



## NELSON COUNTY PLANNING COMMISSION

Meeting Agenda: April 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 Meeting Minutes from February 25<sup>th</sup> and March 25<sup>th</sup> meeting

– **Public Hearing Items:**

○ **Consideration of Proposed Amendments to Zoning and Subdivision Ordinances:**

- The proposed amendments reflect the County’s decision to have the Virginia Department of Environmental Quality (DEQ) administer the Local Stormwater Management Program, inclusive of DEQ being the recipient of and approving authority of local stormwater management plans. Additionally, in accordance with state law, “stormwater management BMPs/facilities” have been added within the Zoning Ordinance and Subdivision Ordinance as: requirements of preliminary and final subdivision plats, requirements for subdivision proposals, design criteria for utilities and facilities, requirements of Major Site Plans, and required improvements.

– **Other Agenda Items:**

- Minor Site Plan #2015-04 – Taylor Smack / Blue Mountain Brewery (Tax Map #4-A-60)
- Wayside Stand Permit #2014-001 – Mr. William Karnes (Tax Map #12-A-109) – *continued from November 19, 2014.*

– **Other Business:**

- Review staff report regarding possible Zoning Ordinance Amendments pertaining to “Off-Farm Sales” (Wayside Stands and Farmers Markets)
- Other (as determined by Planning Commission members / as applicable)

– **Adjournment**

– **Next Meeting:** May 27, 2015 | 7:00pm

**NELSON COUNTY PLANNING COMMISSION  
MEETING MINUTES  
February 25, 2015**

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

**Absent:** Commissioner Mary Kathryn Allen ~~and Larry Saunders (Board of Supervisors Liaison)~~

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

**Call to Order:** Chair Proulx called the meeting to order at 7:05 P. M. in the General District Courtroom, County Courthouse, Lovingston.

**Approval of Minutes – December 17, 2014 and January 28, 2015:** Chair Proulx asked if there were any further changes to the December 17, 2014 draft minutes; none noted.

**Commissioner Harman made a motion ~~to approve~~ that the December 17, 2014 minutes be approved; the vote 5-0.**

Chair Proulx asked if there were any further changes to the revised January 28, 2015 minutes; none noted.

**Commissioner Harman made a motion ~~to approve~~ that the January 28, 2015 minutes be approved as amended; the vote 5-0.**

**1. Review of proposed Zoning Ordinance amendments re: “Artist Community”**

~~Mr. Padalino stated this process, which began back in 2014, involves a proposed amendment to the Zoning Ordinance to provide for a new type of land use that is currently not provided for. Specifically, the proposed amendment would create a new land use and definition for “Artist Community” as a permissible use in the Agricultural (A-1) District. As proposed, a Special Use Permit (SUP) would be required to conduct the “Artist Community” land use.~~

Mr. Padalino stated the proposed amendment would create a definition for “Artist Community” as a permissible use in the Agricultural (A-1) District. As proposed, a Special Use Permit (SUP) would be required. ~~to conduct the “Artist Community” land use.~~

Mr. Padalino provided a brief overview of the process to date. At the November PC meeting, Mr. Greg Smith, Executive Director for the Virginia Center for the Creative Arts (VCCA) presented a request to consider the possibly of initiating this amendment. At the December PC meeting, draft recommendations for a possible amendment were reviewed. Then at the January PC meeting, those discussions continued and the PC directed that this public hearing be conducted. ~~Those preparations have all be completed~~ in accordance with the Code of Virginia requirements and the Legal Notice was advertised in the Nelson County Times on February 12<sup>th</sup> and 19<sup>th</sup>.

~~Mr. Padalino asked if Chair Proulx would like the definitions read aloud from the Staff Report. Chair Proulx indicated that she would. Mr. Padalino proceeded to read the three (3) proposed Article 2 Definitions; as well as the proposed provisions to Article 4: Agricultural Districts (A-1).~~

Mr. Padalino read the three (3) proposed Article 2 Definitions; as well as the proposed provisions to Article 4: Agricultural Districts (A-1).

Chair Proulx opened the public hearing at 7:10 p.m. for comments.

Mr. Greg Smith, Executive Director of the Virginia Center for Creative Arts (VCCA): ~~Mr. Smith indicated that he initiated this request some months ago and has since been working with County staff.~~ Since there is no provision in the current Ordinance, Mr. Smith initiated this request some months ago and has been working with County staff. He indicated that the proposed language is in keeping with how VCCA operates. He noted that VCCA is currently located in Amherst County, on property owned by Sweet Briar College (SBC) and has been there for forty-four (44) years. Mr. Smith noted that SBC is currently rethinking that agreement, which is the reason for VCCA to seek other alternatives. He noted that he has been talking with one Nelson County property owner about acquiring that property. ~~However, a Special Use Permit (SUP) could not be submitted because there is no such provision in the current Ordinance. He indicated that there are no other counties that have provisions in their codes for an organization like the VCCA.~~ Mr. Smith brought shared a book of photographs of how the VCCA currently looks and shared that with the Commissioners. He stated that when most people come to visit VCCA they feel as though they are on a farm. VCCA occupies an old dairy farm and use the renovated barn as the studio building. He noted that unfortunately, the mansion that was on the property burned during the acquisition of the property, and a new residence hall had to be constructed. The zoning of the property in Amherst County is Agricultural District (A-1).

Chair Proulx closed the public hearing at 7:14 p.m.

Commissioner Russell commented that she grew up in an area that had an artist community, and she wholly supports this and hopes VCCA comes to the County in the near future.

**Commissioner Russell made a motion that the Planning Commissioner recommend to the Board of Supervisors approval of an addition to the Zoning Ordinance with reference to “Artist Community” as defined in the public hearing notice that was in the Nelson County paper and is further defined in the Staff Report, dated February 4, 2015. Commissioner Harman provided the second; the vote 5-0.**

#### Other Agenda Items:

##### 1. Major Site Plan #2015-01 – David Hughes:

Mr. Padalino noted that County Staff received a complete application in January from Mr. David Hughes, son-in-law of Mr. Delmond B. Hall III, who is the designated trustee for the property owners. The applicant seeks approval for Major Site Plan #2015-01 for the proposed construction of a third new dwelling unit on one parcel/lot. Mr. Padalino noted that this site plan is somewhat atypical relative to most major site plans. Virtually all others seek permission to construct commercial or industrial facilities; but this application seeks permission to construct a private residential dwelling, which happens to be the third dwelling on one parcel. He also noted that most major site plans are for properties located in areas of high visibility and high traffic areas; whereas this subject property is an located in a very isolated and large parcel, beyond the end of state road maintenance. The Zoning Ordinance does require a major site plan ~~be required for this type of situation, according to Article 4 (Agricultural District) and Article 13 (Site Plan) regulations.~~

Mr. Padalino noted that the subject property is located in the West District near Love Gap, on Chicken Hollow Lane. It is a 323-acre property zoned Agricultural (A-1), and is further identified as Tax Map Parcel #17-A-44. The site plan depicts a proposed new dwelling with a footprint of approximately 1,300 sq. ft. plus additional decks and porches. It is not clear if the dwelling would be a one-story building or multiple floors. The proposed dwelling site is already served by necessary utilities, including a Health Department-approved well and septic system. Mr. Padalino noted that power has already been brought onto the property and a meter has been installed.

Mr. Padalino noted that the Site Plan Review Committee did not meet on February 11<sup>th</sup> but comments were submitted via email. The committee members' comments are as follows:

- Mr. Jeff Kessler of Virginia Department of Transportation (VDOT) stated in an email dated February 10<sup>th</sup> as follows: “We foresee no significant impacts to the state road, Route 684 (Chicken Hollow Lane). As

this property is served by the existing extension of the roadway beyond End of State Maintenance of Route 684, a VDOT Land Use Permit is not required.”

- Ms. Alyson Sappington of the Thomas Jefferson Soil & Water Conservation District, provides review of the Erosion & Sediment Control Plan (E&S), wrote comments on February 5<sup>th</sup> as follows: “It appears that the proposed land disturbance for the Delmond B. Hall property is less than 10,000 sq. ft., and therefore would not need an E&SC plan.”
- Mr. Tom Eick of the Health Department noted the following: On September 1<sup>st</sup>, the Virginia Department of Health (VDH) issued an “OSE Construction Permit” authorizing the installation of a sewage disposal system and a private well. That permit was then supplemented by an “Inspection Report and Completion Statement” submitted to the Health Department by a licensed private Onsite Soil Evaluator, certifying that the sewage disposal system was properly installed and completed in accordance with the previously issued VDH permit.

~~Mr. Padalino noted that there does not seem to be any unresolved issues, questions, or concerns from the Site Plan Review Committee members.~~ Mr. Padalino noted that there are no unresolved concerns expressed by the Site Plan Review Committee. With consideration of the requested residential use, the Major Site Plan application appears to be acceptable relative to the Site Plan requirements in Article 13.

Mr. Massie Saunders, Engineer of the Major Site Plan: Mr. Saunders stated that he and the applicant are there to answer any questions ~~that the PC may have from the PC.~~ ~~He noted that he believes this is more of a formality than anything.~~

**Commissioner Russell made a motion that the Planning Commission approve Major Site Plan #2015-01 for David Hughes on property on Chicken Hollow Lane, Tax Map #17-A-44. The Site Plan consists of three (3) pages, dated January 30, 2015, submitted by Massie Saunders. Commissioner Harman provided the second; the vote 5-0.**

## **2. Report and recommendations from Agricultural and Forestal District (AFD) Advisory Committee:**

- **Two Applications for addition(s) to Existing Davis Creek AFD**
- **Application for addition(s) to Dutch Creek AFD**
- **Application for the creation of new Greenfield AFD**

Mr. Padalino stated that the PC accepted four (4) applications at the previous meeting and sent them to the AFD Advisory Committee. The Committee met on February 12<sup>th</sup>. He noted that Mr. Andy Wright is here to report on ~~their~~ its actions.

Mr. Andy Wright, Chairman of the AFD Advisory Committee: Mr. Wright stated that the AFD Committee met on February 12<sup>th</sup> to consider the applications that ~~the PC had referred to them~~ were referred by the PC; as well as several additions [modifications] to those existing applications. He noted that draft minutes of the Advisory Committee meeting are being reviewed, and will be provide to the PC as soon as they are approved. Mr. Wright noted that the Advisory Committee unanimously recommended that all the applications be approved for additions on the existing Dutch Creek and Davis Creek AFD’s; and for the creation of a new AFD centered around Greenfield.

Mr. Wright stated that the proposed additions ~~on~~ to the Dutch Creek AFD are 746 acres. Of those, 278 acres is the McSwain property that would be added to their existing AFD property; 403 acres is property of Mr. John Ed Purvis, who is a Nelsonian and lifelong farmer; 50 acres is the John and Jonna Clarkson property, who have hay and horse operations; and the latest is 15 acres is the property of Randy Green, who grows hops to sell to the local breweries.

Mr. Wright stated that there were two portions to the additions ~~on~~ to the Davis Creek AFD for a total of 228 acres. He stated that Mr. Bolton and landowners along Perry Lane propose to create an addition to the existing district; it

is mainly forested, some sheep are being raised, and there are six (6) families. The other 11 acres were proposed for addition by Mr. Andre Deredyn and another landowner closer to the original Davis Creek AFD area.

Mr. Wright stated that the proposed new Greenfield AFD contains 2,344 acres; which is an increase of 40 acres from the original application. In addition to the Shannon Farm community, there are 37 more families. This includes a wide variety of activities such as timber, cattle and horse farms, organic gardens and nurseries. ~~Mr. Wright noted that something important about this district is that it is on both sides of the Rockfish River. He also noted that this is very important contribution to the entire welfare of the Rockfish River Watershed because it is up next to the headwaters.~~ Mr. Wright noted that this district which will be located on both sides of the Rockfish River makes a very important contribution to the entire welfare of the river's watershed because it is next to the headwaters.

Mr. Wright stated that ~~they~~ the Advisory Committee requests the PC advertise for public hearing at the March meeting or as soon thereafter as possible.

Commissioner Russell asked Mr. Wright if some of the districts that were approved had additional properties than what was submitted to the PC. Mr. Wright stated that was correct. Commissioner Russell also asked if Dutch Creek had 746 acres. Mr. Wright indicated that number included the 15 acres that was added by Mr. Green; and the numbers were given had been rounded up.

Commissioner Russell also noted that the PC didn't have any maps or data on the additional parcels that had been added. Mr. Padalino indicated that he had produced shapefiles and maps using the County's GIS system showing all the parcels. Supervisor Saunders commented that the PC should have had copies of the proposed additions or the updated maps included in their packets, and does not feel that ~~he is they are~~ prepared to make a motion. ~~Commissioner Russell noted that the County Code allows for additions to districts up until the BOS final approval. Commission Russell also stated that the action requested is PC approval to conduct a public hearing, at which time the PC will have updated information for these expanded [modified] districts.~~

~~Commissioner Russell made a motion recommending Staff advertise for a public hearing at which time evidence will be provided in the form of a video and copies of the added Districts of the expanded Districts. Commissioner Harman provided the second; the vote 4-1 in favor of the motion, with Supervisor Saunders voting against the motion.~~

**Commissioner Russell noted that the County Code allows for additions to districts up until the BOS final approval and that this action requested is only for PC approval to conduct a public hearing at which time the PC will have updated information for these expanded (modified) districts. She stated that this was the motion. Commission Harman seconded the motion; the vote 4-1 in favor with Supervisor Saunders voting against the motion.**

### **3. Policy Review: "Wayside Stand Permits"**

~~Mr. Padalino noted that he had a few recommendations for the Wayside Stand; which has been discussed by the PC at a number of meetings. He also has some recommendations to address the fact that there isn't currently any provision for a "Farmers Market" in the ordinance, but is a land use that currently takes place.~~

Continuing this discussion, Mr. Padalino had a few recommendation for a Wayside Stand policy as well as Farmers Markets.

Mr. Padalino stated that after talking about this numerous times and conferring with others, including Mr. Jeff Kessler at VDOT; he has come up with the following recommendations:

1. Separate Wayside Stand into two separate categories based on the VDOT functional classification code (VDOT FCC) of the road that it is located on. Mr. Padalino stated that for those that are on small roads

that have less traffic or safety concerns, a simplified permitting process could remain. For higher volume roads or higher profile roads, there would be more requirements.

