

NELSON COUNTY PLANNING COMMISSION
MEETING MINUTES
January 27, 2016

Present: Chair Philippa Proulx, Commissioners Mike Harman, Mary Kathryn Allen, Robert Goad and Tommy Bruguiere (Board of Supervisors Liaison)

Absent: Commissioner Linda Russell, and Stormy Hopkins, Secretary

Staff Present: Tim Padalino, Director of Planning & Zoning

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

Election of Officers: Chair Proulx asked for nominations of Chair. Commissioner Harman nominated Philippa Proulx to continue her role. Commissioner Allen provided the second and there being no further nominations, the vote 5-0. Chair Proulx asked for nominations for Vice Chair. Chair Proulx nominated Mike Harman for the role. Commissioner Allen provided the second and there being no further nominations, the vote 5-0. Chair Proulx noted the Secretary for the Planning Commission was Tim Padalino.

Approval of Minutes – November 18, 2015 and December 16, 2015:

Commissioner Allen made a motion that the approval of the November 18th, 2015 and the December 16th, 2015 meeting minutes be held postponed until the February 2016 Planning Commission meeting. Commissioner Harman provided the second; the vote 5-0.

1. Special Use Permit #2015-18 - Quarry Gardens at Schuyler / “Banquet Hall” / Mr. Armand Thieblot

Mr. Padalino noted that on November 23rd, the Planning & Zoning Department received a Special Use Permit (SUP) application and Site Plan from Mr. Armand Thieblot (property owner) and Mr. Chris Sonne (Engineer who prepared the Minor Site Plan). This is for the review and approval of SUP #2015-18, which is requesting permission to conduct “banquet hall” operations pursuant to Zoning Ordinance (Z.O.) §4-1-4a. Specifically, the banquet hall would be operated within an existing structure and conducted throughout the grounds of the “Quarry Gardens at Schuyler”, which is a partially-implemented arboretum for native plant exhibits with walking paths that loop around former soapstone quarries. The Site Plan notes, “this facility shall serve as a public garden site as well as accommodating catered private functions.”

Mr. Padalino showed a slide that contained information regarding the subject property’s location, characteristics, and other information. He explained that the property is located in Schuyler (East District) on Salem Road, and is further identified as Tax Map Parcel #61-A-23, which is zoned Agricultural (A-1) with some General Floodplain overlay. The parcel contains approximately 440-acres, a large portion of which is held in a recently-recorded conservation easement. The application noted that a 40-acre parcel will be subdivided from the existing parcel.

He further noted that the requested application proposes renovations to the existing Quonset hut and its reuse as a space for educational exhibits, private events, and administrative facilities for a small number of staff. Mr. Padalino explained that the applicants emphasized that the requested use would be seasonal – it would not continuously operate year-round – and would have an estimated annual attendance of 1,000 visitors.

Mr. Padalino then explained that this application was made, in part, as an effort to resolve non-compliance with the Z.O. Specifically, some site preparations (clearing and grading) and some site improvements (parking areas

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and drainage facilities and a scenic overlook) began in 2015 without County review or approval. He further noted that he met with Mr. Thieblot in July and they discussed the permitting process, which led to this application.

Mr. Padalino noted that the Site Plan Review Committee met on December 9th and, he then provided a detailed summary of the review comments from that meeting (described in the Staff Report dated January 19, 2016 – see attached).

He concluded by providing his analysis of the four (4) evaluation criteria (Z.O. §12-3-2) that must be considered with all SUP applications. He then stated that the opinion of Staff is that the proposed use is appropriate and acceptable (details described in the Staff Report dated January 19, 2016 – see attached) and recommends approval of Special Use Permit #2015-18, subject to Health Department approval (details found in attached Staff Report), for the proposed operation of a banquet hall at the “Quarry Gardens at Schulyer.”

Armand and Bernice Thieblot: Mr. Thieblot addressed the issue of the traffic survey and noted that he had indeed commissioned a group of engineers to conduct a traffic survey. He also noted that, “although there is no speed limit sign going north on Salem Road, the speed limit sign going south on Salem Road is 25 mph going through Schulyer and there is no sign that says end of 25 mph speed, so that speed sign would seem to pertain all the way past the end of our quarries, up to the point where there is a 55 mph sign; that’s about two (2) miles down the road.” Mr. Thieblot showed various slides and presented extensive information on the property. He noted that due to the amount of debris, litter, and trash removed and the amount of soil and vegetation added back to the viewing platform area, it has been stabilized. He then noted that the Quonset hut would be the main facility; he is proposing to repurpose the structure to serve as an administration, classroom, and display building. He further noted that the building would host a maximum of about forty (40) people. He concluded by noting that there is a website for the site, which can be found at (<http://quarrygardensatschulyer.com>).

The Commissioners asked the following questions:

1. Would there be a charge for people coming to view the area? Mr. Thieblot stated that it will be a public garden and they would be charging admission. He noted that currently, they are set **us** up as a LLC and within the next month or so, they would make the transition to be set up as a private charitable foundation.
2. There was concern that quarries can be an attractive nuisance. Mr. Thieblot stated that there would be safety railings and plantings to prevent people from getting too close to the edges, and indicated that the project site would be gated and protected. He further noted that he understands that there are some quarries in the area which are nuisances, but theirs are sufficiently off the road (250 yards).
3. With the banquet hall being used as a classroom, do you envision people wanting to come and do a wedding on the outside of the property? Mr. Thieblot stated that he does and noted that there are two flat spaces; one of which is several years old, and one that was created last year. He noted that both are grassy stabilized areas.
4. How many people would use the flat areas? Mr. Thieblot indicated that he had no idea, and tents could be put up in that area to accommodate such a use. The Quonset hut would not be used during such temporary events, and portable toilets would be brought on site for those.
5. Has there been any contact from the person that has the house next to the property? Mr. Thieblot indicated that the house is a rental property and they have not had any contact with anyone, but doesn’t anticipate any conflicts created by the Quarry Gardens use.
6. Is there a plan to have a separate deed for the forty (40) acres? Mr. Thieblot noted that was correct. He noted that a plat has been prepared by Mr. Massie Saunders. The plat has not been filed because they are waiting on some resolution regarding the sanitary issue.

Mr. Thieblot concluded by stating the idea is to be open three (3) days a week; Friday, Saturday, and Sunday from April through November. It will not be open Monday through Thursday; nor at night; nor during the winter. He estimates about one thousand (1,000) guests per year with the amount of interest that has been expressed thus far.

Chair Proulx then opened the public hearing.

William (Buck) Whitehurst: Mr. Whitehurst indicated that he has lived in Schuyler for about sixteen (16) years. He noted that he is impressed by this proposed project, and welcomes the type of people this would bring to the area.

No further comments were given. Chair Proulx closed the public hearing.

Commissioner Harman noted that he personally feels that this is a great project and he's pleased that someone is doing something with this historic property. He believes this is something good for the County.

Commissioner Allen made the following motion:

I make a motion that the Planning Commission recommend to the BOS approval of SUP #2015-18 for property owner, Armand and Bernice Thieblot and applicant Chris Sonne, for property with a Tax Parcel Map #61-A-23, located on Salem Road in Schuyler. This motion is also an approval based on appropriate resolution of issues related to the safe and proper disposal of waste and appropriate resolution of issues related to a commercial entrance location and design by VDOT. We also make a recommendation for April through November to be months of operation. Commissioner Harman provided the second; the vote 5-0.

2. Zoning Ordinance Amendments: "Temporary Events, Festival Grounds, and Out-of-Door Accessory Uses":

Mr. Padalino noted that the PC has been working on the proposed amendments for several months; it was referred to them by the BOS; and provided an introduction and background regarding the proposed amendments. Specifically, he noted that this amendment process is being undertaken due to the fact that the existing provisions and regulations have become outdated and insufficient, and provided the following examples (details described in the Staff Report dated January 25, 2016 – see attached):

- Lack of distinction between which activities require Special Event Permits, and which do not;
- Lack of distinction among events of varying scale, duration, and frequency;
- Lack of specific evaluation criteria to guide the County's decision-making process during the review and approval/denial of Special Events Permit applications; and
- Lack of comprehensive provisions and regulations.

He then noted that County staff arrived at the conclusion that the appropriate long-term solution would be to amend the Z.O. with updated and improved provisions. He stated that a successful text amendment process would:

- benefit County staff by establishing a clean and consistent review process;
- benefit event promoters and members of the public by establishing a permitted process that is clearer, more straightforward, and more transparent; and

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- benefit local businesses by establishing a large variety of activities that are exempt from permit requirements.

