

AGENDA
NELSON COUNTY BOARD OF SUPERVISORS
September 13, 2016
THE REGULAR MEETING CONVENES AT 2:00 P.M.
IN THE GENERAL DISTRICT COURTROOM
AT THE COURTHOUSE IN LOVINGSTON

- I. Call to Order**
 - A. Moment of Silence
 - B. Pledge of Allegiance

- II. Recognition of Retired Clerk of Circuit Court, Judy S. Smythers**

- III. Consent Agenda**
 - A. Resolution – **R2016-59** Minutes for Approval
 - B. Resolution – **R2016-60** FY17 Budget Amendment

- IV. Public Comments and Presentations**
 - A. Public Comments
 - B. Presentation – Health Department, Zika Virus Update (Dr. D. Bonds)
 - C. Presentation - TJPDC 2017 Legislative Priorities (D. Blount)
 - D. Presentation - Treasurer (A. Johnson)
 - E. VDOT Report

- V. New Business/ Unfinished Business**
 - A. Comprehensive Fire & EMS System Study – VA Dept. of Fire Programs (**R2016-61**)
 - B. Proposed Amendment to the Code of Nelson County, Chapter 11, Article 2 Real Property Tax, Division 2 Exemptions for Elderly and Disabled (**R2016-62**)
 - C. Class C Tower Permit Application #2016-08, Existing Site CV221, 12979 Thomas Nelson Hwy (**R2016-63**)

- VI. Reports, Appointments, Directives, and Correspondence**
 - A. Reports
 - 1. County Administrator’s Report
 - 2. Board Reports
 - B. Appointments
 - C. Correspondence
 - 1. Humane Society Request for Funding
 - D. Directives

- VII. Recess and Reconvene Until 7:00 PM for the Evening Session**

**EVENING SESSION
7:00 P.M. – NELSON COUNTY COURTHOUSE**

- I. Call to Order**
- II. Public Comments**
- III. Public Hearings**

A. **Special Use Permit #2016-03 J. Bradshaw, Jr.:** Pursuant to Zoning Ordinance, Article 8, Section 1-10a; request to continue to allow an apartment use in a Business (B-1) zoned building in Lovingston, Tax Map Parcel #58B-3-32.

B. **Conditional Rezoning #2016-01 Old Hickory Buildings, LLC:** Pursuant to Zoning Ordinance, Article 16, Sections 1-1 and 4; request to rezone property from Business (B-1) to Limited Industrial (M-1) Conditional, to allow for the manufacturing, storage, and display for the storage buildings for sale to the general public; with proffers. Property is located in Colleen, 3907 and 3965 Thomas Nelson Hwy, Tax Map #76-A-1

C. **Ordinance O2016-04 Temporary Events, Festival Grounds & Out-of-Door Accessory Uses:** Pursuant to §15.2-1427 and §15.2-2204 the Code of Virginia, 1950 as amended; consideration is proposed Ordinance Article 24, Temporary Events, Festival Grounds, and Out-of-doors Accessory Uses and associated uses in Article 2 Definitions, Article 4 (A-1), Article 5 (R-1), Article 8 (B-1) Article 8A (B-2), and Article 8B (SE-1). **(O2016-04)**

D. **Disposition of Public Property:** Pursuant to §15.2-1800 of the Code of Virginia 1950 as amended; proposed disposition of County Property located at 393 Front Street, Lovingston, Virginia 22949, Tax Map #58-A-38a, known as the former Lovingston Healthcare Center.

E. **Ordinance O2016-05 Addition to Greenfield AFD:** Pursuant to Chapter 9 “Planning and Development,” Article V, “Agricultural and Forestal Districts” of the Code of Nelson County; proposed Ordinance includes application #2016-01, M. Chanin, requesting voluntary expansion of the existing Greenfield AFD by 13.88 total acres, Tax Map Parcel #13-10-1 & #13-10-3 (zoned A-1). **(O2016-05)**

F. **Ordinance O2016-06 Unclaimed Property Held by the Sheriff:** Pursuant to §15.2-1719, §15.2-1720, and §15.2-1721 of the Code of Virginia, 1950, as amended, proposed Ordinance provides for the disposition of unclaimed property held by the Sheriff. **(O2016-06)**

- IV. Other Business (As May Be Presented)**
- V. Adjournment**

RESOLUTION R2016-59
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF MEETING MINUTES
(August 9, 2016)

RESOLVED, by the Nelson County Board of Supervisors that the minutes of said Board meeting conducted on **August 9, 2016** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

Approved: September 13, 2016

Attest: _____, Clerk
Nelson County Board of Supervisors

August 9, 2016

Virginia:

AT A REGULAR MEETING of the Nelson County Board of Supervisors at 2:00 p.m. in the General District Courtroom located on the third floor of the Nelson County Courthouse, in Lovingston Virginia.

Present: Allen M. Hale, East District Supervisor – Chair
Thomas H. Bruguiera, Jr. West District Supervisor
Larry D. Saunders, South District Supervisor
Thomas D. Harvey, North District Supervisor – Vice Chair
Stephen A. Carter, County Administrator
Candice W. McGarry, Administrative Assistant/Deputy Clerk
Debra K. McCann, Director of Finance and Human Resources
Tim Padalino, Director of Planning and Zoning
Susan Rorrer, Director of Information Systems
Phillip D. Payne, IV, County Attorney

Absent: Constance Brennan, Central District Supervisor

I. Call to Order

Mr. Hale called the meeting to order at 2:05 PM, with four (4) Supervisors present to establish a quorum and Ms. Brennan being absent.

- A. Moment of Silence
- B. Pledge of Allegiance – Mr. Saunders led the pledge of Allegiance

II. Consent Agenda

Mr. Hale noted the items included on the consent agenda and Mr. Bruguiera asked for an explanation regarding the funds transfer for the Schools on the proposed budget amendment. Mr. Carter explained that these were previously authorized funds to be used for remedying the School's Civil Rights compliance issues. He added that these funds were unused in the past fiscal year and were being rolled forward to this fiscal year. He added that a letter had been provided in July that outlined what the funds would be used for including roof replacement at Tye River Elementary School. He reiterated that staff was moving forward with the Board's previous approval and this was not new money.

Mr. Saunders then moved to approve the consent agenda and Mr. Bruguiera seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the following resolutions were adopted:

- A. Resolution – **R2016-50** Minutes for Approval

**RESOLUTION R2016-50
NELSON COUNTY BOARD OF SUPERVISORS**

August 9, 2016

**APPROVAL OF MEETING MINUTES
(June 14, 2016 and July 12, 2016)**

RESOLVED, by the Nelson County Board of Supervisors that the minutes of said Board meetings conducted on **June 14, 2016 and July 12, 2016** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

B. Resolution – **R2016-51** FY17 Budget Amendment

**RESOLUTION R2016-51
AMENDMENT OF FISCAL YEAR 2016-2017 BUDGET
NELSON COUNTY, VA
August 9, 2016**

BE IT RESOLVED by the Board of Supervisors of Nelson County that the Fiscal Year 2016-2017 Budget be hereby amended as follows:

I. Appropriation of Funds (General Fund)

<u>Amount</u>	<u>Revenue Account</u>	<u>Expenditure Account</u>
\$598.00	3-100-009999-0001	4-100-022010-5419
\$1,267.00	3-100-003303-0008	4-100-031020-7046
\$141.00	3-100-009999-0001	4-100-031020-7046
\$258,386.00	3-100-009999-0001	4-100-093100-9206
\$260,392.00		

II. Transfer of Funds (General Fund)

<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$5,500.00	4-100-999000-9901	4-100-032020-5647

III. Appropriation of Funds (School Fund)

<u>Amount</u>	<u>Revenue Account</u>	<u>Expenditure Account</u>
\$258,386.00	3-205-004105-0001	4-205-066100-9305

IV. Appropriation of Funds (CDBG Fund)

<u>Amount</u>	<u>Revenue Account</u>	<u>Expenditure Account</u>
\$50,422.00	3-503-003201-0013	4-503-094720-9114

III. Public Comments and Presentations

A. Public Comments

1. Vickie Wheaton, Faber

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Ms. Wheaton distributed a folder of information for the Board and noted she wished to speak to an item on the agenda – the proposed Floodplain Ordinance. She added that she had given the Board information on the flooding in West Virginia and Maryland and noted that fewer than 2% of the insured had flood insurance and West Virginia has seen a 71% increase in precipitation. She then referenced the upcoming Historical Society presentation on Hurricane Camille that would focus on the Davis Creek area. She noted that Debbie Harvey would introduce a new video of eight (8) people living there who would tell their stories and Tiffany Spencer would narrate a slide show of the damage in that area. Ms. Wheaton then noted she wanted to protect flood plains in the future and she implored the Board to hold the public hearing on the subject; adding that she supported the Planning Commission's recommendation. She added that adoption of the proposed ordinance could favorably affect flood insurance rates for Nelson County Residents.

B. Presentation – Jerry Gress, Interim Commonwealth Attorney

Mr. Gress addressed the Board regarding his office and noted his appreciation of the Board's support. He reported that the Victim/Witness Advocate position was now full time and he thanked the Board for funding their travel to a conference in Virginia Beach. Mr. Gress then noted that the office workload had increased over the past few months and that they had five (5) jury trials between now and the end of October which; was a significant burden on staff. He added that his office had a good relationship with the Sheriff's Office. Mr. Gress then noted that in the next budget year, he would ask for a supplemental salary increase for the Assistant Commonwealth Attorney and he would also be asking for his part-time secretary to be made full time in order to handle the workload.

C. Presentation - Rockfish Valley Area Plan Update

Presenting on the Rockfish Valley Area Plan were Tim Padalino and Wood Hudson and Nick Morrison of the Thomas Jefferson Planning District Commission (TJPDC). Mr. Padalino noted that they had been working on this project for eight (8) months and a lot of work had been done. He added that he had been selective on what was provided up front and in the presentation in order to allow time for questions etc. from the Board. He noted that his staff report had included hyperlinks where they could download all of the project documents.

Mr. Padalino noted that the project had initially begun in 2014, and was reinitiated in 2016. He noted that the Rockfish Valley Area Plan was a joint long-range planning effort between Nelson County and the TJPDC and had been broken into two phases. He noted that Phase I concentrated on an analysis of current conditions in the project study area; reviewing and summarizing existing plans and previous studies; and soliciting feedback from the community on their visions for the future of the Rockfish Valley. He noted that Phase II would focus on developing recommendations and strategies, based on findings from Phase I. He added that the project aimed to identify the community's concerns, desires, and priorities and help facilitate short- and long-term goal implementation that struck a balance between future growth and rural preservation.

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Mr. Padalino noted that the existing plans summarized included: the Comprehensive Plan, Green Infrastructure Plan, Rockfish River TMDL Implementation Plan, 2013 Virginia Outdoors Plan, Economic Development Strategies, the Rural Long Range Transportation Plan, and the 151 Transportation Corridor Study.

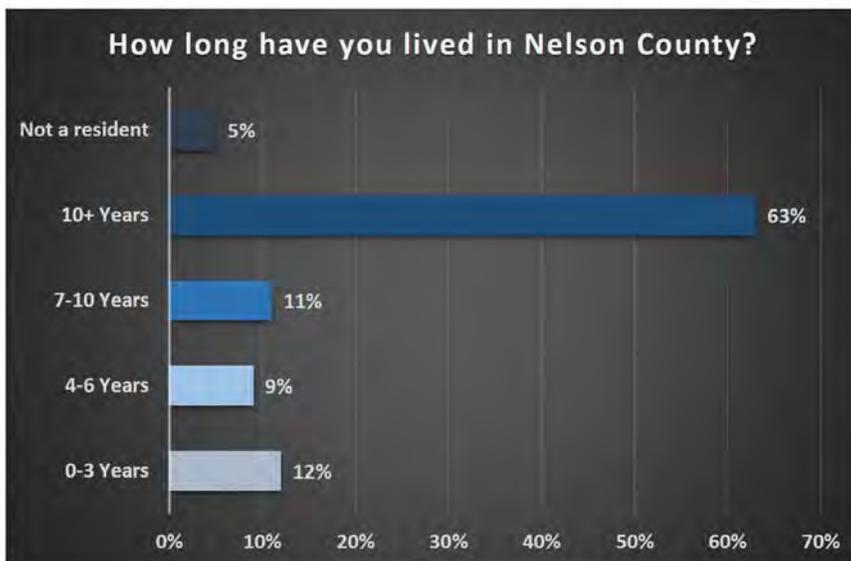
Mr. Padalino then introduced Nick Morrison to discuss the public engagement piece of the project.

Mr. Morrison reported that 125 people attended the June 28th public meeting. He noted that they had five (5) staffed stations on planning topics and public comments were collected by way of interactive maps, posters, and comment cards. He noted the meeting format included a brief presentation on the plan intro, preliminary survey results, and analysis of the study area. Mr. Morrison added the five (5) plan topics were: Agriculture, Community, Economy, Natural Resources, and Transportation. He noted that Natural Resources was highly important and that the attendees liked the interactive approach of the meeting.

Mr. Morrison then related that the survey had 431 total responses with 234 written comments. He noted that the survey was initiated on May 23rd and it was closed on July 15th. He added that it was made available on SurveyMonkey and in hard copy with surveys being distributed to sixteen (16) churches throughout the study area. Mr. Morrison then showed a graphic of where the survey respondents lived by zip code that depicted the following: 6-15 were in 22938, 16-43 were in 22967, 44-82 were in 22920, and 83-218 were in 22958. He then showed a word cloud graphic representing recurring themes gotten from comments on the survey. He noted the top ten words in order were: development, businesses, traffic, beauty, rural, store, natural, growth, tourism, and local.

Mr. Morrison then noted some of the questions and results as follows:

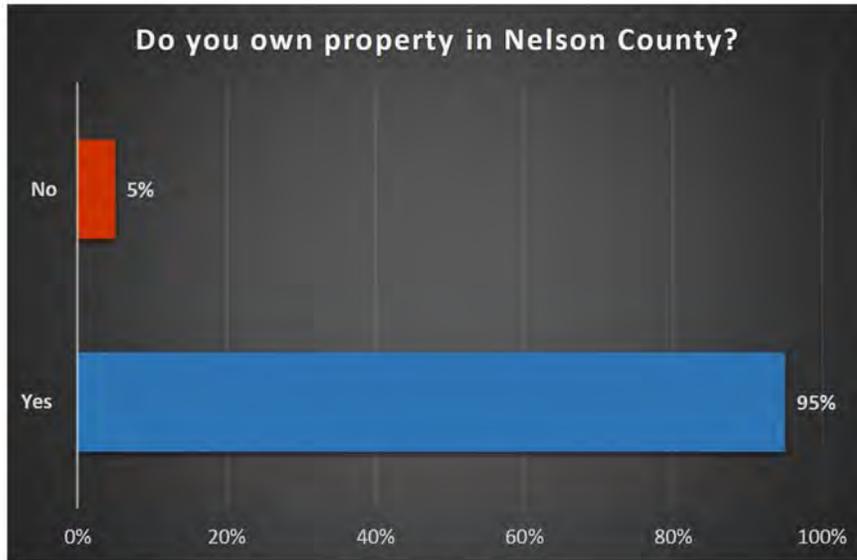
Q1:



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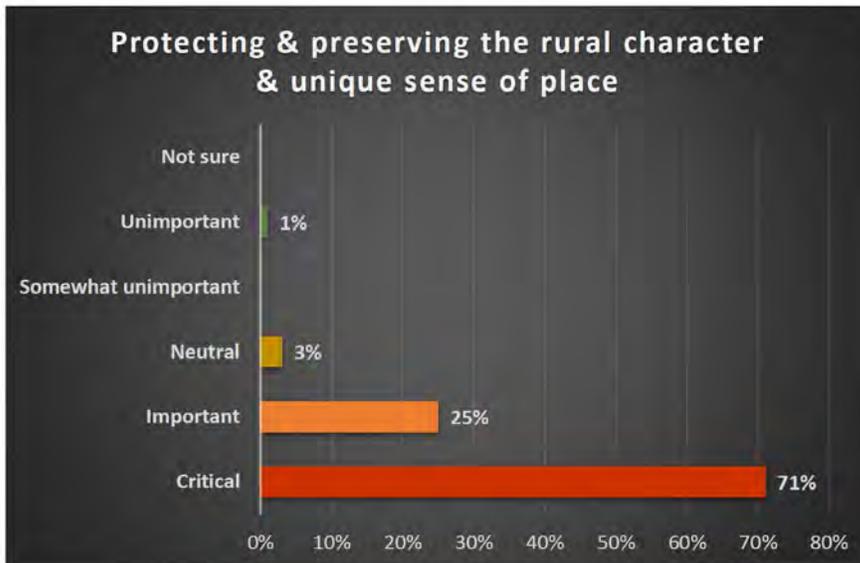
(Q1): 63% have lived in Nelson County for 10+ years. Only 5% were not County residents.

Q3:



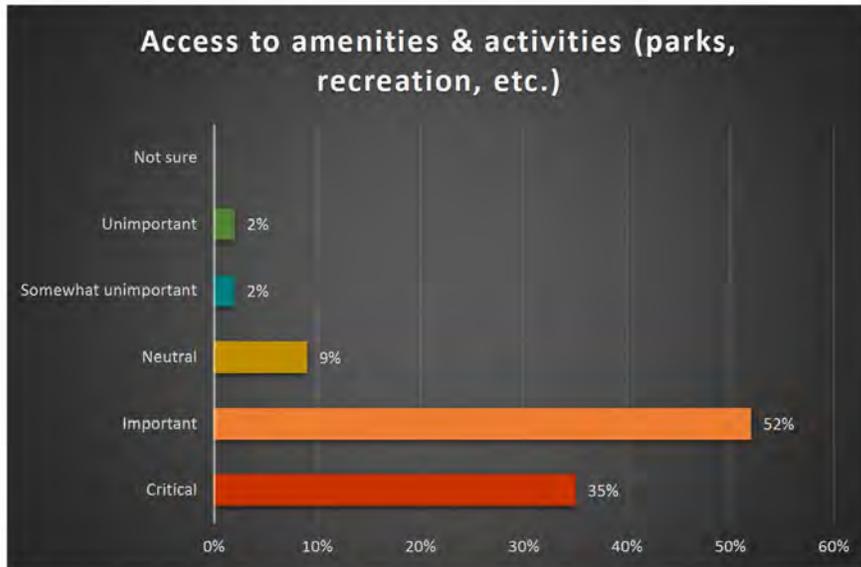
(Q3): 95% own property in Nelson County.

Q5:



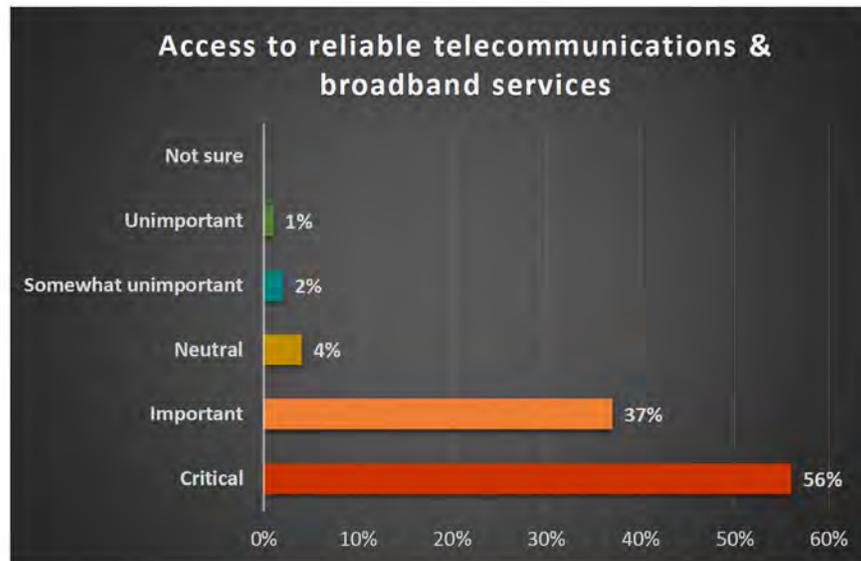
(Q5): 96% said it is important to protect and preserve the Rockfish Valley's rural character and unique sense of place. 71% said it is critically important.

Q6:



(Q6): 87% said access to recreational amenities (such as parks) is important. 35% said it is critically important.

Q7:



(Q7): 93% said access to reliable telecommunications and broadband service is important. 56% said it is critically important.

Q8:



(Q8): 96% said safe/reasonable levels of traffic and congestion on roads is important. 58% said it is critically important.

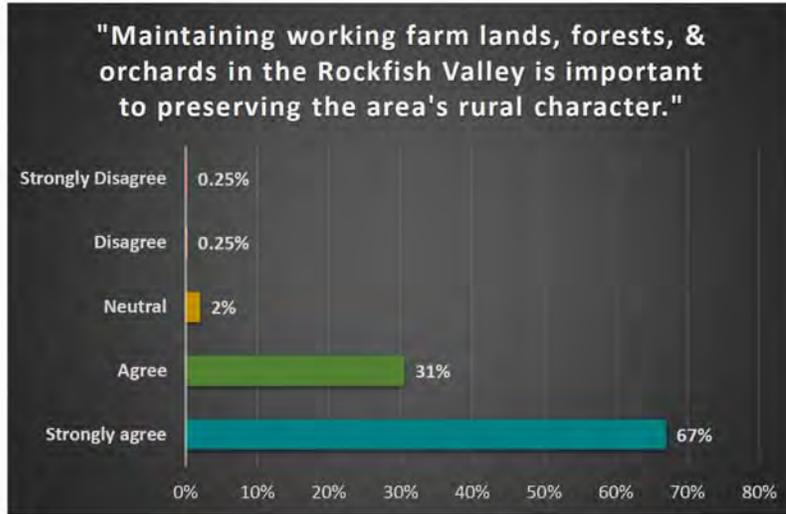
Q21:



(Q21): 92% give importance to access to local foods and the success of local farms and local farmers.

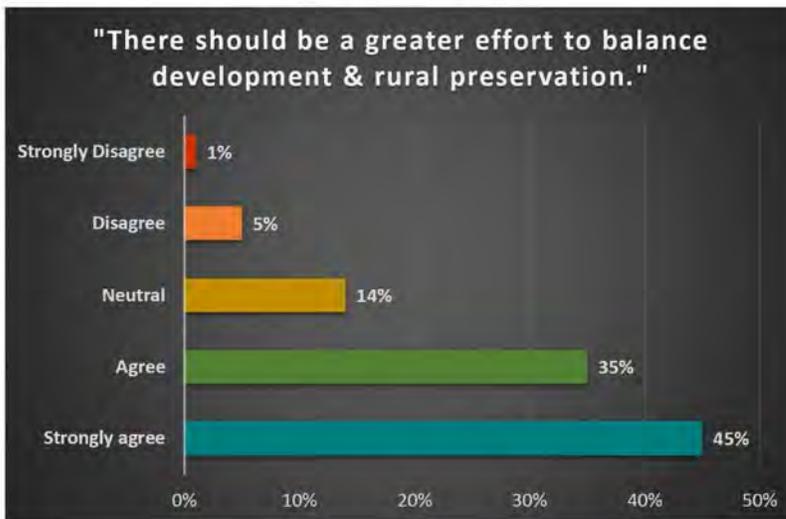
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Q22:



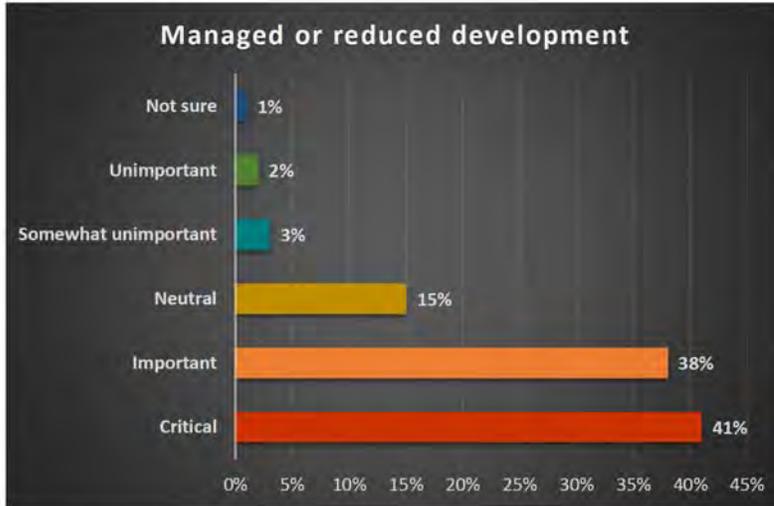
(Q22): 98% agreed that, "Maintaining working farm lands, forests, and orchards in the Rockfish Valley is important to preserving the area's rural character."

Q23:



(Q23): 80% agreed that, "There should be a greater effort to balance development and rural preservation."

Q11:



(Q11): 79% said managed or reduced development is important.

Mr. Morrison then summarized the responses related to Economic Development as follows:

- Regarding economic vitality (including job creation and job growth): 51% said this is important, while 48% felt this is unimportant or felt neutral.
- Regarding access to employment opportunities in Nelson County: 49% said this is important, while 50% felt this is unimportant or felt neutral.
- Regarding increased or continued development: 31% said this is important, 42% said this is unimportant, and 26% felt neutral.