- a. Wayside Stand Class A: roads with VDOT FCC of 115 or higher
  - b. Wayside Stand Class B: roads with VDOT FCC of 114 or lower (major roads such as Routes 6, 29, 56, 60, 151, and 250, as well as some secondary roads such as Beech Grove Road, Oak Ridge Road, Laurel Road, Schuyler Road and a few others)
2. Clarify and improve the procedures for how these permit applications should be reviewed.
- a. Wayside Stand Class A: ~~an administrative review process; which would include VDOT review and require VDOT's recommendation and approval.~~ Director of Planning & Zoning provides administrative review and approval process. Administrative review process must include VDOT review; and County approval requires VDOT's recommendation for approval.
  - b. Wayside Stand Class B: ~~review and approval process conducted by the PC; include VDOT review; and would require VDOT's recommendation for approval.~~ Planning Commission conducts review and approval process. Review process must include VDOT review; and County approval requires VDOT's recommendation for approval.
3. Specify what application materials should contain:
- Zoning Permit application
  - \$25.00 fee (remains unchanged)
  - Brief project narrative detailing the following:
    - Proposed frequency of wayside stand operation (# of hours per day? # of days per week? etc.)
    - Proposed duration of wayside stand operation (growing season? year-round? specific holidays or seasons? etc.)
    - Proposed location and type of wayside stand "structures" / facilities (including distance from property boundary and distance from public ROW)
    - Type(s) of items proposed for sale, including the source(s) of goods or products which must be owned or controlled by the seller
    - Description of the proposed signage
  - Scaled site plan drawing covering the following:
    - Wayside Stand (Class A) requires a scaled site plan drawing (covering a few basics)
    - Wayside Stand (Class B) requires a Minor Site Plan prepared in accordance with the normal Site Plan requirements.

Commissioner Russell asked if Minor Site Plans are required to show parking areas. She stated that she thinks it should be a part of the Class B requirement. ~~Mr. Padalino indicated that he too believes that should be included.~~ Mr. Padalino agreed.

Chair Proulx stated she wasn't sure if this type of permit could be treated the same way as a Special Use Permit (SUP); or whether it's more of a checklist type permit. She stated that she would like for the PC to have some sort of control over the Class B type permit. Mr. Padalino noted that currently all these permits are processed administratively, and the proposed policy would change that process for some permit applications. Mr. Padalino also stated that any approach involving SUP's would require a public hearing and would also allow for the BOS to make conditions if they see fit. Mr. Padalino stated that to accomplish those suggestions, a Wayside Stand Permit would be listed as a by-right use for a Class A, and Class B would ~~be listed in a separate SUP section~~ require an SUP.

Chair Proulx stated that she does not feel these types of permits need to go before the BOS. ~~She asked that Staff further review how this could be incorporated into the Ordinance. Mr. Padalino stated that he would like clarification in his thinking that the PC does not want these types of permits to go before the BOS. Chair Proulx stated that she does not think it's necessary and it would be,~~ making it easier for the farmer, and for the Supervisors.

Commissioner Russell asked if it's possible for Staff to administratively review the Class B with advice from the PC. Mr. Padalino stated that he does not know if Commissioner Russell's concern is accurate because all the recent legislation was related to on-farm sales; because these Wayside Stands are classified as off-farm sales, the perceived limitations on regulating this type of land use **is** are not entirely correct. Commissioner Harman noted that **they the State** didn't want the PC to make any arbitrary rules that would limit the use of these stands, unless it related to safety issues.

Commissioner Russell indicated that she would like to see the word(s) "off-farm" or "off-site" added to the Wayside Stand definition. She also noted that she is still concerned with the use of the word "structure" in the definition. Mr. Padalino noted that in his notes from last month's meeting, there were proposed changes to the definition: "any facility or site used for the off-farm sale of agricultural or horticultural produce, livestock, or merchandise that is produced by the owner or the owner's family on their farm or on an agricultural operation under their control." He noted that there seemed to be some confusion with the word "facility" but it was an alternative to using the word "structure."

Mr. Padalino stated that if someone could not meet the criteria for a Wayside Stand, they could alternately join a Farmer's Market. In regards to the review and approval process, he will look at the Class B classifications; and if times permits, he will discuss this with Mr. Payne at their meeting scheduled for later in the week.

Commissioner Goad stated that he recalls, at last month's meeting, Mr. Padalino had some concerns about reviewing and approving these types of permits administratively, and asked if he could go over those concerns. Mr. Padalino stated traffic and safety are a concern; and to some degree there isn't much distinction between some of the proposed uses and a retail store, which could result in changes in the land use patterns. He indicated that he is trying to broaden the review to include VDOT to look at the safety aspects, including concern about increased turning movements, entrances and access, parking, and overall safety.

~~Commission Harman raised the question relating to Commissioner Russell's concern with the word "structure", indicating that it was too broad; it could refer to a tent, a building, a permanent or non-permanent structure. Chair Proulx stated that it could be either. Commissioner Russell noted that if it were a "building", setback requirements don't allow those to be located in the front yard. Commissioner Harman stated his opinion that a wayside stand should be a non-permanent building.~~

Commissioner Harman suggested that the word "structure" was too broad; it could refer to a tent, a building, a permanent or non-permanent structure. Chair Proulx concurred. Commissioner Russell noted that if the definition used the word "building", setback requirements might not allow them to be located in the front yard.

Commissioner Goad asked if this works as suggested, could there be a situation where one could apply for a Wayside Stand Permit just off of a road such as Route 29 & Route 6, on a side road and VDOT would approve it because of its location. Mr. Padalino stated that it is possible, but he hopes that VDOT would be able to take that locational attribute into consideration as part of their evaluation. Commissioner Russell noted that she had previously read in an ordinance where a Wayside Stand could not be located within 500 ft. of an intersection. She suggested adding as a requirement the location of a Wayside Stand on any given road and its position in respect to intersections. Commissioner Harman stated that he thought VDOT would cover that issue. Mr. Padalino noted that VDOT may not be in position to cover that issue, since it would be the County deciding what class the proposed wayside stand would be before the permit application would ever be referred to VDOT.

Chair Proulx then asked Staff to provide a new draft amendment for Wayside Stand.

The Planning Commissioners suggested adding the following conditions/regulations: operate in daylight hours only; number and size of signs; and minimum parking requirements. Commissioner Russell also asked to incorporate "temporary" into the definition.

Supervisor Saunders asked how yard sales fit into all of this. He also stated that this seems to be making it difficult for the farmers.

Commissioner Goad stated his opinion that this review and approval can't be put on Mr. Padalino. He feels that the PC needs to make the regulations. He also indicated that leaving Class A as an administrative approval is fine but that the definition needs to be tightened; and Class B should come before the PC for a decision.

Chair Proulx suggested that the PC revisit the "Farmers Market" at the next meeting. She asked Staff to go ahead and draft an amendment for that as well. The Commissioners agreed.

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

Commissioner Russell stated that the PC received an email from the Zoning Director stating that Kim Page is withdrawing her request for a Special Use Permit on her property on Route 151. She noted that this raises the issue with Mr. Karnes and his Wayside Stand Permit. She asked Staff to contact Mr. Karnes to see if he wants to continue with his application. Mr. Padalino stated that Staff had reached out to Mr. Karnes and had not received an update, but would continue to try to reach out to him. Commissioner Russell stated that if Mr. Karnes does wish to withdraw the application that it be done in writing.

**Adjournment:**

At 8:23 P.M. Commissioner Harman motioned to adjourn.

Respectfully submitted,

Stormy V. Hopkins  
Secretary, Planning & Zoning

**NELSON COUNTY PLANNING COMMISSION**  
**MEETING MINUTES**  
March 25, 2015

**Present:** Chair Philippa Proulx, Commissioners Linda Russell, Mike Harman, Mary Kathryn Allen, Robert Goad and Larry Saunders (Board of Supervisors Liaison)

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

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

Chair Proulx stated there was one change in the agenda; noting that Major Site Plan #2015-02 for Mr. Michael Penny / Pennywell, LLC has been postponed at the applicant's request.

**Approval of Minutes – February 25, 2015:** Chair Proulx asked to postpone the approval of minutes until the next meeting; the Commission agreed.

1. Consideration of Applications to Expand Existing Davis Creek Agricultural and Forestal District
2. Consideration of Applications to Expand Existing Dutch Creek Agricultural and Forestal District
3. Consideration of Applications to Create New Greenfield Agricultural and Forestal District

Chair Proulx noted that the Planning Commission would be hearing public input on each of the AFD's on an individual basis.

Mr. Padalino stated that there are four (4) applications involving the county's AFD. He noted that three (3) of those are for proposed expansions to the Dutch Creek AFD and the Davis Creek AFD; and one (1) is for the proposed creation of a new Greenfield AFD. Mr. Padalino provided a brief overview of the process to date. He also provided brief background information on the "Purpose and Intent" of the AFD program. He noted that the Planning & Zoning Office has had several phone calls from adjoining property owners with concerns on how this would affect their property. Mr. Padalino provided information from the County Code that deals with those concerns.

Chair Proulx opened the public hearing for the Davis Creek AFD additions at 7:08 p.m. for comments; no comments were made. Chair Proulx closed the public hearing.

Chair Proulx opened the public hearing for the Dutch Creek AFD additions at 7:08 p.m. for comments; no comments were made. Chair Proulx closed the public hearing.

Chair Proulx opened the public hearing for the creation of the Greenfield AFD at 7:09 p.m. for comments.

Joyce Burton, Afton: Ms. Burton stated that the Rockfish Valley is a very special place. She noted that, "she is so proud of the dozens of neighbors all up and down more than a five (5) mile stretch of the Rockfish Valley; who also love this area; and who value its rural nature enough to be willing to voluntarily restrict the development on their land in order to preserve and protect the agricultural and forestal resources (clean air, water, and natural habitats) that sustain the things that make northern Nelson so special and precious. She also noted that, when Shannon Farm made the decision to start an AFD in the Greenfield area, they had no idea that so many of their neighbors would be interested in joining; would be interested in making such a clear statement about our vision for the future of this stretch of the Rockfish. She noted that they are proud to share the beauty of this area with the visitors that come down the 151 corridor, but at the same time they want to underscore the fact that what gives that corridor its scenic draw is the agri-forestal lands that surround it. Ms. Burton stated that as our County shapes

its vision for the Rockfish Valley, we hope that the presence of a vibrant and growing agricultural and forestal district will help keep this fact in the forefront of the planning process, especially as development pressure, residential, commercial, and yes, even industrial increases. Once built out, land cannot be reclaimed for agriculture, for forest, for habitat, for watershed protection, for air quality improvement, or for scenic values; just ask the folks in Madison Heights about that. She noted that one of the unexpected joys of coordinating this project has been the opportunity to get to know many neighbors that she had never spoken with before. Ms. Burton also shared her hope that the presence of the Greenfield AFD will not only to help strengthen the common conservation vision in the Rockfish Valley but also the sense of community and connection with one another. Ms. Burton concluded by asking the PC to lease support their efforts and vote to recommend the approval of the AFD.”

Chair Proulx asked for other comments on the Greenfield addition.

Andre Deredyn: Mr. Deredyn wanted to make sure the Planning Commissioner knew about the second Davis Creek addition. Chair Proulx acknowledged that the Planning Commission was aware of it.

Chair Proulx asked if there were any further comments; none were given; the public hearing was closed at 7:11 p.m.

Commissioner Russell indicated that she had a question regarding page 5 - number 7 -- item b of the Staff Report. She asked if that was a correct statement. Mr. Padalino stated that was excerpted from the County Code, taken from the Municode website. Chair Proulx indicated that she thought the public notice requirement was intended to be conducted prior to the public hearing; Commissioner Harman agreed. Commissioner Russell noted that if this is correct, it should be changed. Mr. Padalino noted that the AFD Advisory Committee has been working with County Administration and the Board of Supervisors (BOS) to introduce amendments to the County Code, and if there are procedural issues, those can be addressed during that process.

Commissioner Russell indicated that she does not have any issues with any of the applications. She also noted that she depends upon the AFD Advisory Committee judgement. Chair Proulx stated that the PC needs to make individual motions of recommendation.

**Commissioner Russell made a motion that the Planning Commission recommend approval of an additional 216.89 acres to the existing Davis Creek AFD, as shown on the map on page 7 of the 3-18-15 staff report. Commissioner Harman provided a second; the vote 5-1 with Supervisor Saunders abstaining.**

**Commissioner Russell made a motion that the Planning Commission recommend approval of an additional 11.4 acres to the existing Davis Creek AFD, as shown on the map on page 7 of the March 18, 2015 staff report. Commissioner Harman provided a second; the vote 5-1 with Supervisor Saunders abstaining.**

**Commissioner Russell made a motion that the Planning Commission recommend approval of an additional 746.74 acres to the Dutch Creek AFD, as shown on the map on page 8 of the March 18, 2015 staff report. Commissioner Harman provided a second; the vote 5-1 with Supervisor Saunders abstaining.**

**Commissioner Russell stated that the final application is for the creation of a new district. The AFD Advisory Committee has met, evaluated the creation of the new district, and recommends approval. The Planning Commission concurs with the committee findings and therefore, recommends approval of the new Greenfield AFD, consisting of 2,343.7 acres, as shown on the map on page 9 of the March 18, 2015 staff report. Commissioner Allen provided a second; the vote 5-1 with Supervisor Saunders abstaining.**

**Other Agenda Items:**

**1. Minor Site Plan #2015-03 – Living Word Christian Fellowship:**

Mr. Padalino stated that Mr. Scott Collins, Trustee of the Living Word Christian Fellowship, submitted an application on February 26<sup>th</sup>. This application seeks approval to construct a 5,000 SF church, which is a permissible by-right use pursuant to Article 4-1-4 of the Zoning Ordinance. The subject property is located in Piney River, in the West District. It is a 33.74-acre property zoned almost entirely Agricultural (A-1), with a very small portion of the property being zoned Residential (R-2). It is further identified as Tax Map Parcel #64-5-5. Mr. Padalino also noted that the property is currently undeveloped, and is primarily characterized as an open field that has recently been logged and replanted with pines. Mr. Padalino also noted that Mr. Massie Saunders of Saunders' Surveys prepared a Minor Site Plan, dated January 21<sup>st</sup>. He indicated that the Site Plan included in the PC packets is dated March 16<sup>th</sup> and includes significant revisions.

Mr. Padalino noted that the applicant has submitted a preliminary building plan, which would include a 2,000 SF auditorium for assembly, as well as a classroom, kitchen, office, nursery, and restrooms. The church would be constructed as a one-story structure (approximately 22' tall). Sheet 3 of the revised site plan shows the proposed site layout. There is a total disturbed area of 1.0 acres; minimal grading would be required due to the virtually flat topography. The facility would be served by a new commercial entrance onto Lowesville Road (approximately 0.15 miles from the nearest intersection, which is Firehouse Road). The site plan depicts a gravel parking lot containing 48 total parking spaces (four of which would be handicap accessible), which exceeds the minimum required number of 20 parking spaces (as determined by the 2,000 SF floor area of the assembly room / auditorium).

Mr. Padalino noted that Sheet 4 of the revised site plan contains the proposed lighting plan and landscape plan. The parking lot would be lit by 4 pole lights approximately 20.5' tall, with "sharp cutoff fixtures to control light distribution on the site." When the packets went out, it was noted that 3 of the 4 pole lights would be set to a timer, with the lights coming on at night only when the church is in use. The 4<sup>th</sup> pole light (located farthest from the road and from adjoining properties) would be set to automatically turn on from dusk to dawn. The site plan shows a total of 5 "wall pack" light fixtures – 2 at the main door and 1 at each of the three additional doors. All 5 of these wall-mounted light fixtures would be programmed to be on from dusk to dawn.