Mr. Padalino then provided a summary of the review process (details described in the Staff Report dated January 25, 2016 – see attached). He pointed out that Special Events Permits will be redefined as “Temporary Event Permits,” in order to avoid confusion with “Special Use Permits” and to emphasize that “Temporary Event Permits” are primarily meant to be temporary activities and not permanent land uses. He indicated that three (3) categories of events would be established. He also noted that these amendments would help clarify when permits are needed (or not); help ensure that the County is not over-regulating; help identify numerous types of events that would specifically be exempted from any Temporary Event Permit requirements; and would help provide for more appropriate regulations and permitting processes.

He further noted that the proposed amendments would be a new Article within the Z.O., which would replace §4-11-3 (Article 4 – Agricultural District). He then proceeded to provide a detailed summary of the most recent version of the (modified) referred amendments and noted that the proposed new Article 24 would also affect some of the existing sections of the Z.O. (details described in the Staff Report dated January 25, 2016 – see attached).

Chair Proulx then opened the public hearing.

George Hodson: Mr. Hodson stated that he is the General Manager at Veritas Vineyards and Winery, as well as the President of Nelson 151. He noted that, “we, as our family business but also as an organization (Nelson 151), are strongly in favor of good strategic planning in Nelson County.” He believes it is, “vitaly important for the County and our businesses that we protect the character of Nelson County and preserve the reasons we established our businesses here; we are in favor of planning.” He noted that he has several concerns regarding the draft and the language in it. He then noted that, “we’ve consulted with a number of people and this is a part of a much bigger discussion that is going on statewide, and not just in Nelson County, but across the entire state, with land use and things of that nature. We feel the current document is a little overreaching and could have several unintended consequences going down the road.” He further noted that, “In the context of the fact that we have had a Rockfish Valley Area Plan commissioned by the BOS to create a strategic plan for zoning and planning for at least the Rockfish Valley area (the northern end of the County), we think that perhaps this language is a little bit premature. Ultimately, for the business (Veritas) but also for Nelson 151, we would ask that we wait for the results of the Rockfish Valley Area Plan before we make any big changes to this process, because we would like it to be strategically aligned, and for this document to be consistent with the long-term plan for the County and the land use in the County. We would also request that a working group be created to develop a document that is consistent; that is well thought out; and that won’t have unintended consequences.” He concluded by stating that he doesn’t want to go through the amendments line-by-line to point out areas of cause. He believes that those are the kinds of things that an affective working group can do to create something that is good for the business and the County.

Dave Frey: Mr. Frey stated that he is with the Lockn’ Festival. He is very happy to be in Nelson County and appreciates all the attributes that are here, noting it’s a great place to start their festival. He noted that they are looking into conducting other events; and that they’ve become property owners (purchasing the 387-acres Loving property) to augment Oak Ridge, which would make the events more safe. He further noted that they have made a lot of investments in permanent infrastructure to make it a better experience as well as a more efficient operation. He indicated that he agrees with Mr. Hodson, and stated that, “If there is a way to bring in some of the businesses that this would affect or perhaps impact the most, so that we could have a little bit of input into this, we might have some good ideas to share. We welcome clarity.” He noted that he wants to know what the rules are because

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with the way it has been done in the past, it's been vague and somewhat outdated. He then noted that, "it would be really great if there was a way that maybe we could get together with the other businesses that this would impact and have some input into it. One thing that I was going to mention is that other states (just for events of our size) have something called a Mass Gathering Permit. The Mass Gathering Permit, they have it in California and Illinois, and I've talked to Tim about this but I know the amount of work that we create for the Department of Health is completely overwhelming to them. They have Charlottesville, they've got Lovingson, they've got Lynchburg, people from Roanoke that are trying to go through the oversight of this – and we don't want to create that type of burden on them every time we do an event, where they have to go to Richmond to get the campground waiver permit and do all these things like that. A Mass Gathering Permit has all those things defined in it – and as long as the event is compliant with what the Mass Gathering Permit says, then it can go ahead in that matter. Now that's a state legislative thing. So that's something that we've been talking to people in Richmond about and wanted to share that with you. I think it's good for everyone to communicate as well as possible." He concluded by saying he appreciates the work that is being done on this; believes it needs to be done; and welcomes the opportunity to help participate.

With no further comments, Chair Proulx closed the public hearing.

Mr. Bruguere suggested setting up a working group ~~The Commissioners discussed and decided that a working group would be formed~~ to include Mr. Bruguere himself, Ms. Maureen Kelley, a Planning Commissioner, Mr. Padalino and some of the business owners that this would affect to work out some of the issues/problems. Mr. Padalino suggested the PC finish their process with a recommendation to the BOS. At that point, the BOS could establish a working group if they choose to do so. The timeline and process was also discussed regarding the PC's referral. Mr. Padalino noted that March 4th would be the deadline so that a recommendation to the BOS would need to be made at the next PC meeting (under the current 100-day deadline). It was suggested that interested parties could email Mr. Padalino questions/concerns/suggestions and hold a work session before the next PC meeting. A tentative work session date was suggested for Wednesday, February 10th.

Other Agenda Items:

1. Minor Site Plan #2016-01: "Barefoot Bucha Farm Brewery" / Limited Farm Brewery – Ethan & Kate Zuckerman:

Mr. Padalino noted the subject property's location, characteristics, and other information. He explained that the subject property is located on Creek Road in the Greenfield area of Afton; is identified as Tax Map Parcel #12-10-1; is zoned Agricultural (A-1); and consists of 2.52-acres. It is an undeveloped site generally located behind and below Ashley's Market (on the opposite side of Creek Road). He noted that the Zuckermans' currently operate Barefoot Bucha in the same part of the County, and wish to relocate and expand their brewery. Specifically, the applicants are seeking Site Plan approval pursuant to the "Farm Brewery" provision in the Zoning Ordinance (Z.O.). The applicants do not own the property; however, the current owner, Mr. Morris Foster has provided a written and signed letter declaring his authorization of this application (dated December 16, 2015 – see attached).

Mr. Padalino noted that the applicants have submitted this Minor Site Plan in connection with a proposed use, (permitted by-right use in the Agricultural (A-1) District), for a "Limited Farm Brewery" pursuant to Z.O. §4-1-29. However, he noted that in order to be eligible for this by-right limited farm brewery use, the operation requires the on-site farming of agricultural (ag) products used in the brewing process. He then noted that Tax Map Parcel #12-10-1 does not currently contain an ag operation involving the cultivation of ag products used in the manufacture of the brewed beverage (kombucha). He further noted that he has discussed this important issue with Mr. Zuckerman

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and the applicant has provided a detailed explanation of Barefoot Bucha's proposed ag operations in his project narrative (dated January 4th – see attached). Mr. Padalino proceeded to summarize the narrative that was provided. He then stated he believes that the seasonality and ownership are extenuating circumstances which presently prevent the establishment of on-site ag operations; and that these circumstances require careful consideration. He also believes that the applicants understand the Z.O. requirements and are genuinely intending to properly resolve those issues by establishing on-site ag operations at the earliest possible timeframe (pending zoning approvals/transfer of land). Therefore, it is his opinion that the requested use be considered eligible subject to the applicants implementing the terms and details contained on the Site Plan and contained in the January 4th project narrative document. He concluded by noting if the Minor Site Plan is approved for this use, and if for any reason the ag operations on-site are not established in the timeframe specified by the applicants or in connection with details shown on the Site Plan, the property could be considered in violation of Z.O. §13-2.

Mr. Padalino noted that the Site Plan Review Committee did not meet to review this Site Plan. However, written comments were received from the Review Committee members, and Mr. Padalino read those review comments (details described in the Staff Report dated January 19, 2016 – see attached).

Mr. Padalino noted that Mr. Jeff Kessler (VDOT) wrote to provide an update regarding the low-volume commercial entrance, "I do not foresee any issues at this time that would prevent VDOT's approval." Mr. Padalino further noted that the applicants have requested a waiver (letter dated December 15th – see attached) from the requirement to improve or upgrade the existing farm road to meet the County's private road standards. He noted that the 2014 state statute which established these farm breweries as by-right ag land uses explicitly allowed localities to exempt (at their own discretion) certain Site Plan requirements, including private road standards and parking standards.

Mr. Padalino then explained that Mrs. Alyson Sappington (Thomas Jefferson Soil & Water Conservation District) noted that an approved Erosion & Sediment Control Plan (E&S) will be required prior to breaking ground for this particular project; but he then noted that an E&S Control plan is not a required element of the County's Minor Site Plan checklist, and that can be submitted, reviewed, and approved after review of the Minor Site Plan but before obtaining a Land Disturbing Activity Permit or beginning any construction.

