possible Amendments:

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#### ➤ **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**

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Thank you for your attention to this final draft of the proposed amendment language regarding “wayside stands” and “farmers markets,” or what I have been informally referring to (collectively) as “off-farm ag retail sales” land uses.

Please contact me with any questions you may have regarding the information contained in this report.

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- 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 NuckoIs 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

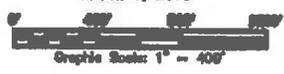
7. 4 Year Term requested

184

NAME	ADDRESS	SIGNATURE	WITNESS	TOTAL ACREAGE	TAX MAP & PARCEL NUMBERS
Michael Scott 2642 Morris Green Lane LVC	11219 Nueces Rd Suite D Clematis, Va 23055	<i>Michael Scott</i>	Valerie Beane	165.08	444-A-29B

March 2, 2015

**PLAT OF BOUNDARY RESURVEY OF THE MATTHEWS/WILSON TRACT NEAR THE NORTH BRANCH OF DAVIS CREEK DESCRIBED IN DEED BOOK 286 PAGE 78 SCHUYLER DISTRICT NELSON COUNTY, VIRGINIA APRIL 6, 2015**



Roller Investments, LP  
Inst. # 130003430  
Plat- D.B. 106 Pg. 677  
TM # 32-A-17

David & Kathleen Jones  
Inst. # 130003633  
P.C. 5 Side 97A  
TM # 44-A-33

Jeffrey W. & Nancy C. Row  
Inst. # 040001117  
P.C. 4 Side 24E  
TM # 44-1-2

Shenandoah Properties, L.C.  
Inst. # 040005414  
P.C. 7 Side 59C  
TM # 32-A-19

I. Stuart Wilson  
Inst. # 100002814  
Inst. # 020000324  
Plat-D.B. 30 Pg. 434  
TM # 32-A-19

I. Stuart Wilson  
D.B. 274 Pg. 410  
P.C. 2 Side 442D  
TM # 45-A-2

Robert G. Wilson  
& J.D. Matthews  
D.B. 270 Pg. 734  
P.C. 2 Side 482A  
TM # 44-A-28A

Robert G. Wilson  
& J.D. Matthews  
D.B. 270 Pg. 734  
P.C. 2 Side 482A  
TM # 44-A-28A

Carol Scott (Life Estate)  
Inst. # 100000883  
P.C. 4 Side 29D  
(OSM # 0632-1)  
TM # 44-A-30B

**LEGEND:**  
● 1/2" REBAR SET  
○ 1/2" REBAR FOUND  
# UTILITY POLE  
○ ONE OVERHEAD UTILITY LINE  
/W RIGHT-OF-WAY

**SOURCE OF TITLE:**

DEED DATED FEBRUARY 8, 1985 TO JILL M. WILSON AND ROBERT G. WILSON, RECORDED IN DEED BOOK 328 PAGE 78, IN THE CLERK'S OFFICE FOR THE CIRCUIT COURT OF NELSON COUNTY, VIRGINIA.

**NOTES:**

1. THIS PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT, AND THEREFORE MAY NOT REFLECT ALL ENCUMBRANCES AND ENCUMBRANCES UPON THE PROPERTY SHOWN.
2. THIS PLAT IS BASED ON A CURRENT FIELD SURVEY, MARKED ON THE GROUND WITH THE PHYSICAL MONUMENTS INDICATED, AND THERE ARE NO VISIBLE ENCUMBRANCES OR ENCUMBRANCES EXCEPT AS SHOWN HEREON.
3. THIS PLAT DOES NOT PURPORT TO ADDRESS THE EXISTENCE, DETECTION, OR DELINEATION OF ANY ENVIRONMENTALLY SENSITIVE AREAS OR ANY ENVIRONMENTAL PROBLEMS LOCATED WITHIN THE PERIMETER OF THE PROPERTY SHOWN.
4. THIS SURVEY AND PLAT HAS BEEN PREPARED AT THE REQUEST OF JILL D. MATTHEWS AND ROBERT G. WILSON.