Mr. Padalino indicated that Mr. Saunders has notified him that there are updated lighting details, which includes revised details about lighting fixtures as well as the number and location of each type. Mr. Saunders provided those to Commissioners prior to the start of the meeting.

Mr. Padalino summarized the Site Plan Review Committee Members' comments; those comments are as follows:

- Mr. Jeff Kessler of Virginia Department of Transportation (VDOT) did not identify any major issues with the site plan drawings. He had a couple of requests regarding the lat/long data for the exact location of the entrance, so that it can be entered into GIS.
- Ms. Alyson Sappington of the Thomas Jefferson Soil & Water Conservation District reviews the Erosion & Sediment (E&S) Control Plan. She was in attendance at the meeting but did not provide written review comments. Mr. Padalino noted that there were some questions that were raised by Ms. Sappington, but directed those to the applicant to provide an update on the current status of the E&S Control Plan.
- The Service Authority was in attendance and did not have any issues or concerns with the proposed project. They simply needed to configure a few details with the applicant.
- Mr. David Thompson, Nelson County Building Official, did not attend the meeting but provided some written review comments; reminding the applicants that a land disturbing activity permit, building permit, and CO would be required.

Mr. Padalino noted that he wanted to draw attention to some of the proposed signage. He showed examples of some signs that were provided by the applicant, which are representative of proposed signage that would be used.

These included signage on the church facade facing Lowesville Road; and signage that may be installed closer to the road. He noted that the proposed location of the sign is identified on the site plan.

Mr. Padalino noted that the site plan drawings have been revised extensively in response to the plan review comments; includes additional landscaping and screening materials; and include updated details regarding lighting. He finds these helpful clarifications to the questions that were posed at the March 11<sup>th</sup> Site Plan Review Committee meeting. He also noted that the remaining questions have to do with the E&S Control Plan; the current status of that is unclear.

Mr. Massie Saunders, Engineer of the Minor Site Plan: Mr. Saunders noted that there are two (2) Wallpacks that have been added to the front of the building. For further clarification, he noted that on Page 3 of the drawings, there are four (4) lights out in the parking lot; the two (2) additional lights were added to the building to get light on to the handicap spaces and the front row of parking. Mr. Saunders referenced Page 4 to show what the potential Wallpacks would look like that would be mounted at each of the doors around the building. He also referenced the handout that showed the lights that would be mounted on the poles. He also noted that all the lights would be directed downward so that no light escapes the site. Mr. Saunders referenced Page 1, which shows the illumination schedule and indicated that the perimeter of the parking lot is 0.1 to 0.2 lumens. He indicated that the lighting company suggested adding more lights to better illuminate the front two corners where the sidewalks are. He stated that he knows if more lights are added, they would need to come back to Mr. Padalino for approval.

Chair Proulx asked if the lights would only be on when the building was in use. Mr. Saunders indicated that there is one (1) pole light that is a dusk to dawn light; and the door lights would be dusk to dawn lights as well.

Commissioner Russell asked if the parking lot would be done in phases. Mr. Saunders indicated that they plan to do it all at once. Chair Proulx asked about the E&S Control Plan. Mr. Saunders indicated that he talked with Ms. Alyson Sappington and the question is whether or not the plan has to go to DEQ and DCR for further review to meet the 2014 compliance. He further noted that if Ms. Sappington determines that the E&S measures that are proposed are not sufficient to handle the flow that comes off the parking lot, the plan will in fact have to go to DEQ and DCR. Mr. Saunders indicated that they are in the process of making submittals to both DEQ and DCR.

Commissioner Russell stated that with the additional materials submitted by Mr. Saunders, she does not have a problem with the plan. However, she did state that a few years ago, the PC had established a policy that it would not approve Site Plans, unless they had written assurance from Ms. Alyson Sappington, that the E&S Plan that was submitted was sufficient. It is her understanding that no assurance has been given. Mr. Padalino stated that he does not have an update.

Todd Peck, Pastor of Living Word Christian Fellowship: Pastor Peck stated that they want to comply with all the regulations as required by law. He also indicated that after this Sunday, they are homeless. He further stated that the Nelson Center has been gracious enough to allow them temporary stay until this particular project is completed. He also inquired if anything can take place for them to have some kind of assurance that they are on a successful schedule for approval. He noted that the Nelson Center is under the impression that they will use their space until around August. He also noted that there are about seventy-five (75) people on average that meet weekly that consider our church their church home. He stated that they want to be a blessing to the community, and they are hoping this new construction will allow them to do more things to benefit the community.

Chair Proulx wanted to clarify with Mr. Saunders that he has submitted an E&S Plan to Alyson Sappington. Mr. Saunders stated that he has talked with Ms. Sappington, and has given her some preliminary ideas and plan. He also noted that he has not submitted a formal plan because they are still trying to work through the DEQ information. He also indicated that Ms. Sappington is in contact with DEQ.

Joe Lee McClellan: Mr. McClellan stated that he has been landlord of Living Word Christian Church for over five (5) years. He indicated that he sold the property almost a year ago and since that time, they have had a new landlord. He noted that it has been a pleasure to work with them. They are an asset to the community and encourages the PC to do whatever they can to help them.

**Commissioner Russell made a motion that, on the application for Living Word Christian Fellowship Church, to be located on Rt. 778 Lowesville Road in Piney River; Tax Map #64-5-5; consisting of 33.74 acres: the Planning Commission approves the Minor Site Plan as submitted, revised March 16, 2015; consisting of five (5) pages and a supplemental photometric and lighting package submitted at the meeting on the 25<sup>th</sup> of March, contingent on E&S and DEQ approval. If there are any major changes to the Site Plan approved tonight, the Director of Planning & Zoning will make a final decision as to whether it should be resubmitted to the PC for approval. Commissioner Allen provided a second; the vote 6-0.**

**2. Proposed (draft) Amendments for “Off-Farm Retail Sales” (Wayside Stands and Farmers Markets):**

Mr. Padalino provided an overview of the draft language for the possible amendments to the Zoning Ordinance; as defined in the Staff Report dated March 18, 2015.

Mr. Padalino stated that he thought it would be best to remove the existing Article 2: Definitions for Wayside Stand, roadside stand, wayside market; and replace those with the following definitions: Wayside Stand; Wayside Stand, Class A; and Wayside Stand, Class B. Mr. Padalino noted that he felt having a “Wayside Stand” definition would be the best way to deal with the fact that all Wayside Stands are intended to be non-permanent or temporary land uses, and limited to operations during the daylight hours only, regardless of whether it is Class A or Class B. He also recommended an additional definition for each class of Wayside Stand, with different criteria for each. He stated that he tried to include something that would capture whether or not it would be on a back road that happens to be next to a busy road; in doing so, he put in an eighth of a mile or 660 feet, as a way to trigger this as a Class B. The PC discussed this, and generally agreed that 660 feet was a good distance.

Mr. Padalino stated that he introduced a new definition for a Farmers Market. Commissioner Goad asked if this definition would prevent a flea market type scenario. Chair Proulx stated there was a separate definition for a flea market. Mr. Padalino noted that at the end of the definition, there is a clause that would try to prevent things being made available for resale at a Farmers Market.

Mr. Padalino noted that he recommended leaving Wayside Stand in Section 4-11-2 under “Administrative Approvals”; removing the word Wayside Stands and replacing that with Wayside Stand, Class A, providing that the following operational details are reviewed for safety and appropriateness.

Mr. Padalino noted that he feels a sketch site plan is sufficient and that it does not have to be done by an engineer or surveyor, if it’s drawn to scale and has the pertinent details. Supervisor Saunders questioned if a sketch site plan has to be “drawn to scale.” He said that he does not believe it needs to be to scale, if the distance and dimensions are clearly listed. Mr. Padalino indicated that it does not need to be drawn to scale, and that the language could be changed. After further discussion, the Commission recommended the following revision:

- (v) sketch site plan, including the locations and dimensions of the following: ~~drawn-to-scale, showing (at minimum)~~ the property boundaries, proposed location of wayside stand equipment and/or facility(s), proposed signage, and proposed layout and provisions for safe vehicular access and parking; and**

Commissioner Russell asked for clarification regarding “recommendation for approval.” Mr. Padalino explained that VDOT does not actually “approve” local zoning permits of any kind, and that it refers to VDOT’s review comments that a project is acceptable with regards to safe use of the public road system. Commissioner Russell then asked a question regarding the definition of Wayside Stand, noting it states, “temporary (non-permanent) land use” but, then require them to tell us the duration of operations; what is temporary, the style of building or the operation. Mr. Padalino said “temporary (non-permanent)” refers to the use and operation. After further discussion, the Commission recommended the following revision:

*“Any use of land, vehicle, equipment, or facility ~~that is used~~ for the off-site sale of agricultural or 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. The operation of wayside stands is limited to daylight hours only.”*

Commissioner Goad asked how long would be permit last, once a permit is issued. Mr. Padalino said that was a very good question. The issue was discussed; and decided that the following should be added as a condition to the conditions: annual renewal – no fee or site plan required unless layout or configuration is modified.

Commissioner Russell asked if Wayside Stands have to abide by setbacks. She added that these are not called a building or structures, which are defined in the ordinance; and these are not permanent. She thinks that those three (3) things, they do not have to abide by the setbacks. Mr. Padalino said that if it is a permanent structure, they would have to meet the setback regulations. He added that he thinks there should be something added that the stands must be outside of the VDOT right-of-way. He feels that is the only setback that is critical for a Class A.

Mr. Padalino said performance standards need to be added to the proposed criteria for Class A. With regards to Wayside Stand, Class B, those would be dealt with on an individual basis; which would require a Special Use Permit and Minor Site Plan, including review by the PC and the BOS. Commissioner Russell stated that she personally doesn’t like the idea of the BOS having to review Class B Wayside Stand permit applications, and would like to limit them to a PC review.

Chair Proulx stated that she feels the Farmers Market should be a Special Use Permit (SUP) and go before the BOS but not the Wayside Stand, Class B. She said she is unsure of the legality of having a public hearing end with the PC. Mr. Padalino said that when talking with Mr. Payne, some concern was expressed about creating a new type of review procedure outside of the established SUP process. He noted that that the PC can’t authorize zoning approvals, unless it is expressly provided by the BOS. He said that it was Mr. Payne’s recommendation to use the SUP process that’s in place. Chair Proulx then stated that she would rather have Wayside Stand, Class B, as a SUP instead of being in the same category as a Wayside Stand, Class A.

Commissioner Russell stated that going back to the Farmers Market definition; is it considered temporary. If not, her concern is in the business district, there are no front yard setback requirement. Chair Proulx said that conditions could be put on a SUP.

Commissioner Harman wanted to get clarification on the Farmers Market definition regarding the “resale of second-hand products”; meaning someone can’t buy something and resell it. Mr. Padalino said yes. Chair Proulx said “resale” should be changed to “sale”. Mr. Padalino said he would rework that definition.

Chair Proulx said that specific requirements are needed for Wayside Stand, Class A. She asked that Mr. Padalino draft a proposal of those requirements and the PC will review those.

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

1. Zenith Quest: Mr. Padalino said that there were four (4) conditions placed upon the Zenith Quest’s approval. Those conditions included obtaining all state agency approvals: E&S Control Plan approved, a week ago today; VDOT approved on the 12<sup>th</sup>; DEQ approved the Stormwater Management Plan on the 11<sup>th</sup>. All state agencies are satisfied, completing 1 condition. He then drew attention to the three (3) County conditions. The first of those is that the roof and siding had to be non-reflective and blend with the surrounding area; and Zenith Quest will go with either Cool Desert Beige or Cool Desert Wheat for the walls. For the roof, they will go with a painted roof in Cool Emerald Green, which will not be reflective. Those materials satisfy the pertinent condition. Separately, the revised landscaping plan was accepted on March 4<sup>th</sup>, satisfying the applicable condition. Finally, the remaining condition is in regards to access on Family Lane for emergency purposes. Mr. Padalino then drew attention to materials submitted by the Rockfish Valley Volunteer Fire Department and Rescue Squad.

**Commissioner Allen made a motion that the Planning Commission accept the emails dated on Friday, March 20, 2015 from Tommy Harvey to Stormy Hopkins and from Tim Padalino to Stormy Hopkins dated Monday, March 23, 2015 in support of the Zenith Quest intersection at Family Lane. Commissioner Goad provided the second; the vote 4 – 2 in favor with Chair Proulx and Commission Russell voting against the motion.**

2. Stormwater Management Program: Mr. Padalino stated that the statewide Virginia Stormwater Management Program (VSMP) requirements need to be incorporated into the Zoning Ordinance and Subdivision Ordinance. The BOS made a referral of proposed amendments to account for the state requirement.

**Commissioner Goad made a motion that the Planning Commission ask Staff to advertise for legal notice the changes the BOS Resolution R2015-20 approved March 10, 2015 for public hearing at the April 22, 2105 meeting. Commissioner Allen provided the second; the vote 5 – 1 in favor with Commissioner Russell voting against the motion.**

Mr. Padalino provided a few updates on the following applications that are pending:

- Farms wanting to be used as festival grounds – currently, there is no provision in the ordinance for such land use. Mr. Padalino is meeting with the County Administrator and County Attorney later this week, regarding these types of interests.
- To date, there has been no response from Mr. William Karnes regarding his deferred Wayside Stand Permit.
- There is a Class III tower permit that is pending from Ms. Cheryl Taylor, of Velocitel, for an AT&T tower in Afton. Ms. Taylor has a contract for the lease area with a landowner.
- The “Blue Ridge Bowl” Special Event Permit (SEP) review process is mostly complete, and they have approvals from the necessary regulatory and law enforcement agencies. The County needs to receive the \$25.00 application fee in order to approve the SEP. Mr. Padalino also noted that he needs to make sure the Sheriff’s Office and the VA State Police conditions for traffic are properly satisfied.

Commissioner Russell asked if the PC needs to take action on Mr. Karnes’ Wayside Permit application since it was deferred, pending the hearing of Kim Page’s SUP request. Mr. Padalino said he believes there should be. After further discussion, the PC decided that a review of Mr. Karnes’ deferred application would be added to the April meeting agenda, and that a certified letter shall be sent to Mr. Karnes to notify him.

Chair Proulx stated that Commissioner Harman had asked about the possibility of having Supervisor Saunders do a BOS report at the meetings. Supervisor Saunders provided the following:

- The pipeline.
- The BOS is meeting every week over the next 6-8 weeks to discuss the annual County budget.
- The proposed definition for Artists’ Community has been published for a public hearing by the BOS.
- There are plans to remodel the old courtroom; Judge Gamble has been working with the County on a nice concept.

**Adjournment:**

At 9:05 P.M. Commissioner Allen motioned to adjourn.