Mr. Padalino then noted that Mr. Tom Eick (Nelson County Health Department) provided comments on January 12th, which state, "The Zuckerman's plans to divide their sanitary and process wastewater flows to different treatment and disposal areas is in accordance with VDH guidance. This office has not reviewed the OSE design for the sanitary drain field and well location yet, but will do so as soon as it is submitted." He also noted that the "process waste water flow will probably be handled under an EPA Injection Well Permit."

Mr. Padalino concluded by recommending that the proposed use (as detailed on this Minor Site Plan and throughout the application materials and project narratives) is acceptable subject to the appropriate resolution of the following:

1. Issues relating to safe and proper disposal of sanitary waste as regulated by the Health Department;
2. Issues relating to safe and proper disposal of process water, which is regulated by DEQ and/or US EPA;
3. Issues relating to the commercial entrance location and design (may not apply at this design phase) regulated by VDOT; and
4. The establishment of on-site farming operations at the earliest possible timeframe and as specified on the Site Plan and as detailed on the project narrative (dated January 4th).

The following questions were asked by the Commissioners:

1. Are the private road standards for subdivisions? Mr. Padalino noted that was correct but they are also a part of the Site Plan requirement Article 13-7: Required Improvements.

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2. Do they have a year to satisfy VDOT's requirements for the entrance? Mr. Padalino indicated that he believes the applicants are looking at an indefinite approval for a low-volume commercial entrance.
3. Is there going to be any retail at this site? Mr. Zuckerman noted that they are wanting to expand into a new facility and to be able to grow a lot of the products that they want to use as ingredients in their product. The potential site is a great location to do this. They are growing all organic products, which has to be certified by an inspector.

Commissioner Harman made the following motion:

I make a motion that the Planning Commission approve Minor Site Plan #2016-01 located on Creek Road in the Greenfield area of Afton; Tax Map Parcel #12-10-1. Also, the Planning Commission recommends approval of the request for waiver of the private road standards. Commissioner Allen provided a second; the vote 5-0.

2. Referral of amendments from BOS – Bed and Breakfast Uses – R2015-66:

Mr. Padalino noted that this is a continued review from the BOS referral. He provided a brief summary of the process as well as commentary on the most recent version of the modified referred amendments (details described in the Staff Report dated January 19, 2016 – see attached).

The following questions/comments were posed by the Commissioners:

1. Are Site Plans required for a Bed & Breakfast? Mr. Padalino noted a Site Plan would be required in connection with a SUP if it were a new construction with more than five (5) bedrooms.
2. Are campgrounds only permitted by SUP in Agricultural (A-1)? Mr. Padalino noted that was correct.

Commissioner Harman made the following motion:

I make a motion that the Planning Commission recommend approval to the BOS of the December 28th, 2015 draft for Zoning Ordinance Amendments to Bed and Breakfast Uses and Transient Lodging (BOS Resolution R2015-66). Commissioner Allen provided the second; the vote 5-0.

3. Referral of amendments from BOS – Article 10 (General Floodplain District FP):

Mr. Padalino noted that this is a referral from the BOS. He noted that the PC was provided a copy of the Staff Report (dated January 19 – see attached); a copy of the original Staff Report that was addressed to the BOS (dated October 8, 2015 – see attached) which summarizes the original amendments; and the “audit” that was completed by Mr. Charles Kline at the Virginia Department of Conservation and Recreation (DCR). He then noted that in the proposed text amendments, there is not an extensive amount of content but there is a relatively significant increase in regulation. He also noted that the largest amount of proposed new content was Section 24 (“Administration”) (page 79), and was added in response to DCR comments that such a section must be included in order to meet the Model Ordinance requirements.

Chair Proulx asked what the motivation behind these proposed amendments was. Mr. Padalino indicated that it partially stemmed from increasing public interest in the issue of Floodplain Management, given the proposed gas transmission pipeline and the perceived impacts to natural resources and public safety; and in the context of that heightened interest, Mr. Steve Carter (County Administrator) contacted DCR in 2015 to perform an audit of the County's Floodplain Ordinance.

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4. Referral of amendments from BOS – Article 18 (Limited Industrial District M-1):

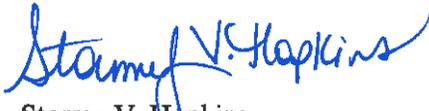
Mr. Padalino noted that this has to do with whether a new use should be introduced in the Limited Industrial District (M-1) which currently exists in the Industrial District (M-2). Specifically, the use in question is “Contractors’ equipment storage yard or plant, or rental of equipment commonly used by contractors.” He indicated (as stated in the Staff Report dated January 19th – see attached) this could be a use that lends itself to being more appropriate for the heavy industrial district (M-2), but stated that he also believes this could be a use that is appropriate in a limited industrial district (M-1) as well. Mr. Padalino recommended that it be made permissible as a Special Use in M-1. He then explained that the BOS referral to the PC requested that it be reviewed as a by-right use in M-1, but noted that he believes it should become a Special Use so that specific projects or properties can be reviewed for appropriateness on a case-by-case basis.

The Commissioners and Mr. Padalino briefly discussed the use and decided that the proposed amendments would be reviewed further at next month’s meeting.

Adjournment:

Commissioner Allen made a motion to adjourn; vote 5-0.

Respectfully submitted,



Stormy V. Hopkins
Secretary, Planning & Zoning



DEPARTMENT OF
PLANNING & ZONING

PLANNING COMMISSION
BOARD OF ZONING APPEALS

To: Chair and Members, Nelson County Planning Commission
From: Tim Padalino | Planning & Zoning Director
Date: January 19, 2016
Subject: **Public Hearing for Special Use Permit #2015-18**
(“Quarry Gardens at Schuyler” Banquet Hall / Mr. Armand Thieblot)

Summary of Application(s)	
<u>Site Address / Location:</u>	Salem Road / Schuyler / East District
<u>Tax Parcel(s):</u>	#61-A-23
<u>Parcel Size:</u>	439.8 acres (current); 40-acre “Quarry Gardens” parcel to be subdivided from existing parcel (per application)
<u>Zoning:</u>	Agricultural (A-1) with General Floodplain overlay (FP)
<u>Applicants:</u>	Mr. Armand Thieblot
<u>Request:</u>	Review and Approval of Special Use Permit #2015-18
<ul style="list-style-type: none"> ▪ <i>Completed Applications Received On: November 23rd, 2015</i> 	

On November 23rd, the Department of Planning & Zoning received a Special Use Permit (SUP) application and supporting materials from Mr. Armand Thieblot (property owner) and Mr. Chris Sonne (authorized agent for property owner). Specifically, the application materials include the following submittals:

- Special Use Permit request for SUP #2015-18, requesting permission to conduct “banquet hall” operations within an existing structure and throughout the grounds of the “Quarry Gardens at Schuyler,” a partially-built arboretum for native plant exhibits centered around former soapstone quarries. This banquet hall SUP request is made pursuant to Zoning Ordinance (Z.O.) §4-1-4a.
 - This requested SUP would allow for the renovation of an existing Quonset hut and its reuse as a space for educational exhibits, private events, and administrative facilities for a small number of staff.
 - The requested banquet hall use would be seasonal; it would not be continuously operated year-round.
- Minor Site Plan prepared by Mr. Chris Sonne, PE, LEED AP, which portrays the proposed configuration of all the site features, and which distinguishes the existing site features and improvements from the proposed (additional) improvements.

Subject Property Location and Characteristics:

The subject property is an approximately 440-acre parcel in Schuyler with frontage on Salem Road and also along the Rockfish River. It is further identified as Tax Map Parcel #61-A-23, which is zoned Agricultural (A-1) and which also contains General Floodplain overlay district (FP) in certain locations. *Please see maps on pages 7-10.*

The subject property is the site of an abandoned soapstone quarry and also a residential dwelling; as noted above, the property owner has declared the intent to formally divide a new 40-acre property for the "Quarry Gardens" (banquet hall and arboretum) out of the existing parcel of record. Currently, a large portion of the 440-acre parcel is held in conservation easement.