**SINCE 1874**  
**THE SURVEYING & LAND PLANNING**  
2774 LAUREL ROAD, BRISTOL, VA 22901  
877-638-(484) 288-4243 FAX(484) 288-5889

LINE	BEARING	DISTANCE
L1	S88°20'33"W	27.45
L2	S40°48'21"W	183.80
L3	S73°01'30"W	63.77

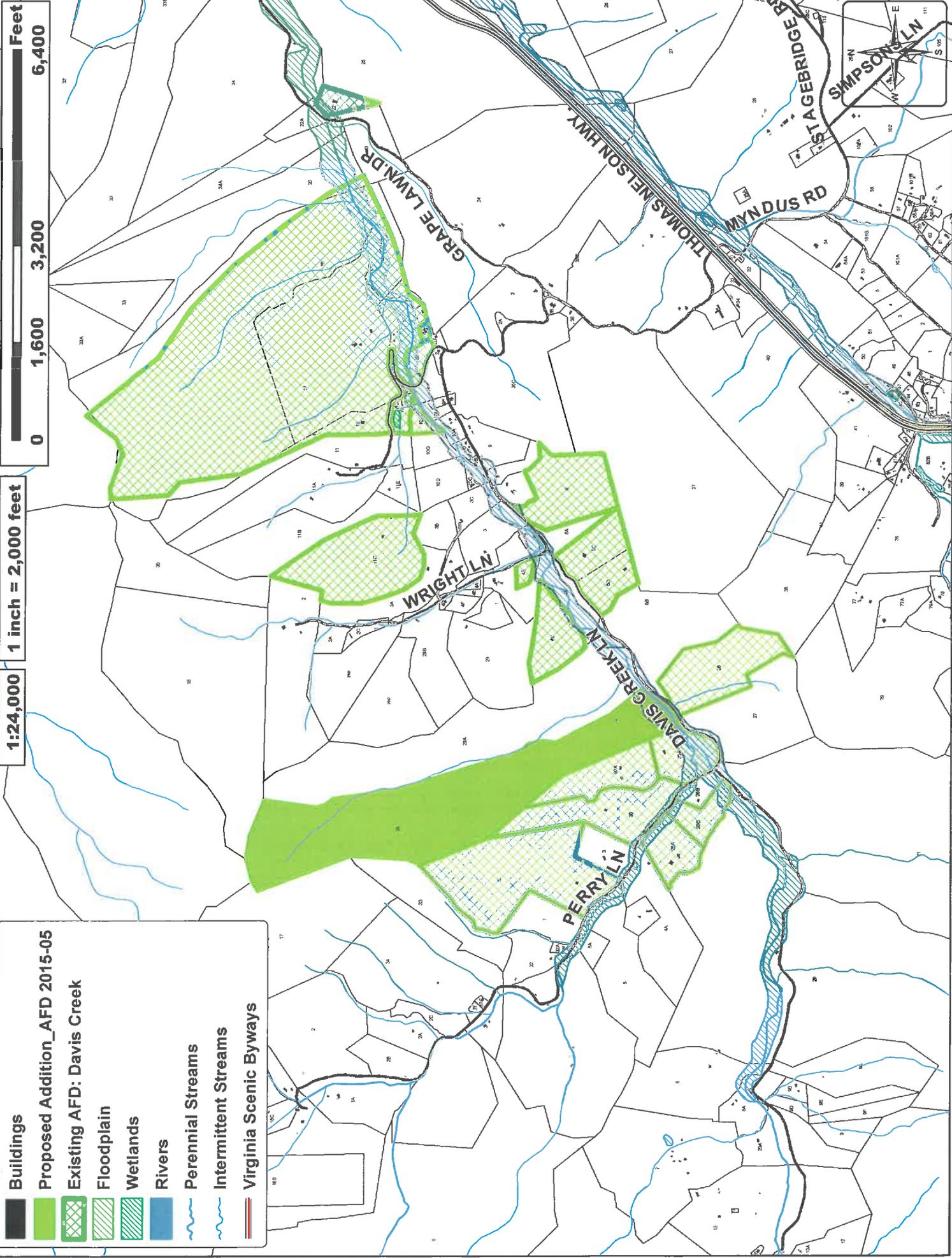
CURVE	DELTA ANGLE	INCHES	ARC LENGTH	CHORD LENGTH	CHORD BEARING
01	88°20'33"	268.24	104.31	184.57	S81°21'46"W
02	112°21'12"	718.34	134.45	154.13	S82°08'59"W
03	62°18'10"	1470.00	185.12	185.03	S82°12'36"W
04	107°30'16"	668.00	107.47	100.82	S82°45'38"W