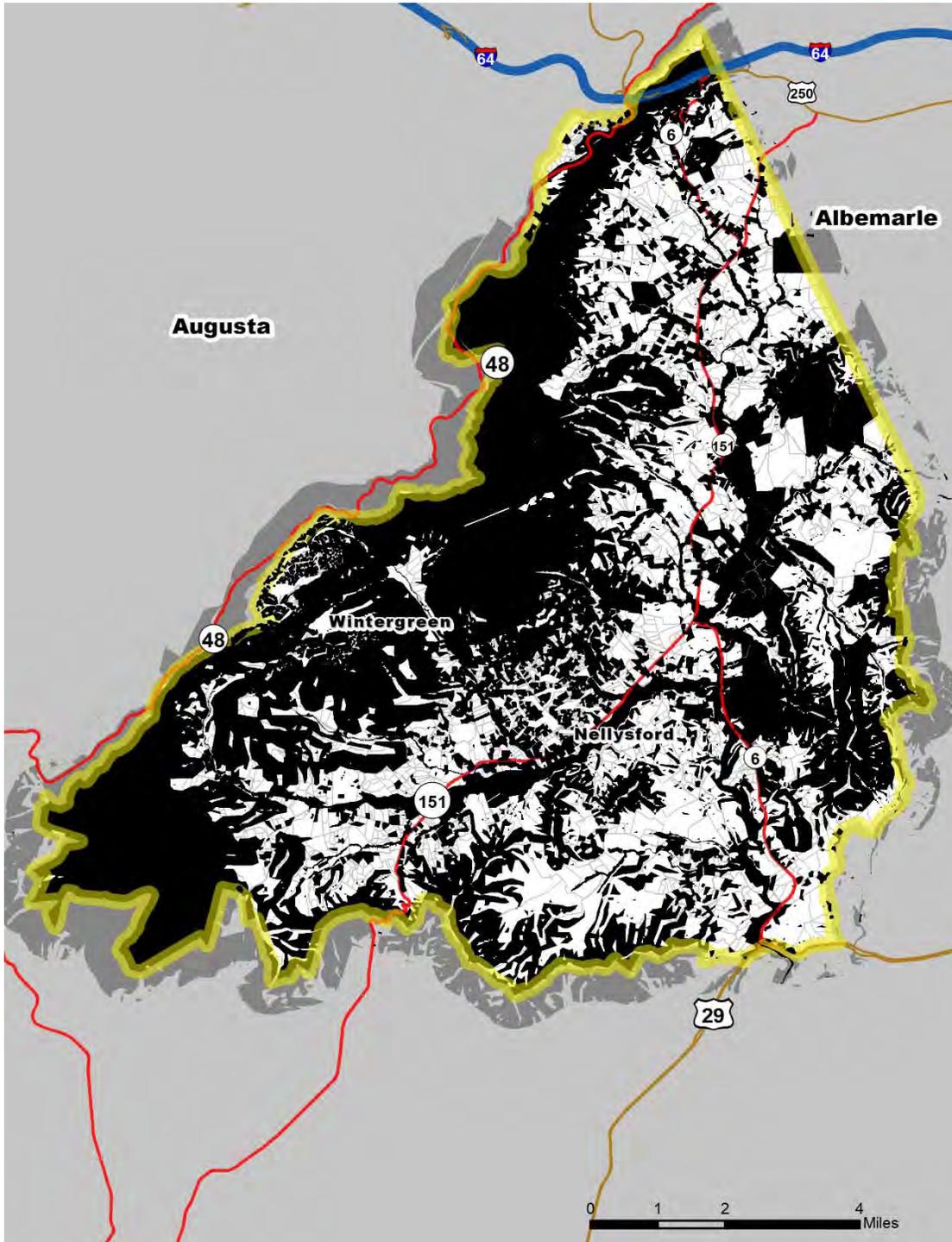
Mr. Padalino then reviewed maps of the County showing the various zoning classifications. He noted that an analysis of the zoning map and land use could provide more detailed information than just how the property was zoned.

Mr. Padalino then showed the Zoning Districts in the Study Area, noting that there was only one C-1 Conservation District and only one RPC Residential Planned Community District (Wintergreen). He noted that Residential R-1 was evenly distributed along highways and Avon Road. B-1 Business District and SE-1 Service Enterprise Districts were more towards Nellysford and Beech Grove, with a couple in Afton and Reeds Gap. He noted that there were M-1 and M-2 Limited Industrial zoned areas in Afton and at the intersection of Spruce Creek and Glenthorne. He noted that the FP Floodplain Overlay District followed the north and south forks of the Rockfish River and its tributaries, USFS Forest Service and NPS National Park Service lands were along the Blue Ridge Trail and the Appalachian Trail. He then noted the locations of Ag Forestal Districts, Conservation Easements, and Rural Historic Districts on the County map.

Mr. Padalino then described how they determined at a high level how much land was still developable. He noted they developed a methodology and began with land that restricted or prohibited development such as Wetlands, 100 year floodplain, Conservation Easements, Ag

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Forestral Districts, Public Lands, Steep Slopes at or greater than 25%, and Parcels 5 acres or less currently containing a structure. (Could be a family division). He noted that the remaining property in white on the map shown below could be further developed; however they wanted feedback on this and then they would come up with a more fine-grained analysis.



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Mr. Padalino noted that as far as Asset Inventory & Asset Maps, assets would be identified and they would be used for developing community and economic development goals. He advised that the asset inventory would specify and map all of the Rockfish Valley's most valuable physical resources, features, and amenities and would focus on Green Infrastructure Assets (natural resources); Cultural & Historical Assets (community amenities); Infrastructure Assets (public services); and Intangible Assets. He noted that a copy of the Asset Inventory would be available on the project webpage when it was completed at: <http://www.nelsoncounty-va.gov/departments/planning-zoning/rockfish-valley-area-plan/>

Next, a summary of the SWOT (Strength, Weakness, Opportunities, and Threats) Analysis was presented and it was noted this was based on community engagement and the existing Comprehensive Plan.

Strengths were: Environmental Resources, Charming Rural Character, Scenic Vistas, Local Agriculture, Community Pride & Involvement, Relatively High Household Income, Economic Engine, and Proximity to Public Lands (added by staff).

Weaknesses were: Inadequate Growth Management, Lack of Transportation Options, Limited Access to Nature, Non-Diversified Economic Base.

It was noted that successful communities identified these to find ways to overcome them.

Opportunities were: Broadband/Fiber Services, Local Business Succeed and Expand, Agribusiness and Agritourism, Increased Access to Trails and Parks (added by staff).

Staff noted that Broadband/Fiber Services was both a strength and an opportunity and that some saw Agribusiness & Agritourism as a threat; however most saw it as an opportunity.

Threats were: Atlantic Coast Pipeline (ACP), Diminished Scenic Resources, Unplanned Development, and Aging Population.

Staff noted that recommendations would not be developed for the ACP and that an Aging Population was only a threat if the County was not preparing for it.

Mr. Padalino then noted from that analysis, the following list of short term action items was generated:

Action:	Description:	Deliverable:
Comprehensive Plan	Update the Plan to establish a holistic and up-to-date growth management strategy.	Comp Plan Update
Aging Population	Develop strategies for embracing the County's aging population.	Comp Plan Update
Asset-Based Development Strategy	Develop an asset-based development strategy to maximize and synchronize economic development priorities and community development goals.	Comp Plan Update

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Parks and Recreation	Conduct an assessment of opportunities for parks and recreation facilities in the Rockfish Valley.	Comp Plan Update
Code Audit	Evaluate effectiveness of ordinances at preserving rural character and protecting scenic vistas.	Report Document
Traffic Counts	Coordinate with VDOT to conduct additional traffic counts on weekends and peak season.	New Data

Mr. Padalino then noted the ongoing tasks as follows: finalize asset inventory & maps and SWOT Analysis, complete analysis of zoning permit actions 2002-2016, finalize business clusters analysis and Tax revenue assessment and revise and finalize land use analysis.

The next steps were noted to be: Finalize Developable Lands Map, Complete Code Audit & Ordinance Review, Conduct public meeting #2 (“listening session”), Prioritize (draft) Strategic Recommendations & Toolkit of Action Items, and Create final Area Plan report.

The floor was then opened for questions and the Board and Staff had the following discussion:

In response to questions, Mr. Padalino noted that they were trying to hit their marks by the end of the calendar year.

Mr. Saunders then asked what percentage of those surveyed were of the aging population and Mr. Morrison noted that metric was not included in the survey. Mr. Padalino added that the public meeting attendees consisted mostly of adults and young adults and consisted of a wide range of ages.

Mr. Harvey noted he did not think they had gotten a representative survey of the Rockfish Valley and Mr. Hale noted that the results reflected the views of the people who had an active interest in it and those that did not have an interest would not participate. Mr. Harvey stated that those surveyed were made up of groups that were for or against something and if the ACP was not an issue, they would not have gotten any information.

Mr. Carter then asked about the survey data that showed an indifference to economic development and questioned why that was. Mr. Padalino noted that they only had zip codes as a way to guess where respondents lived and Mr. Carter wondered if those in the Wintergreen community were not as worried about economic development as the other areas.

Mr. Carter then asked if Mr. Padalino could speak to the “lack of diversified economy” listed in the SWOT analysis. It was noted by the presenters that they looked at comments in the survey and took a quick look at the Comprehensive Plan. They noted that the survey comments were broken down into several categories: ACP, Dollar General Store,

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Environmental, and Agritourism. It was noted that the data could have limitations, however the hope was that it would provide a snapshot of trends in the community. They noted that some of the comments indicated that the heavy brewery industry was a recurring theme and questioned whether or not that was helpful or harmful to the community.

Mr. Padalino noted that all of the survey questions were geared to the study area and a couple were countywide. He noted that the “lack of diversity” was related to the study area but also could be related to countywide as there were other opportunities across the county to build a diverse local economy. He noted this seemed to be a concern but not a problem or that a solution needed to come from within the study area. He added that the survey was limited and it was among many items to be considered. He then noted that he heard Mr. Harvey’s concerns about who was there and who was being represented and he reiterated that they had distributed paper copies of the survey to sixteen (16) churches in the study area and noted that Maureen Kelly’s staff had also delivered it to public areas and they had tried to get the widest audience possible.

Mr. Harvey stated that he thought it was misleading to say this was how the Rockfish Valley felt. Mr. Morrison noted that the survey deadline had been extended to provide for a wider outreach effort. He noted there were certain limitations and they tried to incorporate that into the summary; however there may be an over or under represented population in the survey results.

Mr. Wood Hudson of the TJPDC noted that since the results were now in the public record, it would attract more of those who were interested and would provide more avenues of engagement going forward. Mr. Morrison added that there was a push on their part to engage the community so they could have something that was useful; which was the goal. He added that they wanted feedback to further develop and tweak the data that had been collected.

Mr. Bruguiere asked if they would go through each parcel in the County in Phase 2 of the project and Mr. Padalino noted this had been done and they had been specifically labeled as one of 30-40 categories.

Mr. Saunders noted his agreement with Mr. Harvey in that the two main issues affecting the county had generated public interest in the surveys. Mr. Hale then noted the representation of people that valued the traditional and rural character of the County was both from those that have been here and those that have come here.

Mr. Harvey then questioned how those in the Rockfish Valley valued agritourism when family farms there had been run out of business. Mr. Hale noted that he hoped the outcome would be the possibility of preserving the features of the County that drew them here and that were enjoyed. He added that the County did have a traffic problem on Route 151 and he was not sure what the solution to that was. He noted that the businesses there had created visitors and jobs and this was not all a bad thing. He concluded by noting he was looking forward to what came next.

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D. VDOT Report

Mr. Robert Brown of VDOT reported that on Monday the 18th, they would start mowing Route 29, would start the construction project on Route 640, Wheelers Cove Rd., and would continue performing maintenance activities and patching roads as well as addressing citizens' concerns.

Supervisors discussed the following VDOT concerns:

Mr. Saunders:

Mr. Saunders related that the mowing done in Arrington was horrendous as the grass was pushed down and not cut. Mr. Brown noted he would speak to that mowing group about it and Mr. Saunders noted that generally the whole area was affected.

Mr. Saunders asked if trash pick-up on Route 29 would be done prior to LOCKN. Mr. Brown advised that the number of offenders was down in Rustburg and the crews were smaller; however they would work towards completing that.

Mr. Saunders reported that the Welcome to Nelson sign was covered by trees coming into the County from the North.

Mr. Bruguiere:

Mr. Bruguiere advised that trees on the south side of Route 29 needed trimming. He added that kudzu was covering up the guardrail on Route 56 heading east out of Massies Mill and Tye River.

Mr. Hale:

Mr. Hale thanked VDOT for their work after the recent heavy rains. Mr. Brown noted they had been working on that and it had taken them away from other things.

Mr. Hale noted that on Route 639, there had been four (4) chevron signs knocked down by plowing etc. and these needed to be put back up.

Mr. Hale noted a spot south of Route 617, where a car went into Dutch Creek and Mr. Brown noted this should have been repaired.

Mr. Harvey:

Mr. Harvey noted that on Route 29, the sides were up higher than the pavement and it pushed the water to the center of the road. Mr. Brown noted that this was an area of concern that was not given as much attention as it should get. He added that the high shoulders needed to be clipped and this was a common problem of trapping water on the side of the pavement. He noted that working on this was a time and resource factor. It was then noted

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that VDOT would need to do massive ditching and shoulder operations in all of their counties at some point and it was hoped it will be statewide.

IV. New Business/ Unfinished Business

A. Commissioner of Revenue Refunds – Request for Change in Processing (R2016-52)

Mr. Hale introduced the item and said the request made sense to him. Mr. Carter explained that the Commissioner of Revenue had proposed an expedited refund process as opposed to the current process of the Commissioner and the County Attorney certifying the refund and it coming to the Board for approval. He noted that in the proposal, these would still be certified by both the Commissioner and County Attorney; however, once certified these would go directly to the Treasurer for payment up to a designated amount. He added that this process was authorized by the Code of Virginia up to a maximum refund of \$2,500. He noted if the Board was amenable to this change, they could set the amount and would see fewer refunds; however they could still ask the Commissioner to report on these.

Mr. Bruguiere noted he had spoken with the Commissioner and it made sense to him to shorten the timeframe in which the refunds were processed. He then asked if they could still do all of the refunds associated with real estate and Mr. Carter noted this would be a blanket authorization; however she could report on the tax categories. It was noted that most refunds were related to Personal Property.

Mr. Bruguiere then moved to approve resolution **R2016-52**, Authorization for Change in Commissioner of Revenue Refund Processing and inserting the maximum amount of \$2,500. Mr. Harvey seconded the motion and there being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the following resolution was adopted:

RESOLUTION R2016-52
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR CHANGE IN COMMISSIONER OF REVENUE REFUND
PROCESSING

BE IT RESOLVED, that pursuant to §58.1-3981, of the Code of Virginia 1950 as amended, the Nelson County Board of Supervisors hereby authorizes the Treasurer to approve and issue any refund up to \$2,500.00 as a result of an erroneous assessment; and

BE IT FURTHER RESOLVED that pursuant to §58.1-3981, of the Code of Virginia 1950 as amended, said refund shall be predicated upon certification of the Commissioner of Revenue with the consent of the County Attorney.

B. Draft Ordinance Amendment – CH 9, Article 5 Addition to Greenfield Ag Forestal District (R2016-53)

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Mr. Padalino noted that the application was made by Mr. Marc Chanin who already had other parcels in the existing Greenfield Ag forestal district. He noted the parcels to be added were Tax Parcels: #13-10-1 (2.43 acres) and #13-10-3 (11.45 acres) for a total of 13.88 acres and all were zoned Agricultural A-1. He then showed the vicinity of these parcels to the existing AFD on a map. He stated that the application was ready to go to public hearing as recommended by the Advisory Committee and Planning Commission.

It was noted that this subject was introduced to determine if the Board wanted to hold a public hearing as required by law. Mr. Hale then noted the proposed resolution to authorize a public hearing on the matter and added that it made sense to him as the parcels were surrounded by the Ag Forestal District.

Mr. Harvey then moved to approve resolution **R2016-53** and Mr. Bruguiera seconded the motion. Mr. Bruguiera then stated that he thought the minimum acreage should be five (5) acres in order to comport to the minimum acreage for Land Use taxation. Mr. Saunders then noted that these parcels were not guaranteed Land Use taxation status.

There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the following resolution was adopted:

RESOLUTION R2016-53
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR PUBLIC HEARING
AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA
CHAPTER 9 “PLANNING AND DEVELOPMENT,” ARTICLE V,
“AGRICULTURAL AND FORESTAL DISTRICTS”
EXPANSION OF THE GREENFIELD
AGRICULTURAL AND FORESTAL DISTRICT

BE IT RESOLVED, that pursuant to §15.2-4303 - §15.2-4309 §15.2-1427, and §15.2-2204, of the Code of Virginia 1950 as amended, the County Administrator is hereby authorized to advertise a public hearing to be held on September 13, 2016 at 7:00 PM in the General District Courtroom in the Courthouse in Lovingston, Virginia. The purpose of the public hearing is to receive public input on an Ordinance proposed for passage to amend Chapter 9 “Planning and Development”, Article V, “Agricultural and Forestal Districts” to expand the existing Greenfield Agricultural and Forestal District.

C. Draft Zoning Ordinance Amendment – Article 24 Temporary
Events, Festival Grounds, Out-of-Doors Accessory Uses (**R2016-54**)

Mr. Hale introduced the item and noted he was looking forward to some action. Mr. Padalino noted working on this had been a lengthy process and a Zoning Ordinance update had become necessary due to the increase in special events in number and scale. He added that from 2006 – 2012, the average number of SEPs issued each year was 14 and in 2015,

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the Planning & Zoning Department coordinated and approved more than double that figure. He noted that a significant increase in the number of approved SEPs began in 2013 and in addition to this increase in the total number of events, the Planning & Zoning Department also began reviewing and approving Special Event Permits for a notably larger-scale event (Lockn Festival “mass gathering”) in 2013. He added that through the first 7 months of 2016, the Planning & Zoning Department had processed twenty-one (21) SEP applications.

Mr. Padalino then noted the following:

Currently, Special Event Permits were issued administratively for “temporary events not otherwise a permitted use.” These approval(s) of commercial activities at properties not zoned for commercial activities – which have been increasing in number and scale over the previous several years – raised concerns about “de facto rezonings” and the protection of property rights for nearby landowners in A-1 and R-1 zoning districts.

Currently, the Special Events Permits section of the ordinance contained no review criteria for making an administrative decision (approval or denial). This left the Zoning Administrator with almost no foundation for making legally defensible decisions. He then referenced Z.O. 4-11-3, and noted this had become overly simple and inadequate with respect to the number and type of special events occurring in the County.

Mr. Padalino then discussed the benefits of a successful text amendment process as follows, noting it would:

- benefit local businesses by exempting a large variety of activities from permit requirements;
- benefit event promoters and members of the public by establishing a permitting process that was clear, consistent, and transparent;
- benefit County staff by establishing a clear and consistent application and review process; and
- benefit everyone by ensuring a balance of property rights Countywide:
 - property rights to utilize land for commercial enterprise and economic vitality
 - property rights to enjoy stable sense of place, rural community character, and a comfortable quality of life

Mr. Padalino noted that the proposed language had gone through a rigorous review process by both the Planning Commission and the Advisory Committee and also by staff.

He noted that the new scheme proposed three (3) categories of temporary events with categories 1 and 2 being administratively approved and category 3 – events of 10,000 or more being administratively approved; however it would require a Special Use Permit approved by the Board prior to the issuance of the temporary event permit.

Mr. Bruguere inquired about nonprofit events and Mr. Padalino noted that non-profits were exempt from getting a permit for events of up to 500 people and over that, they would become a category 1 event. Mr. Bruguere then stated he thought the nonprofits and businesses should be treated the same.

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Mr. Harvey noted that he disagreed with not having a cap to the number of permitted events one could have, noting that if the same event was held numerous times on the same parcel, it was not temporary. Mr. Padalino noted his agreement to a degree but noted that when this point of view was discussed within the Work Group, it was not supported. Mr. Harvey then noted that within the Work Group the foxes were making the rules. Mr. Padalino then noted that the Board had the authority and the wisdom to accommodate changes and he suggested that they hold the public hearing and let everyone provide their input.

Mr. Hale added that this issue was dealt with in detail. He prefaced it by saying that those most affected by this in terms of activities also expressed their feeling it would be in their best interest to not cause difficulty in the community; therefore they did not want to limit the number of events. He added that he did not think the lack of specifying the number of allowed events would be a negative thing and throughout the proposed Ordinance, the Planning and Zoning Director had the latitude to determine adverse effects of the event in question. Mr. Hale then noted those factors to be considered in the Ordinance as follows:

Specifically, the following factors shall be considered when determining whether a Temporary Event Permit will be issued:

1. The completeness of the Temporary Event Permit application as specified in Section 24-3-D;
2. If and how the proposed event would alter the character of the area or circumvent the ordinance;
3. The relationship between the proposed event and the permitted primary use(s) of the property;
4. If and how the proposed event would result in undue interference with other planned activities in the County;
5. The schedules of churches, schools, governmental operations, and similar public and quasi-public entities;
6. The availability and provision of necessary resources such as transportation infrastructure, law enforcement, emergency services, parking, and similar considerations;
7. The location and operation(s) of other permitted Temporary Events during the same time period as the proposed event; and
8. Compliance with the requirements of other agencies and departments; and
9. The prior history of compliance by the applicant or landowner with this article, the zoning ordinance, and applicable conditions. Prior or existing non-compliance may be grounds for the denial of a permit.

Mr. Hale added that with all of that stated, he thought it meant that the Planning and Zoning Director had the authority to regulate and control these events.

Mr. Padalino reiterated that there was extensive discussion on this within the Work Group. He noted that most event folks felt that the vast majority were doing things the right way and

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were self-policing; however they did recognize that bad apples could come in. He noted the extensive language included.

Mr. Harvey reiterated his thought that if one continued to do something it was no longer temporary but rather was permanent. He added that the Community Center definition was hand written for one organization. Mr. Padalino disagreed advising that Fleetwood Community Center wanted to do more in the way of activities and signage etc. He reiterated that the best way to handle it was to have a public hearing and get the public's insights on this. Mr. Harvey stated the public would not come out unless they were personally affected by the proposed Ordinance. Mr. Padalino stated he did not disagree; however he thought there were people that were concerned about this and the Board would get a wide range of opinions on this.

Mr. Hale advised that the Board's present task was not to finalize the Ordinance language, but to advertise it for public hearing. He added that he was reluctant to pass more rules and regulations; however what the County currently had was not adequate. He added that a significant factor was to determine the difference in magnitude of the event and what its true costs were. He supposed that if in practice, the Ordinance did not solve everything, and did not work, they could go back and change it. He then noted that the people who participated in the Work Group were not there to protect their own interests; but were fair and reasonable.

Mr. Bruguere inquired as to what the red text of the document represented and Mr. Padalino noted it reflected changes after the Board's referral to the Planning Commission and included changes made by the Planning Commission, the Work Group, and staff.

Mr. Saunders then noted that the Board would not have to act following the public hearing, they still had the option to work on it further.

Mr. Bruguere then moved to approve resolution **R2016-54**, Authorization for Public Hearing, Amendment of the Code of Nelson County, Virginia Appendix A Zoning Ordinance, Article 24 Temporary Events, Festival Grounds, and Out-of-Doors Accessory Uses and Mr. Saunders seconded the motion. Mr. Hale noted that after the public hearing, the Board could dive in and make any necessary changes. He then added that the public hearing would be held on September 13, 2016 at 7pm. Mr. Bruguere inquired as to when this would go into effect after it was enacted and Mr. Carter advised immediately unless another date was set by the Board.

There being no further discussion, Supervisors voted (3-0-1) to approve the motion with Mr. Harvey abstaining and the following resolution was adopted:

RESOLUTION R2016-54
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR PUBLIC HEARING
AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA

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**APPENDIX A ZONING ORDINANCE, ARTICLE 24 TEMPORARY EVENTS,
FESTIVAL GROUNDS, AND OUT-OF-DOORS ACCESSORY USES**

BE IT RESOLVED, that pursuant to §15.2-1427, and §15.2-2204, of the Code of Virginia 1950 as amended, the County Administrator is hereby authorized to advertise a public hearing to be held on September 13, 2016 at 7:00 PM in the General District Courtroom in the Courthouse in Lovingston, Virginia. The purpose of the public hearing is to receive public input on an Ordinance proposed for passage to amend Appendix A, Zoning Ordinance, Article 24 Temporary Events, Festival Grounds, and Out-of-Door Accessory Uses.

**D. Draft Zoning Ordinance Amendment – Article 10 General
Floodplain (R2016-55)**

Mr. Padalino noted that the Floodplain was an overlay district and not a base district. He noted that the proposed amendment would modify language in the Ordinance; however it would not modify the maps done by FEMA. He added that the boundaries were unaffected by the proposed changes.

Mr. Padalino noted that the Planning Commission had reviewed the proposed amendments that were referred to them by the Board of Supervisors on December 8, 2015; and had reviewed additional materials provided by Mr. Charles Kline, (former) Floodplain Planner for Virginia Department of Conservation and Recreation (VA DCR). He noted that the Planning Commission review process also included assistance from Mr. Charley Banks, National Floodplain Insurance Program Coordinator for VA DCR, and also from Mr. Phillip D. Payne, County Attorney for Nelson County. He noted that based on their extensive review process, the Planning Commission conducted a public hearing on June 22nd for the version of the proposed text amendments dated May 26th, after the hearing was conducted, the PC further reviewed and discussed the amendments and made one additional modification (to add a definition of “Variance”), before voting on July 27th to formally recommend to the Board the version of proposed amendments dated July 14th.

Mr. Padalino noted that in the work sessions with DCR and Flood Insurance Director, Charlie Banks, they looked at higher standards and he noted it was a lengthy review. He noted that they updated the language to be compliant with minimum requirements of the model Flood Plain Ordinance; which comprised the bulk of the new language summarized as follows:

- (1) separated and “untangle” the SUP and Variance procedures and standards, which are not reflective of the model ordinance, and which create difficulty in administration and interpretation;
- (2) eliminated the automatic requirement for “all uses, activities, and development within any floodplain district” to require a Special Use Permit, and would instead only require an administrative zoning permit (if applicable); and

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- (3) prohibited the issuance of administrative zoning permits in connection with certain high-risk uses, activities, structures, and development subject to “higher standards” – but would not explicitly or entirely prohibit the issuance of Variances for such uses, activities, or development (if applicable); and
- (4) established a new definition for “Variance” that would create the possibility of “relief from floodplain management regulations,” if the petitioner can demonstrate that their project would comply with the existing standards and criteria contained in the floodplain ordinance (specifically: Z.O. 10-22).

Mr. Padalino then noted that six (6) proposed higher standards had been encouraged by FEMA and DCR. He noted that he would eliminate one higher standard, the requirement that all uses and activities in a floodplain require BZA approval. He noted this was not found in the model ordinance and he recommended eliminating it and replacing it with a Special Use Permit (SUP) process. He added that BZA approval would be retained for high risk and high hazard uses and this would separate SUP from Variance language which was currently linked together. He further explained that he would eliminate the SUP language pertaining to Floodplains and would require updating the “variance” definition to the model ordinance. He noted that the higher standards would prohibit issuance of a permit but not a variance. He added that he thought this to be a perfect balance between relaxing regulations for the average property owner and having strict regulations for high risk scenarios. He noted that adopting the amendments would position the County to score well in the Community Rating System; which could mean future savings on Flood Insurance premiums.