Review Process Overview:

- November 23rd – official submission
- December 9th – Site Plan Review Committee meeting
- January 27th – Planning Commission public hearing
- February 9th – Board of Supervisors public hearing

Site Plan Review Committee Comments:

The Site Plan Review Committee reviewed the Minor Site Plan for this SUP application on December 9th, which resulted in the following review comments being provided to County staff:

- VDOT: Mr. Jeff Kessler, Virginia Department of Transportation representative, provided written review comments on December 16th. Mr. Kessler's initial review comments include the following:
 - "Based on the size of the existing buildings (3,550 Sq. Ft.) and the proposed 20 parking spaces and one bus, an entrance design meeting VDOT's Moderate Volume Commercial Entrance requirements will be needed. The Engineer, Chris Sonne, P.E., has presented such an entrance design, which he will need to verify [the following]:
 - that it will accommodate the turning movements for a bus as the design vehicle [and]
 - the location of the entrance must meet the minimum sight distance requirements (both stopping and intersection) for the existing speed limit. In this case, a 55 mph design speed for an unposted (statutory) speed limit. The measured intersection sight distance provided on plan sheet C2 does not [meet] the minimum requirements for this design speed, and no stopping sight distance was provided. If the applicant feels the actual travel speeds at the entrance are less than 55 mph, a speed study that is signed and sealed by a Professional Engineer may be considered to justify a lower design speed."

Mr. Kessler also wrote that, as part of the site plan review which follows, he will provide more detailed comments regarding the design of the commercial entrance, VDOT Plan Notes, and VDOT's signature block and disclaimer. Please come prepared to engage the property owner and applicant with your comments and questions about this important commercial entrance issue during the review and hearing on January 27th.

- **Nelson County Building Official:** Mr. David Thompson provided written review comments on December 9th. Because this project has already been partially constructed (including site preparation and grading as well as construction of some site features), Mr. Thompson noted the following requirements:
 - “A Nelson County Land Disturbing Activity Permit application and permit issuance is required prior to development.”
 - “An erosion and sediment control plan shall be filed for a development and the buildings constructed within, regardless of the phasing of construction.”

And because this project involves the proposed reuse of an existing structure, inclusive of what the Building Official deems a “change in use,” Mr. Thompson noted the following:

- “Nelson County Building permits are required to authorize construction and a change of use for facilities, structures, and buildings regulated by the Uniform Statewide Building Code (USBC), unless specifically exempted.”
 - “Existing agricultural buildings – No change of occupancy shall be made in any structure when the current USBC requires a greater degree of accessibility, structural strength, fire protection, means of egress, ventilation, or sanitation.
 - “A certificate of occupancy from the Nelson County Inspections Department is required for a use other than agricultural.”
- **TJSWCD:** Mrs. Alyson Sappington of the Thomas Jefferson Soil & Water Conservation District noted in writing on December 4th that a full Erosion & Sediment Control Plan is required. She also provided the following details:
 - The E&SC Plan must include documentation of the total disturbed area (including previous areas of site disturbance as well as proposed / requested future areas of site disturbance). If the total disturbed area is over 1 acre, the applicants will need to apply for a Virginia Stormwater Management Program Permit.
 - *Note: On December 7th, the applicant stated in writing that the total area of disturbance does not exceed the one acre threshold, and as such the project is not subject to VSMP regulations.*
 - Because the construction of this project was started prior to obtaining County approval, Mrs. Sappington noted that “the E&SC controls are probably irrelevant at this point,” but also emphasized that “the stormwater computations for both E&SC & VSMP will need to include all previously disturbed areas.”
 - **VDH:** Mr. Tom Eick of the Nelson County Health Department attended the meeting and has since been in communication with the co-applicants. His main points of discussion/review were the provision of drinking water (the applicants stated their intention to provide bottled water in lieu of installing and permitting a public well) and the proper disposal of waste.

Regarding the latter issue, the applicants wish to install a permanent structure next to the existing building containing two bathrooms (one handicap accessible) which would be pumped out periodically. The applicant and property owner state that the site is entirely unsuitable for private septic systems: the entire site contains no sufficient soils, as the former quarry has only bedrock

under the surface. Therefore, the co-applicants and VDH continue to coordinate on this proposed alternative solution for waste disposal. Please come prepared to engage the property owner and applicant with your comments and questions about this important waste disposal issue during the review and hearing on January 27th.

Staff Evaluation:

Per Zoning Ordinance Article 12, Section 3-2, there are four criteria which must be evaluated when reviewing all requests for Special Use Permits. The following list includes the SUP review criteria and corresponding review comments from County staff:

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.

The immediate area is quite rural with numerous dwellings located along Salem Road, and with large sections of undeveloped land or very low-density rural residential areas in most directions. The subject property is in the vicinity of Schuyler, which historically has included a highly concentrated mix of land uses including industrial, commercial, and residential uses.

The project site is sufficiently remote, and set back far enough from the roadway, so as to not alter the visual character or pattern of development in the area. The only possible change would be an intermittent (and seasonal) increase in traffic patterns, which would likely be noticeable but not major. It does not appear that the proposed use would produce unacceptable changes to the area.

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.

The proposed use (banquet hall) would be located on a very large property which includes the property owner's dwelling. Additionally, the requested use would be not be in continuous operation – it would be conducted seasonally (early spring – late autumn).

Please note there is one dwelling (1527 Salem Road, T.M. Parcel #62-A-24C, Phillips) located in relatively close proximity to the project site (approximately 400 feet between dwelling and parking lot area). However, it is not known if this dwelling is currently occupied, or (if so) what the occupant and/or owner think about this requested use. It is also not well understood if the existing dwelling would be subject to any undesirable changes or perceived nuisances associated with the operation of the proposed banquet hall, or if site-specific details (such as existing landform, vegetation, and/or site plan configuration) are such that the impacts would be negligible or non-existent.

In consideration of these details, and in consideration of the fact that the Agricultural (A-1) District provides for a large variety of by-right uses, it does not appear that the proposed use would be unharmonious with neighboring properties or adversely affect neighboring properties.

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.*

As noted above, the Health Department's review and final position on the proposed bathroom facility is critically important. Although this type of facility is not commonly proposed or approved, the site-specific conditions (former quarry; extensive bedrock; absence of soils) merit careful consideration. Please also note that such a facility currently exists in Nelson County, at Wintergreen Adaptive Sport. Ultimately, it is the opinion of staff that, if the Health Department has completed their review and is comfortable with approving the installation and operation of this proposed bathroom facility, then it can be considered reasonable and acceptable given the property's attributes.

Additionally, as noted above, VDOT's initial review comments indicate that the proposed commercial entrance is not acceptable without further analysis and documentation and/or modification of the proposed entrance design (location). Currently, it is unclear if the applicants have conducted a speed study for that portion of Salem Road, or if they have proposed a modified location for the commercial entrance. Ultimately, it is the opinion of staff that the proposed use is acceptable, if the applicants continue their coordination with VDOT and modify the site plan such that VDOT completes their review and recommends approval of the site plan.

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 proposed use would include the reuse of abandoned quarries, as well as the adaptive reuse of an existing industrial storage structure. The proposed use would in fact preserve and highlight historic features (the soapstone quarries) which are of central importance to the Schuyler's heritage and history. Additionally, the proposed use would include sustainable land management practices, most notably the extensive installation of native plant communities for ecological, recreational, and educational benefits.

Staff Recommendation(s):

The opinion of Staff is that the requested Special Use Permit, as detailed in the application materials for SUP #2015-18, seems to be acceptable relative to all four evaluation criteria (above) – conditional upon the following:

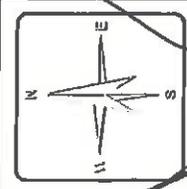
- appropriate resolution of issues related to safe and proper disposal of waste, which is an issue most directly managed by the Department of Health; and
- appropriate resolution of issues related to commercial entrance location and design, which is an issue most directly managed by VDOT and typically resolved during final site plan process

Therefore, conditional upon VDH review and recommendations (approval) of the installation and operation of the proposed waste disposal facility, I recommend that the Planning Commission recommend to the Board of Supervisors approval of SUP #2015-18 for "Quarry Gardens at Schuyler" Banquet Hall.