364

5-26-2015  
2642 Nancy Creek Lane  
Michael Sestzi



464



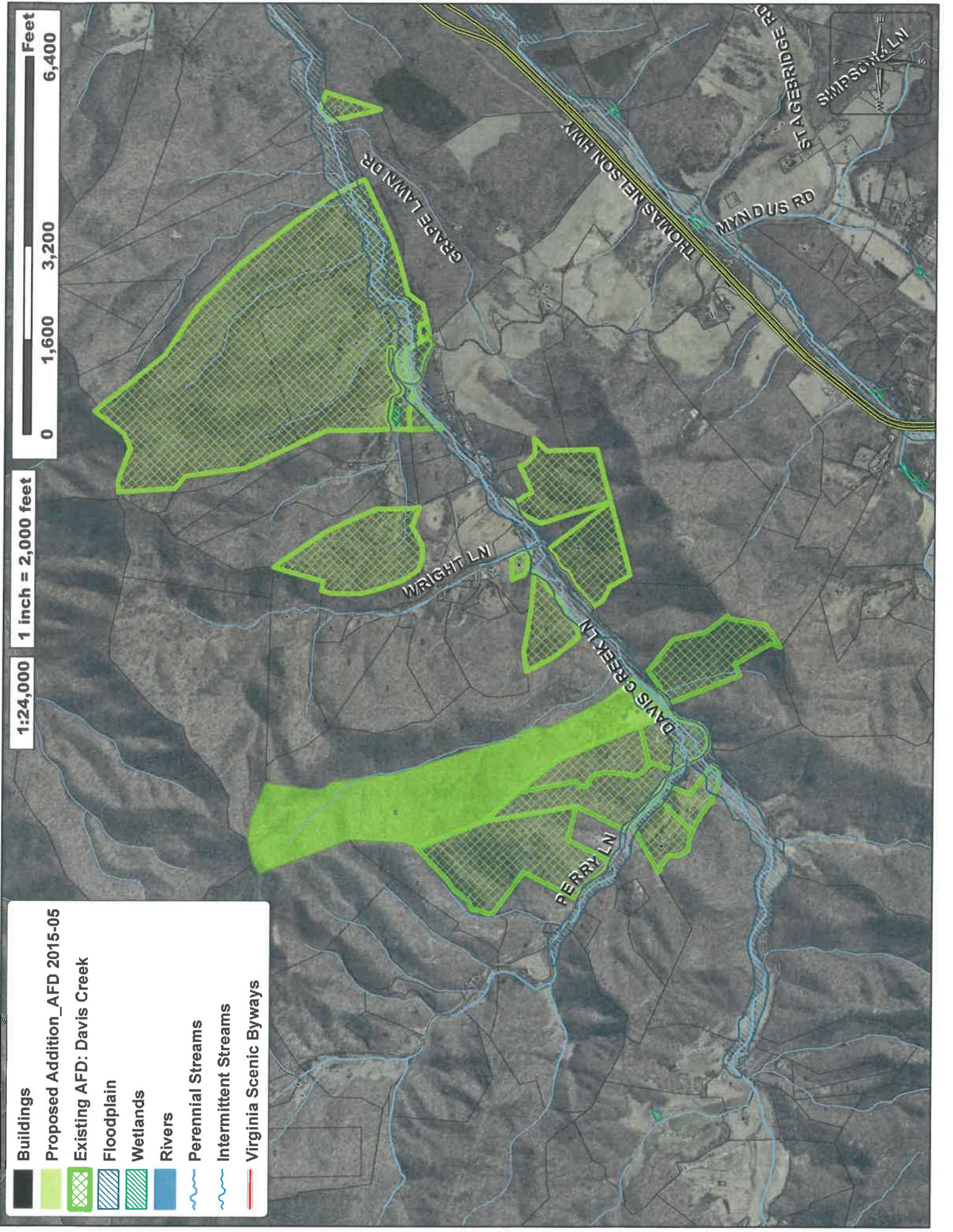
1:24,000  
1 inch = 2,000 feet

-  Buildings
-  Proposed Addition\_AFD 2015-05
-  Existing AFD: Davis Creek
-  Floodplain
-  Wetlands
-  Rivers
-  Perennial Streams
-  Intermittent Streams
-  Virginia Scenic Byways



1:24,000 1 inch = 2,000 feet

- Buildings
- Proposed Addition\_AFD 2015-05
- Existing AFD: Davis Creek
- Floodplain
- Wetlands
- Rivers
- Perennial Streams
- Intermittent Streams
- Virginia Scenic Byways