Mr. Bruguiere then questioned the increase in the elevation requirement from 12 inches to 18 inches including a basement, and asked how one would elevate a basement. Before Mr. Padalino could respond, Mr. Hale noted that the Board was looking at scheduling a public hearing on the proposed amendments and would have the opportunity to make changes thereafter.

Mr. Saunders noted he had issue with the use of the word prohibited so frequently and Mr. Padalino explained that it was used a lot pertaining to high risk activities. He then further noted that a person could seek a variance if they had proof that their activity would not affect the floodplain.

Mr. Saunders then questioned whether or not the items in IV (9) pertained to things above or below ground and Mr. Padalino noted that no distinction was made regarding above or below ground storage tanks. Mr. Saunders noted that they would then be prohibited. Mr. Padalino noted he understood his concern and noted that it would be unwise to universally prohibit these and was why a person could go to the BZA for a variance. Mr. Saunders noted that he was concerned about existing businesses currently in the floodplain. Mr. Padalino advised that they had issued a permit for replacement tanks for the existing one. Mr. Saunders then noted he did not like the Ordinance Amendment because it was prohibitive beyond the State regulations and he thought it was being done to prevent the Atlantic Coast Pipeline from coming in. Mr. Padalino noted the new language would actually make it easier

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for the average person by eliminating the SUP and site plan process for everything but high risk activities.

Mr. Harvey then inquired as to how often someone wanted to build in a flood hazard area; aside from barns etc. Mr. Padalino advised that he had spoken to churches etc. that wanted to do additions and have had to alter their plans because of the floodplain. He added that it was necessary to have it, administer it, and enforce it to get floodplain insurance. Mr. Harvey asked how many citizens had floodplain insurance and Mr. Padalino and Mr. Carter were both unsure.

Mr. Carter then asked Mr. Padalino to explain the process for a variance for a high risk area and Mr. Padalino noted one would submit a variance request in the Planning and Zoning office and then the BZA would consider it. He noted that the next recourse after the BZA would be the Circuit Court. Mr. Carter noted that Section 10.22 was vague with respect to the prohibitions in Section 10.15. He explained that if it said the activity was prohibited in Section 10.15, it was not referenced as being eligible for a variance request further in that section. Mr. Padalino noted he did not have a thoughtful answer on that particular item and he reiterated the process of applying for a variance.

Mr. Harvey stated that there were different categories noted and he thought a floodway was where the main drainage would be. Mr. Padalino confirmed that a floodway was more restrictive and that would be continued in the new Ordinance language. Mr. Padalino added that there was a difference; however there was no floodway map. Mr. Carter supposed that this was shown within the floodplain area. Mr. Hale noted that had always been the case that the floodway was the main channel and the hazard area was where there may be overflow beyond that but it was not at a great depth or speed.

Mr. Harvey and Mr. Hale noted that in order challenge a floodplain designation, one had to provide a flood elevation certificate which was expensive to get.

Mr. Harvey then noted that he needed to digest the proposed ordinance and he recommended that they set the public hearing for a few months away. The Board agreed by consensus with Mr. Hale noting this would be tabled for now and taken under advisement, especially considering Ms. Brennan was absent and had a strong opinion on it.

E. Draft Ordinance Amendment – Unclaimed Personal Property Held
By the Sheriff (**R2016-56**)

Mr. Phil Payne, County Attorney noted that this had stemmed from the fact that the Sheriff's Department ended up with stuff that it could not allocate to the proper owner. He noted that the State had a statute that allowed for a local Ordinance to enable them to dispose of unclaimed property. He added that the draft ordinance mimicked the State Ordinance verbatim and having this would clean up their procedures.

Mr. Hale then noted the resolution authorizing a public hearing on the matter.

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Mr. Harvey then questioned the need for the sections regarding disposition of bicycles and firearms and Mr. Payne advised that the Board could adopt subparagraph (A) only; the others were optional. He advised that this did give the Sheriff a few more ways to dispose of the property. Mr. Carter further explained that the State Code authorizing section was more authority than what was being authorized in the Ordinance and the County's primary concern was disposal and not licensing.

Mr. Payne clarified that the notice requirement was relevant if the bicycle, moped etc. turned into the Sheriff's Department happened to be licensed. He added that he liked to use State statute language whenever possible

Mr. Bruguere than asked if the Sheriff could sell confiscated firearms and Mr. Payne advised that he may elect to destroy unclaimed firearms or use them; however they were typically destroyed.

Mr. Saunders asked if the owner had the right to get back their firearms that were recovered from a theft and Mr. Payne answered in the affirmative if the owner was known.

Sheriff Hill in attendance, noted that they had been logging information from cases and there were some items that have been in storage for years and they needed to dispose of those things. He noted that sometimes these items were unclaimed property. He then advised that after a case has concluded, owners should be notified to pick up their evidence.

Mr. Bruguere then moved to approve resolution **R2016-56** Authorization For Public Hearing, Amendment of the Code of Nelson County, Virginia Unclaimed Personal Property Held by the Sheriff and Mr. Saunders seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the following resolution was adopted:

RESOLUTION R2016-56
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR PUBLIC HEARING
AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA
UNCLAIMED PERSONAL PROPERTY HELD BY THE SHERRIF

BE IT RESOLVED, that pursuant to §15.2-1427, and §15.2-2204, of the Code of Virginia 1950 as amended, the County Administrator is hereby authorized to advertise a public hearing to be held on September 13, 2016 at 7:00 PM in the General District Courtroom in the Courthouse in Lovingsston, Virginia. The purpose of the public hearing is to receive public input on an Ordinance proposed for passage to amend the Code of Nelson County to provide for disposition of unclaimed personal property held by the Sheriff.

Mr. Bruguere then inquired of the Sheriff if they had any vehicles to get rid of and Sheriff Hill advised he did not know of any right now.

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Mr. Saunders then asked why the Department's activities were no longer posted in the newspaper and Sheriff Hill noted they had stopped doing this during the transition and have started to put more on Facebook. He noted this could be resumed if they thought it would be beneficial to the public.

- F. Closed Session as permitted by Virginia Code § 2.2-3711(A)(3), a matter involving the disposition of publicly held real property (Old Lovington Healthcare Center) because discussion in an open meeting would adversely affect the County's bargaining position.

Mr. Bruguiere moved that that the Nelson County Board of Supervisors convene in closed session to discuss the following as permitted by Virginia Code § 2.2-3711(A) (3) disposition of publicly held real property (Old Lovington Healthcare Center) because discussion in an open meeting would adversely affect the County's bargaining position.

Mr. Saunders seconded the motion and there being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the Board entered into closed session.

The Board then conducted the closed session and upon its conclusion, Mr. Harvey moved to reconvene in public session and Mr. Bruguiere seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the Board reconvened in public session.

Upon reconvening in public session, Mr. Saunders moved that the Nelson County Board of Supervisors certify that, in the closed session just concluded, nothing was discussed except the matter or matters specifically identified in the motion to convene in closed session and lawfully permitted to be discussed under the provisions of the Virginia Freedom of Information act cited in that motion. Mr. Harvey seconded the motion and there being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

Mr. Bruguiere then moved to approve resolution **R2016-58** Authorization for Public Hearing, Disposition of Public Property Lovington Healthcare Center Building and Mr. Harvey seconded the motion.

It was noted that the public hearing would be set for the September 13, 2016 Board meeting.

Mr. Hale then noted that the Board was encouraging people to come and comment on the ultimate use and disposition of the property. He added that they wanted public input on what to do with the former Lovington Healthcare Center which was now owned by the County. He added that the public hearing would also give them the ability to sell it if they so decided.

Mr. Bruguiere noted he had spoken to Paul Truslow regarding the problem with the alarms going off and he asked if this had been addressed. Mr. Carter noted he was not sure it had

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been and he noted that Mr. Truslow had said that they go off regularly. He added he was not sure if they were still on; but that he thought the generator was.

Mr. Saunders then asked if the County was keeping the utilities going and Mr. Carter noted that the electricity, water and sewer were on; but he was not sure if the air conditioning was running or not.

There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the following resolution was adopted:

**RESOLUTION R2016-58
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR PUBLIC HEARING
DISPOSITION OF PUBLIC PROPERTY
LOVINGSTON HEALTHCARE CENTER BUILDING**

BE IT RESOLVED, that pursuant to §15.2-1800 and §15.2-1427 of the Code of Virginia 1950 as amended, the County Administrator is hereby authorized to advertise a public hearing to be held on September 13, 2016 at 7:00 PM in the General District Courtroom in the Courthouse in Lovingston, Virginia to receive public input on the proposed disposition of County Property located at 393 Front Street, Lovingston, Virginia 22949, Tax Map #58-A-38a and known as the former Lovingston Healthcare Center.

G. Introduced: Motorola Radio System Tower Upgrade Proposal

Mr. Carter asked if an update on the status of the Motorola proposal for the radio system could be discussed and the Board agreed.

Mr. Carter then distributed coverage maps showing coverage with and without the use of the Rockfish Tower site.

Mr. Carter then advised that staff had gotten a preliminary estimate for the tower at \$698,000, the new estimate was roughly \$648,000 and was predicated on acceptance by September 16, 2016. He noted that the reduction was roughly \$50,000 and there was the potential to have Black and Veach evaluate it for a fee. He noted this new price included \$50,000 for overall county coverage testing and staff had discussed only testing the tower coverage area. He added that there was the potential to reduce it down a little bit more if the overall coverage testing was not done.

Mr. Carter then advised that financially, if the Board agreed to proceed, the County's fund balance overall would be roughly \$20 Million. He noted that the Courthouse project had reduced the fund balance by about \$3 Million; however it was still a strong fund balance and was not an issue for staff.

Ms. Rorrer noted that the primary question was whether or not to conduct the county-wide coverage test with the new site in service to develop a baseline. She added that coverage

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testing was pricey and it took up a lot of staff time. She questioned if it would be worthwhile or not or did they just want to test the enhanced coverage area. She added that she would ask Black and Veach to provide a cost to evaluate the Motorola proposal. She then noted that she had asked Motorola to provide a grid map of the guaranteed coverage areas after the new site and the coverage was greatly improved on the coverage maps. She noted that the mobile talk in and out was nearly perfect and the portable talk out map was good. She added that the portable in the field map had the greatest reduction in coverage; however a lot of problem-area in Afton was addressed but it was not perfect. She noted that there were very few gaps in coverage along the Route 151 area now. She concluded by reiterating that Motorola required a signed contract and purchase order by September 16, 2016 in order to get the incentive pricing.

Mr. Carter then advised that Motorola's proposal offered a lease purchase financing option and that VML financing was also an option; however the preference of staff was to pay for it outright. He added that staff was open to the Board's direction on this.

Mr. Hale noted that the proposal dealt only with the Rockfish area and did not address other dead areas and it did not even address all of the issues there. Mr. Harvey noted that this was with a hand-held portable radio. It was noted that they would be putting equipment on one tower that was already there and Ms. Rorrer added that they would be doing work related to grounding, power, generator, UPS etc.

Mr. Carter then advised the Board that he asked questions regarding the mobile units; noting that if the mobile units in vehicles worked throughout the county and the mobile to mobiles worked, why they needed to do the upgrade as long as someone could talk to dispatch. He noted that the concern was that volunteers wanted to keep up with things in route and the added effectiveness of the pagers. Mr. Carter noted that Steve Garner of Motorola said the County would have to look at its standard operations to see if enhancements there would eliminate the need for this.

Mr. Harvey then noted that this was the only part of the county (besides Montebello) working against the green bank or Quiet Zone. He added that the reduced power on the Sugarloaf tower site was causing the problem in conjunction with narrow-banding.

Ms. Rorrer noted that Motorola used a conservative ERP in its coverage maps and it could be higher. She added that they did not anticipate a problem with the Quiet Zone with this tower.

Mr. Bruguiere noted that once Dispatch got through to crew halls and mobiles, he had a hard time justifying the expense to just talk mobile to mobile. It was noted that one could talk within a mile with mobiles. Mr. Harvey noted that this enhancement was assisting more with portables and there were very few with mobiles going out. Ms. Rorrer noted that this had an impact on law enforcement when they were in the field and away from the car. Mr. Carter supposed that this could be addressed procedurally; if they called for backup before leaving the vehicle.

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Mr. Harvey noted that this would complete the radio project and most ambulances came through the valley in order to get to the hospitals in the region.

Mr. Carter advised that the County could get input from Black & Veach given that the next Board meeting was prior to the September 16th deadline if the Board desired. Ms. Rorrer suggested that the County could proceed, intending to sign and then the Board could decide for sure in September.

Mr. Hale supposed that the Sheriff's Department would be in many other areas of the County where there was no communication. Mr. Saunders stated that he did not like the price tag; however it could mean saving a life. He added it was a tough decision; however if it saved one life it would be worth it even though it was expensive. Mr. Harvey then noted the amount of traffic in the valley that was supporting the rest of the county.

Mr. Hale noted that unless staff believed there was a more cost effective way of attacking the problem; he was not sure what else could be done. Mr. Carter and Ms. Rorrer noted that Bear Den Mountain had been evaluated; however the best site was at Rockfish given that the County already owned the facility and it just had to be brought up to public safety standards.

Mr. Harvey then moved to authorize staff to continue to negotiate a contract with Motorola and Mr. Bruguiere seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

V. Reports, Appointments, Directives, and Correspondence

A. Reports

1. County Administrator's Report

1. Courthouse Project Phase II: The project is proceeding very well with no reported issues or concerns. Mr. Jim Vernon of Architectural Partners completed a site visit on 8-2 and reported a similar status to County staff. A copy of AP's Field Report #10 was emailed to the Board on 7-25. Change Orders to date total \$23,362 increasing the original construction contract amount of \$4,879,900 to \$4,899,447 (.004%). The next project progress meeting is on 8-10 At 1 p.m.

Mr. Saunders noted that a decision was needed on the Courtroom floor as the Judge did not want to use heart pine due to anticipated poor acoustics. Mr. Saunders and Mr. Hale both indicated they would like to go with the heart pine and Mr. Harvey noted he would go with whatever was the original flooring. It was noted that it was thought that the original flooring was the pine and Supervisors agreed by consensus to go with that.

2. Broadband: A) Expansion Project – Phase 1 is complete with new connections either installed or in process. Phase 2 (just north of Routes 6 and 151 to County line with Albemarle County) has had conduit installed with vaults and fiber installation to be completed by 8-12. Phase 3 (Route 6 & 151 to Saddleback Lane) will commence construction within the ensuing ten business days (thanks to Supervisor Harvey's efforts to secure easements agreements from adjacent properties) and will likely be completed by not

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later than the end of August. Current new jobs credited to the project total 35, which exceeds the 21 total required by the CDBG grant.

Mr. Carter advised that Phase 2 may be completed by the following Friday and Mr. Harvey reported that he had gotten all but five (5) easements on Phase 3; however he noted they may not be needed. He added that there was a fifty (50) foot right of way there and this was in the property deeds. He added that many along the route had already signed up to say that they wanted service.

B) Broadband Planning Project – County staff are working with Design Nine to confirm completion of all project objectives. Once done, a meeting with the NCBA will be scheduled.

C) CVEC RFI: The regional electric cooperative has issued a Request for Information solicitation for provision of broadband services to its 38,000 subscribers using the Cooperative's pole infrastructure. County staff with input from Design Nine is discussing the potential for a limited response from the Nelson County/NCBA (TBD).

Mr. Carter noted staff would talk to CVEC Thursday or Friday and may propose an in county project. He added he was unsure if it would go anywhere; however staff would see what NCBA could do. He added that the RFI was for fiber only.

3. BR Tunnel Project: Woolpert, Inc. (G. Harnish) has submitted the project plans and project manual to VDOT for review and comment. These submittals significantly encompass the information VDOT requires to approve the project for competitive bidding albeit following the required reviewed of (the) Federal Highway Administration (the source of VDOT's TAP grant funding). Another step prior to bid issuance is a new project agreement with VDOT, which is pending receipt.

Mr. Carter advised that he was checking on this and he would update the Board accordingly. He added that staff was waiting for VDOT approvals and a new contract from them.

4. Region 2000 Service(s) Authority: The Authority's strategic planning project is in process. The Board is reminded of the need for representatives (up to 15) from Nelson County to serve on the initiative's focus group.

Mr. Carter advised that the Focus Group work was to be scheduled for some time in September and he asked each Supervisor to recruit a person. Ms. McGarry noted that she could send out information to the Board regarding the Focus Group to enable them to speak to people about this.

5. Radio Project: Motorola, Inc. staff are in process with a revised proposal to provide for the installation and networking of equipment on the County's communications tower located at the RVFD. The proposal may be received prior to 8-9 and, if so, staff will endeavor to introduce it to the Board on that date for possible approval consideration.

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6. Tire Amnesty: The County completed a second tire amnesty program on July 16 and 23. A total of 23.65 tons was processed (recycled) during the event.

7. Emergency Services: Nelson County hosted a regional tabletop exercise on 8-3 at the RVFD. A total of 103 persons participated in the exercise, including representatives from VDEM, VDH, TJEMS, Albemarle, Augusta and Nelson counties, Waynesboro, etc. VDEM staff who worked with County staff noted that this exercise was highly successful with a participation rate that far exceeded expectations. An additional benefit of the exercise was the determination by Albemarle and Augusta counties staff of communications equipment each locality has that will, following deployment, facilitate regional emergency communications. Much credit to Jaime Miller who was instrumental in the success of the exercise.

8. 2016 Lockn' Festival: County staff are coordinating the annual approval process for issuance of the Temporary Event Permit for the 2016 Festival. A kick-off meeting is scheduled for August 18 at 10 a.m. at the Oak Ridge Carriage House.

Mr. Carter noted he has encouraged VDOT to expedite their review and Ms. Kelly has reached out to the Health Department so that the County permit could be finalized.

9. Maintenance Facility: Work is in process on the complete residing and insulation of the building and is expected to be finished on 8-5. Next steps include finishing the roof installation (this entails connecting the installed roof to the new siding), installation of HVAC and re-installation of electrical service. Overall completion is 30 to 60 days.

10. 2018 General Reassessment: The RFP solicitation was sent to the NC Times for advertisement in the newspaper's 8-4 edition, posted to the County's web site and forwarded to four assessor firms. A 60 day period is anticipated for selection of an assessor.

11. Personnel: Anna Bell has been employed as a part-time ACO Shelter Attendant, starting work on 7-21. Advertisements have been placed for the full time Animal Control Officer Information Systems Specialist positions.

12. VDOT - Smart Scale (Formerly HB 2) Program: County staff met on 6-8 with Rick Youngblood of VDOT to discuss potential applications to the Department's Smart Scale Program for 2016. The projects recommended by Rick and subsequently presented to TJPDC staff to assist the County with the application process include: a) Intersection improvements at Route 6 (River Rd) and Route 151 (RV Hwy) at Martin's Store substation area b) Access management and intersection improvements for Route 29 corridor in Colleen and, 3) (possible): Intersection improvements at Route 6 (River Rd) and Route 29 (TN Hwy) at Woods Mill area. Next steps will address the application process with TJPEC.

13. Added: School Division Internet Service

Mr. Carter reported that the County was wrangling with Shentel in order to get the School Division Internet service in place. He noted that according to Mr. Payne's advice and Dr. Comer's blessing he had held the position that the County had to have a signed agreement in

August 9, 2016

place. He noted that the County had gotten their agreement revisions, which Mr. Payne was reviewing and would send back to them. He added that he was not trying to hold the schools up; however the County had learned its lesson on allowing service provision without a signed agreement.

2. Board Reports

Mr. Harvey had no report.

Mr. Saunders reported attending the TJPDC meeting and noted they were in good stead.

Mr. Bruguier reported attending the Planning Commission Meeting and he noted that the Commissioners were bothered by an application to replace a 90 ft. tower with a 130 ft. tower on property next to Davis Creek because the current one was dropping calls. He noted that they had suggested that they use two poles which did not make any sense to him.

Mr. Hale reported attending a Blue Ridge Tunnel Foundation meeting and he noted that they would be relocating the fence and doing prep work on the ground there. He also noted that they would advertise for more tours in the fall on second Saturdays of the months of September, October, and November at 9am and 2pm. He added that the NPR story and interviews with him and Mr. Carter on the tunnel had been released and it could be accessed on the WMRA.org website.

B. Appointments

Ms. McGarry noted that there were no new applications for the Board of Building Appeals or the Nelson County Service Authority seats and Mr. Saunders noted he had finally spoken to Mr. Sherwood who he had heard was having health issues and confirmed that he was able and wanted to serve on the Service Authority.

Mr. Saunders then moved to recommend appointment of Mr. Gary Sherwood for the South District Service Authority seat and Mr. Harvey seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

C. Correspondence

1. Central VA Economic Dev. Partnership – Go Virginia Initiative (R2016-57)

Mr. Hale noted the letter from the Central Virginia Economic Development Partnership requesting a resolution be adopted supporting them to be the lead coordinating entity for the Go VA initiative. He noted that they had the concurrence of the TJPDC and the Rappahannock Regional Commission etc. Mr. Saunders noted that Mr. Boyles had indicated his support.

August 9, 2016

Mr. Bruguiere then moved to approve resolution **R2016-57** and Mr. Saunders seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the following resolution was adopted:

RESOLUTION R2016-57
NELSON COUNTY BOARD OF SUPERVISORS
RESOLUTION OF SUPPORT FOR
VIRGINIA INITIATIVE FOR GROWTH & OPPORTUNITY - GO VIRGINIA

WHEREAS, the Virginia Initiative for Growth and Opportunity (GO Virginia) was initiated to encourage collaboration on private-sector growth and job creation by business, education, and government in each region; and

WHEREAS, the GO Virginia coalition's work is guided by three main points: (1) Virginia urgently needs strong private-sector growth; (2) Growth in Virginia's diverse regions requires collaboration; and (3) State government must be a catalyst and partner; and

WHEREAS, GO Virginia supports a voluntary, incentive-based approach as the best way to encourage regional cooperation on private-sector growth; and

WHEREAS, the General Assembly has approved \$35.95 million for GO! Grants, enacted legislation effective on July 1, 2016 and directed that guidelines be developed to implement the legislation by October 15, 2016; and

WHEREAS, as a regional economic development organization, the Central Virginia Partnership for Economic Development's main focus – fostering collaboration to promote economic growth and job creation in the region – aligns exactly with the GO Virginia initiative; and

WHEREAS, the Partnership has led a successful collaboration of public, private and educational stakeholders for two decades and is uniquely positioned to foster the regional cooperation required to successfully execute GO Virginia; and

WHEREAS, the Nelson County agrees that the success and sustainability of Virginia's economic future depends on strong private-sector growth and supports state policies that encourage business, education, and local government to work together to create jobs and achieve shared economic development goals; and

WHEREAS, it is anticipated that Planning Districts 9 and 10 will be combined to serve as a single region for the GO Virginia program and both Planning District Commission Directors have agreed to be integrally involved in supporting the Partnership in this endeavor;

NOW, THEREFORE BE IT RESOLVED, that the Nelson County Board of Supervisors supports the GO Virginia initiative to strengthen Virginia's economy in each region and, in the event that Planning Districts 9 and 10 are combined to serve as one of the defined regions for implementation of GO Virginia, supports the Central Virginia Partnership for Economic Development as the lead organization for GO Virginia in our region.

August 9, 2016

2. Nelson County High School FFA Funding Request

Mr. Carter noted that in addition to the High School FFA funding request of \$2,000, a second request had been received from the Middle School FFA also requesting \$2,000 for travel expenses to the National Convention.

Mr. Harvey moved to approve the Junior FFA and the Senior FFA requests and Mr. Bruguere seconded the motion. Mr. Hale clarified that this would be for \$2,000 for each and he noted the Board was always proud of the FFA's performance at Nationals.

There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

Introduced: Executive Mansion Request for Holiday Tree Ornament

Mr. Hale noted having received a letter from the Executive Mansion requesting a Holiday Tree Ornament from each locality in Virginia. Mr. Carter noted that the County was in process with that and had participated in providing an ornament last year.

D. Directives

Mr. Harvey, Mr. Saunders, and Mr. Hale had no directives.

Mr. Bruguere noted that he had provided a price for the Piney River fire truck to Ms. McCann for \$166,000 and he asked if the Board needed to approve it. Mr. Harvey noted it had gone through the EMS Council and he thought the Board just needed to authorize Piney River to order the truck.

Mr. Carter then noted that there was money in the budget for emergency vehicles; however staff was unsure of the order between Rockfish and Piney River. Mr. Harvey noted that Rockfish went first and then Piney River was the current year. He stated funding would be provided of 80% of \$166,000.

Staff noted that the Board could authorize Piney River to proceed and an appropriation of funds would be brought back at a later date.

Mr. Bruguere then moved that Piney River Volunteer Fire Department be authorized to order the truck with the Board covering 80% of the cost of \$166,000. Mr. Harvey seconded the motion and there being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

VI. Adjournment – No Evening Session

At 5:50 PM, Mr. Saunders moved to adjourn and Mr. Bruguere seconded the motion. There being no further discussion, Supervisors voted unanimously by voice vote to approve the motion and the meeting adjourned.

**RESOLUTION R2016-60
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF FISCAL YEAR 2016-2017 BUDGET
NELSON COUNTY, VA
September 13, 2016**

BE IT RESOLVED by the Board of Supervisors of Nelson County that the Fiscal Year 2016-2017 Budget be hereby amended as follows:

I. Appropriation of Funds (Courthouse Project Fund)

<u>Amount</u>	<u>Revenue Account</u>	<u>Expenditure Account</u>
\$ 400,000.00	3-106-009999-0001	4-106-094960-3160

Adopted: September 13, 2016

Attest: _____, Clerk
Nelson County Board of Supervisors

EXPLANATION OF BUDGET AMENDMENT

- I. The Courthouse Project Fund **Appropriation** reflects an appropriation request of **\$400,000**. Since expenditures were less than anticipated in Fiscal Year 2015-2016, expenditures required in Fiscal Year 2016-2017 will be more than anticipated (budgeted). The request is substantiated within the existing fund balance.



2016 Legislative Priorities

(Counties of Albemarle, Fluvanna, Greene, Louisa and Nelson & Charlottesville City)

TOP LEGISLATIVE PRIORITIES

PUBLIC EDUCATION FUNDING: We urge the State to fully fund its share of the realistic costs of the Standards of Quality without making policy changes that reduce funding or shift funding responsibility to localities.