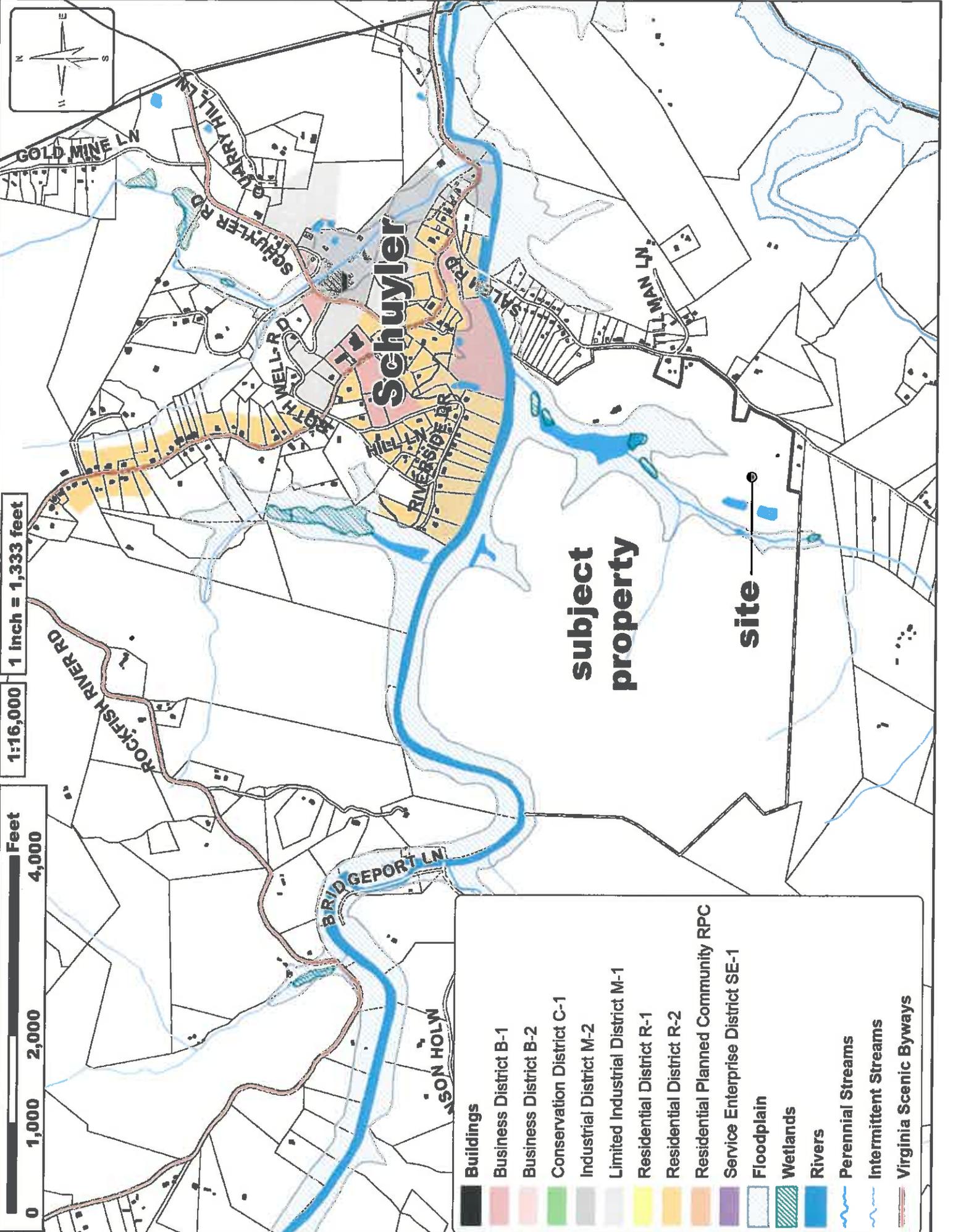
Please note that, if the applicants eventually obtain SUP approval from the BOS, the issue of the commercial entrance would still need to be resolved and approved by VDOT for site plan approval (which is required before the applicants can obtain approvals from Building Inspections, including a change in Use Permit and Certificate of Occupancy).

In conclusion, please contact me with any questions, concerns, or requests for assistance leading up to the January 27th Planning Commission public hearing for Special Use Permit #2015-18. Thank you very much for your time and attention to this application.





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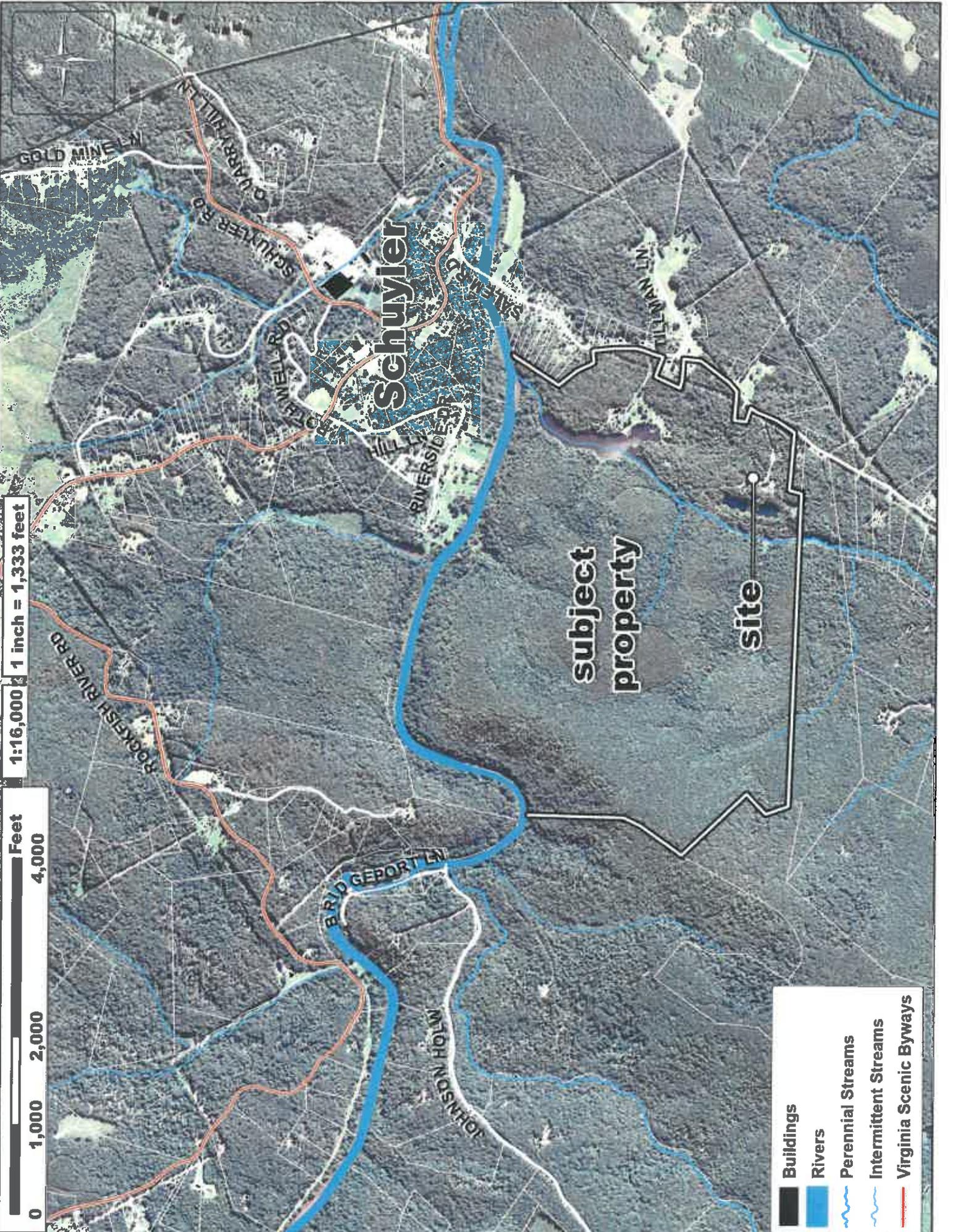