- 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:* Oentered 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)

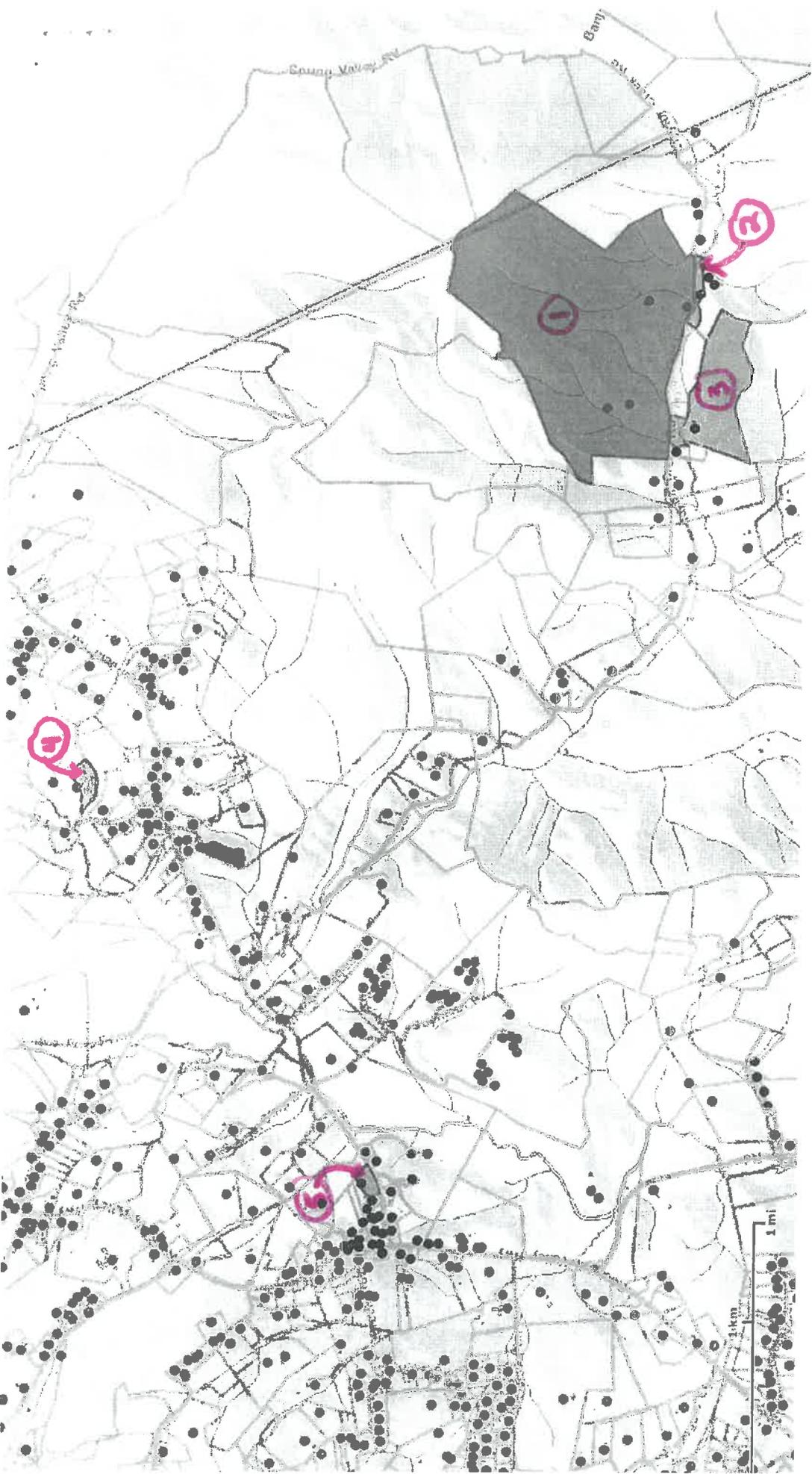
6. *The Proposed Conditions to Creation of the District Pursuant to §15.2-4309 of the Code of Virginia:*