- Local governments boost education funding by \$3.6 billion more per year than required.
- K-12 policy changes since 2009 have reduced state funding obligations; school divisions have reduced staffing and increased class sizes and added duties for existing staff during that time.

EQUALIZED REVENUE AUTHORITY: We urge the governor and legislature to equalize the revenue-raising authority of counties with that of cities.

- State-level studies, as far back as 30 years, recommend this difference be eliminated.
- This proposal removes restrictions on meals, lodging, cigarette and admissions taxes.
- It would help diversify and broaden the revenue base of counties.

STATE MANDATES and FUNDING OBLIGATIONS: We urge the State to not 1) impose financial or administrative mandates on localities; 2) shift costs for state programs to localities; and 3) further restrict local revenue authority.

- Unfunded mandates and shifted costs strain local ability to craft effective budgets.
- The State should examine how services are delivered and paid for in the future as a different economy takes hold in Virginia.

OTHER PRIORITY ITEMS

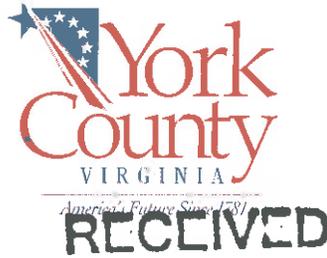
TRANSPORTATION: We support additional revenues for secondary/urban construction and unpaved roads, and we oppose secondary road devolution.

WATER QUALITY: We support financial and technical assistance from the federal and state governments for improving water quality, including for stormwater management.

LAND USE and GROWTH MANAGEMENT: We encourage the state to provide local governments with additional tools to manage growth, without preempting or circumventing existing authorities.

COUNTY ADMINISTRATOR

Neil A. Morgan



BOARD OF SUPERVISORS

Walter C. Zaremba
 District 1
 Sheila S. Noll
 District 2
 W. Chad Green
 District 3
 Jeffrey D. Wassmer
 District 4
 Thomas G. Shepperd, Jr.
 District 5

August 26, 2016

AUG 31 2016

Mr. Stephen A. Carter
 County Administrator
 Nelson County
 PO Box 336
 Lovingson, Virginia 22949

COUNTY ADMINISTRATOR'S
 OFFICE

Dear Mr. Carter:

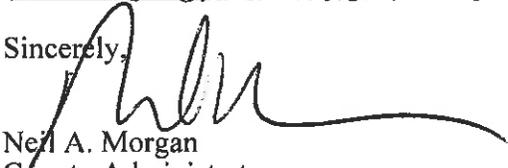
The York County Board of Supervisors has tasked me to develop and implement a legislative engagement strategy to seek General Assembly approval of changes to Section 58.1-3833 of the Code of Virginia that would equalize the meals taxation authority among cities, towns, and counties. We are well aware that requests for broader legislation to equalize all taxing authority of cities, towns, and counties have been proposed in the past and vigorously supported by the Virginia Association of Counties (VACo) and member counties, yet have been soundly defeated. Accordingly, our Board has decided that it wishes to focus on the meals tax authority with the objective of creating a coalition of counties and other constituencies that would support such an initiative. I'm happy to report that our preliminary discussions with the VACo Finance Committee and others concerning a focus on the meals tax alone have been productive and promising.

I am enclosing a short statement describing the current enabling statute, the application of meals taxes by cities, towns, and counties across the Commonwealth, and the specific factors that we believe make this initiative worthy of consideration for York and other counties. Our proposal would cap the opportunity at an 8 percent rate, which is consistent with the maximum rate established by any of the cities currently possessing the meals taxation authority, and would allow the authority to be exercised without need for a referendum.

Please consider identifying this as a potential legislative priority as you work with your Board to prepare for the 2017 General Assembly session. Of course, and as you well know, support for counties being granted such authority does not in any way obligate a governing body to actually adopt a new or increased meals tax, but would simply provide the opportunity to do so should the governing body of a county determine such an action to be an appropriate way to address revenue demands. Gaining that option, and having the opportunity to alleviate pressures on the real estate tax rate, is York's motivation.

Should you agree and wish to be involved or kept abreast of efforts to have this initiative introduced for consideration in the 2017 session of the General Assembly, please let me know either by letter, an email (Neil.Morgan@yorkcounty.gov), or a phone call (757-890-3320). Thanks for your consideration.

Sincerely,


 Neil A. Morgan
 County Administrator

Enclosure

224 Ballard Street • P.O. Box 532 • Yorktown, Virginia 23690-0532 • (757) 890-3320
 Fax: (757) 890-4002 • TDD (757) 890-3621 • Email: bos@yorkcounty.gov
 A Hampton Roads Community

Meals Tax Authority – Legislative Engagement

Introduction

Section 58.1-3833 of the Code of Virginia (see attached) authorizes counties to levy a tax on the purchase of all prepared and ready to eat food and beverages, at a rate not to exceed 4%, if approved in a voter referendum. The referendum may be initiated by a resolution adopted by the governing body or by a petition signed by at least 10% of the registered voters in the county. Five counties (Arlington, Roanoke, Rockbridge, Frederick, and Montgomery) have been granted an exemption from the referendum requirement, so their governing bodies can act on their own initiative. Meals taxes are assessed in addition to the retail sales tax, which in Hampton Roads is 6%.

Meals tax applies to:

- Prepared food and beverages (ready-to-eat) at restaurants, lunchrooms, cafeterias, coffee shops, cafes, taverns, delis, food trucks, etc.
- Alcoholic and non-alcoholic beverages served with a meal

Meals tax does not apply to:

- Groceries
- Food sold through vending machines

According to information compiled by the Weldon Cooper Center for Public Service for 2014, 47 of Virginia's 95 counties assessed a meals tax in 2014. Forty-six (46) counties reported a tax rate of between 3.1% and 4%, while one (Dickenson) reported a rate of 2%.¹ There are no restrictions on the use of the revenue generated by the meals tax; however, some localities earmark a portion or all of the revenue for a specific purpose.

It is important to note that towns and cities are not subject to the referendum process or the 4% cap on the meals tax rate. All 38 of Virginia's cities assess a meals tax, with the lowest rate being 4%, the highest 7.5%, and the median being 6%. The median rate assessed by the 104 towns with a meals tax is 5%, with a minimum of 2% and a maximum of 8%.

York County's meals tax rate is 4%, which will generate projected revenues of \$5.9 million in FY17. Each of the jurisdictions bordering York County imposes a meals tax (Hampton-7.5%, Newport News-7.5%, Poquoson-6%, Williamsburg-5%, James City County-4%, Gloucester-4%).

Issue

York County, like other Virginia counties, is heavily dependent on the real estate and personal property tax and, accordingly, has interest in alternative opportunities for revenue growth to meet increasing obligations and demands for County-funded programs and services. The constraint imposed by the current enabling legislation (4% rate cap) prevents the County from doing so and stands in contrast to the opportunities available to the four cities that border York

¹ Two other counties (Henrico and Middlesex) established a meals tax after the 2014 data was compiled, both at 4%.

Meals Tax Authority – Legislative Engagement

County. In a number of locations along those borders, restaurants are located on abutting properties (one in the county, one in the city) with differing meals tax rates. For many, and particularly in the case of the tourists and travelers, there likely is no awareness of the border or the different tax rate and, therefore, no impact (at least from a taxation standpoint) on which restaurant the prospective diner chooses to patronize (i.e., no competitive advantage or disadvantage). Undoubtedly, the same situation exists in many locations across the Commonwealth.

Real estate and personal property tax rate increases apply to all property-owning residents, regardless of their ability to pay. Conversely, dining out is largely a discretionary decision so the meals tax is paid by residents, as well as tourists and travelers, who dine out by choice, convenience, or other considerations.

As noted previously, York County's 4% meals tax is projected to generate \$5.9 million in revenue in FY2017. Increasing the County's rate from 4% to 5% (for example, to match the Williamsburg rate) would generate approximately \$1.4 million annually in additional revenue. If earmarked, for example, to enhance the Capital Improvements Program budget, the funding able to be devoted to County and School projects would be increased by almost 10%. In other words, a modest 5-cent increase in a \$5 fast food meal (20 cents meals tax @ 4% vs. 25 cents @ 5%) would help produce significant gains in the County's ability to address capital project needs.

York County has proposed and supported requests in past legislative sessions to amend the Code of Virginia to give counties the same taxing authority as towns and cities. This all-inclusive approach (which would add authority to tax cigarettes and admissions, and remove limitations on meals and transient occupancy) has not been supported by the General Assembly. Recognizing that opposition, the York County Board of Supervisors has determined that it would be prudent to focus on a proposal to provide counties with additional authority only for the meals tax.

Accordingly, the York County Board of Supervisors wishes to ascertain the interest of other counties and potential advocates in working cooperatively to engage, educate and influence members of the General Assembly regarding the disparity between cities/towns and counties regarding meals taxing authority with the objective of gaining support for legislation to equalize it in the 2017 session of the General Assembly. Specifically, the desired legislation would:

- Enable counties, on the initiative and action by their governing bodies (and without referendum), to establish a meals tax at a rate determined appropriate by the governing body, but not to exceed 8%.



America's Future Since 1781

Meals Tax Parity for Counties

York County



Meals Tax Parity for Counties

- Section 58.1-3833 of COV currently authorizes Counties to levy a tax on the purchase of prepared and ready to eat food and beverages:
 - *At a rate not to exceed 4%*
 - *If approved by a referendum initiated by the governing body or by petition of at least 10% of registered voters*
 - *Arlington, Roanoke, Rockbridge, Frederick and Montgomery Counties are exempt from referendum requirement*
- Cities and Towns are not capped at 4% and are not subject to a referendum requirement



Meals Tax Parity for Counties

- 47 of Virginia's 95 counties assessed a Meals Tax in 2014
 - Rates ranged from 3.1% to 4% (*only one County had a 2% rate*)
- All Cities (38) assessed a Meals Tax
 - Lowest - 4%
 - Highest - 7.5%
 - Median - 6%
- Cities bordering York County
 - Hampton / Newport News – 7.5%
 - Poquoson – 6%
 - Williamsburg – 5%

York County



Meals Tax Parity for Counties

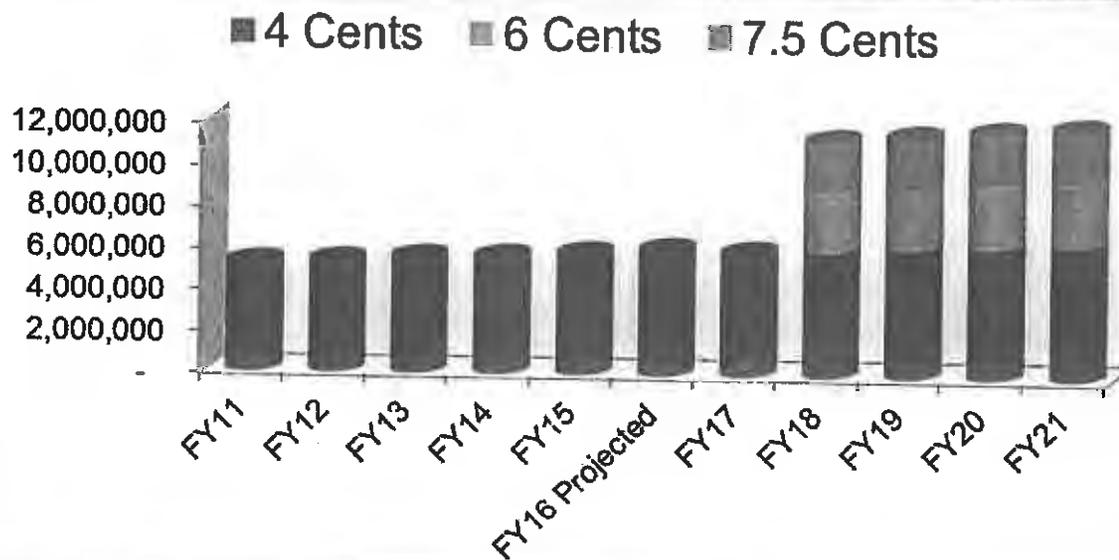
- Meals Tax parity would provide a revenue enhancement option to relieve pressures on Real Estate and Personal Property
- Dining out is largely discretionary – by choice or convenience
- Meals Taxes are paid by residents and tourists / travelers
- Decisions on dining destinations are not dependent on meals tax rates

York County



Meals Tax Parity for Counties

Impact of Potential Rate Increase for York County



Increasing the rate from 4 cents to 6 cents provides additional revenue of \$3 million.

Increasing the rate to 7.5 cents adds \$5.3 million of additional revenue.

Note: 50% of Meals Taxes are Shared with the School Division.

York County



Meals Tax Parity for Counties

Legislative Proposal

Enable counties, on the initiative and action by their governing bodies (and without referendum), to establish a meals tax at a rate determined appropriate by the governing body, but not to exceed 8%.

York County

Code of Virginia
Title 9.1. Commonwealth Public Safety
Chapter 2. Department of Fire Programs

§ 9.1-203. Powers and duties of Virginia Fire Services Board; limitation.

A. The Board shall have the responsibility for promoting the coordination of the efforts of fire service organizations at the state and local levels. To these ends, it shall have the following powers and duties to:

1. Ensure the development and implementation of the Virginia Fire Prevention and Control Plan;
2. Review and approve a five-year statewide plan for fire education and training;
3. Approve the criteria for and disbursement of any grant funds received from the federal government and any agencies thereof and any other source and to disburse such funds in accordance therewith;
4. Provide technical assistance and advice to local fire departments, other fire services organizations, and local governments through Fire and Emergency Medical Services studies done in conjunction with the Department of Fire Programs;
5. Advise the Department of Fire Programs on and adopt personnel standards for fire services personnel;
6. Advise the Department of Fire Programs on the Commonwealth's statewide plan for the collection, analysis, and reporting of data relating to fires in the Commonwealth;
7. Make recommendations to the Secretary of Public Safety and Homeland Security concerning legislation affecting fire prevention and protection and fire services organizations in Virginia;
8. Evaluate all fire prevention and protection programs and make any recommendations deemed necessary to improve the level of fire prevention and protection in the Commonwealth;
9. Advise the Department of Fire Programs on the Statewide Fire Prevention Code; and
10. Investigate alternative means of financial support for volunteer fire departments and advise jurisdictions regarding the implementation of such alternatives.

B. Except for those policies established in § 38.2-401, compliance with the provisions of § 9.1-201 and this section and any policies or guidelines enacted pursuant thereto shall be optional with, and at the full discretion of, any local governing body and any volunteer fire department or volunteer fire departments operating under the same corporate charters.

1978, c. 606, § 9-155; 1981, c. 154; 1984, c. 734; 1986, c. 60; 1988, c. 133; 1997, c. 791; 2001, c. 844; 2012, cc. 164, 456; 2014, cc. 115, 490.



- **Why are fire and emergency medical services (EMS) studies conducted?**

Fire and EMS studies are conducted at the request of a local jurisdiction from the Virginia Fire Services Board, per Section 9.1-203.4 of the *Code of Virginia*.

- **What is the purpose of a fire and EMS study?**

The purpose of a fire and EMS study is to provide an objective view of the fire and EMS services in a local jurisdiction, and to provide feedback on areas that are successful and areas that could use improvement. Additionally, a fire and EMS study provides recommendations on how to improve a local jurisdiction's fire and EMS service delivery.

The intent of fire and EMS study recommendations is to provide broad recommendations for the local jurisdiction to review and customize to the benefit of the citizens, organizations and the local jurisdiction. **Study recommendations should not be construed as legal advice or as a binding recommendations.**

- **What is the fire and EMS study process?**

The fire and EMS study process is initiated by a request letter from the Board of Supervisors, City Council or Town Council (i.e. governing body) of a local jurisdiction to the Virginia Fire Services Board.

After approval by the Virginia Fire Services Board, the local jurisdiction will complete a self-assessment questionnaire and hold an initial teleconference with the study team. The self-assessment questionnaire and initial teleconference are used to gather background information and data on the local jurisdictions fire and EMS service delivery, such as response maps, ordinances, budgets and incident reporting information.

A site visit will be held to meet with all relevant fire and EMS organizations and entities to gain feedback and insight into the successes and areas of improvement for the local jurisdictions fire and EMS service delivery. As part of the site visit, a Town Hall meeting will be held.

After the site visit, the study team will compile their notes; complete the draft report, and then a final Fire and EMS Study Report. The local jurisdiction will be allowed to review the draft report for technical corrections only.

Once the final Fire and EMS Study Report is approved by the Virginia Fire Services Board, the study team will work with the local jurisdiction to establish and hold a meeting to present the report to the requesting governing body.

- **Who is on a fire and EMS study team?**

Study teams are composed of two members of the Virginia Fire Services Board, one Division Chief and an administrative liaison from the Virginia Department of Fire



Programs, one representative from the Virginia Office of Emergency Medical Services, and one representative from the Virginia Department of Forestry.

- **How long does a fire and EMS study take?**

Typically, fire and EMS studies take less than six (6) months to complete, after they are approved by the Virginia Fire Services Board. A fire and EMS study could take long if there are scheduling issues for the site visit portion of the study.

- **Who does the study team meet with during the Site Visit?**

During the site visit, the study team will meet with a variety of fire and EMS organizations or personnel. Below is an example of those that would meet with the study team:

- The Chief or designated representative from each fire and/or EMS organization/department;
- Local government officials with relevant ties to fire and/or EMS service delivery;
- The 911 or Emergency communications center;
- The general public through the Town Hall meeting;
- Where appropriate, select members of the career fire and/or EMS organization/department;
- Where appropriate, fire and/or EMS association, commission or council members;
- As deemed appropriate, members of the local governing body; and,
- Other representatives deemed appropriate.

- **If I meet with the study team, will my name show up in the report?**

Meetings held with the study team are considered in anonymity, in that conversations will remain only between the representative and the study team, allowing an open and honest conversation. Additionally, names are not used in the study report to maintain the established trust that is necessary for an open and honest conversation.

- **Is there a chance for the general public to provide feedback to the study team?**

Members of the general public are invited to attend the Town Hall meeting held during the study site visit. Additionally, members of the fire and/or EMS organizations are invited to attend and can provide additionally feedback during the Town Hall meeting.

- **Can the local jurisdiction change the fire and EMS study report?**

The local jurisdiction cannot change the content(s) of the fire and EMS study report. The local jurisdiction will be asked to provide a technical review of the study, to ensure locality specific information is accurate.



- **What happens after a fire and EMS study?**

Once the study team concludes the site visit and has developed its final fire and EMS study report, the Virginia Fire Services Board will review and approve the study. Then the study team's administrative liaison will work with the local jurisdiction to set a study presentation date. The study team will present the final fire and EMS study report to the local governing body that requested the study in an open meeting that the general public can attend.

After the presentation, the Virginia Fire Services Board asks that the local governing body vote to accept receipt of the study report. Which means that the local governing body acknowledges that the study report was delivered, not that the local governing body agrees or disagrees with study recommendations.

It is then up to the fire and EMS organizations, and the local governing body to determine if, when, and to what extent the study recommendations are implemented. Fire and EMS study recommendations should be used as a guide to assist the fire and EMS organizations and local governing body in improving service delivery to the citizens. As a reminder, the **fire and EMS study recommendations should not be construed as legal advice or as a binding recommendation.**

- **What costs are associated with having a fire and EMS study completed for my jurisdiction?**

Fire and EMS studies are completed at no cost to localities

- **Who do I contact about a fire and EMS study or for more information?**

For more information about fire and EMS studies, please contact:
Mohamed G. Abbamin, Policy Manager
Virginia Department of Fire Programs
1005 Technology Park Drive
Glen Allen, VA 23059
Mohamed.Abbamin@vdfp.virginia.gov
804.249.1982



COMMONWEALTH of VIRGINIA

Walter Bailey
VIRGINIA FIRE SERVICES
BOARD CHAIR

Virginia Department of Fire Programs

Virginia Fire Services Board

Virginia Fire Services Board
c/o Virginia Department of Fire Programs
1005 Technology Park Drive
Glen Allen, VA 23059-4500
Phone: 804/ 371-0220
Fax: 804/ 371-3408

Scope of Fire and EMS Study Agreement

between the

Locality

and the

Virginia Fire Services Board

PURPOSE AND SCOPE

The purpose of this agreement is to establish mutually accepted duties, responsibilities, and expectations between the Virginia Fire Services Board, its designated Fire and EMS Study Committee and the locality which has requested the Fire and EMS Study/Technical Assistance from the Virginia Fire Service Board. The agreement is provided to help define activities and expectations between both parties.

AGREEMENT

- Study results/recommendations shall be comprehensive in nature and shall be consistent with and organized according to a final revised scope of work as negotiated between the Study Committee and the locality prior to the formal commencement of the Study. *****Refer to Self-Assessment Questionnaire for Scope of Study.***
- While questions of staffing ratios, response time, capital equipment purchases, etc. are relevant to the Study process, the locality should not expect detailed recommendations in these areas beyond system-wide recommendations.
- Study Results will be openly presented to the elected/appointed governing body, the requesting agency as well as any additional requesting organization(s);

- The time frame noted for technical assistance will be accepted;
- All relevant organizational data will be made available to the study committee; and,
- Locality will provide to the Virginia Department of Fire Programs a central point of contact. Please ensure the contact is available Monday – Friday from 9 am to 5 pm, and nighttime and weekends as needed.
- Within 6 to 9 months of the Study completion, the Department of Fire Programs will email the locality a feedback follow-up survey. It is requested that the locality complete the survey so the Agency and Board can gain valuable in-sight into the success and areas of improvements for future studies. Your participation in the feedback survey is important to the Agency and Board.

REVIEW AND TERM

This agreement shall be in effect until the end of the Fire and EMS Study.

SIGNED

We do hereby acknowledge and agree to abide by the provisions of this Memorandum of Understanding.

 Chairman of Virginia Fire Services Board
 Virginia Department of Fire Programs

 Authorized Locality Representative

 Date Signed

 Date Signed

FIRE AND EMERGENCY MEDICAL SERVICES STUDY SELF-ASSESSMENT QUESTIONNAIRE

Name:

Title:

Locality Name:

1. This request is being made by:

- Local Fire Department
- Other Fire Services Organization
- Local Government
- Other: (Please specify)

2. Scope of Study: Study results/recommendations will be comprehensive in nature. Below areas will be evaluated. Please add additional areas the locality wants assessed.

- a. **Organization**
- b. **Budget and Central Purchasing**
- c. **Personnel**
- d. **Training**
- e. **Fleet Design and Management (Equipment/Apparatus)**
- f. **Operations:**
- g. **Other:** (Please specify below)

3. Can you provide a current organizational chart? If yes, please email it to policyoffice@vdfp.virginia.gov.

- Yes No

4. What best describes your fire operations response?

- Career
- Volunteer
- Combination (both career and volunteer)

5. What best describes your EMS operations response?

- Career
- Volunteer
- Combination (both career and volunteer)

FIRE AND EMERGENCY MEDICAL SERVICES STUDY SELF-ASSESSMENT QUESTIONNAIRE

ORGANIZATION ESTABLISHMENT

6. Is your organization (Fire or EMS agencies/departments) established by local or county government?
- Yes
 - No
 - Other
7. Are all of the organizations (Fire or EMS agencies/departments) participating in this study established by a local government or county government ordinance? If yes, please email those to policyoffice@vdfp.virginia.gov.
- Yes
 - No
 - Other
8. Does the local government's establishing ordinance clearly authorize all services that are provided by your organization (Fire or EMS agencies/departments)?
- Yes
 - No
9. Does your organization have stated short and long term goals?
- Yes, but Fire Only
 - Yes, but EMS Only
 - Yes, both Fire and EMS
 - No

CENTRALIZED AUTHORITY

10. Do you operate under a centralized Fire and EMS authority?
- Yes
 - No
11. If yes to the above, what is the title of the position that oversees the central Fire and EMS organization?
12. Is there an organization (i.e. Fire and Rescue Association) or similar body that discusses Fire and EMS issues collaboratively?
- Yes
 - No

FIRE AND EMERGENCY MEDICAL SERVICES STUDY SELF-ASSESSMENT QUESTIONNAIRE

FUNDING AND RESOURCES

13. Does the local government provide funding?

- Fire
- EMS
- No funding provided

14. Does your organization charge for services?

- Fire Services
- EMS Services
- We do not charge

15. Does the jurisdiction/local government own the:

- Fire Apparatus
- EMS Vehicles
- Stations

16. Does your jurisdiction/locality have a:

- Fire Marshal
- Public Fire and Life Safety Educator
- Fire Corps Program

17. Does your jurisdiction/locality have a:

- A Coordinated Centralized Training Program for Fire
- A Coordinated Centralized Training Program for EMS
- A Fire Training Officer
- An EMS Training Officer

STANDARDIZATION

18. Has your jurisdiction/locality adopted the Statewide Fire Prevention Code?

- Yes
- No

19. Does your jurisdiction/locality provide public fire and life safety activities?

- Yes
- No

20. Does your jurisdiction/locality have formal written Mutual or Automatic Aid agreements with your neighboring jurisdictions/localities?