Schuyler

subject property

site

	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



Schuyler

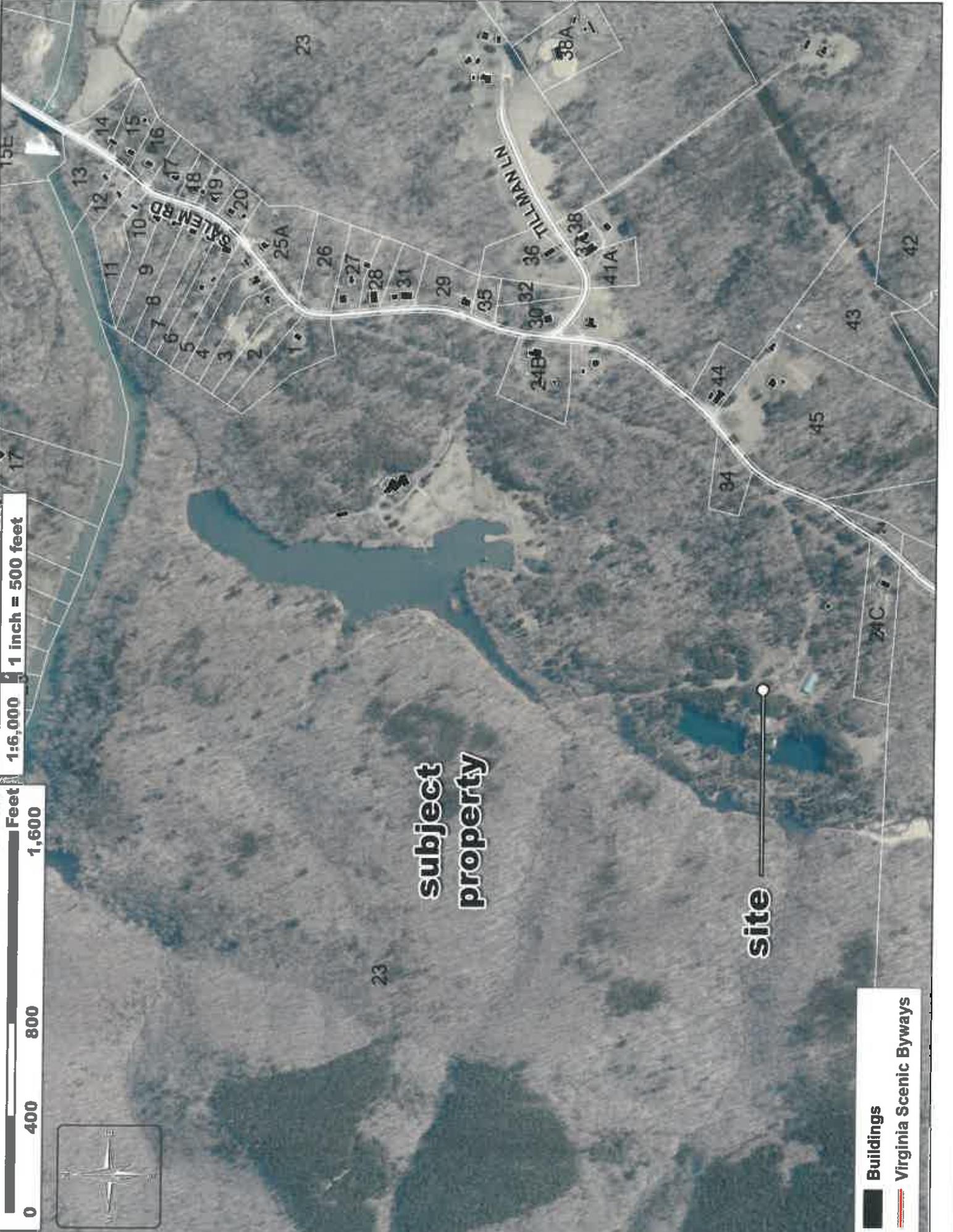
**subject
property**

site

1:16,000 1 inch = 1,333 feet

0 1,000 2,000 4,000 Feet

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



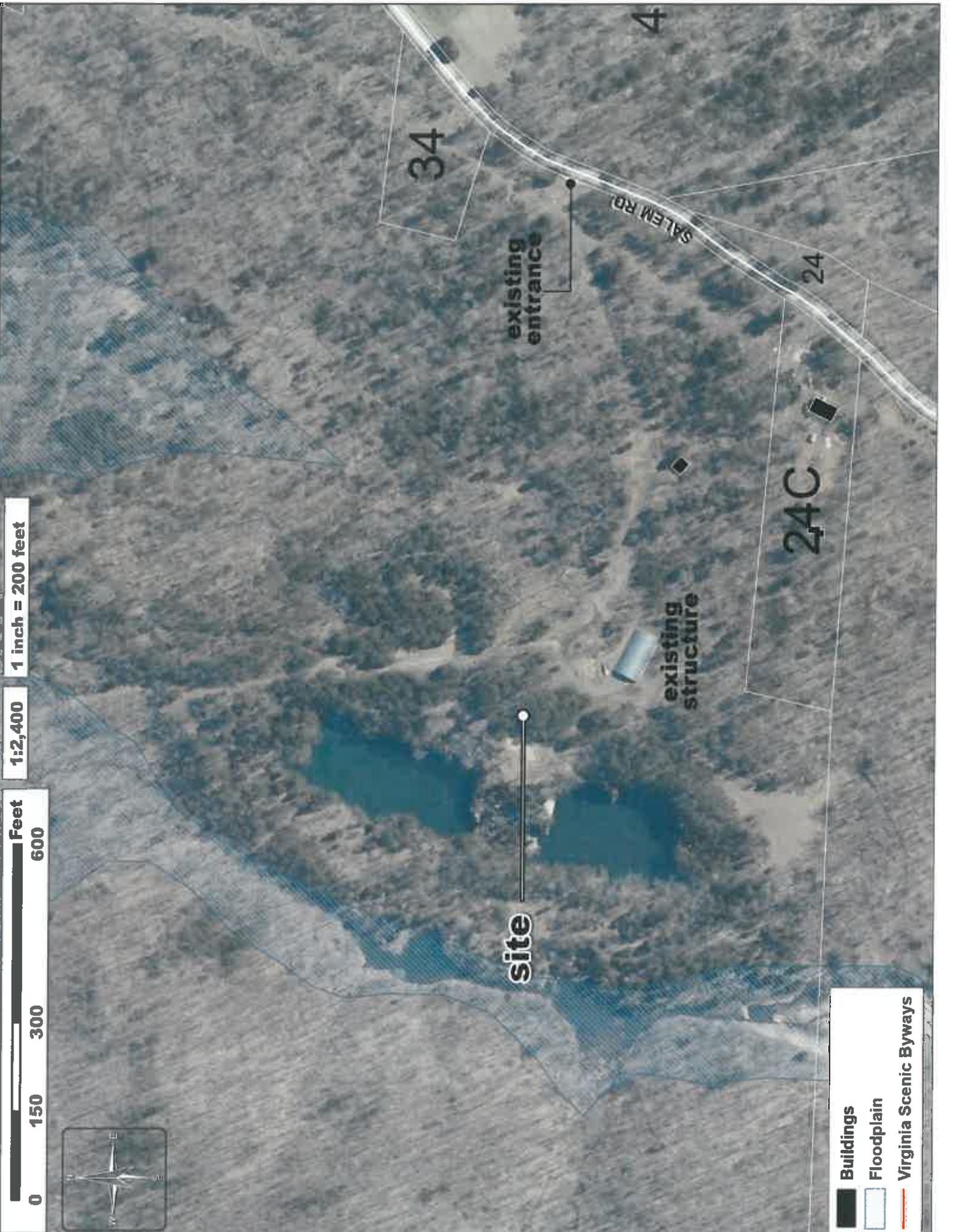
1:6,000 1 inch = 500 feet

0 400 800 1,600 Feet

subject property

site

Buildings
Virginia Scenic Byways



site

existing entrance

existing structure

- Buildings
- Floodplain
- Virginia Scenic Byways



To: Chair and Members, Nelson County Planning Commission
From: Tim Padalino | Planning & Zoning Director
Date: January 25, 2016
Subject: **Public Hearing for Referred Zoning Ordinance Amendments –
“Temporary Events, Festival Grounds, and Out-of-Door Accessory Uses”
(BOS Resolution R2015-68)**

Issue Introduction:

Given the recent successes and ongoing growth in the special events, tourism, and agritourism industries in Nelson County, the existing Zoning Ordinance provisions and regulations for “special events” have become outdated and insufficient. For example:

- *Lack of distinction between which activities 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.
- *Lack of distinction among events of varying scale, duration, and frequency:*
The ordinance makes no distinction between small events (such as a brief daytime parade down Front Street in Lovingston) and major events (such as Lockn’ Festival or other multi-day mass gatherings). Currently, the same application procedures and same \$25 application fee apply to all events.
- *Lack of 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.
- *Lack of comprehensive provisions and regulations:*
The ordinance currently only contemplates a proposed special event in isolation, and does not account for multiple-date or repeat events or for how a venue or property should be regulated (especially if the special events, which are temporary, propose to include permanent improvements such as roads, utilities, structures, etc.).

Such limitations and omissions result in County staff regularly spending a significant amount of time and effort attempting to handle every inquiry, request, and application on a case-by-case basis *while also* attempting to be as fair, consistent, and accurate as possible. While this approach has worked reasonably well in recent years, it is far from perfect and it requires more time and effort of County staff than should be necessary.