Respectfully submitted,

Stormy V. Hopkins  
Secretary, Planning & Zoning



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SUPERVISORS

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ALLEN M. HALE  
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THOMAS H. BRUGUIERE, JR.  
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CONSTANCE BRENNAN  
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Administrative Assistant/  
Deputy Clerk

DEBRA K. McCANN  
Director of Finance and  
Human Resources

**RESOLUTION R2015-20**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**REFERRAL OF AMENDMENTS TO NELSON COUNTY ZONING & SUBDIVISION**  
**ORDINANCES TO NELSON COUNTY PLANNING COMMISSION**  
**(INCORPORATING THE DESIGNATION OF THE DEPARTMENT OF**  
**ENVIRONMENTAL QUALITY (DEQ) AS ADMINISTRATOR OF LOCAL**  
**STORMWATER MANAGEMENT PROGRAM)**

**WHEREAS**, the Nelson County Board of Supervisors (the Board) has received and reviewed in public session conducted on March 10, 2015 a staff report on changes proposed to Appendix A-Zoning (Nelson County Zoning Ordinance) and Subdivision Ordinance of the Code of the County of Nelson, Virginia; and,

**WHEREAS**, the staff report proposed changes to the Zoning and Subdivision Ordinance in order for these Ordinances to reflect the County's decision to have the Virginia Department of Environmental Quality (DEQ) administer the Local Stormwater Management Program;

**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 of the Code of Nelson County to incorporate local Stormwater Management Program administration components 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: March 10, 2015

Attest:  Clerk  
Nelson County Board of Supervisors

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SUPERVISORS**

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Administrative Assistant/  
Deputy Clerk

**DEBRA K. McCANN**  
Director of Finance and  
Human Resources

12 March, 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 Subdivision and Zoning Ordinances

Transmitted herewith is Resolution R2015-20, as approved on March 10, 2015 by the Board of Supervisors, referring proposed amendments (attached) to Nelson County's Subdivision and Zoning Ordinances to the Nelson County Planning Commission.

The specific intent of the proposed amendments is to establish and provide reference(s) to "Administration of (the) Local Stormwater Management Program by the Virginia Department of Environmental Quality.

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:**

PROPOSED AMENDMENTS TO NELSON COUNTY, VIRGINIA  
ZONING ORDINANCE

**Article 7 – Residential Planned Community District RPC**

7-8

*Street Improvements*

7-8-5

The uniqueness of each proposal for a Residential Planned Community requires that the specifications for the width, surfacing, construction and geometric design of streets, alleys, ways for public utilities, and the specifications for curbs, gutters, sidewalks, streetlights, and stormwater drainage shall be subject to modification from the specified, waive or modify the specifications otherwise applicable for a particular facility where the Planning Commission finds that such specifications are not required in the interests of the residents of the Residential Planned Community and that the modifications of such specifications are not inconsistent with the interests of the entire county and conform to all other applicable ordinances and laws.

**Article 10 – General Floodplain District FP**

10-16

*Standards for the floodway district.*

The following provisions shall apply within the floodway district:

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

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

1. Receives an endorsement from the State's Floodplain Program Engineer;
2. Receives a special use permit from the Nelson County Board of Zoning Appeals for a conditional Flood Insurance Rate Map and floodway revision; and
3. Receives the approval of the Federal Emergency Management Agency.

4. Receives the required stormwater management permit coverage from Virginia Department of Environmental Quality under the applicable Virginia Stormwater Management Program regulations. (TP)Receives a Stormwater Management Permit in accordance with the County's Stormwater Management Ordinance [Chapter \_\_\_\_\_, Code of Nelson County.]

- B. If Section 10-19 is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Article.
- C. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.

#### 10-20

##### *Standards for subdivision proposals*

- A. All subdivision proposals shall be consistent with the need to minimize flood damage;
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems, and stormwater management BMPs/facilities (TP) BMP's/facilities located and constructed to minimize flood damage;
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and
- D. Base flood elevation data shall be provided for subdivision proposals and other development proposals (including manufactured home parks and subdivisions) that exceed fifty (50) lots or five (5) acres, whichever is the lesser.

#### 10-21

##### *Design criteria for utilities and facilities.*

- A. Sanitary sewer facilities. All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into the floodwaters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.
- B. Water facilities. All new or replacement water facilities shall be designed to minimize or eliminate infiltration of floodwaters into the system and be located and constructed to minimize or eliminate flood damages.
- C. Drainage facilities. All storm facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and on-site waste disposal sites. The Board of Supervisors may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate large, less

frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

- D. Utilities. All utilities, such as gas lines, electrical and telephone systems, and stormwater management (TP) BMPs/facilities, being placed in floodprone areas should be located, elevated (where possible), and constructed to minimize the chance of impairment during a flooding occurrence.
- E. Streets and sidewalks. Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

### Article 13 – Site Development Plan

13-4

#### *Site Plan Content*

The site plan, or any portion thereof, involving engineering, urban planning, landscape architecture, architecture, or land surveying, shall be prepared by a qualified person. Final Site Plans submitted for approval shall be certified by an architect, landscape architect, engineer, or land surveyor licensed or certified to practice by the Commonwealth of Virginia within the limits of his respective license or certification.

The Major Site Plan shall include:

- A. The plan shall be prepared at a scale of not less than 1"=20' except for the index sheet, unless approved by the Planning and Zoning Director.
- B. If the plan is prepared on more than one sheet, match lines shall clearly indicate where the several sheets join.
- C. Dimensions shall be in feet and decimals of feet to the closest one hundredth of a foot.
- D. The proposed title of the project and the name of the owner(s), engineer, architect, landscape architect, surveyor, and developer, as applicable.
- E. A signature panel to indicate approvals from the following:
  - a. Planning and Zoning Director.
  - b. Virginia Department of Transportation.
  - c. Virginia Department of Health.
  - d. Thomas Jefferson Soil and Water Conservation District.
  - e. Nelson County Service Authority.
- F. Tax map and parcel number.
- G. Adjacent property owners.
- H. North arrow, scale graphic, and date.
- I. Vicinity map.
- J. Existing zoning and zoning district boundaries on the property in the development and on immediately surrounding properties. All special zoning requirements

- attached directly to the site as a result of the issuance of any Special Use Permit, variance, or rezoning.
- K. The boundaries of the property in the development, including bearings and distances.
  - L. All existing property lines, existing streets or rights-of-way opened or unopened; buildings, watercourses, and lakes; and other existing physical features in or adjoining the project. The physical features, such as watercourses, waterways and lakes on the adjoining properties need only be shown in approximate scale and proportion.
  - M. Features of particular historic, cultural, scientific, or scenic significance as identified in the Comprehensive Plan, by the Planning and Zoning Director, or by any County department or state agency having site plan review responsibilities, or by the Virginia Department of Historic Resources, the Virginia Department of Conservation and Recreation, or the Virginia Outdoors Foundation including, but not limited to, historic features, archaeological features, and graveyards.
  - N. Building setback lines; the location of all proposed buildings and structures, accessory and main; number of stories and height; proposed general uses for each building; and the number, size, and type of dwelling units where applicable. Preliminary plans and elevations for main and accessory buildings.
  - O. Type, location, height, and materials of all existing and proposed fences and walls.
  - P. Site coverage, showing percentage of site in buildings, parking, and open space.
  - Q. Existing and proposed topography and contour lines of the development site with a contour interval of two (2) feet or less.
  - R. The location and size of sanitary and storm sewers, gas lines, water mains, required stormwater management BMPs/facilities, culverts, and other underground structures; all overhead utilities and supporting poles in or affecting the development area, including existing and proposed facilities; and easements for these facilities, including the width of the easement.
  - S. The location of all existing and proposed off-street parking and parking bays, loading spaces, and pedestrian walkways, indicating types of surfacing, dimensions of stalls, width of aisles and a specific schedule showing the number of parking spaces.
  - T. Final plan for all signs to be erected and/or placed on building. The plan shall show the location and size of each sign along with the purpose of the sign.
  - U. A final landscape plan.
  - V. Outdoor lighting information, including a photometric plan and location, description and photograph or diagram of each type of outdoor luminary.
  - W. All paving, including, without limitation, gravel or other pervious surfaces, shall be of a design and quality to support the traffic which can reasonably be expected to be generated by the proposed use.
  - X. Limit of one hundred-year floodplain, and floodway as defined in Article 10 of this ordinance.
  - Y. Location of any wetlands in compliance with applicable federal, state, and local definition of wetlands.

- Z. The location and dimensions of proposed recreation or open space, and required amenities and improvements, including details of disposition, in accordance with any open space or recreation plan adopted by the County.
- AA. Cul-de-sacs may not be construed or employed as a parking area. Suitable easements for future public water and sewer facilities necessary to serve the property shall be indicated on the plan.
- BB. All new electrical, telephone, cable television, fiber optic, and other utility lines on the site shall be installed underground.
- CC. To the greatest extent possible, parking areas shall not be located between the adjacent public right-of-way and the principal structure on the site unless topographic features or vegetation provide effective screening.
- DD. Site planning shall consider the future development of adjacent parcels as recommended by the Nelson County Comprehensive Plan or other approved local plan and as may be indicated by any filed site plan, whether approved or under review. The site plan shall provide for safe and convenient vehicular and pedestrian circulation between sites to be occupied by complementary uses.
- EE. If phasing is planned, phase lines and proposed timing of development.
- FF. A copy of the approved final Erosion and Sediment Control Plan (TP) and Stormwater Management Plan, as applicable (TP).
- GG. Documentation of approved Virginia Stormwater Management Program permit coverage from Virginia Department of Environmental Quality, as applicable. (TP)
- HHGG. Option: A Preliminary Major Site Plan may be submitted to the Planning Commission for review and comment prior to submittal of the Final Site Plan for review and approval.

### 13-6

#### *Improvements*

#### 13-6-1

All required improvements shall be installed by the developer at his cost. In cases where specifications have been established either by the Virginia Department of Highways for streets, curbs, etc., or by local ordinances and codes, such specifications shall be followed. The developer's bond shall not be released until construction has been inspected and approved by the governing body. All improvements shall be in accordance with the following requirements:

- a. *Streets.* All streets in the proposed development shall be designed and constructed by the developer at no cost to the locality.
- b. *Alignment and layout.* The arrangement of streets in developments shall make provision for the continuation of existing streets in adjoining areas and proposed streets on adjacent approved site plans. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their land and seek to provide for convenient access to it. Where, in the opinion of the Commission, it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary line of such

- property. Half streets along the boundary of land proposed for development will not be permitted. Wherever possible, streets should intersect at right angles. In all hillside areas streets running with contours shall be required to intersect at angles of not less than sixty (60) degrees, unless approved by the Planning and Zoning Director upon recommendation of the highway engineer.
- c. *Service drives.* Whenever a proposed development contains or is adjacent to a limited-access highway or expressway, provision shall be made for a service drive or marginal street approximately parallel to such right-of-way at a distance suitable for an appropriate use of the land between such highway and the proposed development. Such distances shall be determined with due consideration of the minimum distance required for ingress and egress to the main thoroughfare. The right-of-way of any major highway or street projected across any railroad, limited-access highway or expressway shall be of adequate width to provide for the cuts or fills required for any future separation of grades.
  - d. *Approach angle.* Major streets shall approach major or minor streets at an angle of not less than eight (80) degrees, unless the Planning and Zoning Director, upon recommendation of the highway engineer, shall approve a lesser angle of approach for reasons of contour, terrain, or matching of existing patterns.
  - e. *Minimum widths.* The minimum width of proposed streets, measured from lot line to lot line, shall be as shown on the major street plan, or if not shown on such plan shall be as specified by the Virginia Department of Highways for acceptance into the State Secondary System.
  - f. *Construction requirements.* All public streets shall be constructed to requirement as specified by the Virginia Department of Highways for acceptance into the State Secondary System.
  - g. *Minimum street construction.* Private streets will be so constructed as to alignment and grade, that the minimum grade is no greater than the Virginia Department of Highways Standards for the particular terrain. Road metal or base shall be of a material and width acceptable to the Virginia Department of Highways. Proper drainage shall be installed and maintained.
  - h. *Names.* Proposed streets which are obviously in alignment with other already existing and named streets, shall bear the names of the existing streets. In no case shall the names of proposed streets duplicate existing street names irrespective of the use of the suffix street, avenue, boulevard, driveway, place, lane, or court. Street names shall be indicated on the preliminary and final plats, and shall be approved by the Planning and Zoning Director. Names of existing streets shall not be changed except by approval of the governing body.
  - i. *Storm drainage facilities.* The developer shall provide all necessary information needed to determine what improvements are necessary to properly develop the subject property, including contour intervals, drainage plans and flood control devices. The developer shall also provide

plans for all such improvements together with a properly qualified engineer's or surveyor's statement that such improvements when properly installed, will be adequate for proper development. The highway engineer shall then approve or disapprove the plans. The developer shall also provide any other information required by the highway engineer. The developer shall install and maintain (TP) the approved storm drainage facilities and other stormwater management BMPs/facilities in accordance with applicable Virginia Stormwater Management Program regulations. Conformance with Article \_\_\_\_\_ [Stormwater Management Ordinance], when required, shall be deemed to satisfy this subsection.

- j. *Fire protection.* Adequate fire hydrants in a development at locations approved by the Planning and Zoning Director shall be installed by the developer, provided adequate public water is available. The location of the fire hydrants shall meet the National Board of Fire Underwriters specifications.
- k. *Easements.* The Commission may require that easements for drainage through adjoining property be provided by the developer. Easements of not less than fifteen (15) feet in width shall be provided for drainage, water, sewer, power lines and other utilities in the subdivision when required by the Planning and Zoning Director.
- l. *Bond.* Before any site plan will be finally approved the developer shall, in lieu of construction, furnish bond, or other security acceptable to the governing body, in an amount calculated by the Planning and Zoning Director to secure the required improvements in accordance with specifications and construction schedules established, which bond shall be payable to and held by the governing body. Bonds required for Erosion & Sediment Control measures and/or stormwater management BMPs/facilities shall be provided as required in Article \_\_\_\_\_, by the respective programs and regulations. (TP)
- m. *Plans and Specifications.* Two (2) blue or black line prints of the plans and specifications for all required physical improvements to be installed, shall be prepared by a licensed surveyor or licensed engineer and shall be submitted to the Planning and Zoning Director for approval or disapproval within sixty (60) days. If approved, one (1) copy bearing certification of such approval shall be returned to the developer. If disapproved, all papers shall be returned to the developer with the reason for disapproval in writing. If no action in sixty (60) days, the plat shall be deemed approved.

13-6-2

Where the developer can show that a provision of these standards would cause unnecessary hardship if strictly adhered to, and where, because of topographical or other conditions peculiar to the site, in the opinion of the Planning and Zoning Director a departure may be made without destroying the intent of such provisions, the Commission may authorize an exception. Any exception thus authorized is to be stated in writing in the report of the Commission, with the reasoning on which the departure was justified, set forth. No such variance may be granted by

this ordinance which is opposed in writing by the highway engineer or health official or which fails to conform to all other ordinances and laws.