- Fire
- EMS
- We do not have formal written agreements

FIRE AND EMERGENCY MEDICAL SERVICES STUDY SELF-ASSESSMENT QUESTIONNAIRE

- 21. Does your jurisdiction/locality have current, written Standard Operating Procedures (SOPs) and/or Standard Operating Guidelines (SOGs) that all organizations follow? If yes, please email those to policyoffice@vdfp.virginia.gov.**
- Fire
 - EMS
 - We do not have SOPs and/or SOGs
- 22. Does your jurisdiction/locality have established written response time criteria?**
- Fire
 - EMS
 - We do not have written response time criteria
- 23. Does your jurisdiction/locality have centralized and structured dispatch criteria with predetermined response criteria?**
- Fire
 - EMS
 - We do not have centralized and structured dispatch criteria
- 24. Does your dispatch center practice Emergency Medical Dispatch (EMD)?**
- Yes
 - No
- 25. Is your jurisdiction/locality NIMS compliant?**
- Yes
 - No
- 26. Does your jurisdiction/locality have a written policy for minimum staffing level for:**
- Fire
 - EMS
 - We do not have a written policy for minimum staffing levels
- 27. Does your jurisdiction/locality have a structured Recruitment and Retention program?**
- Career Fire
 - Volunteer Fire
 - Career EMS
 - Volunteer EMS
 - We do not have program
- 28. Does your jurisdiction/locality have minimum standardized training requirement?**
- Yes
 - No

FIRE AND EMERGENCY MEDICAL SERVICES STUDY SELF-ASSESSMENT QUESTIONNAIRE

29. Does your jurisdiction/locality have a centralized data collection system?

- Fire - VFIRS
- EMS - PPDR
- EMS - VPHIB

POPULATION AND STUDY

30. What is the daytime population of the area being served?

31. What is the nighttime population of the area being served?

32. Have you had a similar study conducted within the past five years?

- Fire
- EMS
- Other

33. What prompted your request for this study? Please provide detailed comments below.

**RESOLUTION R2016-61
NELSON COUNTY BOARD OF SUPERVISORS
REQUEST FOR INITIATION OF A COMPREHENSIVE ANALYSIS STUDY OF
NELSON COUNTY'S FIRE/EMS SYSTEM BY THE
VIRGINIA FIRE SERVICES BOARD**

WHEREAS, one of the Board's 2016 priority retreat objectives was review of the County's Fire and EMS service delivery system; and

WHEREAS, pursuant to §9.1-203 (4) of the Code of Virginia 1950 as amended, Fire and EMS studies are conducted by the Virginia Fire Services Board at the request of a local jurisdiction,

NOW THEREFORE BE IT RESOLVED, by the Nelson County Board of Supervisors that said Board hereby authorizes Stephen A. Carter, County Administrator to request on behalf of the Board, the services of the Virginia Fire Services Board in conducting an objective, complete, and thorough review of the County's Fire and EMS service delivery system and provide its recommendations for improvement; and

BE IT FURTHER RESOLVED, the requested areas of concentration of this study include: organization and administration, budget and central purchasing, training, operations and delivery of services, and fleet design and management.

Approved: _____, 2016

Attest: _____, Clerk
Nelson County Board of Supervisors

From: Steve Carter
Sent: Thursday, August 11, 2016 3:39 PM
To: Phillip Payne
Cc: Debbie McCann
Subject: FW: Local Mandates - Real Property Tax Exemption for the Elderly and Disabled Mandate

Phil,

Please review the below email message and the above attachment from either the Dept. of Taxation or the Commission on Local Government (or jointly from both) for the purpose of providing your input on the possible need to update the County's current local ordinance on tax relief for the elderly and disabled and, to provide your input, as may be needed on the fiscal impact form.

My thought is to receive your input on the question of revising the local order as precedent to completing the survey form.

Thanks,

Steve

Stephen A. Carter
Nelson County Administrator
P. O. Box 336
84 Courthouse Square
Lovingson, VA 22949
Ph. (434) 263-7001
Fx. (434) 263-7004

From: TAX-TaxSurveys [<mailto:TaxSurveys@tax.virginia.gov>]

Sent: Tuesday, July 19, 2016 3:08 PM

Subject: Local Mandates - Real Property Tax Exemption for the Elderly and Disabled Mandate

Virginia Code § 2.2-613 requires executive branch agencies to periodically assess all mandates imposed on localities. The assessments, which are filed with the Commission on Local Government, are prepared for the purposes of determining which mandates, if any, may be altered or eliminated without interruption of local services delivery and without undue threat to the health, safety, and welfare of the residents of Virginia pursuant to *Va. Code* § 15.2-2903. More information on the assessment of mandates is available from the Commission on Local Government at <http://www.dhcd.virginia.gov/index.php/commission-on-local-government/mandates-on-local-governments.html>.

In the 2007 Session of the General Assembly, Senate Bill 1265 (2007 *Acts of Assembly*, Chapter 357) allowed local governments to extend real estate tax relief for the elderly and disabled to dwellings jointly held between individuals, not all of whom are at least age 65 or permanently and totally disabled, provided their combined net financial worth does not exceed certain statutory limits. To qualify, the dwelling must be the sole dwelling of all joint owners. Under the provisions of this new law, the tax relief is prorated based on the percentage of ownership interest in the dwelling held by all joint owners who satisfy the age or disability requirements. This proration does not apply to property held jointly by husband and wife. Prior to this legislation, the only jointly owned dwellings that qualified for real estate tax relief for the elderly and disabled were dwellings jointly owned by a husband and wife. The tax relief is not prorated in such situations.

Legislation enacted in the 2014 Session of the General Assembly, House Bill 1000 (2014 *Acts of Assembly*, Chapter 767) provided that when localities compute the taxpayer's annual income to determine eligibility for real property tax relief, the income of owners' relatives that live in the dwelling and provide bona fide caregiving services is not excluded. In addition, the bill clarified that nonrelatives living in the dwelling who provide bona fide caregiving services to the owner are not included in the income calculation, regardless of whether or not the nonrelative is compensated.

The Department of Taxation is currently preparing its assessment of the real property tax exemption for the elderly and permanently disabled. To facilitate the assessment of this mandate, the Department seeks the comments of all affected localities regarding the local tax exemption. To help facilitate the provision of any estimates of the fiscal impact of the mandate, including revenue impacts, we have attached the Estimate of Local Fiscal Impact Form. **Please respond with the completed Estimate of Local Fiscal Impact Form, if applicable, as well as any comments you have regarding the local mandate by email by September 2, 2016 to taxsurveys@tax.virginia.gov.** Please be sure to send your responses to the email address above and not to the Commission on Local Government.

We look forward to your comments on the local tax exemption for the elderly and permanently disabled. If you have any questions, please do not hesitate to submit them to taxsurveys@tax.virginia.gov.

CONFIDENTIALITY NOTICE: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and delete all copies of the original message.

MEMORANDUM

To: S. Carter
From: Phillip Payne
Date: August 12, 2016
Re: Tax Exemption

Authorities

County provision:

Sec. 11-43. - Restrictions and conditions.

Any exemption from real estate taxes shall be subject to the following:

- (1) The applicant shall own the real estate and use the dwelling as their principal residence. A dwelling jointly held by a husband and wife may qualify if either spouse meets the conditions of subsection (2) herein.
- (2) The applicant must be at least sixty-five (65) years of age as of May 15 of the taxable year for which application is made or permanently and totally disabled. [Drafting error] Permanently and totally disabled shall mean that the applicant is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of such a person's life.
- (3) The total combined income received from all sources during the preceding calendar year by:
 - a. Owners of the dwelling used as their principal residence; and
 - b. Owners' relatives who live in the dwelling shall not exceed fifty thousand dollars (\$50,000.00) provided, however, that the amount of six thousand dollars (\$6,000.00) of income of each relative who is not a spouse of the owner living in the dwelling and who does not qualify for the exemption provided in subparagraph (4) hereof shall not be included in the total combined income calculation, and further provided that the amount of six thousand dollars (\$6,000.00) income for an owner who is permanently disabled shall not be included in such total.
- (4) If any person has qualified for an exemption under this division and proved by clear and convincing evidence that after so qualifying the person's physical mental/health had deteriorated to the point that the only alternative to permanently residing in a hospital, nursing home, convalescent home or other facility for physical or mental care is to have a relative move in and provide care for the person, and if such relative does move in for that purpose, then none of the relative's income shall be counted towards the income limit set forth in subparagraph (3).

(5) The net combined financial worth, including the present value of all equitable interest, as of December 31 of the immediately preceding calendar year, of the owners, and the spouse of any owner, excluding the value of the dwelling and not more than one (1) acre of land upon which it is situated, and the furniture, household appliances and other items typically used in a home, shall not exceed one hundred

Enabling state legislation:

the General Assembly hereby authorizes the governing body of a county, city or town to establish by ordinance net financial worth or annual income limitations as a condition of eligibility for any exemption or deferral of tax allowed pursuant to this article. If the governing body establishes an annual income limitation, the computation of annual income shall be based on adding together the income received during the preceding calendar year, without regard to whether a tax return is actually filed, by (i) owners of the dwelling who use it as their principal residence, (ii) owners' relatives who live in the dwelling, except for those relatives living in the dwelling and providing bona fide caregiving services to the owner whether such relatives are compensated or not, and (iii) at the option of each locality, nonrelatives of the owner who live in the dwelling except for bona fide tenants or bona fide caregivers of the owner, whether compensated or not. If the governing body establishes a net financial worth limitation, net financial worth shall be based on adding together the net financial worth, including the present value of equitable interests, as of December 31 of the immediately preceding calendar year, of the owners, and of the spouse of any owner, of the dwelling.

Nothing in this section shall be construed or interpreted as to preclude or prohibit the governing body of a county, city or town from excluding certain sources of income, or a portion of the same, for purposes of its annual income limitation or excluding certain assets, or a portion of the same, for purposes of its net financial worth limitation.

Va. Code § 58.1-3212.

Note: Opinion of the Attorney General

“It is my opinion that localities may use neither a bright line test, a totality of the circumstances review, nor a federal disability guideline to determine whether a taxpayer is “permanently and totally disabled.” It further is my opinion that a locality may employ a federal disability guideline in determining the maximum income level for tax relief eligibility, and that considering such a guideline would not be irrational. Finally, it is my opinion that the criteria used by a locality must be set forth in the text of an ordinance.” 2010 Va. AG 197, 198, 10-057, ___ (2010)

Discussion

Our ordinance is slightly out of compliance with state enabling law; however, I am comfortable that the ordinance as applied is following state law. Nevertheless, an amendment should be made to track state law. It should be noted that the income/net worth table was last adjusted in 2007.

Code of Virginia
Title 58.1. Taxation
Chapter 32. Real Property Tax

§ 58.1-3212. Local restrictions and exemptions.

Pursuant to Article X, Section 6 (b) of the Constitution of Virginia, the General Assembly hereby authorizes the governing body of a county, city or town to establish by ordinance net financial worth or annual income limitations as a condition of eligibility for any exemption or deferral of tax allowed pursuant to this article. If the governing body establishes an annual income limitation, the computation of annual income shall be based on adding together the income received during the preceding calendar year, without regard to whether a tax return is actually filed, by (i) owners of the dwelling who use it as their principal residence, (ii) owners' relatives who live in the dwelling, except for those relatives living in the dwelling and providing bona fide caregiving services to the owner whether such relatives are compensated or not, and (iii) at the option of each locality, nonrelatives of the owner who live in the dwelling except for bona fide tenants or bona fide caregivers of the owner, whether compensated or not. If the governing body establishes a net financial worth limitation, net financial worth shall be based on adding together the net financial worth, including the present value of equitable interests, as of December 31 of the immediately preceding calendar year, of the owners, and of the spouse of any owner, of the dwelling.

Nothing in this section shall be construed or interpreted as to preclude or prohibit the governing body of a county, city or town from excluding certain sources of income, or a portion of the same, for purposes of its annual income limitation or excluding certain assets, or a portion of the same, for purposes of its net financial worth limitation.

Any county, city, or town that pursuant to this article provides for the exemption from, deferral of, or a combination program of exemptions from and deferrals of real property taxes may exempt or defer the real property taxes of the qualifying dwelling and the land, not exceeding ten acres, upon which it is situated.

No local ordinance shall require that a citizen reside in the jurisdiction for a designated period of time as a condition for qualifying for any real estate tax exemption or deferral program established pursuant to § 58.1-3210.

Code 1950, § 58-760.1; 1971, Ex. Sess., c. 169; 1972, cc. 315, 616; 1973, c. 496; 1974, c. 427; 1976, c. 543; 1977, cc. 48, 453, 456; 1978, cc. 774, 776, 777, 780, 788, 790; 1979, cc. 543, 544, 545, 563; 1980, cc. 656, 666, 673; 1981, c. 434; 1982, cc. 123, 457; 1984, cc. 267, 675; 1989, c. 568; 2011, cc. 438, 496; 2012, c. 299; 2014, c. 767.

DIVISION 2. - EXEMPTIONS FOR ELDERLY AND DISABLED¹³¹

Footnotes:

--- (3) ---

Editor's note—A resolution adopted July 9, 1991, deleted former Div. 2, §§ 11-41—11-45, relative to exemptions for elderly and disabled, and enacted a new Div. 2 to read as herein set out. The provision of former Div. 2 derived from §§ 1—5 of an ordinance adopted May 10, 1977, and resolutions adopted Feb. 8, 1983; Feb. 9, 1988; and May 9, 1989.

Sec. 11-41. - Authorization.

Pursuant to the provision of Section 58.1-3210 et seq. of the Code of Virginia the governing body for Nelson County hereby adopts this division for the exemption from taxation of real estate which is owned by and occupied as the sole dwelling of any person sixty-five (65) years of age or any person permanently and totally disabled as defined herein.

(Res. of 7-9-91)

Sec. 11-42. - Administration.

The real estate tax exemption shall be administered by the Commissioner of Revenue for Nelson County according to the provisions of this division. The commissioner of revenue is hereby authorized and empowered to prescribe, adopt, promulgate and enforce such rules and regulations in conformance with the provisions of the Code of Virginia, Title 58.1, Chapter 32, including an affidavit setting forth (i) the names of the related persons occupying such real estate and (ii) that the total combined net worth, including equitable interest and a combined income from all sources of the person specified in section 11-43 do not exceed the limits prescribed herein. The commissioner may make other reasonable necessary inquiry of persons seeking such exemption, requiring answers under oath, to determine qualifications as specified herein, including qualification as permanently and totally disabled. The commissioner may request the applicant to submit certified tax returns to establish the income or financial worth of any application for tax relief.

(Res. of 7-9-91)

Sec. 11-43. - Restrictions and conditions.

Any exemption from real estate taxes shall be subject to the following:

- (1) The applicant shall own the real estate and use the dwelling as their principal residence. A dwelling jointly held by a husband and wife may qualify if either spouse meets the conditions of subsection (2) herein.
- (2) The applicant must be at least sixty-five (65) years of age as of May 15 of the taxable year for which application is made or permanently and totally disabled. Permanently and totally disabled shall mean that the applicant is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of such a person's life.

- (3) The total combined income received from all sources during the preceding calendar year by:
 - a. Owners of the dwelling used as their principal residence; and
 - b. Owners' relatives who live in the dwelling shall not exceed fifty thousand dollars (\$50,000.00) provided, however, that the amount of six thousand dollars (\$6,000.00) of income of each relative who is not a spouse of the owner living in the dwelling and who does not qualify for the exemption provided in subparagraph (4) hereof shall not be included in the total combined income calculation, and further provided that the amount of six thousand dollars (\$6,000.00) income for an owner who is permanently disabled shall not be included in such total.
- (4) If any person has qualified for an exemption under this division and proved by clear and convincing evidence that after so qualifying the person's physical mental/health had deteriorated to the point that the only alternative to permanently residing in a hospital, nursing home, convalescent home or other facility for physical or mental care is to have a relative move in and provide care for the person, and if such relative does move in for that purpose, then none of the relative's income shall be counted towards the income limit set forth in subparagraph (3).
- (5) The net combined financial worth, including the present value of all equitable interest, as of December 31 of the immediately preceding calendar year, of the owners, and the spouse of any owner, excluding the value of the dwelling and not more than one (1) acre of land upon which it is situated, and the furniture, household appliances and other items typically used in a home, shall not exceed one hundred thousand dollars (\$100,000.00).

(Res. of 7-9-91; Res. of 5-11-93; Ord. of 3-11-97; Ord. of 12-10-02; Ord. No. O2007-010, 11-15-07)

Sec. 11-44. - Application of exemption.

Application for exemption shall be filed between January 2 to February 15 of each year with the commissioner of revenue on forms supplied by that office which will include an affidavit setting forth, inter alia, (i) names of related persons occupying such real estate and a combined net worth, including equitable interest, and a combined income from all sources of the persons specified in section 11-43.

(Res. of 7-9-91; Ord. of 12-14-99)

Sec. 11-45. - Absence from residence.

The fact that persons who are otherwise qualified for tax exemptions reside in hospitals, nursing homes, convalescent homes or other facilities for physical or mental care for extended periods of time shall not be construed to mean that the real estate for which tax exemption is sought does not continue to be the sole dwelling of such persons during such extended periods of other residence so long as such real estate is not used by or leased to others for consideration.

(Res. of 7-9-91)

Sec. 11-46. - Notice.

The Treasurer of Nelson County is hereby directed to include written notice, in each real estate tax bill, of the terms and conditions of this local real estate tax exemption. In addition, the treasurer shall give notice by advertisement of the real estate tax exemption program for two (2) consecutive weeks in a newspaper having a general circulation in Nelson County.

(Res. of 7-9-91)

Sec. 11-47. - Change in circumstances.

Changes in income, financial worth, ownership of property or other factors occurring during the taxable year for which an affidavit is filed and having the effect of exceeding or violating the limitations provided herein shall nullify the exemption for the remainder of current taxable year and the taxable year immediately following.

Any change in the ownership of real property to a spouse that results solely from the death of the qualifying individual, or the sale of such property, shall result in a proration of the exemption from the date of sale for the current taxable year. Such prorated portion shall be determined by multiplying the amount of the exemption by a fraction wherein the number of complete months of the years such property was properly eligible for exemption is the numerator and the number twelve (12) is the denominator.

(Res. of 7-9-91)

Sec. 11-48. - Determination of exemption.

The percentage of exemption available to an owner or owners qualified pursuant to section 11-43 shall be determined from the following table. The minimum exemption is ten (10) percent and the maximum, eighty (80) percent.

\$ Income	\$ Net Worth				
	0—20,000	20,001—40,000	40,001—80,000	60,001—80,000	80,001—100,000
0—12,500	80%	70%	60%	50%	40%
12,501—25,000	70%	60%	50%	40%	30%
25,001—37,500	60%	50%	40%	30%	20%
37,501—50,000	50%	40%	30%	20%	10%

(Ord. No. O2007-010, 11-15-07)

Secs. 11-49—11-60. - Reserved.

RESOLUTION R2016-62
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR PUBLIC HEARING
AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA
CHAPTER 11 TAXATION, ARTICLE 2 REAL PROPERTY TAX
DIVISION 2. - EXEMPTIONS FOR ELDERLY AND DISABLED

BE IT RESOLVED, that pursuant to §15.2-1427 of the Code of Virginia 1950 as amended, the County Administrator is hereby authorized to advertise a public hearing to be held on _____, 2016 at 7:00 PM in the General District Courtroom in the Courthouse in Lovington, Virginia. The purpose of the public hearing is to receive public input on an Ordinance proposed for passage to amend Chapter 11 Taxation, Article 2 Real Property Tax, Division 2 Exemptions for Elderly and Disabled.

Adopted: _____, 2016

Attest: _____, Clerk
Nelson County Board of Supervisors

DEPARTMENT OF
PLANNING & ZONING



PLANNING COMMISSION
BOARD OF ZONING APPEALS

To: Chair and Members, Nelson County Board of Supervisors

CC: Mr. Stephen A. Carter, County Administrator

From: Tim Padalino | Planning & Zoning Director

Date: September 8, 2016

Subject: Class C Communication Tower Permit #2016-08 (Shentel)

Application Summary

Site Location:	West side of Route 29 / Lovingson / East District
Tax Parcel(s):	#45-A-40 ... <i>(Please reference the attached maps)</i>
Parcel Size:	159.97 acres (total)
Zoning:	Agricultural (A-1)
Applicant:	Ms. Jessie Wilmer, Site Acquisition Specialist, Shentel
Property Owner:	Bridgwater, William L Ii Trustee
Request:	Introduction of PC recommendations regarding proposed 130' (Class C) monopole to replace existing 97.5' wood tower; consider authorization of public hearing
<ul style="list-style-type: none"> • <i>Application received on May 17</i> • <i>Balloon test conducted on Monday, June 27</i> • <i>Additional application materials received on Friday, August 12</i> 	

Subject Property Location, Characteristics, and Other Information:

The approximately 160-acre subject property is located on the west side and the east side of Thomas Nelson Highway; is zoned Agricultural (A-1); and is currently in agricultural use (hay) and is partially forested. The proposed monopole would be located on a knoll on the west side of the highway, at a site which currently contains two existing communication towers. That site is identified as "CV221 Polly Wright [Cove]." *Please reference the enclosed maps.*

Balloon Test:

I met the applicant at the subject property on the morning of June 27. We initially drove up the hill to the lease area, reviewed the existing conditions, and discussed in detail which trees would need to be removed. We also discussed the consistent breeziness and intermittent wind gusts which were substantially affecting the balloon test: the balloon was flying vertically up to the height of the trees

(approximately 90-95'), but beyond that height it was being blown horizontally over the crown of the trees. This prevented an accurate depiction of the height of the proposed tower. I estimate that 30-35% of the tower height was not being represented due to atmospheric conditions (see below).



Photograph showing balloon (red) flying only a short height above the existing 97.5' high wood tower, which would be replaced by the proposed 130' steel monopole. The red balloon is being blown to the northwest, almost horizontally over the crowns of the trees which are adjacent to the lease area.

I then drove around the vicinity and tried to evaluate the balloon location and height from multiple right-of-ways – including Thomas Nelson Highway, Myndus Road, Stagebridge Road, and Davis Creek Lane. It appeared that the proposed tower would protrude above the existing adjacent woodlot and be visible from a number of perspectives throughout that vicinity; but it was difficult to determine with accuracy, due to the effect of the wind on the balloon.

Initial Staff Review and Original Recommendation:

The evaluation of a proposed communication tower requires analysis of the (predicted) improved coverage and the (expected) visual impacts.

Review of (expected) visual impacts:

- The facility would be designed to create minimize visual impacts, such as being painted a matte brown finish and having flush mounted equipment (assembled with a maximum distance of 12" between the outer face of pole and the rear surface of the equipment).
- However, the facility would still create significant visual impacts due to the site's prominence above the surrounding terrain and highway, and due to the tower's height relative to the adjacent tree canopy.
 - The proposed steel monopole would be higher than the existing wood tower by 32.5' (a proposed 1/3 increase in overall height).
 - The proposed steel monopole would be higher than the other existing facilities in the vicinity (between Woods Mill and Lovingston). At the June 22nd PC meeting, the

applicant noted that this Class C Tower Permit application represents an attempt to expand coverage with one tall tower (maximum allowable height) instead of expanding coverage using two smaller towers; the applicant also noted that other service providers have two smaller towers in this vicinity to achieve their coverage objectives.

Review of (predicted) increase in coverage:

- Using the coverage maps provided by the applicant, it appears that coverage would be increased, but that the increase would not be very significant.
 - Specifically, it appears the proposed tower would improve in-vehicle coverage along the Route 29 right-of-way from “poor” to “good” – but only in a small area on the west side of the highway (south of Creekview Lane).
 - Notably, the predicted coverage from the proposed monopole would leave a substantial stretch of the Route 29 right-of-way (including the Fortune Lane, Stagebridge Road, and Orchard Park Lane) as having the same “poor in-vehicle coverage” as exists currently.

Original Recommendation:

The Planning & Zoning Director does not recommend approval of this Class C Communication Tower Permit. In addition to the evaluations detailed above, I provided this recommendation based on an evaluation of the application relative to the following items in the Tower Ordinance:

- Z.O. 20-13-E: Alternative Site(s): No new Class C Communication Tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Board of Supervisors that 1.) No commercially reasonable co-location alternatives fulfill the applicant’s desired coverage...
 - *The applicant has not demonstrated that Shentel’s coverage objectives cannot be met by co-locating their equipment on one or more of the existing facilities between Woods Mill and Lovington.*
- Z.O. 20-13-F: Factors considered in granting a Class C Communication Tower permit: The following factors shall be used in determining whether to issue a Class C Communication Tower Permit:
 - 2. Nature of the uses on adjacent and nearby properties, surrounding topography, surrounding tree coverage and foliage, design of the tower or pole, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 - *The tower design is favorable with regards to color and mounting format; but the tower height seems to create visual impacts (which are significant) that seem excessive in proportion to the improvement in coverage (which is limited).*
 - 5. Consistency with the Comprehensive Plan and the purposes set forth in Section 20-2;
 - *The tower design and location create concerns relative to the Purpose established in Z.O. 20-2-6: “Restrict the location of communication towers that adversely impact the natural beauty of the mountains in Nelson County.”*
 - 7. The results of the balloon test and subsequent photo simulations for compliance with the purposes as set forth in Section 20-2.
 - *As noted above, the balloon test results seem inconclusive and did not accurately represent the total height of the proposed 130’ Class C monopole tower, due to atmospheric conditions on the day of the test.*

Planning Commission Review and Recommendation:

At the July 27th PC meeting, the PC and applicant discussed several specific elements of the application which required the submittal of additional information. Following the meeting, the Planning & Zoning Director provided the applicant with a written summary of that discussion and identified the information which needed to be submitted. In response, the applicant provided the following information on Monday, August 15th. (*Please see enclosed materials dated August 12 and updated Site Plan drawings dated August 8.*)

- a) a cover letter from the applicant (dated August 12th) which explains the newly-submitted materials in detail, and which provides commentary on different possible coverage scenarios;
- b) propagation maps showing anticipated levels of coverage under five (5) different scenarios, including some co-location scenarios; and
- c) a revised “Tree Survey” (Sheet C-4 of the Site Plans) that clearly identifies which trees will be removed or adversely impacted

I reported to the Planning Commission that item b) (*above*) satisfies the requirements contained in Zoning Ordinance 20-13-E (“Alternative Sites”), and that item c) (*above*) satisfies the requirements in Zoning Ordinance 20-12-C-7 (“Plans and Drawings”). As such, I confirmed that the Class C Tower Permit application was complete and ready for PC review and vote.

In the cover letter dated August 12th, the applicant explains the following optional scenarios for (potentially) achieving coverage objectives, which were evaluated after the July 27th PC meeting:

- Prop Maps A-1, A-2, and A-3 show the existing coverage of CV221 “as-is.”
- Prop Maps B-1, B-2, and B-3 show the expected coverage of CV221 as originally proposed in Class C Tower Permit #2016-08 (130’ height above ground level).
- Prop Maps C-1 and C-2 show that the addition of a “fill-in” site between Lovingson and CV221 would achieve coverage objectives and eliminate the “drop call” situation (either by co-locating on the existing AT&T tower or Verizon tower, or by constructing a new tower site). However, the applicant also states: “Rather than collocating on either of these [existing] towers, SHENTEL would likely have to propose a new tower due to tree canopy and available tower space on these shorter poles” and, “SHENTEL is not proposing to add an additional site in this vicinity due to budgeting reasons.”
- Prop Map D-1 shows that coverage objectives could also be achieved by keeping the existing 97’ tower height at CV221 and constructing a new 120’ tower to replace the existing 75’ tower at CV150 in Lovingson (on Cove Mountain Lane). The applicant states: “...replacing the 75’ tower with a 120’ tower at CV150 will result in an increase in visibility of this tower for the more populated Lovingson area vs. the more rural setting of CV221.”
- Prop Map E-1 shows that modifying the design of the proposed tower at CV221 by reducing it to a height of 120’ (instead of the originally-proposed 130’ height) would, “reduce the ‘drop call’ area on Route 29” – but would not be ideal.