Therefore, County staff believe the appropriate long-term solution is to amend the Zoning Ordinance with updated and improved provisions and regulations. A successful text amendment process would:

- benefit County staff by establishing a clear and consistent review process;
- benefit event promoters and members of the public by establishing a permitting process that is clearer, more straightforward, and more transparent; and
- benefit local businesses by establishing a large variety of activities that are exempt from permit requirements

After conferring on this matter multiple times over the course of 2014 and 2015, County staff determined that the Planning Commission (PC) and Board of Supervisors (BOS) should formally conduct a policy review of the existing provisions in the Zoning Ordinance in order to identify possible amendments. As such, (draft) text amendments were 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. The (draft) text amendments were then presented to the BOS in August of 2015, and the Board voted to refer the amendments to the PC for formal review and recommendations.

Please see below for a summary of this text amendment review process to date, as well as a summary of the actual content of the proposed text amendments. The actual text amendments, which include modifications proposed by the PC since receiving the referral from the BOS, are enclosed.

Summary of Review Process:

August 11, 2015: BOS refers amendments to PC via BOS Resolution R2015-68

August 26: PC formally receives referred amendments and begins review

September 23: PC continues review and discusses various possible modifications

October 28: PC continues review and requests three (3) month extension from BOS for continued review(s) prior to making recommendation to BOS

November 12: BOS grants requested three (3) month extension

November 18: PC continues review inclusive of additional proposed modifications

December 16: PC continues review inclusive of additional proposed modifications and directs staff to advertise for a public hearing at the next PC meeting

January 27, 2016: PC conducts public hearing and continues review

Brief Summary of Most Recent Version of (Modified) Referred Amendments:

The enclosed Word document (dated December 17, 2015 and showing “track changes” format) contains the most recent version of the referred amendments, inclusive of modifications requested by the PC. These amendments would substantially modify the way events are regulated, such as:

- To help clarify when permits are needed (or not), these amendments identify numerous different types of events that would be specifically exempted from Temporary Event Permit requirements.
- *See proposed §24-2-A “Exempt Events.”*
- To provide for more appropriate regulations and permitting processes, three (3) categories of events would be established. The categorization of an event would be primarily determined by the number of attendees; and the different event categories would require different fee payment, application requirements, and permitting/review processes.
- *See proposed §24-2-B “Temporary Event, Category 1,” §24-2-C “Temporary Event, Category 2,” §24-2-E “Temporary Event, Category 3,” and §24-3, “Issuance of Temporary Event Permits.”*
- “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.

Detailed Summary of Most Recent Version of (Modified) Referred Amendments:

Statement of Intent: The proposed 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.

24-1. Creates definitions for Agritourism Activity; Festival Grounds; Out-of-Door, Accessory Use; Temporary Event; Temporary Event, Historical Property; Temporary Event, Non-Profit; and, Temporary Event, Social.

Please note that “Out-of-Door, Accessory Use” provides that, “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 later than 9:00 p.m. on Sundays through Thursdays or later than 10:00 p.m. on Fridays or Saturdays, and (iii) hosts less than 1,000 attendees at any one time during the activity. Unless otherwise specified in (ii), all 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.”

24-2. Requires a Temporary Event Permit for non-exempt Temporary Events defined in this subsection as either Category 1, 2, or 3.

24-2-A. Lists Temporary Events 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 and sporting events conducted on sites approved for such events
6. Political gatherings
7. Religious gatherings
8. Out-of-Door Accessory Uses
9. Farm winery and Agritourism activities conducted between the hours of 7:00 a.m. and 7:00 p.m.

24-2-B. Provides that a Category 1 Temporary Event is any 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) is a Non-Profit Temporary Event having or projecting more than 1,000 attendees, or, (iii) is a Farm winery or Agritourism activity conducted after 7:00 p.m. and having or projecting less than 1000 attendees. Please note that this provision for Category 1 Temporary Events contains limitations on duration and amplified sound.

24-2-C. Provides that a Category 2 Temporary Event is any 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. Please note that this provision for Category 2 Temporary Events contains limitations on duration and amplified sound.

24-2-D. Addresses structures used for either a Category 1 or Category 2 Temporary Event.

24-2-E. Provides that 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. This section also provides for automatic review of a Festival Grounds Special Use Permit by the Board of Supervisors every five (5) years, after which the Board may renew, revoke, or modify its terms and conditions. Please note that this provision for Category 3 Temporary Events contains limitations on duration and amplified sound.

24-2-F. Defines "applicant" (for the purposes of Article 24) to include the members of an applicant's immediate family or an affiliated business entity relationship and lists factors.

24-3-A and -B. Lists six factors to be considered by the Planning and Zoning Director when determining whether a Temporary Event Permit will be issued, and contains limitations the Director may impose.

24-3-C. Provides a chart listing the maximum number of non-exempt Temporary Events which may be conducted in a calendar year by property category type. *(See enclosed amendments.)*

24-3-D. Authorizes the Planning and Zoning Director to issue a single Temporary Event Permit for more than one Temporary Event if, in the Director's determination, the proposed events are similar enough to be eligible for this consolidated permitting process.

24-3-E. Establishes Temporary Event Permit application requirements and fees.

Please also note: in addition to the proposed introduction of a new Article 24, the text amendments would also affect (modify) the following existing sections of the Zoning Ordinance:

Article 4. Agricultural District (A-1)

Remove the following:

4-11 Administrative Approvals:

- 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 in connection with a Festival Grounds Special Use Permit

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 in connection with a Festival Grounds Special Use Permit

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 in connection with a Festival Grounds Special Use Permit

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

- Festival Grounds

Article 8B. Service Enterprise District (SE-1)

Add the following:

8B-1 – Uses – Permitted by right:

- Category 1 Temporary Event
- Category 2 Temporary Event

Conclusion:

In conclusion, please contact me with any questions, concerns, or requests for assistance leading up to the January 27th Planning Commission public hearing and review of these proposed amendments. Thank you very much for your time and attention to this important subject.

**Timothy M. Padalino
Director- Planning & Zoning
County of Nelson
P.O. Box 558
Lovingsston , Va. 22949**

Dec. 16, 2015

Dear Tim,

This is to advise that W. Morris Foster and James M. Rodgers III are the present owners of Tax Map 12 - 10- Parcels 1 and 2 and Ethan J. Zuckerman and Kate Zuckerman are the contract purchasers of these two parcels .

The undersigned owners hereby give authorization for the Zuckermans to submit a site plan to the County of Nelson for their proposed use of these parcels . It is our understanding their proposed use of the property is under the Use by Right of the Nelson County Zoning Ordinance .

Please advise if you need any further authorization from us for the Zuckermans to proceed with their Site Plan submittal.

Sincerely,



W. Morris Foster

Authorization to submit Site Plan



W. Morris Foster



James M. Rodgers III

12-16-2015
Date

12-16-15
Date

Kate & Ethan Zuckerman
615 Paul's Creek Rd.
Afton, VA 22920

January 4th, 2016

Tim Padalino,
Director of Planning and Zoning
Nelson County Planning and Zoning Department
80 Front Street
Lovingsston, VA 22949

Dear Mr. Padalino,

We are writing in regards to our recent Minor Site Plan application for a Limited Farm Brewery in Afton, VA. Our proposed project consists of a perennial berry farm from which we will utilize the berry juice as flavor infusions in our non-alcoholic kombucha tea. As soon as we receive Site Plan approval and are able to purchase the property we have under contract on Creek Road, we will begin cultivating blueberry bushes, which will provide us with one of our main infusion ingredients, blueberry juice.

Provided that our minor site plan application is approved in January, our farm trajectory is as follows:

- Purchase property- January 2016
- Building Permit approval- February 2016
- Initial groundwork infrastructure- March 2016
 - Driveway, foundation, etc.
- Soil preparation- March 2016
- Organic Certification Inspection- March 2016
- Berry plantings - April 2016
 - 1 gallon pots, mixed varieties - some fruit Summer 2016
 - 3 gallon pots, mixed varieties - significant fruit Summer 2016
- Initial berry harvest - June 2016
 - Press blueberries and freeze juice
- Subsequent berry harvests - July through August 2016
 - Press blueberries and freeze juice
- Receive Certificate of Occupancy - August 2016
- Move current brewery - November 2016
- Begin production at new brewing facility - November 2016
 - Flavors include Bluegrass Bucha, which will now be made with juice pressed from certified organic blueberries grown on the Creek Rd property
- Additional berry plantings (blackberries, raspberries) - Spring 2017

We are sincerely inspired by the opportunity this new property will afford us to grow some of our own ingredients. Our commitment to a low carbon footprint makes locally-sourced ingredients a natural step for us. Although we will begin with

blueberries, we plan to add additional berries in subsequent years. We also plan to experiment with growing other ingredients, such as tea, ginger, and hops.

Thank you for your assistance and consideration.

Best regards,

A handwritten signature in black ink, appearing to read "Kate & Ethan Zuckerman". The signature is stylized and includes a long horizontal flourish extending to the right.