13-7

*Administration.*

A. *Administrative Authority.*

1. The Board of Supervisors designates the Planning Commission to review and act to approve or disapprove Final Site Plans within its jurisdiction.
2. The Planning and Zoning Director is designated to review and act to approve or disapprove Minor Site Plans, provided however, that the Planning and Zoning Director may refer any application within his jurisdiction to the Planning Commission for review and action.
3. In the performance of its duties in the review of Final Site Plans, the Planning Commission shall request and consider the review and comments of the Planning and Zoning Director, the Site Plan Review Committee, selected County staff, and other public agencies.
4. Approval Procedures.
  - a. The Planning and Zoning Director shall consult with the Virginia Department of Highways and Transportation, the Department of Health, and any other officials and professional representatives he deems necessary in preparation of his comments and recommendations.
  - b. Upon the official submission of a Final Site Plan, the Planning Commission shall complete action in accordance with Section 15.2-2259 of the Code of Virginia as amended from time to time.
  - c. Upon the official submission of a plan requiring approval by the Planning and Zoning Director, the Planning and Zoning Director shall complete action in accordance with Section 15.2-2259 of the Code of Virginia as amended from time to time.
  - d. An "official submission" is a plan that has been filed in the correct form in the proper office accompanied by the appropriate fee and containing all information required by this Article.

B. *Other Administrative Considerations.*

1. The Planning and Zoning Director, as the designated agent of the Planning Commission, shall be responsible for the receipt and processing of all site plan applications, subject to the procedures provided in this chapter.
2. The Planning and Zoning Director may establish, from time to time, such proper and reasonable administrative procedures, in addition to those provided herein, as shall be necessary for the proper administration of this chapter.
3. County Staff and other designated public officials responsible for the supervisions, inspection, testing and enforcement of this chapter shall have the right to enter upon any property subject to the provisions of this chapter and the Zoning Ordinance at all reasonable times during the

periods of plan review and construction for the purpose of ensuring compliance with this chapter.

4. It shall be the responsibility of the applicant, owner or developer to notify the Planning and Zoning Director when each stage of the development shall be ready for field inspection for compliance with the approved site plan in accordance with testing and inspection schedules and regulations promulgated by this chapter.
- C. *Waiver of Requirements for a Site Plan.* The Planning and Zoning Director, at his sole discretion, may waive the requirement for a Minor Site Plan or any required element specified within it upon consideration of the factors outlined below, provided that no such waiver shall be deemed to be a waiver of any other ordinance provision or requirement.

**Commented [anc1]:** Note to County Staff, the criteria for Minor Site Plans are not included in this section of the Ordinance.

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The Planning Commission, at its sole discretion, may waive the requirements for the Major Site Plan or any required element specified within it upon consideration of the following factors:

1. Where it can be clearly established by the applicant that the use will not require the improvements subject to review in this chapter.
2. Where it can be clearly demonstrated by the applicant that a waiver from the requirement to submit a site plan (or a portion thereof) will be in keeping with the intent of this chapter.
3. Where it can be clearly shown that the application for a site plan and building permit involves building and safety regulations which are not critical to the purpose and intent of the Zoning Ordinance.
4. Where it can be clearly established by the applicant that such waiver will not have an adverse effect on: (a) the public health, safety, welfare, and convenience; (b) the planning for and provision of adequate public facilities, utilities, drainage, environmental controls, and transportation facilities; (c) preservation of agricultural, forestry and conservation lands; and (d) other relevant considerations related to the Comprehensive Plan.
5. Where it can be demonstrated that any change in, or expansion of, a use that meets the following criteria:
  - a. Such change or expansion does not occasion additional parking as required by this ordinance, and
  - b. No additional ingress/egress to a public road or changed ingress/egress is recommended by the Planning and Zoning Director based on intensification or use, and
  - c. No additional ingress/egress or alteration of existing ingress/egress is proposed, and
  - d. Disturbed land is less than five thousand (5,000) square feet in area, and
  - e. It has been verified in writing by the Planning and Zoning Director that: (a) availability and connection water and sewer are attainable; or (b) adequate private well and septic facilities can be provided where public water and sewer are not available.

6. An applicant seeking a waiver from a requirement to submit a Major or Minor Site Plan (or any portion thereof) shall, upon request, provide written documentation to the Planning and Zoning Director addressing the applicable conditions for waiver.  
For Final Site Plan waivers, the Planning and Zoning Director shall refer the request and applicant's supporting documentation to the Planning Commission for action at its next regularly scheduled meeting. The applicant shall be notified in writing of the outcome of such action by the Planning and Zoning Director within ten (10) days upon action by the Planning Commission.
7. Notwithstanding any grant of waiver the applicant is not relieved by such grant of having to obtain all necessary permits and approvals, including but not limited to a building permit, erosion and sediment control ~~permit~~ plan approval, stormwater management permit coverage (TP), and, upon completion of improvements, a certificate of occupancy.

NELSON COUNTY, VIRGINIA, CODE OF ORDINANCES  
APPENDIX B – SUBDIVISIONS

Section 4 – Design Standards

4-3 Streams, Drainage, ~~and~~ Erosion Control, and Stormwater Management

- A. Streams: When any stream is located within the boundaries of a property being subdivided, the developer/subdivider shall reserve a fifty (50) foot wide buffer zone (measured from the bank of the stream) on each side of the stream.

If a stream lies outside the subdivision boundary and the property being subdivided is located less than fifty (50) feet from the bank of the stream, the developer/subdivider shall reserve as a buffer zone whatever portion of the subdivided property lies within fifty (50) feet of the stream measured from the stream bank.

No residential structure or associated outbuilding shall be permitted within this buffer zone and such buffer zone shall not be considered part of any required street width.

- B. Drainage: For drainage purposes adequate easements, no less than ten (10) feet wide, shall be reserved over each manmade drainage course.
- C. Erosion and Sediment Control Plan ~~and Stormwater Management Improvements~~. If any subdivision requires land disturbing activity for which an erosion and sedimentation control plan must be filed pursuant to the Nelson County Erosion and Sediment Control Ordinance, then the developer/subdivider must submit such plan and receive approval from the plan approving authority. ~~Systems and Best Management Practices shall be provided as part of the erosion control plan for storm runoff quantity and quality control in accordance with the "Design Guidelines and Development Standards for Stormwater Management in Nelson County, Virginia, Manual," dated August, 2003, as amended. Such plan must be filed as an addendum with the final plat. The developer/subdivider must apply for a land disturbing permit prior to commencement of any land disturbing activity.~~
- D. Stormwater Management Plan. If any subdivision requires land disturbing activity for which a stormwater management plan must be filed pursuant to the Virginia Stormwater Management Program regulations, Nelson County Stormwater Management Ordinance, then the developer/subdivider must submit such plan and, receive approval from the Program Administrator Virginia Department of Environmental Quality, and provide documentation of VSMP permit coverage as an addendum to the Final Plat. (TP)

Commented [anc1]: Note these existing buffer requirements are more restrictive than current SWM regulations require

5-4  
Preliminary Plat.

- A. General Requirements. Four (4) copies of the preliminary plat prepared by a person qualified to do such work, including but not limited to land planners, urban planners, professional engineers and surveyors, or persons having training or experience in subdivision planning or design shall be filed with the agent. The preliminary plat shall be drawn to a scale of one hundred (100) feet to the inch. Where conditions warrant, an alternate scale may be approved by the agent.
- B. Contents of Preliminary Plat. The preliminary plat shall show the following:
- (1) A topographic map with a contour interval of not greater than twenty (20) feet (or as approved by the agent) showing all the area covered by the proposed subdivision property related to Coast and Geodetic Survey data with the boundary lines of the tract to be subdivided and the 100-year flood plain limits delineated where applicable.
  - (2) The approximate total acreage of the proposed subdivision, proposed location of lots, lot numbers in numerical order, approximate dimensions and area of each lot, and block identification.
  - (3) The approximate location, width, and names of all existing or proposed streets within or adjacent to the proposed subdivision; the approximate locations of all railroads, watercourses, and existing buildings shown on Coast and Geodetic Survey maps or other topographic data and located within the boundaries of the proposed subdivision.
  - (4) The approximate location of all parcels of land intended to be dedicated, or reserved for public use, or to be reserved in the deed for the common use of property owners in the subdivision.
  - (5) The title under which the subdivision is proposed to be recorded, the names and addresses of the record owner and developer/subdivider, the name of the individual who prepared the plat, the date of drawing, number of sheets, the North point, and the scale.
  - (6) A vicinity sketch map of the area within a two-mile radius of the proposed subdivision showing the relationship of the proposed subdivision to the adjoining property; and showing all adjoining roads, their names and numbers, and other landmarks.
  - (7) Proposed provisions for all utilities including but not limited to electric, telephone, water and sewage, and stormwater management BMPs/facilities.

5-5 Final Plat

D. Addenda with Final Plat

9. An approved stormwater management plan and/or documentation of permit coverage under the Virginia Stormwater Management Program, as applicable under the Code of Virginia. (TP) is required by the Nelson County Code.



DEPARTMENT OF  
PLANNING & ZONING

PLANNING COMMISSION  
BOARD OF ZONING APPEALS

To: Chair and Members, Nelson County Planning Commission  
From: Tim Padalino | Director of Planning & Zoning  
Date: April 15, 2015  
Subject: **Staff Report for Minor Site Plan #2015-04 – Smack / Blue Mountain Brewery**

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Site Address / Location: Route 151 (Critzler Shop Road) / Afton / North District

Tax Map Parcel: #4-A-60

Parcel Size: 2.472 acres

Zoning: Agricultural (A-1)

Request: Applicant seeks approval of Minor Site Plan #2015-04 [pursuant to Zoning Ordinance §13-1-1 (1) and (2)] for the proposed construction of a 25-space employee parking lot, which is a permissible by-right use pursuant to Zoning Ordinance §4-1-10 and §12-7 and §12-7-1.

### Application Overview

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The Department of Planning & Zoning received a completed application on March 27<sup>th</sup> from Mr. Taylor Smack of Blue Mountain Brewery (BMB). This application seeks approval for Minor Site Plan #2015-04, which depicts the applicant's proposal to construct a 25-space employee-only parking lot, and to install landscaping, a locked gate, and two (2) very small informational signs.

The subject property is located on Route 151 in Afton. The property is currently an open field that was formerly used for residential use; the former dwelling has been demolished and removed. The approximately 2.5-acre subject property is zoned Agricultural (A-1). (*See maps on pages 4 and 5.*)

### Site Plan Details

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The applicant utilized Mr. Jeff Gentry, PE of EGS & Associates to prepare a Minor Site Plan, which is dated March 27. A revised Minor Site Plan (dated April 14) has recently been submitted; your meeting materials packet contains this revised version.

The site plan depicts a proposed new employee parking lot with 25 spaces. The gravel parking lot would contain a parking block for each space. A locked gate would be utilized to control access to the parking lot, for the purpose of ensuring that employees only (and no patrons) would park there. See the note on Site Plan Sheet 2 for more information about access control.

The site layout attempts to preserve desirable site features. Specifically, the parking lot is configured to allow several existing oak trees to remain and to provide some shade for the lot. The site plan also depicts other efforts to improve the site, including the installation of landscaping along the entire side of the parking lot facing Critzer Shop Road, which is a designated Virginia Scenic Byway. Other proposed improvements include the removal and official abandonment of an existing well; as well as the removal, re-grading, and re-seeding of an abandoned driveway area.

The site plan identifies a total land disturbance area of 32,000 SF. If zoning approval is obtained, the applicant will need to obtain approvals from the Nelson County Building Inspections Department for an Erosion & Sediment Control Plan and for a Land Disturbing Activity Permit, prior to any project implementation activity. (The Minor Site Plan checklist does not automatically require an Erosion & Sediment Control Plan to be submitted or approved.)

Members of the Site Plan Review Committee met on April 8<sup>th</sup>. Please consider the following comments from committee members:

**Director of Planning & Zoning:** No major comments. See information (below) regarding “front yard setback area.”

**VDOT:** Mr. Matt Clark of the Virginia Department of Transportation attended the meeting, and did not identify any major issues with the site plan drawings. However, both Mr. Clark and Mr. Jeff Kessler explained that VDOT did not receive the meeting materials packet with sufficient time to conduct a thorough review prior to the meeting; and final review comments would be provided in writing.

Mr. Clark did note that the access gate and other improvements would need to be located outside the VDOT right-of-way. Separately, Mr. Kessler expressed a need to receive documentation from the applicant explaining how the proposed parking lot would be limited to a maximum of 50 vehicle trips per day, which is the threshold allowed under the “low volume commercial entrance.” The note on Site Plan Sheet 2 attempts to address this issue.

**TJSWCD:** Mrs. Alyson Sappington of the Thomas Jefferson Soil & Water Conservation District provides review of the Erosion & Sediment Control Plan. She was in attendance at the meeting on 3/11, but did not provide written review comments, as no E&S Control Plan has yet been prepared or submitted.

Mrs. Sappington noted that the site layout should be designed to accommodate the construction of stormwater management facilities, including the need to manage runoff from the proposed parking lot as well the opportunity to design and install a facility that would be capable of managing runoff from any potential future development. The applicant clarified that BMB is not presently considering any new development of this property, other than this employee-only parking lot. Mrs. Sappington will assist with plan review when an E&S Control Plan is submitted, subsequent to any Site Plan approval.

**VDH:** Mr. Tom Eick noted that the abandonment of the existing well would require a VDH permit.

**Nelson County Building Code Official:** Mr. David Thompson provided written review comments as follows: “*A Nelson County Land Disturbing Activity Permit application and permit issuance is required prior to any site development or expansion. [To obtain a Land Disturbing Activity Permit – a plan review fee of \$500 must be paid to Nelson County, before an E&S Control Plan is submitted for review to the TJSWCD for approval. Following the plan is approval; file a Land Disturbing application including a fee payment of \$450 along with an acceptable performance bond for the project to Nelson County.]*”

**Planning Commission Representative:** Mrs. Linda Russell attended the meeting and shared concern about the location of the proposed parking lot. Specifically, she noted that a portion of the parking lot would be located within the required front yard setback area; and that this was not permissible. The following provisions in the Zoning Ordinance were referenced:

12-7-8G: "...The front setback shall comply with the requirements of the applicable zoning district. A minimum of fifty (50) percent of the road frontage shall be landscaped."

4-3-1a: "Front yard: Minimum of seventy-five (75) feet from the center of the road or fifty (50) feet from the edge of the right-of-way, whichever is the greater distance."

2: "*Setback*: The minimum distance by which any building or structure must be separated from the front lot line."

2: "*Structure*: Anything constructed or erected, the use of which required permanent location on the ground, or attachment to something having a permanent location on the ground."

## **Staff Comments**

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One element of Minor Site Plan #2015-04 requires additional review and explanation: the location of the parking lot relative to the front yard setback area.