Based on the applicant’s August 12th cover letter and revised propagation maps, it appeared that the applicant’s preferences for achieving coverage objectives are to either increase the height of CV221 (as shown in the maps corresponding with Scenario B or E), or to increase the height of CV150 (on Cove Mountain Lane in Lovingson). Of those two scenarios, the County would have to decide which of the following outcomes would be more appropriate and more desirable:

- a taller tower at CV150 in Lovingson proper (where there are other existing towers, one of which is a 120’ tall “self-support” or triangular lattice tower), with the tower(s) at site CV221 being maintained at a height at or just slightly above the tree canopy;

or

- a taller tower at CV221 which would substantially protrude above the tree line and create a significant visual impact for the surrounding “Rural and Farming District” and Route 29, with a shorter (75’) tower at site CV150 where the viewshed currently includes an existing lattice tower protruding above the tree canopy.

Of these scenarios, the Planning & Zoning Director believes it may actually be more appropriate to maintain and protect the authentic rural character in the Myndus / Davis Creek area of Lovington, and to concentrate the taller towers at the existing telecom sites in Lovington proper (site CV150 on Cove Mountain Lane). Please also note: the original BOS approval for CV221 included this condition: *“The total height of the pole including antenna is not more than ten (10) feet above the tree line.”*

At the August 24th meeting, the Planning Commission reviewed the multiple optional scenarios provided by the applicant (as summarized above).

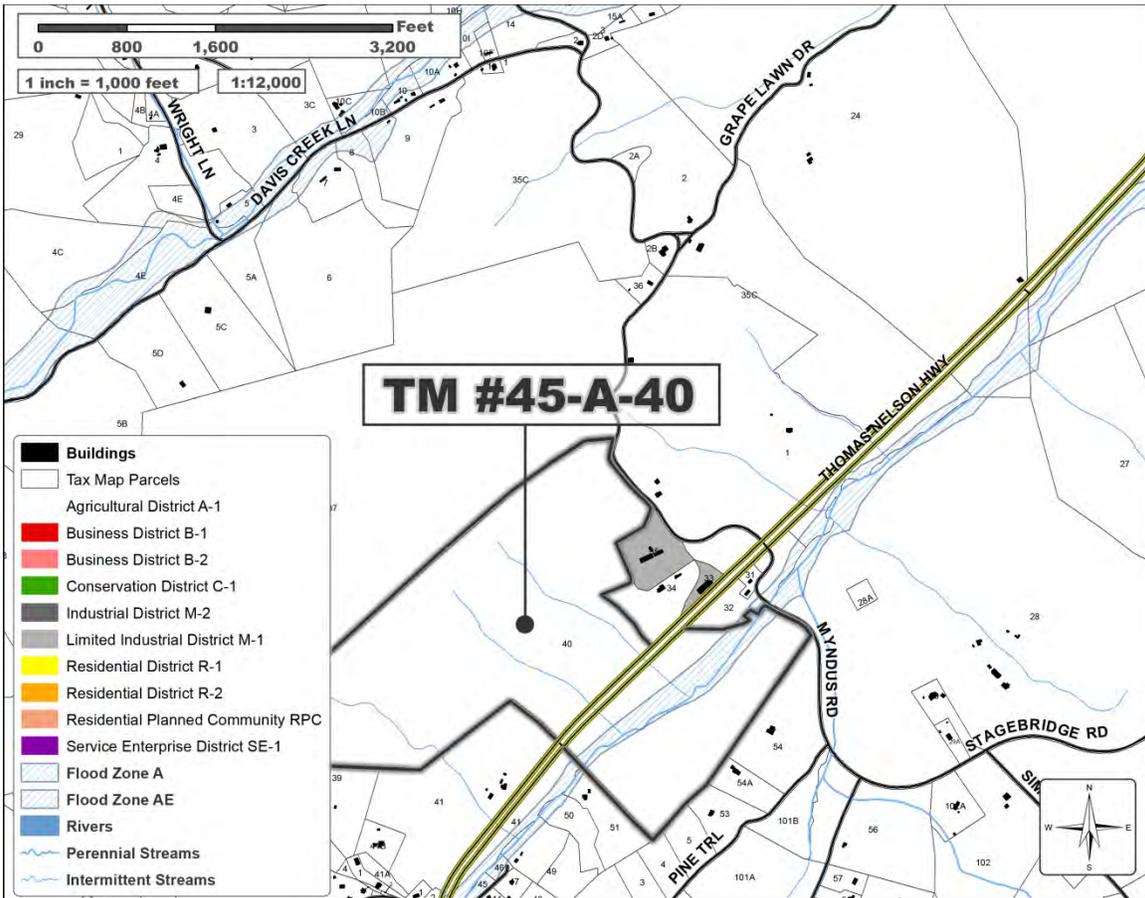
After I presented a staff report and after the applicant shared her own remarks, the Commission asked the applicant numerous questions about the possibility of co-locating on one of the existing towers between Lovington and CV221 (where the application proposes to construct a new 130’ tower). The Commissioners initially focused on that possible scenario because the propagation maps show that a co-location scenario would (theoretically) be the best approach to meeting Sprint’s coverage objectives, and because that would produce the least amount of visual impacts.

However, the applicant did not provide any additional detailed information (other than the coverage maps) to share with the Commission regarding the feasibility of co-locating on either the existing Verizon tower or the existing AT&T tower. The applicant only provided brief statements about the feasibility of co-location not being fully known at this time. It did not appear that the applicant had made a detailed effort to pursue a co-location option with either Verizon or AT&T; and the applicant actually stated to Chair Proulx that Shentel is not interested in, nor intent upon, further exploring co-location options.

As a result, the Commission’s review then focused on a different potential scenario: replacing the CV221 tower at the same height (97.5’ above ground level), and also replacing the existing 75’ tower in Lovington (at site CV150) with a 120’ tower. After lengthy discussion, the Commissioners informally agreed that this scenario was the most appropriate alternative (as opposed to the original request of constructing a new 130’ tower at CV221).

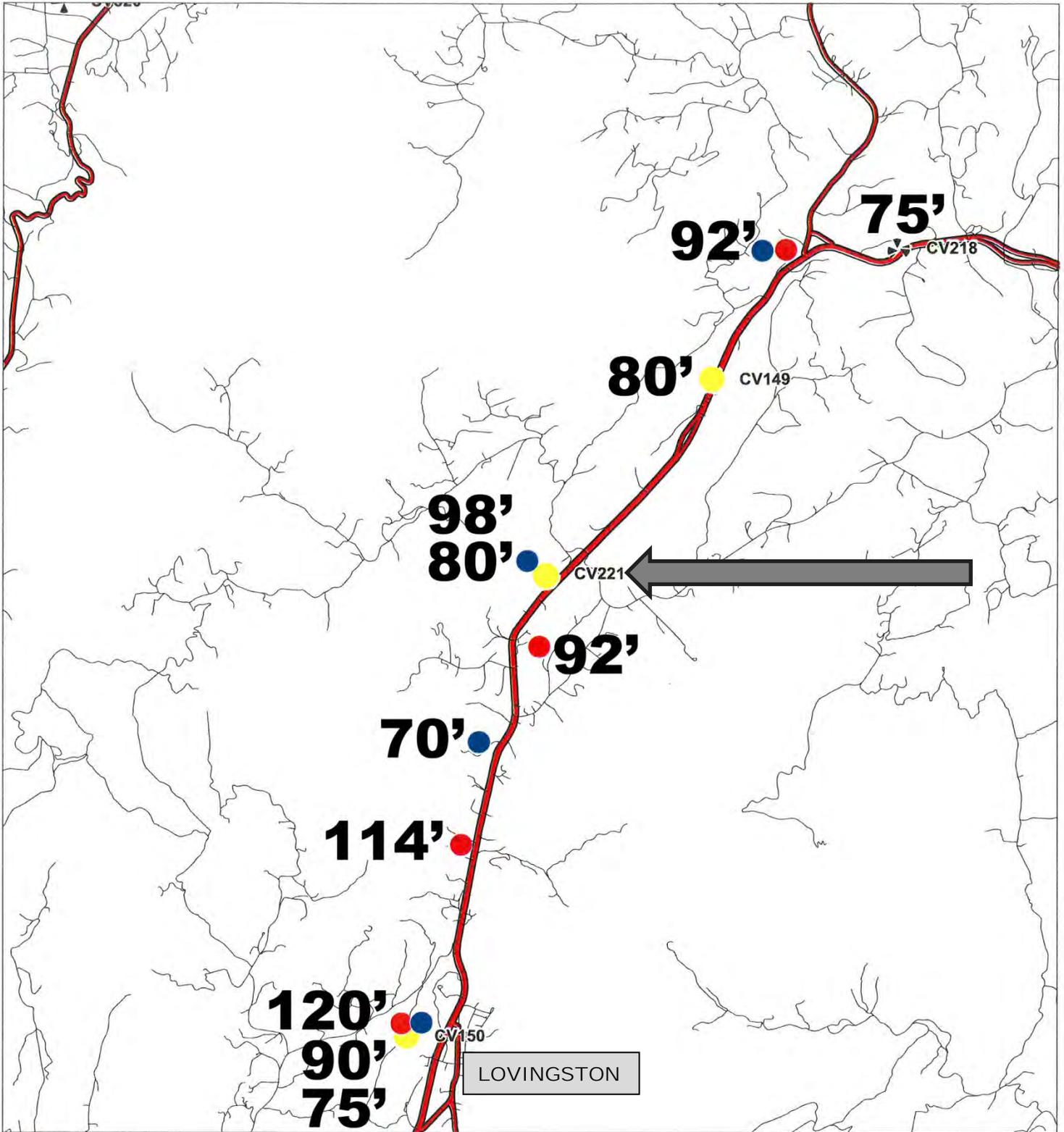
Accordingly, the Planning Commission voted (3-2) to recommend denial of the Class C Tower Permit #2016-08, which sought to construct a 130’ tower at CV221 in the Davis Creek area of Lovington; and instead recommended that the applicant pursue “scenario D” described above, which would not result in a taller tower at site CV221, but which would involve a new 120’ tall tower at site CV15 in Lovington.

In conclusion, please review the application materials submitted by Ms. Wilmer in response to the July 27th PC review (dated August 8 and August 12). The requested action is for the BOS to consider authorizing a public hearing for this application, as required by Z.O. 20-13-C. And please contact me with any questions, concerns, or requests for assistance leading up to the September 13th introduction of Class C Tower Permit #2016-08 for the proposed steel monopole at site CV221. Thank you very much for your time and attention to this application.





Sprint (Shentel), AT&T and Verizon Wireless - Comparison Map on Rt. 29



- AT&T
- Verizon Wireless
- Sprint

** These are approximate locations



PERMIT APPLICATION:

Nelson County Department of Planning & Zoning

TO THE ZONING ADMINISTRATOR: Class C Comm. Tower # 2016-02^{SWP}
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: Class C Communication Tower

- Pursuant to Article 20, Section 13 of the Nelson County Zoning Ordinance.
- Pursuant to Section _____, Subsection _____ of the Nelson County Subdivision Ordinance.

Reason(s) for request: Replacement of an existing 97.5' wood pole tower with a 130' steel monopole (flush mounted antennas - painted brown) with associated ground equipment

(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: Virginia PCS Alliance, L.C. (Shentel)
 Mailing Address: 1150 Shenandoah Village Drive Waynesboro, Va 22980
 Telephone # 540-241-5060 E-mail Address: Jessica.Wilmer@comp.shentel.com
 Relationship (if applicable): Lessee

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.):

12979 Thomas Nelson Highway, Lovingsston

b. Official tax map number: 45-A-40

c. Acreage of property: 159.97 ac

d. Present use: Telecom

e. Present zoning classification: A-1

f. Zoning classification of surrounding properties: A-1

4. Names of Adjacent Property Owners: see attached

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: Jess L Wilmer Printed Name: Jessica L. Wilmer

Signature: _____ Printed Name: _____

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

** see attached lease agreement*

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

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

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

Completed application and fee (\$2,000.00) received on 5-17-16

Hearing Notice published on _____

Planning Commission action: Date of Meeting / Hearing: _____

Recommendation: _____

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

Action: _____

Nelson County Planning & Zoning Department

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



May 12, 2016

Nelson County Planning & Zoning Department
Attn: Tim Padalino
80 Front Street
Lovingson, VA 22949

**RE: SHENTEL Class C Communications Tower Application
CV221 Polly Wright – 12979 Thomas Nelson Highway, Lovingson, VA**

Dear Mr. Padalino;

Virginia PCS Alliance, L.C., formerly NTELOS, ('SHENTEL') requests the consideration of Nelson County for Class C Communication Tower Permit for a personal wireless service facility located on property owned by William L. Bridgewater, described as tax parcel 45-A-40 and zoned A-1. The wireless service facility is located at 127 Davis Creek Lane, Lovingson, VA.

SHENTEL is in the process of enhancing its existing 3G voice and data network by replacing old network equipment with 4G/LTE (Long Term Evolution) equipment that will provide improved call performance, expanded coverage, faster downloads and stronger indoor signals. The current 3G voice and data network utilizes the 1900 MHz spectrum only. The SHENTEL 4G/LTE upgrades will use a tri-band system that will: 1) repurpose old Nextel spectrum (800 MHz spectrum) for increased coverage and better in-building coverage, 2) use Clearwire spectrum (2.5 GHz spectrum) for increased data capacity and 3) continue to use the existing Sprint/SHENTEL spectrum (1900 MHz spectrum). By using this tri-band system, Sprint customers will have LTE enhancement, improved call quality and diverse data capacity. In addition to upgrading our current network of sites, SHENTEL is also adding sites to increase capacity in saturated areas.

SHENTEL is requesting a Class C Communications Tower Permit Application to replace the current wood pole with a steel monopole tower. SHENTEL (formerly CFW and NTELOS) built this wood pole tower and associated wireless equipment in 1999 and subsequently sold the tower to GrainComm I, LLC in 2015, but leased back space from Grain on the tower. The current wood pole tower was approved by Special Use Permit for a wood pole tower 10' above the tree line and associated ground equipment. With this proposal, SHENTEL is proposing to replace the existing 97.5' wood pole tower with a new 130' steel monopole within the ground compound area. The new steel monopole will be painted dark brown (Sherwin Williams – Umbra) and will have flush mounted tower equipment. At the proposed location within the existing ground compound, the new monopole tower will meet the 110% setback for monopoles. Grain will continue to be the owner of the monopole and SHENTEL will lease back space on the tower and ground once the tower is replaced.

SHENTEL has (3) panel antennas located at 93' radiation center (flush mounted) on the wood pole with an equipment platform for base station equipment on the ground. With this proposal, SHENTEL is proposing (3) tri-band panel antennas at the 127' radiation center that will support multiple spectrum capabilities for 4G/LTE services and (6) remote radio head amplifiers at the 123' and 121' radiation

centers on the tower. SHENTEL is proposing to upgrade its base station equipment on the equipment platform on the ground.

Attached are photo simulations of the proposed Class C 130' steel monopole from the north and south vantage points along Rt. 29 (Thomas Nelson Highway). SHENTEL will conduct a balloon test at your request. Also, attached are propagation maps depicting the existing coverage at 97.5' vs. 130' heights. With the increased height, SHENTEL will significantly improve the current drop call area to the south on Rt. 29 (Thomas Nelson Highway) between this site and its site at Lovington (CV150). Increasing the height minimally will solidify coverage and not require SHENTEL to propose an additional site in between CV221 and CV150 along Rt. 29. The additional height will also allow another carrier to collocate on this pole in the future.

A Phase I ESA / NEPA report has been requested. The VDHR response will be sent to you upon its receipt. The proposed site is further than (1) air mile from the Blue Ridge Parkway and Appalachian National Scenic Trail.

The proposed equipment upgrade by SHENTEL is compatible with the existing character of the existing wireless facility and the upgrade will have minimal visual impact on the surrounding area than its current scenario. This proposal will deliver a much improved customer communications experience and will serve the public health and safety needs to the community by providing increased wireless voice capabilities and improved high speed data services to this area of Nelson County.

I look forward to receiving your comments regarding this proposal. Please send any comments and/or approvals to:

SHENTEL
ATTN: Jessie Wilmer
1150 Shenandoah Village Drive
Waynesboro, VA 22980

Please feel free to contact me if you need additional information.

Sincerely,



Jessie Wilmer
SHENTEL
Site Acquisition Specialist
(540) 241-5060
jessica.wilmer@emp.shentel.com



August 12, 2016

Nelson County Planning & Zoning Department
Attn: Tim Padalino
80 Front Street
Lovingston, VA 22949

**RE: SHENTEL Class C Communications Tower Application
CV221 Polly Wright
12979 Thomas Nelson Highway, Lovingston, VA**

Dear Mr. Padalino;

Please find the attached information for the above mentioned SUP application for a Class C Communications Tower located on tax parcel 45-A-40 at 12979 Thomas Nelson Highway, Lovingston pursuant to the comments from the Commissioners at the July 27, 2016 Planning Commission meeting.

- 1) Identify each existing tree that will be adversely impacted or removed during installation and maintenance per Z.O. 20-12-C-7. Sheet C-4 ("Tree Survey") has been revised to identify that Tree #38 is to be removed and the branches on the south side of Tree #42 shall be trimmed.
- 2) Evaluate potential collocation opportunities on alternative sites per Z.O. 20-13-E. Attached are several scenario's that the Planning Commission asked SHENTEL to address the existing and proposed coverage objective.
 - a. Prop Maps A-1, A-2 and A-3 Existing coverage of the CV221 tower at the current height – 93' (97' total tower height). Coverage depiction demonstrates a "drop call" area along Rt. 29 in the vicinity of Orchard Park Lane.
 - b. Prop Maps B-1, B-2 and B-3 Proposed coverage of the CV221 tower at the proposed height – 127' (130' total tower height). Coverage depiction demonstrates the "drop call" area is filled and will not result in a drop call from the customer.
 - c. Prop Maps C-2 and C-2 Proposed "fill in" coverage if SHENTEL did not increase the height of CV221 (97') and added a new site/collocation on either the AT&T or Verizon existing sites. While the coverage objective is achieved by adding another cell site in between CV221 and CV150 (Lovingston), SHENTEL does not have another site budgeted to build in this area. Rather than collocating on either of these towers, SHENTEL would likely have to propose a new tower due to tree canopy and available tower space on these shorter poles. SHENTEL is not proposing to add an additional site in this vicinity due to budgeting reasons.
 - d. Prop Map D-1 Proposed coverage of the CV221 tower at current height – 93' (97' total tower height) with tower replacement of current CV150 tower (75') to 120'. While the coverage objective is achieved by increasing the height at CV150 for SHENTEL, the visibility of the replacing the 75' tower with a 120' tower at CV150 will result in an increase in visibility of this tower for the more populated Lovingston area vs. the more rural setting of CV221.
 - e. Prop Map E-1 Proposed coverage of the CV221 tower at a reduced proposed height – 117' (120' total tower height). By increasing the height of the tower by only 10' at

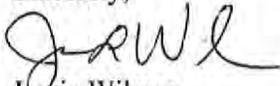
CV221, this height does reduce the "drop call" area on Rt. 29, however, the hole in coverage will remain. The minimum increase in height to 127' (130' total tower height) will resolve the "drop call" area.

While there are several scenario's that SHENTEL could achieve improved customer communications experience with increased wireless voice capabilities and improved high speed data services along Rt. 29 in this vicinity, SHENTEL has chosen to apply for a Class C Communications Tower Permit to increase the height of the site at CV221. The increase height at CV221 is the most rural site that could be replaced (vs. CV150 in Lovington) and will have the least visual impact on the surrounding area. Collocating on the AT&T or Verizon sites would result in a net addition of a tower site in this area.

I look forward to reviewing the attached propagation maps with the Planning Commission at the August 24th meeting.

Please feel free to contact me if you need additional information.