Kate & Ethan Zuckerman



To: Chair and Members, Nelson County Planning Commission
From: Tim Padalino | Planning & Zoning Director
Date: January 19, 2016
Subject: **Review of Minor Site Plan #2016-01**
(“Barefoot Bucha” Farm Brewery / Mr. Ethan Zuckerman)

Summary of Application(s)	
Site Address / Location:	Creek Road / Greenfield area of Afton / North District
Tax Parcel(s):	#12-10-1
Parcel Size:	2.52 acres
Zoning:	Agricultural (A-1)
Applicants:	Mr. Ethan & Mrs. Kate Zuckerman
Request:	Review and Approval of Minor Site Plan #2016-01
<ul style="list-style-type: none"> ▪ <i>Completed Applications Received On: January 4, 2016</i> 	

On January 4th, the Department of Planning & Zoning received a Minor Site Plan application and supporting materials from Mr. Ethan Zuckerman and Mrs. Kate Zuckerman (applicants and owners of Barefoot Bucha). The Zuckermans wish to relocate and expend their existing Nelson County brewery, and are seeking Site Plan approval to do so at an undeveloped property in Greenfield. The applicants’ submittals include the following:

- Minor Site Plan application form
- Project narrative – dated January 4th
- Authorization letter from property owner (Mr. Morris Foster) – dated December 16th, 2015
- Minor Site Plan prepared by Mr. Steven L. Key, LS, which portrays the proposed configuration of proposed site features including agricultural operations, limited farm brewery structure, new entrance(s) and road(s), and parking / turnaround area.

Subject Property Location and Characteristics:

The subject property is an approximately 2.5-acre parcel in Greenfield with frontage on Creek Road. It is further identified as Tax Map Parcel #12-10-1, which is zoned Agricultural (A-1). It is currently an undeveloped site generally located behind and below Ashley’s Market (on the opposite side of Creek Road), and in the vicinity of several dwellings on properties zoned A-1. *Please see the enclosed map.*

As indicated above, the applicants do not currently own the subject property. Please note that the current property owner has provided a written and signed letter declaring his authorization of this application (dated December 16, 2015). Please also note that it is the understanding of staff that both parcel #12-10-1 and adjoining parcel #12-10-2 (2.68 acres) will be utilized as part of the limited farm brewery operation (for a total 5.2-acre operation), if the site plan is approved and if the land transfer is completed.

Summary of Proposed Use(s):

The applicants have submitted this Minor Site Plan in connection with a Use – permitted by-right in the Agricultural (A-1) District. Specifically, the proposed use is pursuant to Zoning Ordinance 4-1-29, “Limited Farm Brewery,” which is defined as follows:

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 and the 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. **O2014-06 / O2015-06**

However, please note that the limited farm brewery use requires the on-site farming of ag products used in the brewing process. More specifically, please note that Tax Map Parcel #12-10-1 does not currently contain an agricultural operation involving the production of agricultural products used in the manufacture of the brewed beverage (kombucha). By definition, it is essential that agricultural products used by the brewery in the manufacture of its brewed beverages are grown on the farm.

I have discussed this very important issue with the applicant, and Mr. Zuckerman has provided detailed explanations of Barefoot Bucha’s proposed ag operations in his project narrative (dated January 4th; see enclosure).

To summarize, the narrative explains that that the agricultural operations cannot currently be established due to this being the winter season and due to inherent limitations associated with not yet transferring the ownership of the property. The narrative also explains in detail how the establishment of an agricultural operation will be a primary priority beginning in March if/when the Site Plan is approved and if/when they obtain title to the land. Mr. Zuckerman also pointed out the inclusion on the Minor Site Plan of areas dedicated to agricultural operations and (specifically) the growing of products to be used in the production of their kombucha.

Site Plan Review Committee Comments:

The Site Plan Review Committee did not meet in January. However, the following review comments have been provided to County staff at the time of this staff report:

- **VDOT:** Mr. Jeff Kessler, Virginia Department of Transportation representative, provided written review comments on January 11th. Mr. Kessler’s initial review comments include the following:

- Mr. Kessler noted he has been working with the applicants on this proposed project (at this particular location) since May 2015.
- A low-volume commercial entrance (as proposed for the initial phase of limited farm brewery operations) may be acceptable. Mr. Kessler noted he is continuing to work with the applicants to reach final determination on the eligibility of the entrance for low-volume classification, and to make final determination on the resulting entrance design requirements.
- While the proposed entrance location is acceptable with regards to stopping sight distance requirements, the intersection sight distance to the right or west would not be acceptable, if it were applicable (as it would be for a regular volume commercial entrance). Therefore, Mr. Kessler recommended the applicants consider trimming or removing the vegetation along Creek Road in order to maximize the visibility of vehicles approaching from the western end of Creek Road.

Please also note that the applicant has discussed with staff the possible phasing of the entrance, whereas the existing entrance would continue to be used (inclusive of any improvements required to meet VDOT entrance requirements), and whereas a new entrance would be designed and installed in the future if the limited farm brewery were to expand or seek permission for additional uses.

- **Nelson County Building Official:** Mr. David Thompson provided written review comments on January 13th. Mr. Thompson noted the following requirements:
 - Fee payment for the Erosion & Sediment Control Plan is required prior to plan review by TJSWCD. (Please note the Minor Site Plan includes E&SC Plan information.)
 - A Nelson County Land Disturbing Activity Permit application and permit issuance is required prior to development.
 - A Nelson County Building Permit is required unless a structure is specifically exempted.
- **TJSWCD:** Mrs. Alyson Sappington of the Thomas Jefferson Soil & Water Conservation District has not provided review comments. At the time of this staff report, David Thompson's review comments indicate that Mrs. Sappington will complete her plan review and provide comments after the County processes the remaining fee payment. Please also note that, due to the total disturbed area equaling approximately 36,000 SF, VSMP Permit coverage will not be required from DEQ.
- **VDH:** Mr. Tom Eick of the Nelson County Health Department has not provided written review comments at the time of this staff report. The applicant stated on January 19th that he has been coordinating this project with Mr. Eick and his colleague at VDH Mr. Josh Kirtley; and that Mr. Roger Nelson and Mr. Chris Sonne (PE, LEED AP) are consulting Mr. Zuckerman on the project.

The applicant further explained that the overall strategy is to establish two separate waste systems: conventional waste would be treated through an on-site private septic system with a conventional drainfield, to be regulated by the Health Department; and brewery process water would also be treated on-site through an entirely separate system, to be regulated by the Environmental Protection Agency (EPA) and Virginia Department of Environmental Quality (DEQ). Mr. Zuckerman explained that Mr. Eick has expressed satisfaction with the proposed waste disposal; staff will provide further confirmation at the January 27th PC meeting.

In conclusion, please contact me with any questions, concerns, or requests for assistance leading up to the January 27th Planning Commission review of Minor Site Plan #2016-01. Thank you very much for your time and attention to this application.

Kate & Ethan Zuckerman
615 Paul's Creek Rd.
Afton, VA 22920

December 15, 2015

Tim Padalino,
Director of Planning and Zoning
Nelson County Planning and Zoning Department
80 Front Street
Lovingson, VA 22949

Dear Mr. Padalino,

The purpose of this letter is to request a waiver from a required element of our Minor Site Plan. We are requesting that the County's "private road standards" be waived and that we be permitted to construct a farm road in its place.

The basic reason for this request is our extremely low projected traffic volume. Our entrance has been designed to meet VDOT's standards for a "Low Volume Commercial Entrance", which takes into account a maximum number of 50 vehicle trips permitted per day. Our projections, however, include approximately 4 employee cars on any given day and approximately 3-4 delivery vehicle trips per week. We are including 8 employee parking spots in our site plan to give ourselves room to grow.

Other reasons for our waiver request include a desire to minimally impact the land on which we are putting the driveway and a desire to utilize the infrastructure of an existing road. A very large amount of grading and fill would be necessary to meet the County's "private road standards" which, in our case, are excessive. By utilizing the existing partial driveway and constructing a farm road, the environmental impact of the initial construction is greatly lessened.

We believe that constructing a farm road will not have an adverse affect on:

- the public health, safety, welfare, and convenience;
- the planning for and provision of adequate public facilities, utilities, drainage, environmental controls, and transportation facilities;
- preservation of agricultural, forestry and conservation lands; and
- other relevant considerations related to the Comprehensive Plan.

Please let us know of any questions you may have. We greatly appreciate your time and consideration in this matter.

Sincerely,


Kate & Ethan Zuckerman