The Director of Planning & Zoning considers the proposed configuration to be acceptable and compliant with applicable ordinance provisions. This conclusion is reached for the following reasons:

### *[Site-Specific Considerations]:*

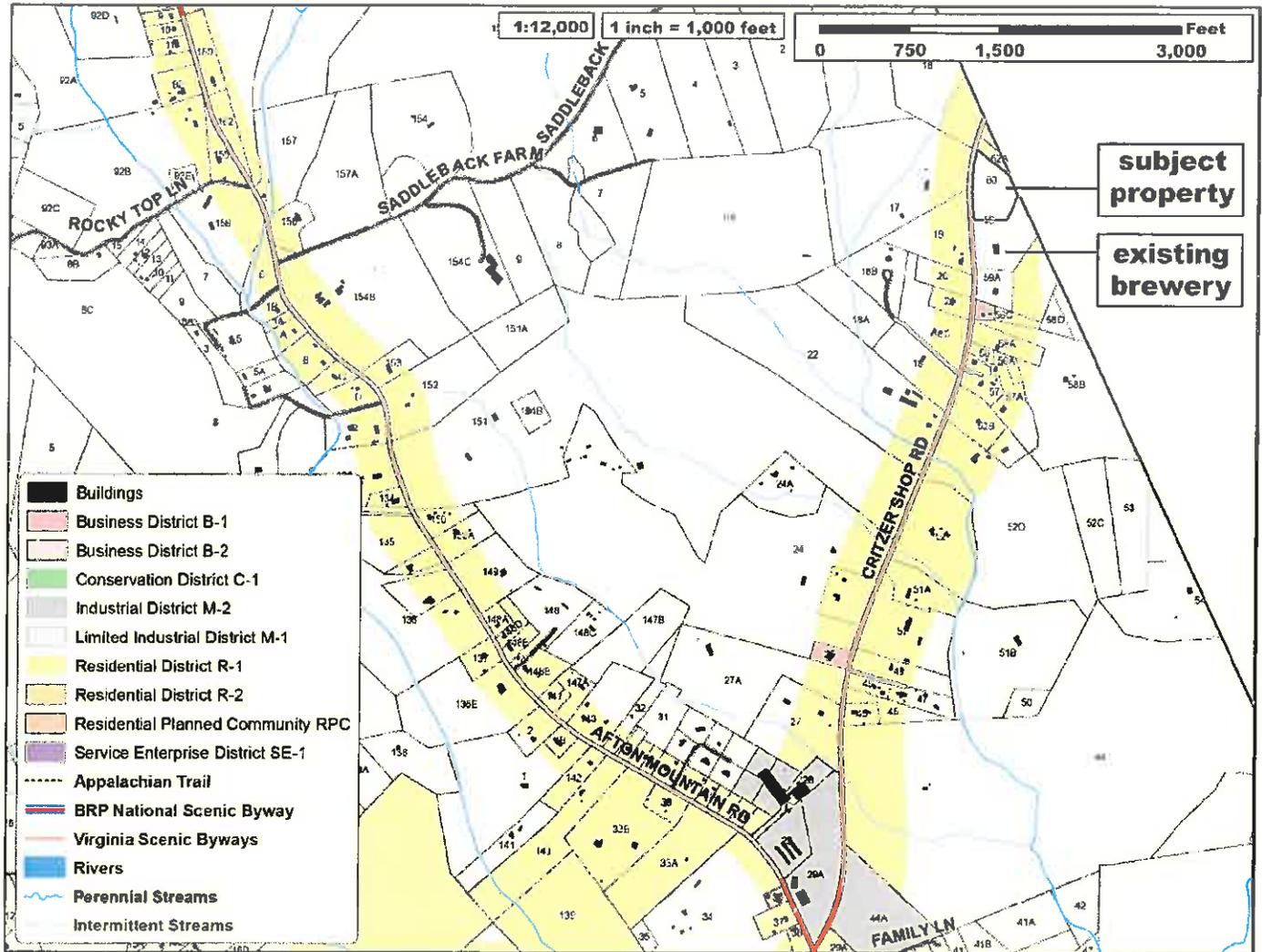
1. The VDOT ROW at this location has an unusual width and configuration, as a result of the highway having a different historical alignment. This ROW configuration complicates the issues involving the front yard setback area. Although the proposed parking lot would be located less than 50' from the edge of VDOT ROW, it would be located more than 75' from the centerline of Route 151. (The proposed parking lot appears to be approximately 82' from the centerline of Route 151 at the closest point.)
2. The proposed parking lot has been sited to respond to existing site features. The current location would allow two 24" red oak trees to be preserved.
3. The Site Plan has been revised to include additional landscaping materials along the entire front side of the proposed parking lot (facing Route 151). Specifically, the applicant has shown eight (8) crepe myrtle, twenty-one (21) pyramidal arborvitae (an evergreen shrub spaced at 5' on-center), and approximately eighteen (18) azalea.

### *[Administrative Considerations]:*

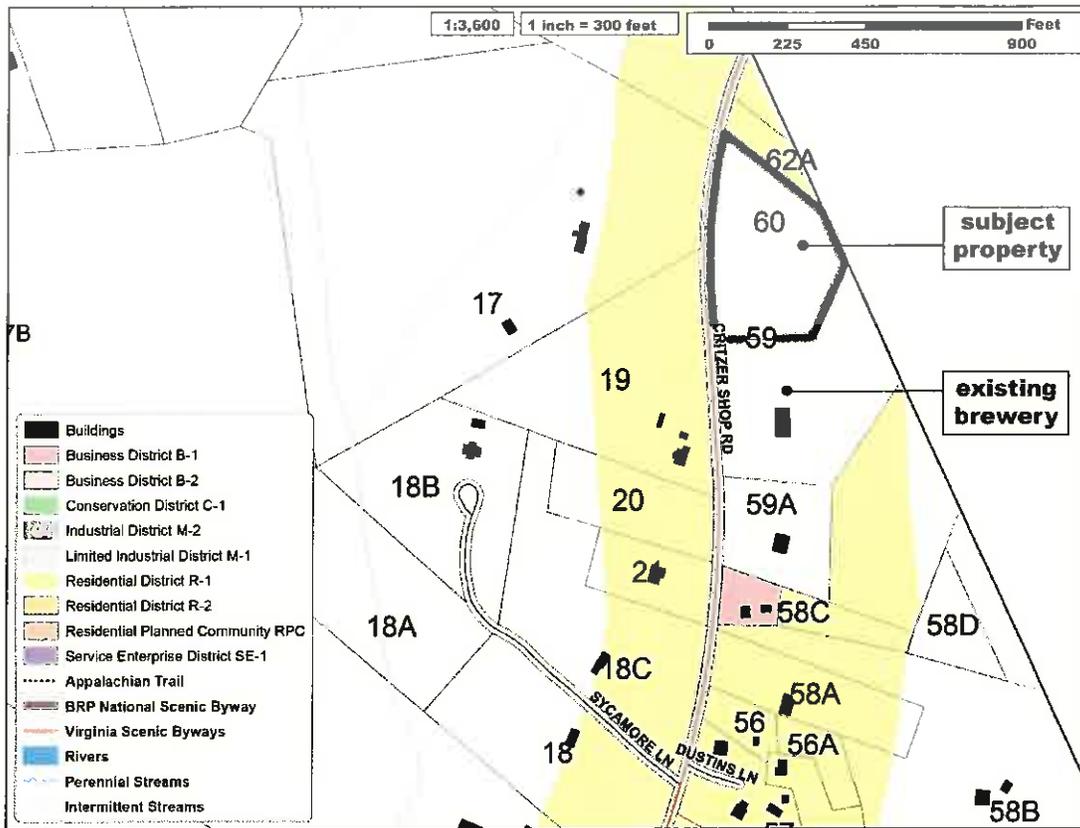
4. The proposed parking lot (as depicted) is not a "structure" per Zoning Ordinance Article 2.
5. The proposed parking lot (as depicted) would primarily be located behind the front yard setback area, as measured from the edge of VDOT ROW. Only a portion of the proposed parking lot would be located within the front yard setback area, as measured from the edge of VDOT ROW.
6. Major Site Plan #2013-005 ("Silverback Distillery" on Route 151 in Afton), approved by the PC on September 18, 2013, contains a gravel parking lot located entirely within the required front yard setback area. As measured from the closest corner, that existing parking lot is approximately 56' from the centerline of Route 151, and approximately 16' from the edge of VDOT ROW. Additionally, that existing parking lot has significantly less landscaping than what is being proposed for the BMB project, as shown on revised Minor Site Plan #2015-04.

Separately, please also note that the applicant has confirmed that the Erosion & Sediment Control Plan will be prepared and submitted in conjunction with the Land Disturbing Activity Permit application. (The Minor Site Plan checklist does not automatically require an Erosion & Sediment Control Plan to be submitted or approved.)

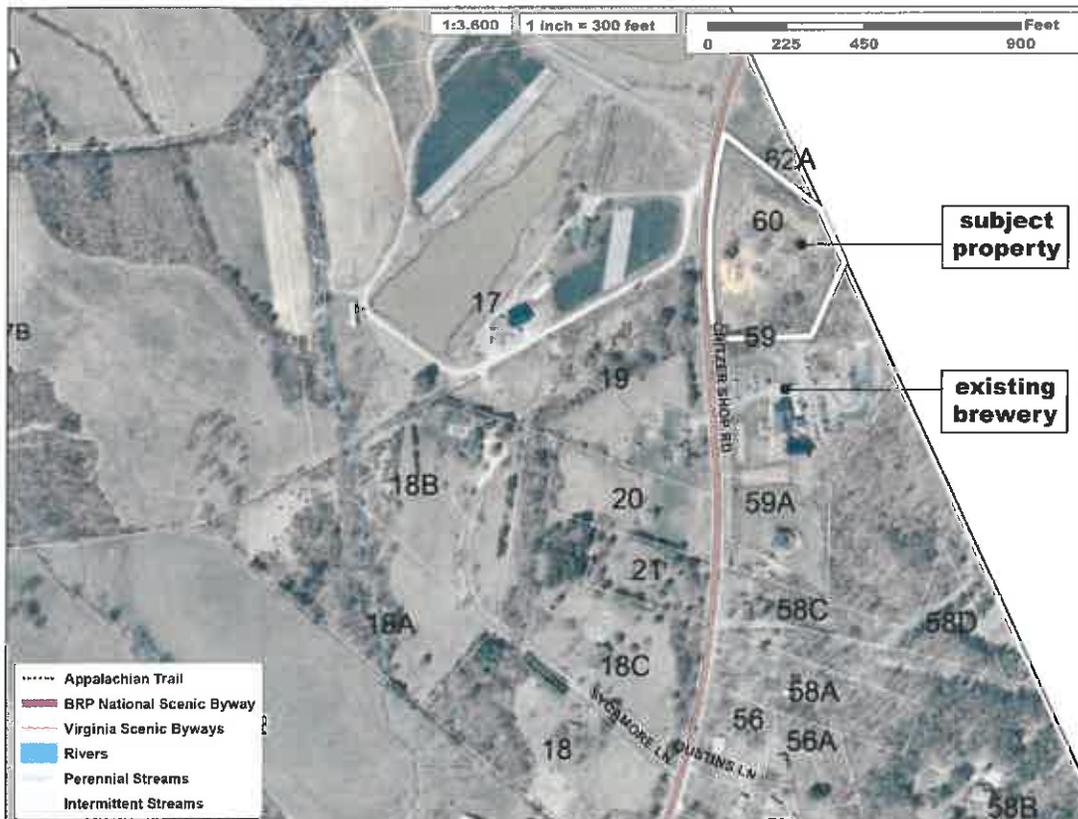
Thank you for your attention to this application and staff report; please contact me if you have any questions, or if I may be of assistance in any other way.



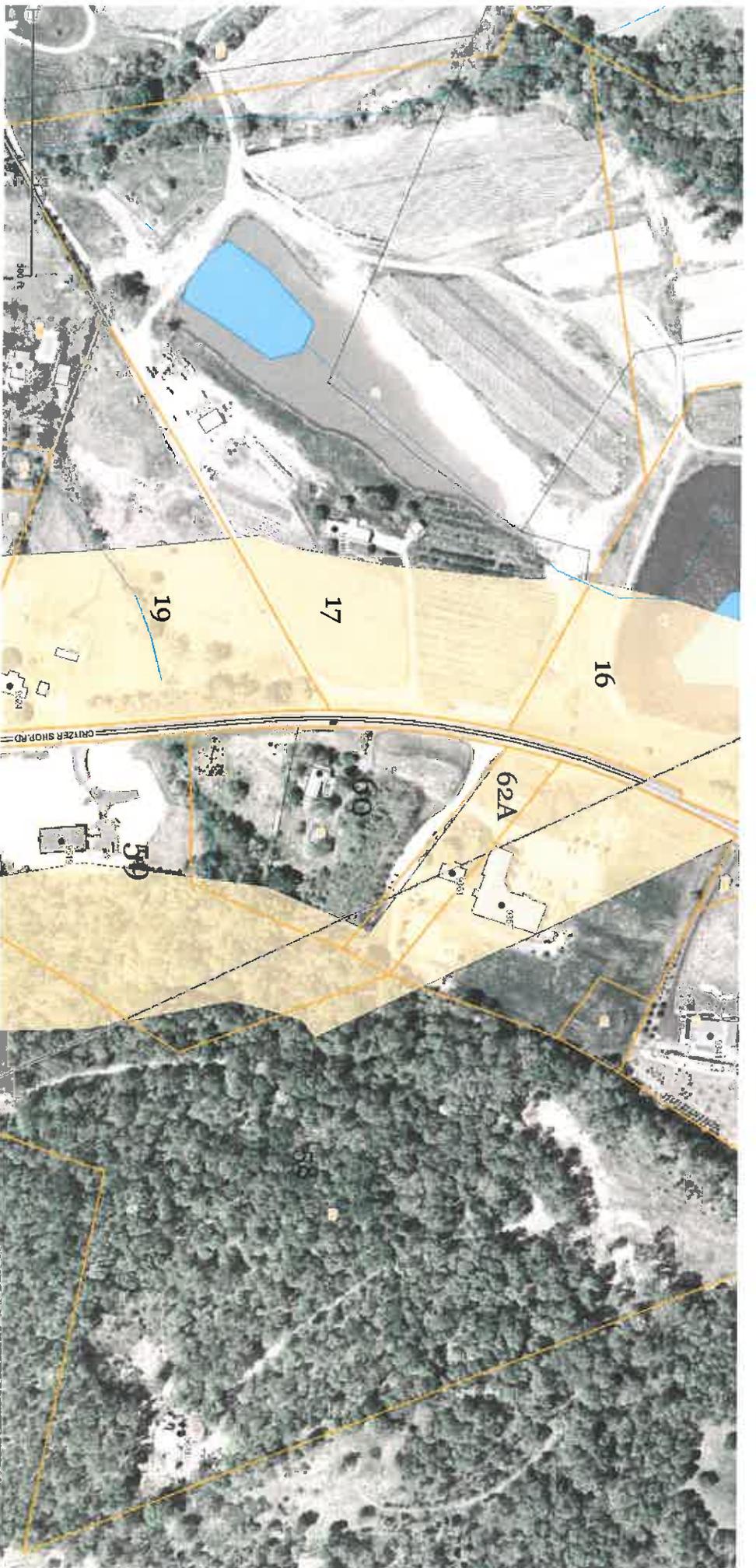
Map 1. This zoning map illustrates the zoning district patterns in Afton. *Please note: this zoning map has been modified to accurately reflect zoning information that is incorrectly portrayed on the County's online GIS.*



Map 2. This zoning map illustrates the zoning district patterns in Afton. Please note: this zoning map has been modified to accurately reflect zoning information that is incorrectly portrayed on the County's online GIS.