Sincerely,



Jessie Wilmer

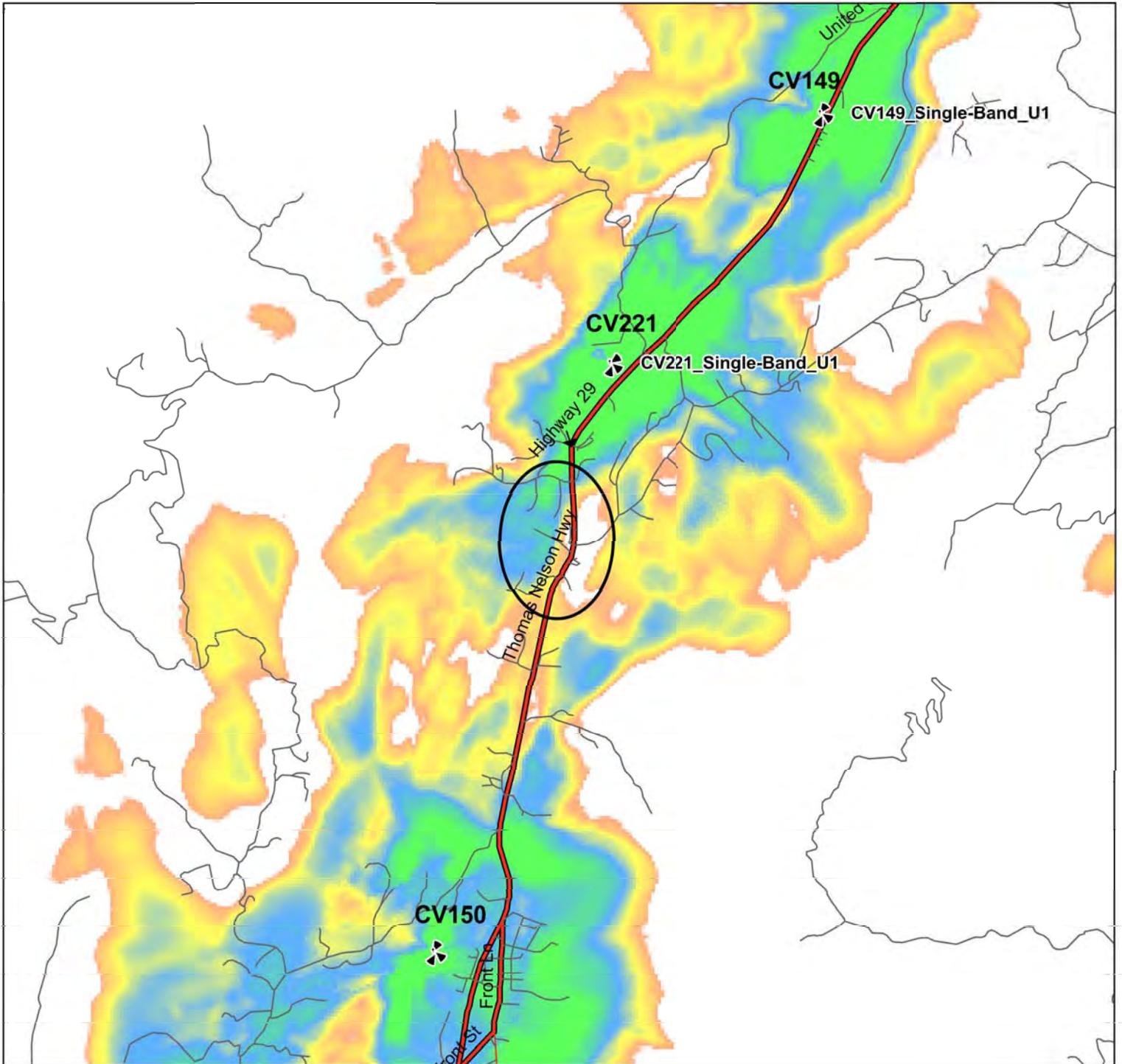
SHENTEL

Site Acquisition Specialist

(540) 241-5060

jessica.wilmer@emp.shentel.com

CV221 97' existing coverage prediction



Good In-building coverage $\geq -76\text{dbm}$



Poor In-building coverage $\geq -86\text{dbm}$



Good In-vehicle coverage $\geq -96\text{dbm}$

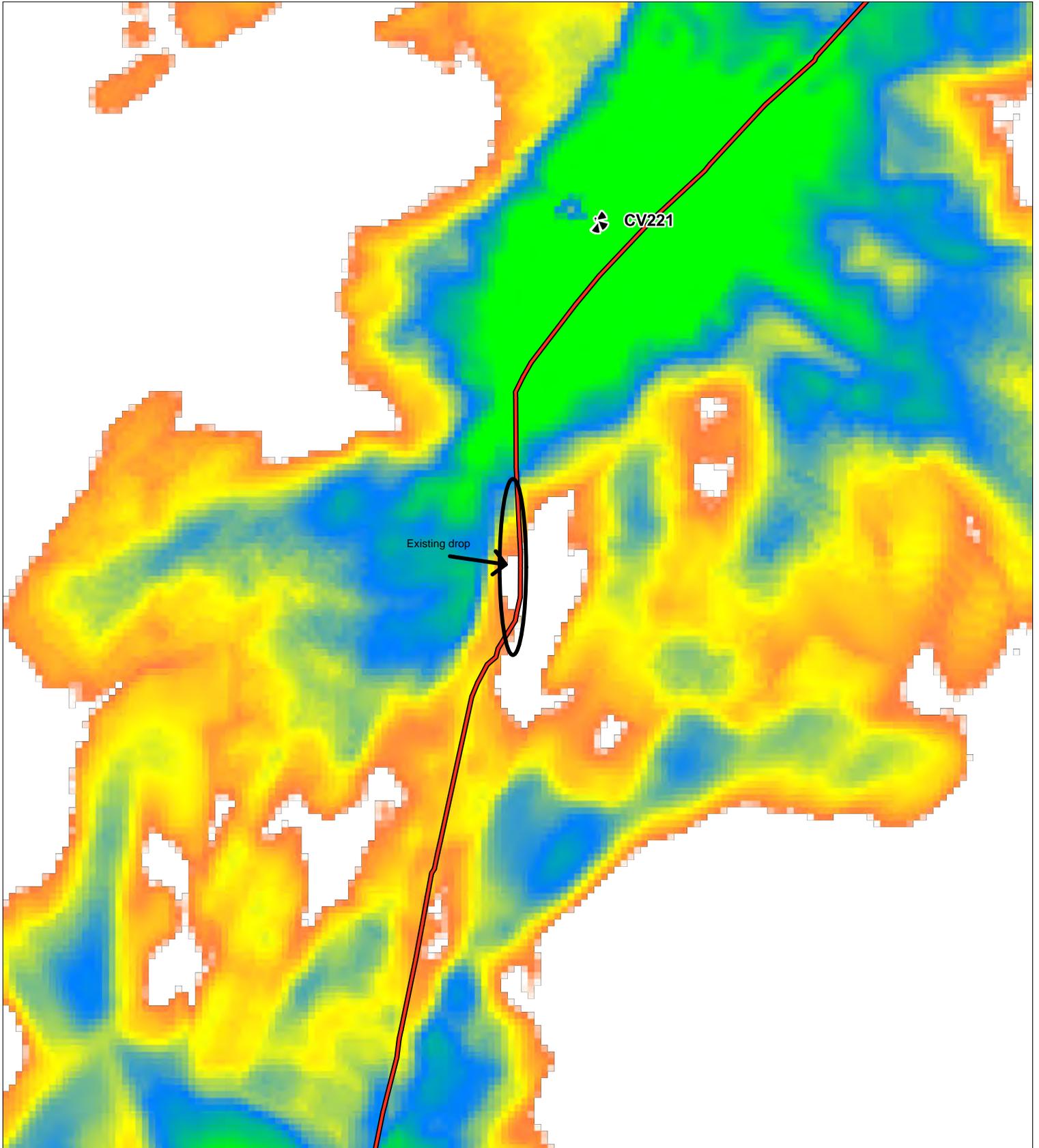


Poor In-vehicle coverage $\geq -106\text{dbm}$



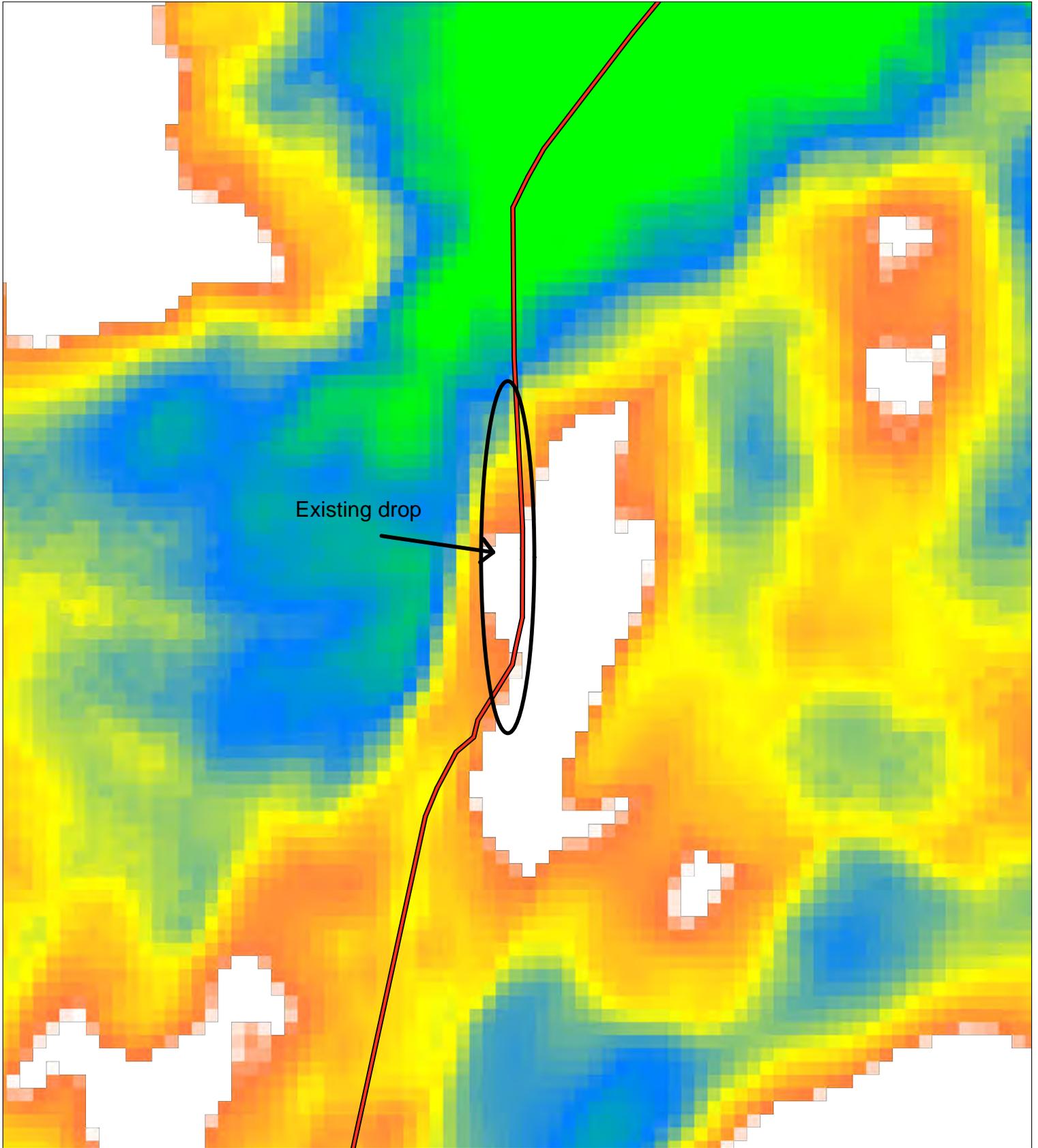
No coverage

CV221 (Existing 97')



- | | |
|--|---|
|  In-building coverage ≥ -76 dbm |  Poor outdoor coverage ≥ -104 dbm |
|  In-vehicle coverage ≥ -86 dbm |  No coverage |
|  Poor in-vehicle coverage ≥ -96 dbm | |

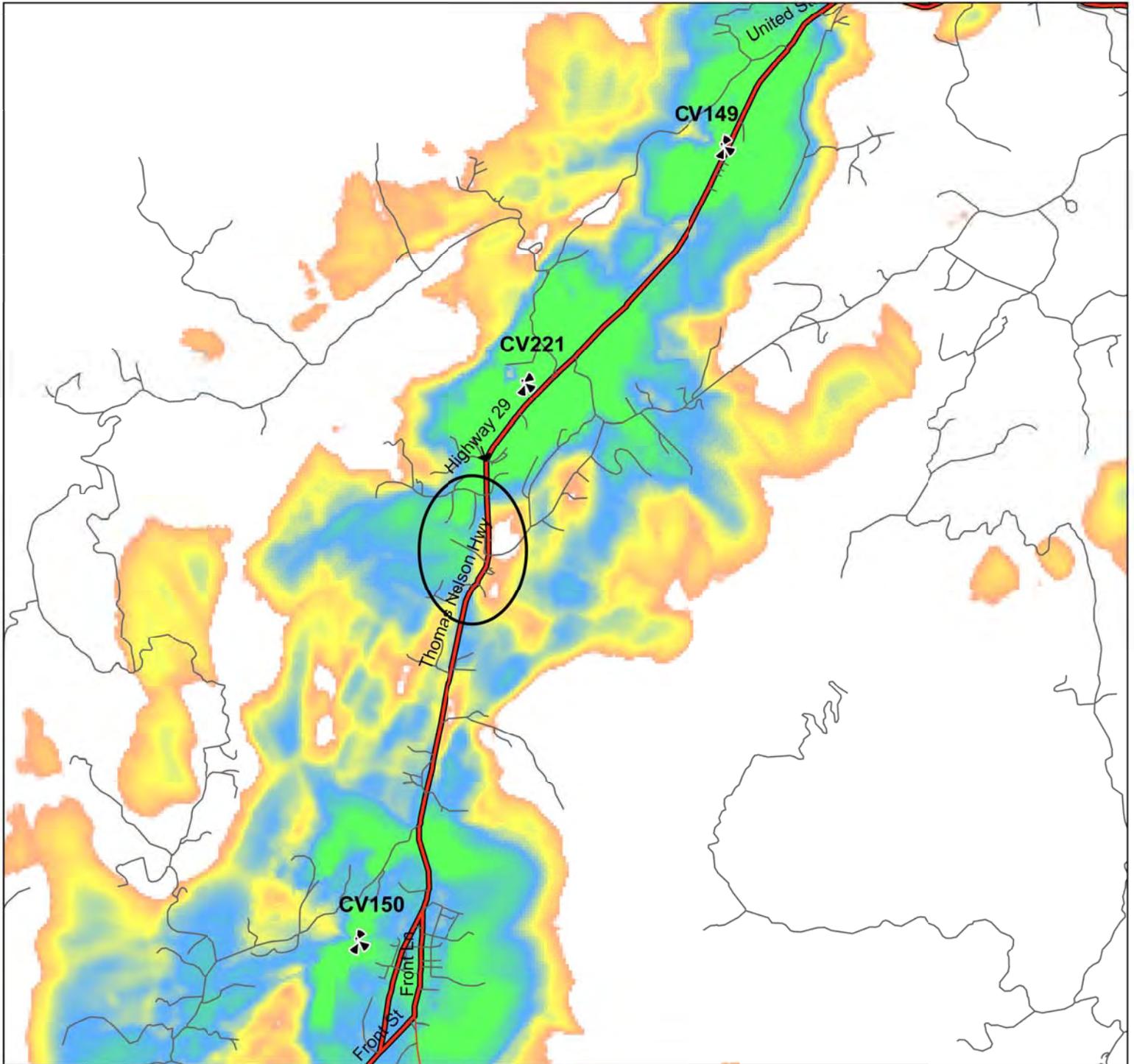
CV221 (Existing 97')



Existing drop

- | | |
|--|---|
|  In-building coverage ≥ -76 dbm |  Poor outdoor coverage ≥ -104 dbm |
|  In-vehicle coverage ≥ -86 dbm |  No coverage |
|  Poor in-vehicle coverage ≥ -96 dbm | |

CV221 127' proposed coverage prediction



Good In-building coverage $\geq -76\text{dbm}$



Poor In-building coverage $\geq -86\text{dbm}$



Good In-vehicle coverage $\geq -96\text{dbm}$

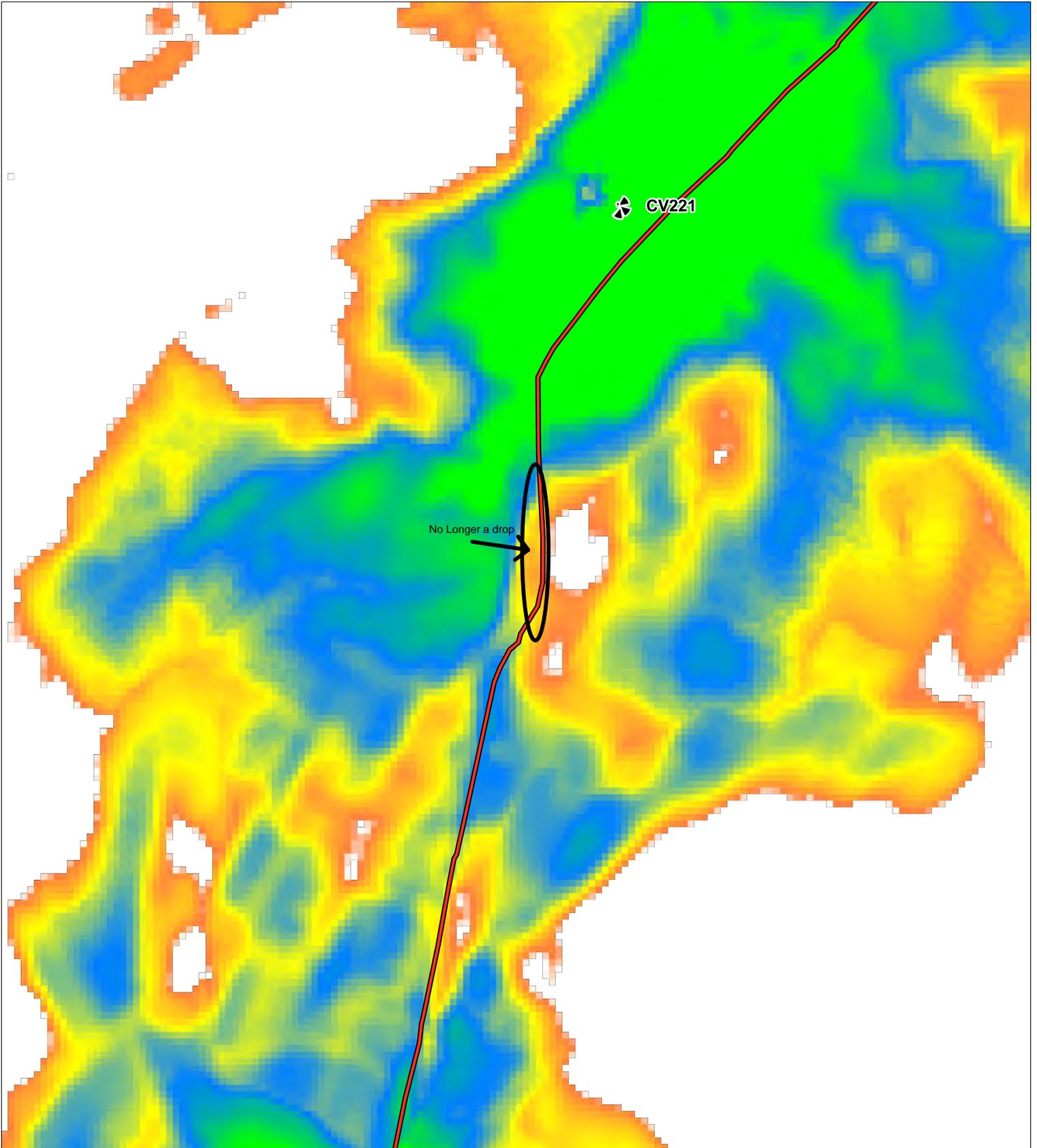


Poor In-vehicle coverage $\geq -106\text{dbm}$



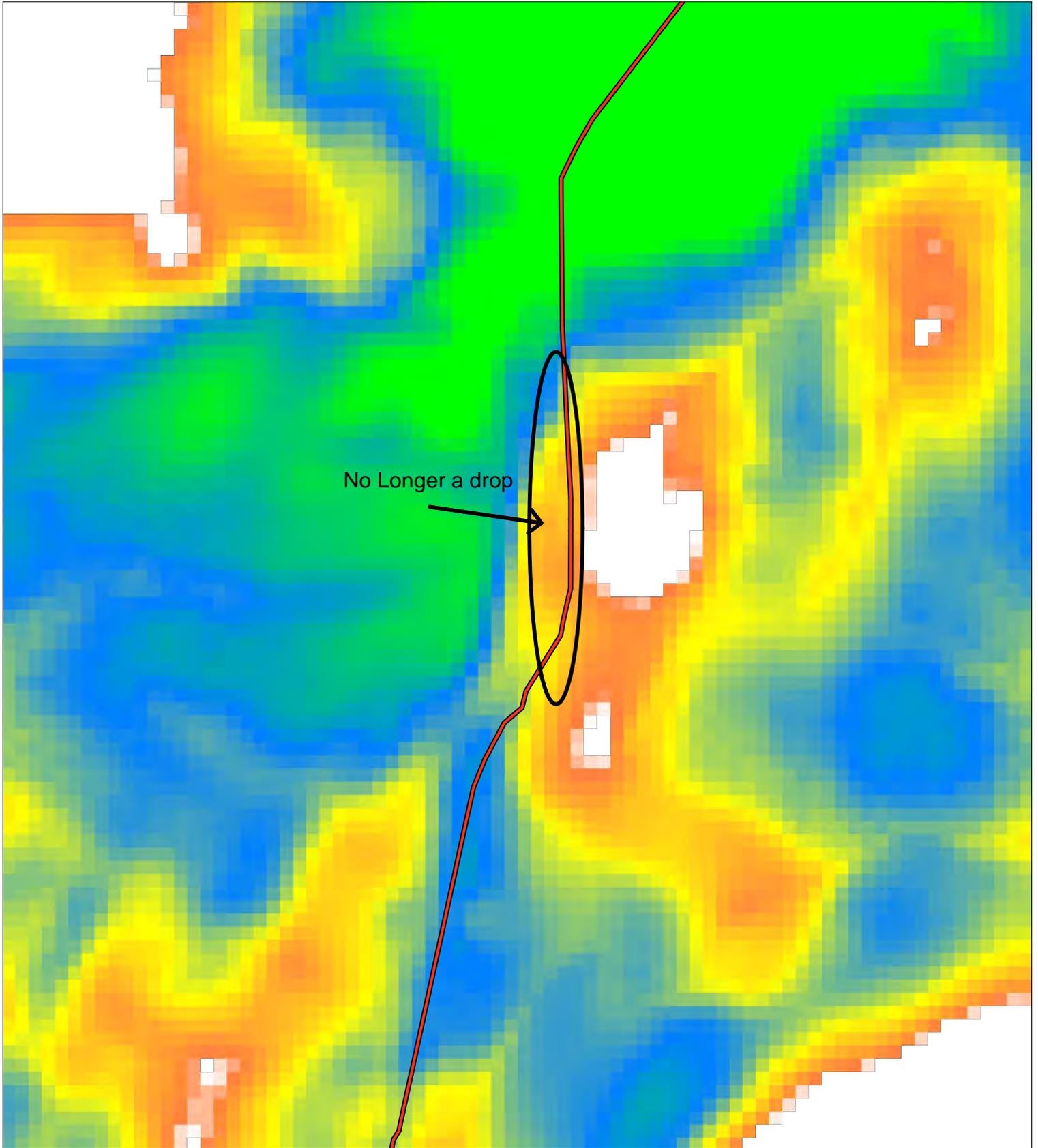
No coverage

CV221(Proposed 127')



- | | |
|--|---|
|  In-building coverage ≥ -76 dbm |  Poor outdoor coverage ≥ -104 dbm |
|  In-vehicle coverage ≥ -86 dbm |  No coverage |
|  Poor in-vehicle coverage ≥ -96 dbm | |

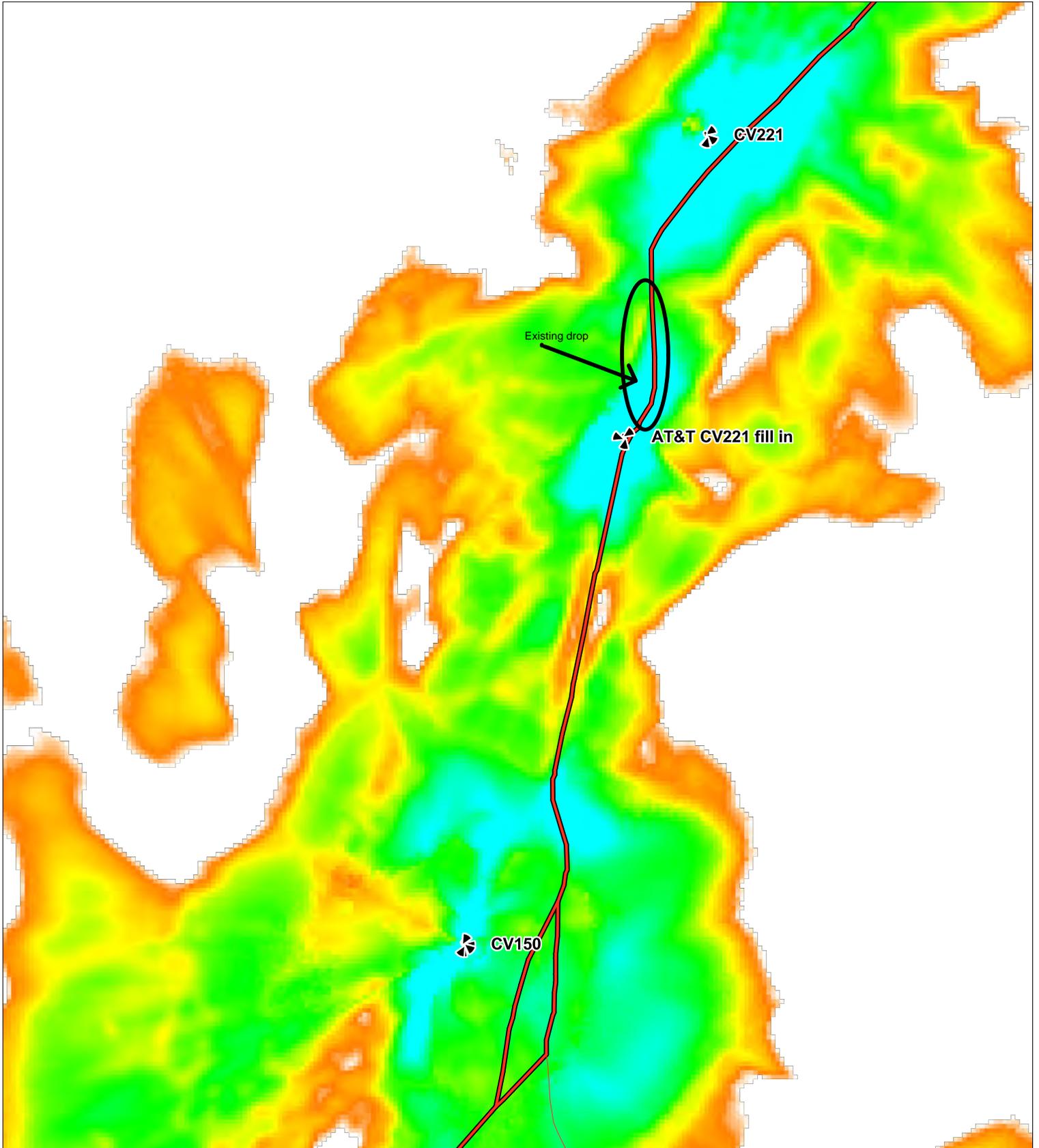
CV221(Proposed 127')



-  In-building coverage ≥ -76 dbm
-  In-vehicle coverage ≥ -86 dbm
-  Poor in-vehicle coverage ≥ -96 dbm

-  Poor outdoor coverage ≥ -104 dbm
-  No coverage

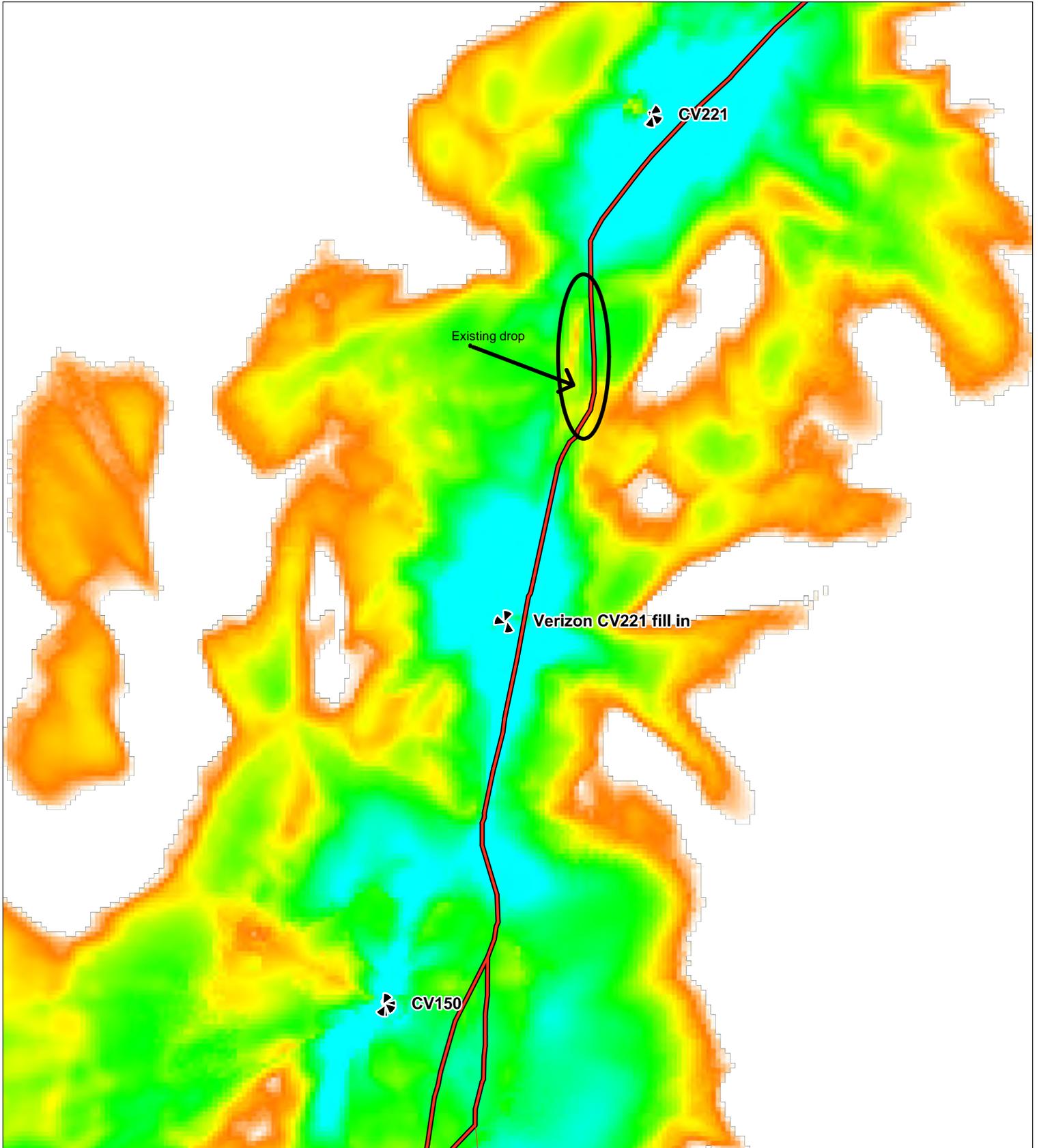
CV221 (AT&T 50')



-  In-building coverage ≥ -76 dbm
-  In-vehicle coverage ≥ -86 dbm
-  Poor in-vehicle coverage ≥ -96 dbm

-  Poor outdoor coverage ≥ -104 dbm
-  No coverage

CV221 (Verizon 94')