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

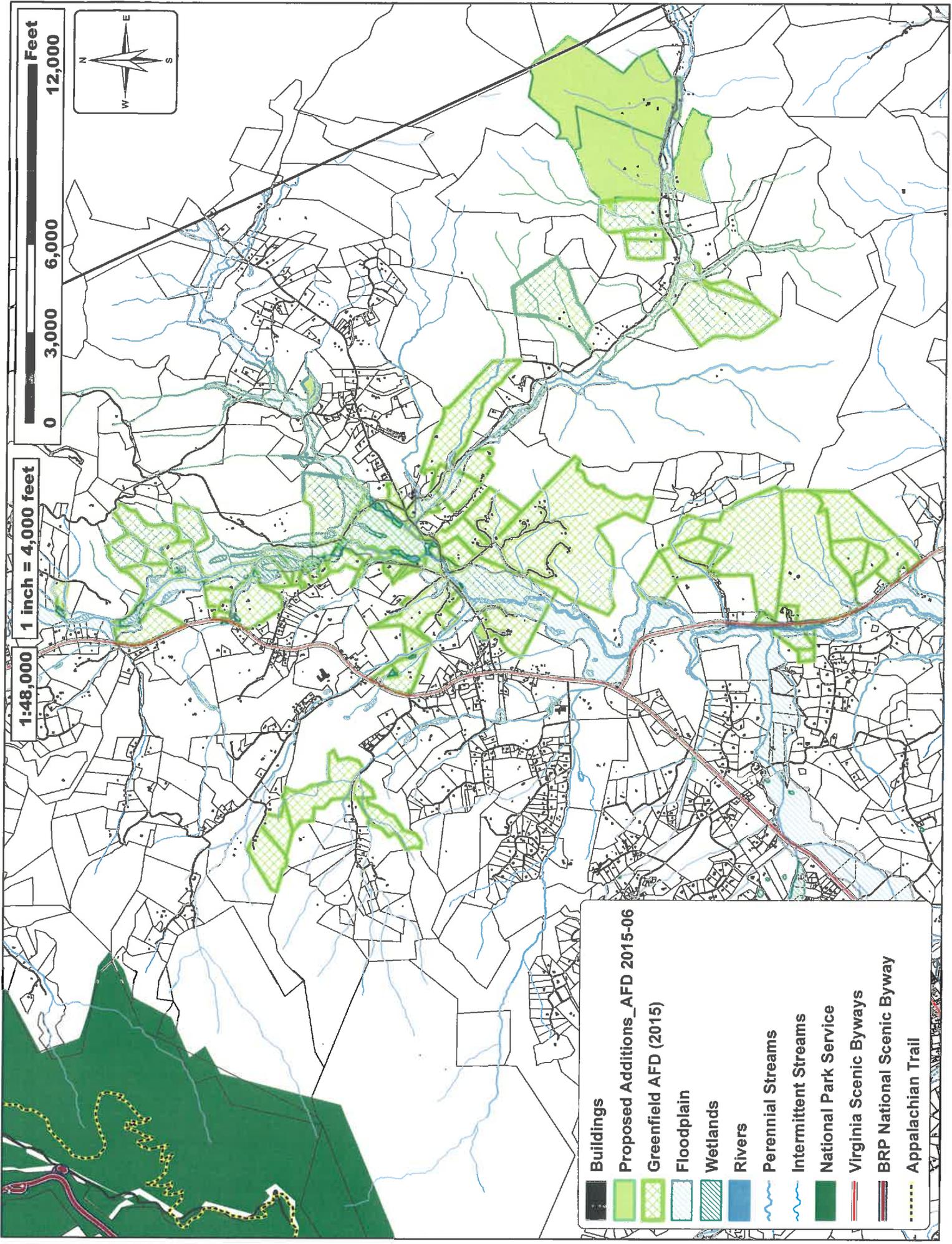
NAME	LEGAL ADDRESS	SIGNATURE	WITNESS	TOTAL ACREAGE	PARCEL NUMBERS
Erin Johnson Kim Grosner	265 Greenfield Road Afton, VA 22920		Joyce Bunt 5/18/15	3.83	12 A 113A
Paul Gifford Childs Amy Larson Childs	5596 Taylor Creek Road Afton, VA 22920	Paul Gifford Childs Amy Larson Childs	Joyce Bunt 5/18/15	162.07	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) Augeris
- 4) Nowner / Connolly
- 5) Johnson / Grosner

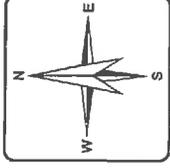


- 1) Childs
- 2) Prolix
- 3) Avgeris
- 4) Mowrer / Connolly
- 5) Johnson / Grosner