Map 3. This map depicts an aerial image of the subject property in Afton.



Parcel ID	Owner(s) Name	Parcel Address
4-A-60; 4-A-62A	Blue Mountain Brewery Inc	9591 Critzer Shop Road - Afton, VA 22920
4-A-59	Afton Acres Land Co LLC	9519 Critzer Shop Road - Afton, VA 22920
4-A-16	Blue Heaven Chalet LLC	
4-A-17	Vernon W Critzer Jr & Anna K Le	9388 Critzer Shop Road - Afton, VA 22920
4-A-19	Theodore T & Rachelle D Berkeley	9524 Critzer Shop Road - Afton, VA 22920



# PERMIT APPLICATION:

## Nelson County Department of Planning & Zoning

TO THE ZONING ADMINISTRATOR: Minor Site Plan # 2015-04  
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 \_\_\_\_\_
- Subdivision – Preliminary
- Subdivision – Final
- Major Site Plan
- Minor Site Plan
- Conditional Rezoning from \_\_\_\_\_ to \_\_\_\_\_
- Site Plan – Preliminary (optional)
- Site Plan – Final
- Special Use Permit
- 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: Attempting to use this land for employee-only parking for Blue Mtn Brewery, in order to provide more customer parking and deter people from parking on Rte. 151.

*(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: TAYLOR SMACK  
 Mailing Address: 9585 Critics Ship Rd.  
 Telephone # 540-456-6966 E-mail Address: taylor@bluemountainbrewery.com  
 Relationship (if applicable): owner / applicant

Applicant  Property Owner Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Telephone # \_\_\_\_\_ E-mail Address: \_\_\_\_\_  
 Relationship (if applicable): \_\_\_\_\_

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

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

a. Address of property (specific location, route numbers, street names, voting district, etc.):

\_\_\_\_\_

b. Official tax map number: \_\_\_\_\_

c. Acreage of property: \_\_\_\_\_

d. Present use: Undeveloped

e. Present zoning classification: A-1

f. Zoning classification of surrounding properties: A-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: [Signature] Printed Name: TAYLOR SWACK

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.)* Emul is Se added

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

..... TO BE COMPLETED BY PLANNING & ZONING STAFF .....

o Completed application and fee (\$ 100 ) received on 3/27/2015

o Hearing Notice published on \_\_\_\_\_

o Planning Commission action: Date of Meeting / Hearing: \_\_\_\_\_

Recommendation: \_\_\_\_\_

o Board of Supervisors action: Date of Hearing: \_\_\_\_\_ Date of Decision: \_\_\_\_\_

Action: \_\_\_\_\_

**Nelson County Planning & Zoning Department**

*(Mailing Address)* P.O. Box 558, Lovingson, Virginia 22949 | *(Physical Address)* 80 Front Street, Lovingson, Virginia 22949

*(Telephone Number)* 434 263-7090 or Toll Free 888 662-9400, selections 4 & 1 | *(Fax Number)* 434 263-7086

<http://www.nelsoncounty-va.gov/departments/planning-zoning/>

## Stormy Hopkins

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**From:** Tim Padalino  
**Sent:** Tuesday, April 14, 2015 2:59 PM  
**To:** Jeff Gentry  
**Cc:** Taylor Smack; taylor@bluemountainbrewery.com; scott@bluemountainbrewery.com; Stormy Hopkins  
**Subject:** RE: Blue Mountain Brewery

Hi Jeff, Taylor, and Scott - - -

Thanks for this resubmittal. I see the recent revisions (such as the relocation of the locked access gate and the addition of evergreen plantings); thanks for getting that information updated so quickly.

I had previously told Scott that it was sufficient to submit the revised landscape plan electronically – but I did not realize the whole Minor Site Plan was being revised or resubmitted. My understanding, based on a Monday phone conversation with Scott, was incorrect. I thought that there was going to be a 11x17 PDF prepared at 1' = 20' (same scale as Minor Site Plan) showing some updated landscaping info, prepared and submitted as a supplemental document to complement the original Minor Site Plan submittal.

However, since the revisions are broader in scope (including new gate location), and since the revised landscaping info isn't prepared on it's own 20-scale sheet (but is embedded within the property-wide sheet at 20 scale), I think the Planning Commissioners will need to receive new plan sets.

Is that something that can be submitted by tomorrow afternoon, our deadline for mailing out the PC meeting materials packets?

Please let me know, as the correct and ideal way to proceed with this type of resubmittal would be for you to resubmit the newly revised plans printed at full-scale.

I am sorry for not fully understanding what was being revised and resubmitted. I should have been more clear and given better guidance.

I'll wait to hear what you plan to do re: the resubmittals. If resubmitting full-scale paper copies of the revised plans is possible by tomorrow afternoon, we would need eight (8) copies. That figure is less than the number required for the original submittal, because the revised plans don't have to go back to the Site Plan Review Committee members.

If resubmitting full-scale paper plans is not possible by tomorrow afternoon, I can certainly take this PDF and add it to the powerpoint slideshow for the PC meeting next week, as well as print Sheet 2 at 11x17 for the PC members.

Please let me know how you want to proceed. I'll be at my desk all afternoon if anyone has any questions or wants to discuss anything.

Thanks; sincerely,  
Tim

**Tim Padalino**  
[434]-263-7090

**From:** Jeff Gentry [mailto:jgentry@egsassoc.com]  
**Sent:** Tuesday, April 14, 2015 2:22 PM  
**To:** Tim Padalino  
**Cc:** Taylor Smack; taylor@bluemountainbrewery.com; scott@bluemountainbrewery.com  
**Subject:** Blue Mountain Brewery

Hi Tim – Please find attached our updated site plan for your review. We have addressed the known concerns do date. As you have indicated, the erosion and sediment control plan will be submitted at a later date and is not needed at this point for the upcoming Planning Commission Meeting. Should you have any questions, please feel free to contact me at your convenience.

Thanks,

Jeff

Jeffrey L. Gentry, P.E.  
President

***EGS & Associates, Inc.***

15 Terry Street  
Staunton, VA 24401

540.885.8944 office  
540.490-2651 mobile  
540.885.8947 fax

[jgentry@egsassoc.com](mailto:jgentry@egsassoc.com)



To: **Timothy M Padalino**, Director of Planning & Zoning

From: David L Thompson, Building Code Official

Date: April 6, 2015 –rev.4/8

Re: April 8, 2015 Plan Review Meeting

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**COMMENTS:**

1. **Minor Site Plan #2015-04 Taylor/Smack Blue Mountain Brewery  
(Tax Map Parcel # 4-A-60)**

- A Nelson County Land Disturbing Activity Permit application and permit issuance is required prior to any site development or expansion. 9VAC25-840-70 (A) [To obtain a Land Disturbing Activity Permit – A plan review fee of \$500 must be paid to Nelson County; before an E&S plan is submitted for review to the TJSWC for approval. Following the plan is approval; file a Land Disturbing application including a fee payment of \$450.00 along with an acceptable performance bond for the project to Nelson County.]

2. **Rezoning # 2015-01 – Joseph B Kober (Sepp) / Mountain Sports (Tax Map Parcel #22-A-a8 & 22-A-19)**

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.

Date: 4/8



# MINOR SITE PLAN CHECKLIST

## Nelson County Dept. of Planning & Zoning

A	✓	A vicinity map showing the location of the subject property.
B	✓	Boundary lines of the subject property.
C		General layout design of what is proposed on a scale not smaller than one (1) inch equals (20) feet, including the location of all proposed streets, pathways, easements, and all proposed uses of the land. A different scale may be used provided it is approved by the Planning and Zoning Director. <i>25 parking spaces; gate; lock; landscaping; removal of old road/parking areas</i>
D	✓	Building setback lines. <i>50' from edge of ROW</i>
E	✓	Zoning of subject property and adjacent property. <i>A-1 and R-1</i>
F	✓	Amount of land to be disturbed, including drain fields. <i>32,000 SF</i>
G	✓	Tax map and parcel number. <i># 1-A-60</i>
H	✓	Floodplains. <i>N/A</i>
I	✓	Wetlands, streams, rivers, etc.
J	✓	Existing structures and roads. <i>add "designated VA Scenic Byway"</i>
K	✓	Existing and proposed topography and contour lines of the development site with a contour interval of twenty (20) feet or less for minor site plans, supplemented where necessary by spot elevation. <i>2' contours provided</i>
L	?	The location of all existing and proposed utilities and easements including the width of the easement.
M	✓	A legend that shows: <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Ownership (Name and Address)</li> <li><input checked="" type="checkbox"/> North arrow</li> <li><input checked="" type="checkbox"/> Graphic scale <i>1"=20'</i></li> <li><input checked="" type="checkbox"/> Area in acres <i>2.472</i></li> </ul>
N	✓	A signature panel to indicate approvals from the following: <ul style="list-style-type: none"> <li><input type="checkbox"/> Planning and Zoning Director</li> <li><input type="checkbox"/> Virginia Department of Transportation <i>add "TJSWCD"</i></li> <li><input type="checkbox"/> Virginia Department of Health <i>remove</i></li> <li><input type="checkbox"/> Nelson County Service Authority <i>remove</i></li> </ul>
O		Any other information which the Planning and Zoning Director deems necessary for the proper consideration of the application.

→ exterior lighting?

- landscaping details: size; spacing of materials at installation?
- gate located in VDOT R.O.W. (?)

sheet 2/3 ←

- \* "private parking" sign
- \* "employee parking only" sign

- int. + stopping sight distance(s) + design entrance

→ - parking in front yard setback (?)  
 - E: S Control Plan  
 → SWM facilities will need to be provided for

- well to be fully abandoned (VDOT permit)  
 - VDOT: gate; other improvements  
 - etc. + road



**DATE:** April 1, 2015  
**TO:** Site Plan Review Committee  
**FROM:** Tim Padalino, Director of Planning & Zoning  
**RE:** Items for Agency Review and Comment

Enclosed are the site plan materials to be reviewed on Wednesday, April 8<sup>th</sup> beginning at 10:00am in the Old Board of Supervisors Meeting Room, 4<sup>th</sup> Floor of the County Courthouse in Lovingston. Please reference the table below to determine your agency's requested participation in the review and discussion of each item.

**1. Minor Site Plan #2015-04 – Taylor Smack / Blue Mountain Brewery**  
(Tax Map Parcel #4-A-60)

**2. Rezoning #2015-01 – Joseph B. Kober “Sepp” / Mountain Sports**  
(Tax Map Parcels #22-A-18 & 22-A-19)

	VDOT	VDH (Health Dept.)	TJWC/D (Soil & Water Conservation District)	Nelson Co. Planning Commission	Nelson Co. Building Official	Nelson Co. Service Authority	Nelson Co. Emergency Services Coordinator	Nelson Co. Info. Systems Director	Utility / Power Company
<b>Item 1.</b> 10:00am	X	X	X	X	X		X		X
<b>Item 2.</b> 10:30am	X	X	X	X	X				

If you have questions regarding these items, or if you need any assistance, please call or e-mail.

Thank you; sincerely,

TMP/svh

Enclosures

Copy to: Mr. Taylor Smack  
 Mr. Joseph B. “Sepp” Kober  
 Ms. Robin Meyer  
 Mr. Steven L. Key  
 Mr. Jeffrey L. Gentry

## Tim Padalino

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**From:** taylor@bluemountainbrewery.com  
**Sent:** Tuesday, April 07, 2015 8:34 AM  
**To:** Kessler, Jeffery B., P.E. (VDOT)  
**Cc:** Tim Padalino; Jeff Gentry; Austin Sr., Donald L. (VDOT); Clark, Matthew D. (VDOT); Joseph, Harley (VDOT)  
**Subject:** RE: Minor Site Plan #2015-004 - Taylor Smack/Blue Mountain Brewery

Thanks for the comments, Jeff. We will make sure to address all these issues in our plan.

Taylor

-----Original Message-----

From: "Kessler, Jeffery B., P.E. (VDOT)" <JefferyB.Kessler@VDOT.Virginia.gov>  
Sent: Monday, April 6, 2015 4:55pm  
To: "Tim Padalino (tpadalino@nelsoncounty.org)" <tpadalino@nelsoncounty.org>  
Cc: "Jeff Gentry" <jgentry@egsassoc.com>, "taylor@bluemountainbrewery.com" <taylor@bluemountainbrewery.com>, "Austin Sr., Donald L. (VDOT)" <Don.Austin@VDOT.Virginia.gov>, "Clark, Matthew D. (VDOT)" <Matthew.Clark@VDOT.Virginia.gov>, "Joseph, Harley (VDOT)" <Harley.Joseph@vdot.virginia.gov>  
Subject: Minor Site Plan #2015-004 - Taylor Smack/Blue Mountain Brewery

Tim,

I wanted to follow up on our telephone conversation this afternoon when I shared that I will not be able to attend this month's Nelson County Site Plan Review Committee meeting on April 8. Having just received the meeting package today, I can only provide a few preliminary comments regarding the minor site plan (#2015-004) for Blue Mountain Brewery to discuss during the meeting. Once we have had the opportunity to complete our review of the site plan, I can be available next week to meet or discuss by telephone my final comments.

Initial comments for consideration include:

1. The minor site plan appears to provide employee only parking. We suggest that the site plan's title be revised to indicate this use.
2. The site plan is being submitted as a low volume commercial entrance or up to 50 vehicle trips per day. By count, there are 25 parking spaces being proposed. We will require an explanation in support of how 25 spaces were derived and how the parking lot will be controlled to no more than 50 vehicle trips per day (25 cars). For example, how may the number of parking spaces be reduced to account for shift use, where one space may be used by two or more employees? Another example may be what controls will be in place to prevent turn over in employee parking that will produce more than 50 vehicle trips per day.
3. Be sure to include parking blocks for all spaces and to also provide positive control around the parking facility to prevent expansion.
4. The site plan identifies line of sight and a distance of 660 feet plus. The measured Stopping Sight Distance must be designated and shown on the site plans.

We will complete our site plan review by early next week and in addition to providing a written comments, we welcome an opportunity to meet with the County and or Taylor and Jeff Gentry to discuss them in detail.

Sincerely,  
Jeff

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

## Stormy Hopkins

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**From:** Tim Padalino  
**Sent:** Monday, April 06, 2015 11:04 AM  
**To:** taylor@bluemountainbrewery.com  
**Cc:** Scott Wilcox; Jeff Gentry; mandi@bluemountainbrewery.com; Stormy Hopkins  
**Subject:** RE: Site Plan Review

Hi Taylor,

Thanks for your question. The Site Plan Review Committee will meet on Wednesday, April 8<sup>th</sup> in the Old BOS Room (Room 420) in the Courthouse.

Like we briefly discussed last week, it's no problem at all that you won't be in attendance at this meeting, especially since Scott (and perhaps Jeff) will be there.

This meeting is more of a technical review (as opposed to Planning Commission reviews, which are generally more comprehensive in nature). Therefore, I would encourage you to attend the PC meeting if you are available; but it is not a formal requirement.

The next scheduled PC meeting is April 22<sup>nd</sup> at 7:00 p.m., although please note that the agenda has not yet been set for that meeting. I have to wait until after the Site Plan Review Committee meeting to evaluate each application's suitability / readiness for PC review. As such, your Minor Site Plan will most likely be reviewed either at the April 22<sup>nd</sup> meeting or possibly the May 27<sup>th</sup> meeting – TBD. We'll certainly keep you updated when we're in position to do so.

Enjoy your vacation and business travels. And please let Stormy or me know if you or your team members have any other questions or requests for assistance during the process.

Sincerely,  
Tim

**Tim Padalino**  
[434]-263-7090

**From:** taylor@bluemountainbrewery.com [mailto:taylor@bluemountainbrewery.com]  
**Sent:** Thursday, April 02, 2015 11:34 AM  
**To:** Tim Padalino  
**Cc:** Scott Wilcox; Jeff Gentry; mandi@bluemountainbrewery.com  
**Subject:** Site Plan Review

Tim,

I'm getting ready to head out of town for a week followed by another week out of town on business, and I am afraid I'll miss the county's notification of the site plan review meeting for our minor site plan on the land next to BMB. Can you tell me if the time/date for the review meeting has been set? Scott Wilcox will be attending in my absence, and we are going to try to get our engineer from EGS to attend as well.

Thanks,

Taylor

## Stormy Hopkins

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**From:** Taylor Smack <taylor@southstreetbrewery.com>  
**Sent:** Wednesday, March 25, 2015 2:13 PM  
**To:** Tim Padalino; Jeff Gentry  
**Cc:** Stormy Hopkins  
**Subject:** RE: Following up on visit

Thanks, Tim.

Jeff, please see info below from Tim on number of plans and potential to extend timeline of minor site plan submission to Monday.

Taylor

-----Original Message-----

**From:** "Tim Padalino" <tpadalino@nelsoncounty.org>  
**Sent:** Wednesday, March 25, 2015 12:17pm  
**To:** "Taylor Smack" <taylor@southstreetbrewery.com>  
**Cc:** "Stormy Hopkins" <shopkins@nelsoncounty.org>  
**Subject:** RE: Following up on visit

Hi Taylor,

You're certainly welcome. And thanks for the update re: the pending submission ... we'll anticipate receiving the Minor Site Plan submission by the end of the week.

(If it's helpful to you and/or EGS, we can even accept the submission materials by COB on Monday at the very latest, since site plans are not bound by the same ultra-rigid "advertising" and "public notice" timelines that most other applications are. We've found that giving applicants the weekend to finalize things can be really helpful.)

And I can't recall if we went over the details or not, but we'll also need to receive a completed application form (blank form attached) and the \$100 review fee. That's in addition to fifteen (15) copies of the minor site plan. That may seem like a large number of copies, but that's what's needed to accommodate reviews by Planning & Zoning staff, Planning Commission members, and Site Plan Review Committee members. (Plus, for everyone's sake, we want to be sure to avoid a situation where additional copies are needed at the 11<sup>th</sup> hour.)

Thank you, Taylor. Please let me know if you have any questions or need any assistance, now or later.

Tim

Tim Padalino  
[434]-263-7090

**From:** Taylor Smack [mailto:taylor@southstreetbrewery.com]  
**Sent:** Wednesday, March 25, 2015 11:18 AM  
**To:** Tim Padalino  
**Subject:** Following up on visit

Tim,

Thanks for your time on Monday. EGS Associates (my PE) will be turning in a minor site plan to your department this Friday in order to be slated on the April Site Plan Review schedule. We are only pursuing the gravel parking lot, landscaping and VDOT-spec entrance, and we are not going to pursue any patio or pergola area. So hopefully this will be simple and straightforward as we discussed.

Thanks,



DEPARTMENT OF  
PLANNING & ZONING

**FILE COPY**  
PLANNING COMMISSION  
BOARD OF ZONING APPEALS

CERTIFIED MAIL

April 15, 2015

Mr. William Karnes  
1108 Pounding Branch Road  
Afton, VA 22920

Hello Mr. Karnes,

I am contacting you as applicant for Wayside Stand Permit #2014-01, which was deferred by the Planning Commission (PC) at their regularly scheduled meeting on November 19<sup>th</sup> 2014.

The PC made that deferral to wait until a determination had been made by the PC and the Board of Supervisors (BOS) regarding the application for Special Use Permit #2014-008 ("Page's Palette"), submitted by Mrs. Kim Page, property owner for the location of your proposed wayside stand.

As you may know, Mrs. Page formally withdrew her permit application on February 10<sup>th</sup> 2015.

This letter is being sent to notify you that, at their March 25<sup>th</sup> meeting, the PC agreed to once again review your deferred application at their next regularly scheduled meeting. That meeting begins at 7:00pm on Wednesday, April 22<sup>nd</sup> in the General District Courtroom, which is on the 3<sup>rd</sup> Floor of the Nelson County Courthouse.

The PC directed County staff to notify you about this upcoming review prior to the meeting on the 22<sup>nd</sup> so that you would be aware that your deferred application is on the agenda, and so that you can provide County staff and/or the PC with an update on your request for a Wayside Stand Permit.

Please contact me or Mrs. Stormy Hopkins if you would like to provide an update prior to the PC meeting on the 22<sup>nd</sup>, or if you have any questions and/or requests for assistance.

Thank you. Sincerely,

A handwritten signature in black ink, appearing to read "Tim Padalino".

Tim Padalino  
Director of Planning & Zoning

## Tim Padalino

---

**From:** Kessler, Jeffery B., P.E. (VDOT) <JefferyB.Kessler@VDOT.Virginia.gov>  
**Sent:** Thursday, November 13, 2014 4:46 PM  
**To:** Tim Padalino  
**Cc:** Clark, Matthew D. (VDOT); froghollow155@gmail.com; kdpage61@aol.com  
**Subject:** Nelson County Nov.12, 2014 Site Plan Review Committee Meeting - Mr. William Karnes Wayside Stand Permit #2014-01 (TM# 12-A-109)

Tim,

In follow up to our November 12, 2014 meeting discussion of Mr. Karnes Wayside Permit application along Route 151/6, we offer the following comments.

It is my understanding from Mr. Karnes that he plans to operate a roadside stand for vegetables, flowers, and Christmas trees between the hours of 2PM-5PM Wednesday through Saturday, and expects less than 25 cars a day. He is currently located at the northern end of a residential entrance loop to the Kim and Glen Page property located at 6222 Rockfish Valley Highway.

With regard to any wayside permit application, our first concern is for the safety of the roadway users and the customers patronizing the business. Such roadside businesses normally receive low traffic volumes, as Mr. Karnes anticipates, but can easily escalate if not controlled in size. Most small scale roadside stands are accessed by roadside parking. However, the roadside shoulders along the northbound lane of this section of Route 151 are narrow and unlikely to provide for safe parking. Mr. Karnes is planning to access his stand from the existing private entrance or entrances. As such, they will need to meet the requirements of a commercial entrance and be placed under a VDOT Land Use Permit.

This particular location is just south of the recently completed highway safety improvement for the intersection of Route 151/6 and Route 635 East (Greenfield Road). Mr. Karnes anticipates most of his patrons will be using the northern entrance for access and at times, the southern entrance as well. Sight distance to the north is good, but is limited to the south (affecting north bound travelers) and must be proven adequate by a Professional Engineer or Land Surveyor.

At a minimum, VDOT will need a brief narrative of the type and size of business along with the maximum anticipated daily traffic volume. We will also need a site plan showing the location of the business, where patrons will be parking and the traffic flow and a commercial entrance plan by a Professional Engineer or Land Surveyor meeting the applicable spacing, sight distances, entrance geometrics, and pavement design.

Please notify me if you have any questions or require further assistance.

Thank you,  
Jeff

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

TO THE ZONING ADMINISTRATOR:

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

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

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

Reason(s) for request: We are a family owned farm trying to set up a wayside stand to offer our fresh vegetables, produce, eggs, and pork

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

Applicant     Property Owner    Name: William Karnes Frog Hollow Family Farm  
 Address: 1108 Pounding Branch rd Aston VA  
 Tel. No.: \_\_\_\_\_ Cell No. 540-221-0305 E-mail addr. FrogHollow155@gmail.com  
 Relationship (if applicable): \_\_\_\_\_

Applicant     Property Owner    Name: Kim & Glen Page  
 Address: 6222 Rockfish Valley Highway Aston VA 22920  
 Tel. No.: \_\_\_\_\_ Cell No. 540-244-9653 E-mail addr. KPage61@aol.com  
 Relationship (if applicable): \_\_\_\_\_

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

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

(Use reverse if more space is needed.)

3. Location and Characteristics of Property:

a. Address of property including specific location, route numbers, street names, direction (NSEW), Magisterial District, etc.: 6222 Rockfish Valley Highway Aston VA 22920

Official tax map number: 12a 109

b. Acreage of property: 7.177

c. Present use: \_\_\_\_\_

d. Present zoning classification: A1

e. Zoning classification of surrounding properties: \_\_\_\_\_

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: Humbly D. Page  
Signature: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Signature: \_\_\_\_\_

6. Additional information: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. **Please note:** In the event of cancellation or postponement **at your request** after the initial newspaper advertisement for this application, an additional fee will apply for re-advertisement. The fee will be based on the actual cost of the ad, and will not apply in cases of Planning Commission or Board of Supervisor deferments.

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

Completed application and fee (\$ 25.00 ) received on 10/7/2014  
Hearing Notice published on N/A  
Planning Commission action: Date of Hearing: \_\_\_\_\_  
Recommendation: \_\_\_\_\_

Board of Supervisor action: Date of Hearing: N/A  
Date of Decision: \_\_\_\_\_  
Action: \_\_\_\_\_



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: November 12, 2014

**Subject: Wayside Stand Permit #2014-001: William Karnes / 6222 Rockfish Valley Hwy**

<u>Site Address / Location:</u>	6222 Rockfish Valley Highway (east side of highway) / Greenfield / North District
<u>Tax Map Parcel:</u>	#12-A-109
<u>Parcel Size:</u>	approximately 7.1 acres
<u>Zoning:</u>	Agricultural (A-1)
<u>Request:</u>	Approval of Wayside Stand Permit #2014-001 to sell agricultural and horticultural products year-round
<i>Completed Application Received On: October 7</i>	

### **Application Overview**

Mr. William Karnes of Frog Hollow Family Farm has applied for a Wayside Stand Permit to operate a small stand in the Greenfield area of Afton. Mr. Karnes is currently operating a wayside stand at that location, and is seeking permission from the County to continue operating with proper permit approvals.

The Zoning Ordinance defines “wayside stands,” in Article 2, “Definitions” as follows:

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

Mr. Karnes’ application states that, “We are a family owned farm trying to setup a wayside stand to offer our fresh vegetables, produce, eggs, and pork.” His agricultural operations are located in Afton (Bland Wade Lane) and in Nellysford (Adial Road). He has stated that everything he is selling at the wayside stand is either agricultural or horticultural in nature; and that his family produces approximately 70% of the products being sold at one of those two farm sites.

Mr. Karnes has stated that he intends to operate from approximately 2:00 – 5:00 pm on Wednesdays through Sundays. He wishes to operate the wayside stand year-round, offering seasonal products throughout the year (such as produce in the summer, pumpkins and mums during fall, wreaths and trees during the winter holiday season, etc.). Mr. Karnes has also stated

that he primarily sells his products at the Nellysford Farmers Market; but that market does not operate during the winter. Because he owns and uses specialized equipment that allows him to extend his growing season, he wants to also expand his ability to sell products for a longer portions of the year and maximize his earnings.

Please note that the wayside stand location is at the dwelling used as a Home Occupation by Ms. Kim Page for art studio instruction and classes. Mrs. Page is also seeking approval for a Special Use Permit for that property to operate a “craft, gift, or antique shop” in the Agricultural District – a use which is also currently taking place without permit approval.

### **Staff Comments**

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County staff are concerned with the location of the wayside stand, with respect to Route 151 and the physical characteristics of the subject property.

6222 Rockfish Valley Highway is a historic dwelling set up for residential use – it does not appear to be a property that is well suited to accommodate ongoing retail use(s) or handle associated vehicular traffic. The primary concern is the issue of safety, as it relates to the high volume of traffic on Route 151 and to the proximity of the proposed wayside stand to the public right-of-way.

Although the subject property does have a semi-circular driveway with both a northern and southern entrance onto Rockfish Valley Highway, VDOT has indicated concerns over the safety of those entrances being utilized for the proposed use. Mr. Jeff Kessler has conveyed to the applicant the need to submit engineered drawings and analysis, before VDOT can make a recommendation on the safety and appropriateness of the permit application as it relates to safety and mobility on Route 151. That request was made to Mr. Karnes at the Site Plan Review Committee meeting held on November 12<sup>th</sup>.

Additionally, the proposed frequency and duration of the wayside stand use are also a concern. Wayside stands are traditionally temporary uses. With this application seeking approval for ongoing, year-round operations, this wayside stand is functionally very similar to a retail store or other commercial enterprise.

### **Summary**

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The proposed use at the proposed location raises significant concerns. The Planning Director recommends that the Planning Commission not approve this Wayside Stand Permit #2014-001 for the following reasons:

1. Unresolved issues and concerns with transportation, traffic demand, road safety and mobility
2. Lack of VDOT recommendation for approval
3. Location of property relative to intersection of concern and busy stretch of Route 151 (as identified in 2013 Route 151 Corridor Study)
4. Unresolved issues involving the subject property (pending submission of Site Plan and requested Special Use Permit)

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





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: April 15, 2015  
Subject: Proposed (draft) amendments for "off-farm retail sales"

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Please review the following proposed language regarding possible amendments to the Zoning Ordinance. These changes were requested by the PC at the March 25<sup>th</sup> meeting.

#### 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 second-hand products, or other merchandise purchased specifically for resale at a profit.

***Wayside Stand:*** The use of any land, vehicle, equipment, or facility that is used for the off-site sale of agricultural or 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. The operation of wayside stands is limited to daylight hours only.

***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 a 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, and/or scale is substantially modified. No Class A Wayside Stand permit may be approved unless the Zoning Administrator reviews and approves the following operational details regarding the safety and appropriateness of the proposed wayside stand:**

- (i) **Proposed frequency and duration of operations (throughout the day, week, month, and calendar year):**
  - a. **Operations may not exceed \_\_\_\_ consecutive days**
  - b. **Operations are limited to a maximum of \_\_\_\_ hours per day**
  - c. **Operations are limited to a maximum of \_\_\_\_ days per week**
  - d. **Operations are limited to a maximum of \_\_\_\_ weeks per year**
- (ii) **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**
- (iii) **Detailed information about the type(s) of products for sale, including:**
  - a. **List of all types of agricultural or horticultural products proposed for sale**
  - b. **Specific property information for each agricultural operation, which must be owned or controlled by the wayside stand operator, that is the source(s) of products being offered for sale**
- (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 access and parking**
- (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 (draft) proposed amendment language; and please contact me with any questions you may have regarding the information contained in this report.