1:48,000  
1 inch = 4,000 feet

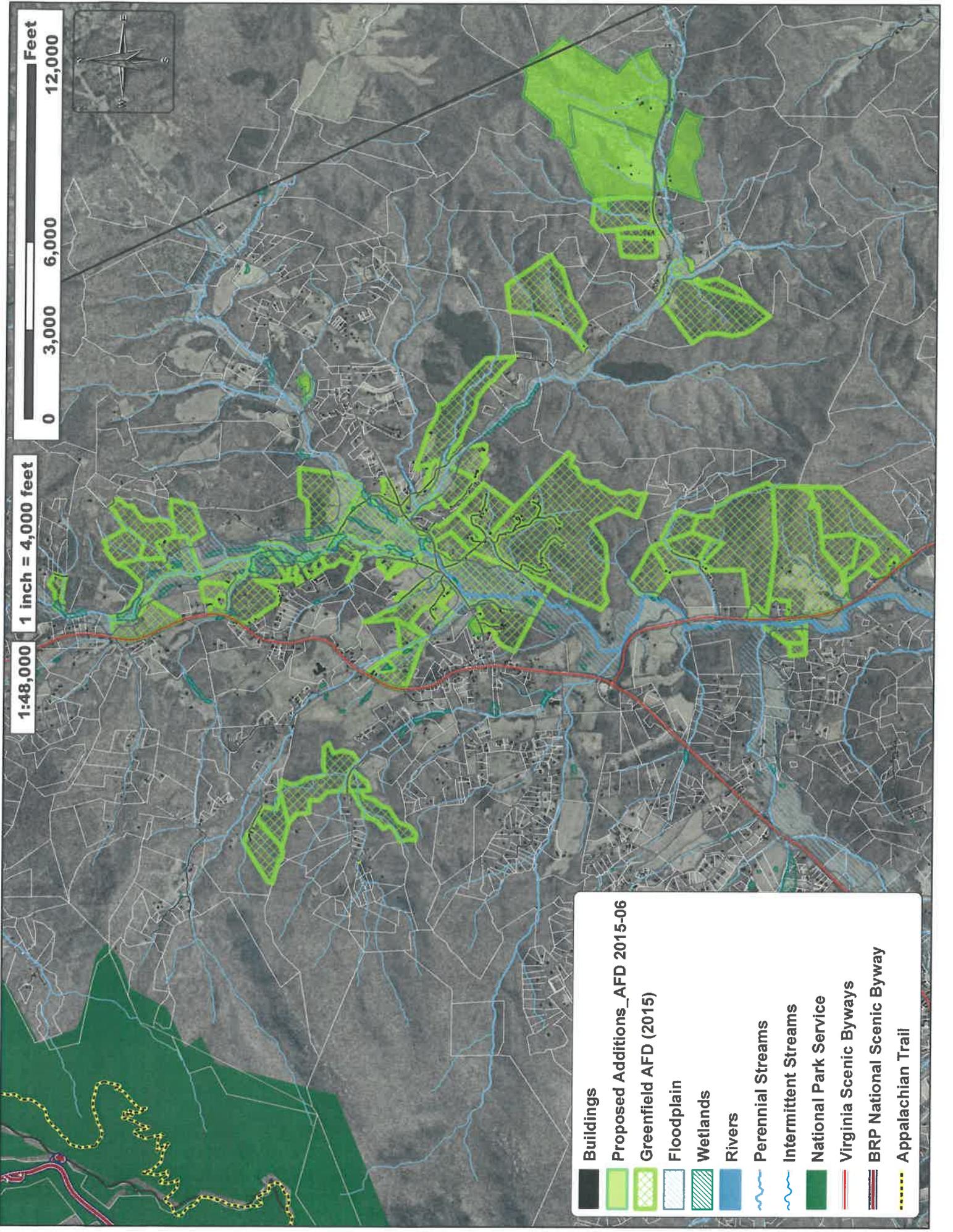
Feet  
0 3,000 6,000 12,000



-  Buildings
-  Proposed Additions\_AFD 2015-06
-  Greenfield AFD (2015)
-  Floodplain
-  Wetlands
-  Rivers
-  Perennial Streams
-  Intermittent Streams
-  National Park Service
-  Virginia Scenic Byways
-  BRP National Scenic Byway
-  Appalachian Trail

1:48,000 1 inch = 4,000 feet

Feet  
0 3,000 6,000 12,000



- Buildings
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- BRP National Scenic Byway
- Appalachian Trail

**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.