Existing drop

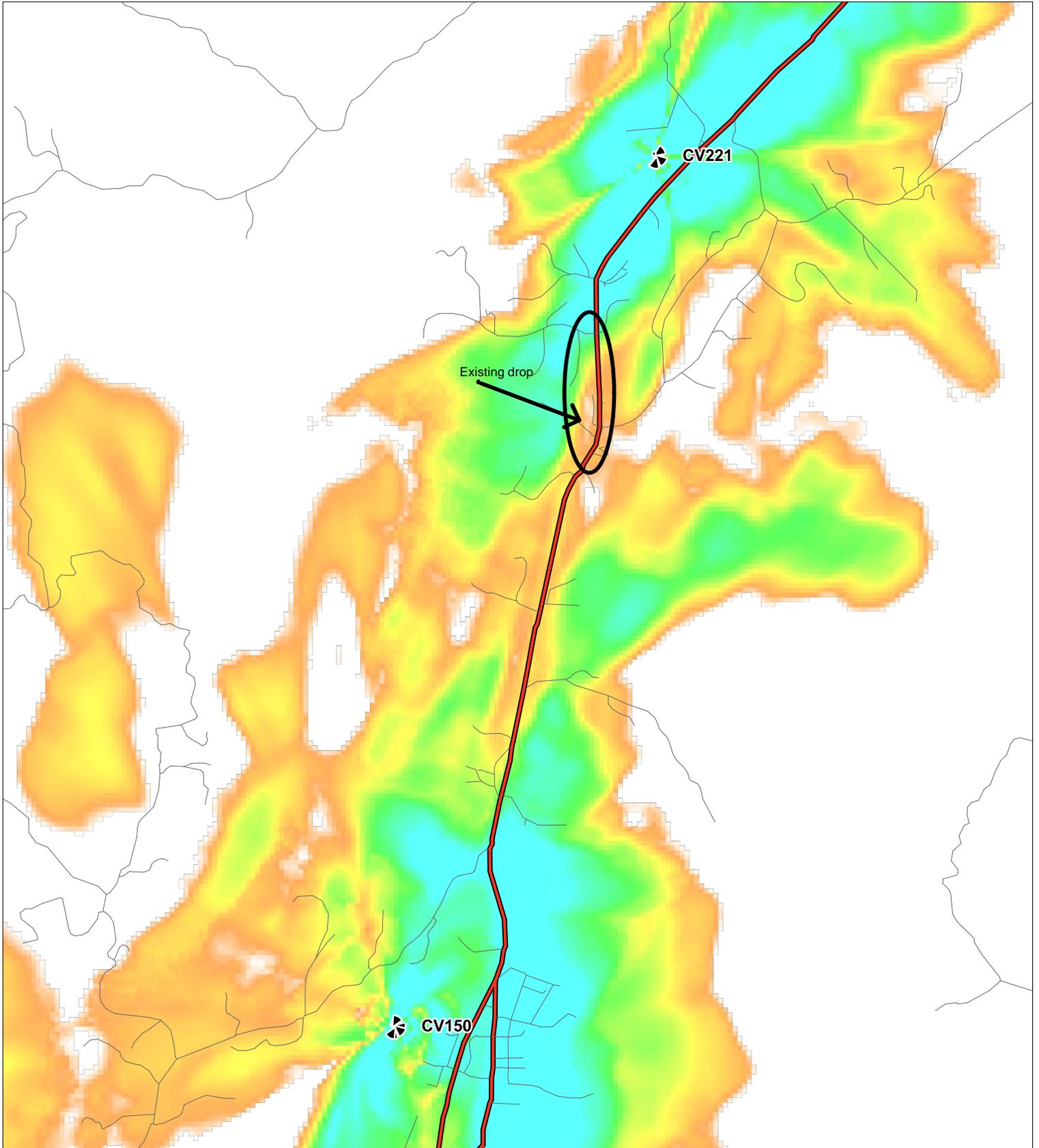
CV221

Verizon CV221 fill.in

CV150

- | | | | |
|--|---|---|---------------------------------------|
|  | In-building coverage ≥ -76 dbm |  | Poor outdoor coverage ≥ -104 dbm |
|  | In-vehicle coverage ≥ -86 dbm |  | No coverage |
|  | Poor in-vehicle coverage ≥ -96 dbm | | |

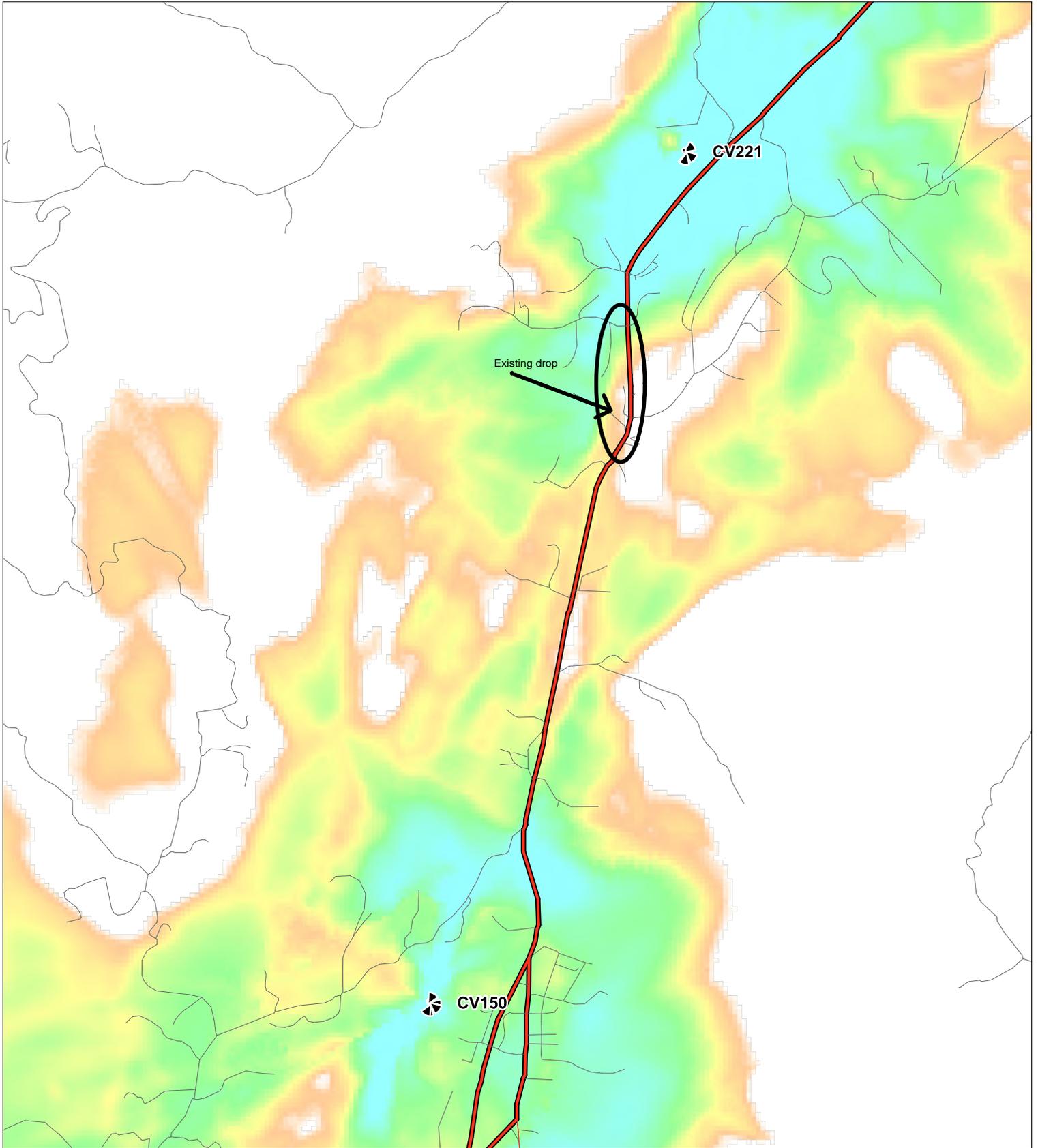
CV221 (CV150 at 120')



-  In-building coverage ≥ -76 dbm
-  In-vehicle coverage ≥ -86 dbm
-  Poor in-vehicle coverage ≥ -96 dbm

-  Poor outdoor coverage ≥ -104 dbm
-  No coverage

CV221 (CV221 at 117' and CV150 at 80')



-  In-building coverage ≥ -76 dbm
-  In-vehicle coverage ≥ -86 dbm
-  Poor in-vehicle coverage ≥ -96 dbm

-  Poor outdoor coverage ≥ -104 dbm
-  No coverage

**RESOLUTION R2016-63
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR PUBLIC HEARING
CLASS C COMMUNICATION TOWER
PERMIT APPLICATION #2016-08, SITE CV221**

BE IT RESOLVED, that pursuant to §15.2-1427 of the Code of Virginia 1950 as amended, the County Administrator is hereby authorized to advertise a public hearing to be held on _____, 2016 at 7:00 PM in the General District Courtroom in the Courthouse in Lovington, Virginia. The purpose of the public hearing is to receive public input on Class C tower permit #2016-08, Site CV221 at 12979 Thomas Nelson Hwy.

Adopted: _____, 2016

Attest: _____, Clerk
Nelson County Board of Supervisors

9 September, 2016

To: Board of Supervisors
From: S. Carter, County Administrator
Re: County Administrator's Report (September 13, 2016 Meeting)

1. Courthouse Project Phase II: Construction is proceeding well with emphases on completing the second floor renovation of the 1940s Addition, including the two story building expansion on the northwest side of the Courthouse (the addition expands the 1940s Addition) The most recent project meeting was conducted on August 31 with discussion focusing on project RFIs (Requests for Information), pending Change Orders and the project's completion schedule. Agreement was reached on many subjects but not on Jamerson-Lewis's revised completion schedule of 6-23-17 (from the original schedule of 1-27-17). The project's schedule will be a focus of the ensuing project meeting scheduled for September 28th at 1:30 p.m..

2. Broadband: See Attached Report to NCBA.

3. BR Tunnel Project: VDOT staffs in both the Lynchburg and Staunton District have provided comments on the construction plans and specifications for completion of the overall Tunnel Project, as prepared and submitted by Woolpert, Inc. Woolpert and County staff are in process with addressing the comments received to enable final review and approval of the construction documents to be completed by VDOT.

4. Region 2000 Service(s) Authority: The Authority's strategic planning project is in process. A Public Forum will be conducted on September 14 at 2 and 4 p.m. at the Hilton Garden Inn in Lynchburg. And, the planed Focus Group meeting is scheduled for September 28 at 9:30 a.m. at the Hilton Garden Inn in Lynchburg. To date, two Nelson residents, Ms. Eleanor Amidon and Mr. Larry Stopper have volunteered to participate in the Focus Group meet.

5. Radio Project: Motorola, Inc: A meeting with Motorola staff is scheduled for 9-9 at 10:30 a.m. to provide for completion of the details and costs for the installation of equipment and testing necessary to incorporate the tower at the RVVFD into the County's radio network.

6. 2016 Lockn' Festival: The Festival's operational plan resulted in what from an outside perspective was the most efficient and trouble free festival to date. A post show assessment meeting is pending being scheduled but planned. Specific outcomes with respect to the County (i.e. financial impact, law enforcement, etc.) are pending completion.

7. 2018 General Reassessment: Two proposals were received in response to the County's RFP solicitation. The respondent firms are Pearson's Appraisal Service, Inc. and Wampler-Eanes Appraisal Group, Ltd. A staff meeting, inclusive of the Commissioner of Revenue (P. Campbell) to discuss the responses and to decide next steps (i.e. interviews) is scheduled of 9-12 at 2 p.m. Participation from the Board of Supervisors (one or two Board members) is welcomed.

8. Route 29 Corridor Plan: TJPDC will complete an economic develop strategy and plan for the Route 29 Corridor, inclusive of a marketing plan through a sub-contract with 310 Ltd. Project completion is scheduled for February 28, 2017. Two public participation sessions are included in the project. Possible offsets for the project's \$28,788 expense include a \$20,000 grant from AEP and the return of approximately \$24,343 in year end (FY15-16) net revenues from ACRJA.

9. Department Reports: Included with the BOS agenda for the 9-13-16 meeting.

8 September, 2016

To: Nelson Count Broadband Authority
From: S. Carter, County Administrator
Re: Report for September 13, 2016 Meeting

Staff's brief report for the Authority's September 2016 meeting includes the following subjects:

1. Broadband Planning Project: The planning project is nearing completion. Specific outcomes/recommendations will be presented to the Authority on 9-13 by Dr. Andrew Cohill of Design Nine, the project's Blacksburg based consultant firm. The agenda includes a five page Executive Summary, which Dr. Cohill will reference in his presentation. The project has been a significant, multi-faceted undertaking. **It is recommended that the Authority schedule a work session(s) (through a continuation of the 9-13 meeting) to discuss in detail the project's recommendations and to provide County staff with direction/guidance on next steps associated with the completion of the planning project. The proposed work session is deemed a critical next step in completing the planning project and, more importantly, in the Authority's ensuing operations.**

2. Middle Mile Expansion (CDBG) Project: Phase 1 and, most recently, Phase 2 have been completed with requests for service being received and addressed. The VDOT permit for Phase 3 (Intersection of Route 6 and 151 at Avon west on Route (Afton Mountain Road) to Saddleback Farm (entrance to Veritas Winery and Saddleback Subdivision) was approved on 9-7. CCTS the project's installation contractor will begin work to complete Phase on 9-13. A 2 to 4 week completion schedule is anticipated.

3. Subscription Levels: Staff will endeavor to report on current and projected subscriber levels at the session on 9-13.

4. Shentel: The company has not provided any additional information on its previous phone and email inquiries proposing to lease space in the fiber network's conduit infrastructure. The most recent communication was 2+ weeks ago and pertained to input from Shentel staff that they would be conferring with CCTS, NCBA's Outside Plant Contractor, on the capacity of the conduit infrastructure to contain two additional 144 count fiber optic cables. Input from County staff to Shentel was to caution them on concluding that the company's proposal (a formal proposal has not been received) would be accepted and to remind Shentel staff that the amount of the cost per foot proposal to utilize the local network's conduit was much lower than what the County had proposed to Shentel.

5. CVEC RFI: The Central VA Electric Cooperative issues a Request for Information on July 25th to solicit input from providers of internet/broadband services for a possible partnership that would provide universal broadband network services "for the membership of CVEC" (some 38,000 possible subscribers within the Cooperative's multi-jurisdictional service area). County staff submitted on 9-8 the RFI's initial request for "Letters of Intent" from interested providers. The deadline for a full (and very detailed, in-depth) and final response to the RFI is November 11, 2016. The letter drafted by County staff included a request for a meeting with CVEC staff to discuss possible strategies for a partnership between NCBA and CVEC with the input received from the discussion a determining factor in a decision to submit a final response to the Cooperative's RFI, which is more than a significant undertaking. Next steps, if any, are TBD.

JEFFERSON AREA UNITED TRANSPORTATION –JAUNT, INC.

2 CITIZEN MEMBERS

Janice Jackson
6438 Laurel Rd.
P.O. Box 56
Shipman, VA 22971
Ph (434) 263-4116
jjacksonconsult@earthlink.net

August 1, 2013-September 30, 2016

Delores J. Green
10 Giles Lane
Roseland, VA 22967
Ph (434) 277-5770
deejgreen@gmail.com

August 1, 2015 -September 30, 2018
(Appointed 10/13/15)

Term(s) of Office: 3 years: August 1st to September 30th

Summary of Duties: To set broad policy in support of JAUNT's mission which is to safely, courteously and promptly provide public and specialized services to meet community mobility needs.

Meetings: Meets the second Wednesday of each month from 10:00 am to 12:00 noon at the JAUNT office, 104 Keystone Place, Charlottesville, VA 22902. Members serve on a volunteer basis. Contact Person is Brad Sheffield, brads@ridejaunt.org , 434-296-3184 ext 101

PROPOSAL

The Humane Society of Nelson County is very grateful for the relationship it now has with Nelson County Animal Control.

Working together as a team has proven to be very beneficial to both organizations.

As explained below, it has enabled Nelson County to become a NO KILL county, and is proving to save time and money for Nelson County Animal Control.

TAKING CUSTODY OF ANIMALS

Animal Control employees text pictures of new animals upon arrival and send them to the Intake Managers for the Humane Society.

This results in most animals being taken from Animal Control on or within a few days of its release date. This means less man hours for Animal Control for cleaning, and less money for food to feed the animals if they were to stay for extended periods of time.

WE ACT AS AN EXTENSION OF ANIMAL CONTROL AFTER HOURS

We gladly accept strays after hours, on weekends and holidays and hold them until Animal Control can come get them. We have blank animal control intake forms that we have the finder fill out. This keeps the animal safe even though Animal Control is closed.

If the animal is slightly injured, this saves overtime hours for Animal Control employees.

SPAY/NEUTER CLINIC

We offer a low cost spay/neuter service to residents of Nelson County. If they cannot pay, we cover the cost. This prevents unwanted strays for Animal Control to deal with, and us to find homes for.....

This costs the Humane Society between \$8,000 and \$10,000 each year.

STATISTICS

Since 2004, the Humane Society has taken in over 11,000 animals.

The population of Nelson County is barely 15,000 people.

BE PROUD – WE HAVE BEEN A NO KILL COUNTY FOR OVER 6 YEARS

In 2010, Nelson County was one of only 7 counties/cities in the entire state of Virginia to be considered a No Kill County. The other 6 were:

Charlottesville/Albemarle

Orange

Lynchburg

Fluvanna

Richmond

Arlington

This means that over 80% of animals taken in county wide were saved. The percentage is computed by taking the total number of animals taken in and subtracting out the animals that were euthanized. Some counties don't include euthanized feral cats in their statistics. That makes our percentage an even bigger accomplishment because Nelson does include feral cats that were euthanized.

STATISTICS FOR THE LAST 6 YEARS

YEAR	HS SAVE RATE	HS + AC SAVE RATE (COUNTY WIDE)
2010	97.77%	87.21%
2011	94.87%	81.08%
2012	96.67%	87.17%
2013	95.5%	84.07%
2014	95.45%	89.48%
2015	95.81%	88.69%

This saves Animal Control a huge amount each year on euthanasia fees.

More people need to know that we are a NO KILL county to help change the negative stigma that Animal Control has had in the past.

FUNDING

We are funded strictly by donations.

We house an average of 35-40 dogs, 60-90 cats/kittens, on a daily basis.

We have only 5 part time kennel attendants and 3 part time office managers .

The remainder of our work is accomplished by dedicated volunteers

Our Director and President, Bette Grahame, has been a volunteer for over 20 years.

Neighboring counties' humane societies have over 30 full time employees, numerous part time employees, and salaried directors that enable them to save about the same amount of animals each year that Nelson County saves.

Most counties have Walmarts and Pet Stores that graciously donate a lot of food and supplies. We do not receive any donations of this type.

JUST A FEW 2015 EXPENSES

Vet bills and medications – over \$84,000.00

Dog/cat food, cat litter, kennel supplies – over \$15,000

Utilities – over \$9,000

Van and fuel expenses for animal transports – over \$8,000

Low cost Spay/Neuter clinic offered to public – over \$8,000

ADDITIONAL FINANCIAL HELP

The Humane Society of Nelson County would like to propose that we be included in the County Budget for the amount of \$5,000.00 annually.

This would be used for spay/neuter and medical fees only.

If a set yearly amount from the County is too vague, I propose that the County pay for a set number of animals to be spayed/neutered through Lovington Vet before the Humane Society takes custody.

I propose that this amount be 50 animals per calendar year.

CONCLUSION

Thank you for your consideration of this proposal.

We look forward to working together and keeping Nelson County a NO KILL COMMUNITY !

If you have any questions or need additional information, please contact:

Fonda Bell

Board member, Canine Intake Manager, Transport Coordinator

Rockfishkayaker@aol.com

Home: 434-263-4776

Cell: Call or text: 434-326-6732

<u>Directives</u>	<u>Member</u>	<u>Status</u>	<u>Comments</u>
<u>Directives from May 10, 2016</u>			
<i>Initiate Workshop on Floodplain Ordinance and Issues</i>	C. Brennan	Tabled	
<i>Follow Up with SCS's Use of Sugarloaf Tower Site & Any Effect on NCBA Activities</i>	A. Hale	Complete	SCS Using Tower; No effect on NCBA
<u>Directives from July 12, 2016</u>			
<i>Brainstorm on Ways Other Than Internet and Newspaper to Inform the Public</i>	C. Brennan	Ongoing	
<u>Directives from August 9, 2016</u>			
<i>None</i>			

**NOTICE OF PUBLIC HEARINGS
NELSON COUNTY BOARD OF SUPERVISORS
SPECIAL USE PERMIT #2016-03 & CONDITIONAL REZONING #2016-01**

In accordance with Volume 3A, Title 15.2, Counties, Cities and Towns, of the Code of Virginia, 1950, as amended, and pursuant to §15.2-1427 and §15.2-2204, the Nelson County Board of Supervisors hereby gives notice that a Public Hearing will be held at **7:00 p.m., Tuesday September 13, 2016** in the **General District Courtroom** on the third floor of the Nelson County Courthouse located at 84 Courthouse Square, Lovingston. The purpose of said public hearing is to receive public input on the following:

1. Special Use Permit #2016-03 – “Dwelling Units in Business (B-1) District” / Mr. John J. Bradshaw, Jr.

Pursuant to Zoning Ordinance Article 8, Section 1-10a (“Single family dwelling units, two family dwelling units, and multi-family dwelling units”). The applicant seeks approval to “continue to allow an apartment use in a business-zoned building.” The subject property is located in the Lovingston Historic District at 652 Front Street; it is further identified as Tax Map Parcel #58B-3-32 and is zoned Business (B-1).

2. Conditional Rezoning #2016-01 – Business (B-1) to Limited Industrial (M-1) Conditional / Old Hickory Buildings, LLC

Pursuant to Zoning Ordinance Article 16, Sections 1-1 and 4 (“Conditional zoning”). The subject property is located in Colleen at 3907 and 3965 Thomas Nelson Highway; Tax Map Parcel #76-A-1, zoned Business (B-1). The applicant seeks approval to rezone the subject property to Limited Industrial (M-1) Conditional to “allow for the manufacturing, storage, and display for the storage buildings for sale to the general public” with the following proffered conditions: “limit the use of this property to the following: (i) as outside storage, display, and manufacturing of storage buildings for sale to the general public. (ii) Any new or additional outside lighting will be glare-shielded. (iii) The underground storage tanks shown on the plan will be removed.”

These applications are available for review in the County Administrator’s Office or the Dept. of Planning & Zoning, 84 Courthouse Square or 80 Front Street, Lovingston, Virginia, M-F, 9am to 5pm. For more information, call (434) 263-7000 or (434) 263-7090, or toll free at 888-662-9400, selections 4 and 1. EOE

BY AUTHORITY OF NELSON COUNTY BOARD OF SUPERVISORS



DEPARTMENT OF PLANNING & ZONING

PLANNING COMMISSION BOARD OF ZONING APPEALS

To: Chair and Members, Nelson County Board of Supervisors

CC: Mr. Stephen A. Carter, County Administrator

From: Tim Padalino | Planning & Zoning Director

Date: September 8, 2016

Subject: Public Hearing for Special Use Permit #2016-03 (“Dwelling” / Bradshaw Jr.)

Summary of Application(s)	
<u>Site Address:</u>	652 Front Street / Lovingson Historic District / East District
<u>Tax Parcel:</u>	#58B-3-32
<u>Parcel Size:</u>	0.0 acres (per Nelson County “ProVal” records)
<u>Zoning:</u>	Business (B-1)
<u>Applicants:</u>	Mr. John J. Bradshaw, Jr. – Trustee, John J. Bradshaw Irrevocable Trust
<u>Request:</u>	Approval of Special Use Permit #2016-03 pursuant to ZO 8-1-10a
<ul style="list-style-type: none"> Completed Applications Received On: July 11th 	

On July 11th, the Department of Planning & Zoning received a Special Use Permit (SUP) application from Mr. John J. Bradshaw Jr., applicant and trustee for the property owner of the subject property(s). The application seeks County approval to utilize the subject property(s) for, “single family dwelling units, two family dwelling units, and multi-family dwelling units” pursuant to ZO 8-1-10a.

The applicant notes the following: “This permit will allow a long-standing residential use to continue on the top floor of this building. The space has been an apartment until recently and is still set up that way. It has not had a change in use and has been vacant in the last several years while restoration and rehabilitation work has been planned.” If SUP approval is granted by the County, the subject property could once again be used for multiple uses (permissible business use(s) on the ground floor and residential dwelling use(s) above) – which is a traditional mixture of uses at that location in particular, and in other historic districts in Nelson County and Virginia generally.

Mr. Bradshaw also submitted (on July 5th) a request for a waiver (pursuant to Z.O. §13-7-C) from the requirement contained in Z.O. §12-3-4-c-1 to prepare and submit a Minor Site Plan with this SUP application. Pursuant to the authority and discretion provided in Z.O. §13-7-C, I accepted this request for

a waiver (on July 14th); and this SUP application is being presented to the Planning Commission without a Minor Site Plan. My acceptance of this request for a waiver is based on the following:

- The atypical nature of the subject property, which is an existing historic structure with a building footprint that occupies almost the entire parcel; and
- The fact that the applicant's request states that, "All improvements will be done on the interior of the space," and currently proposes no land development, and no modifications to the exterior of the existing building or to the small portion of open space in the rear or side of the property.

Subject Property Location, Characteristics, and Comprehensive Plan Designation:

The subject property is a historic urban property in the core of the Lovington Historic District. The street address is listed as 652 Front Street, and is further identified as Tax Map Parcels #58B-3-32. Please note that this area is exempt from off-street parking requirements (per Z.O. §12-7-3). *Please see maps on pages 3-5.*

Staff Evaluation and Recommendation(s):

Per Zoning Ordinance Article 12, Section 3-2, the four criteria listed in items A-D must be evaluated when reviewing all requests for Special Use Permits. My evaluation of the applicant's request, as detailed in the application materials for SUP #2016-03, seems to be satisfactory relative to all four evaluation criteria those criteria, as follows:

- A. The proposed use is in keeping with the traditional mixture of uses in the Lovington Historic District: the subject property was formerly used as a residential dwelling for many decades.
- B. The proposed use (dwelling) is within very close proximity to other dwellings in the Lovington Historic District. It would not be unharmonious or adversely affect the use of neighboring properties.
- C. The proposed use is located in a building with water and sewer services provided by the Nelson County Service Authority.
- D. The proposed project would allow for the traditional reuse of the historic Bradshaw Building, one of the most centrally-located structures in the Lovington Historic District.

Therefore, with consideration of all of the above factors, the Planning & Zoning Director recommends approval of Special Use Permit #2016-03.

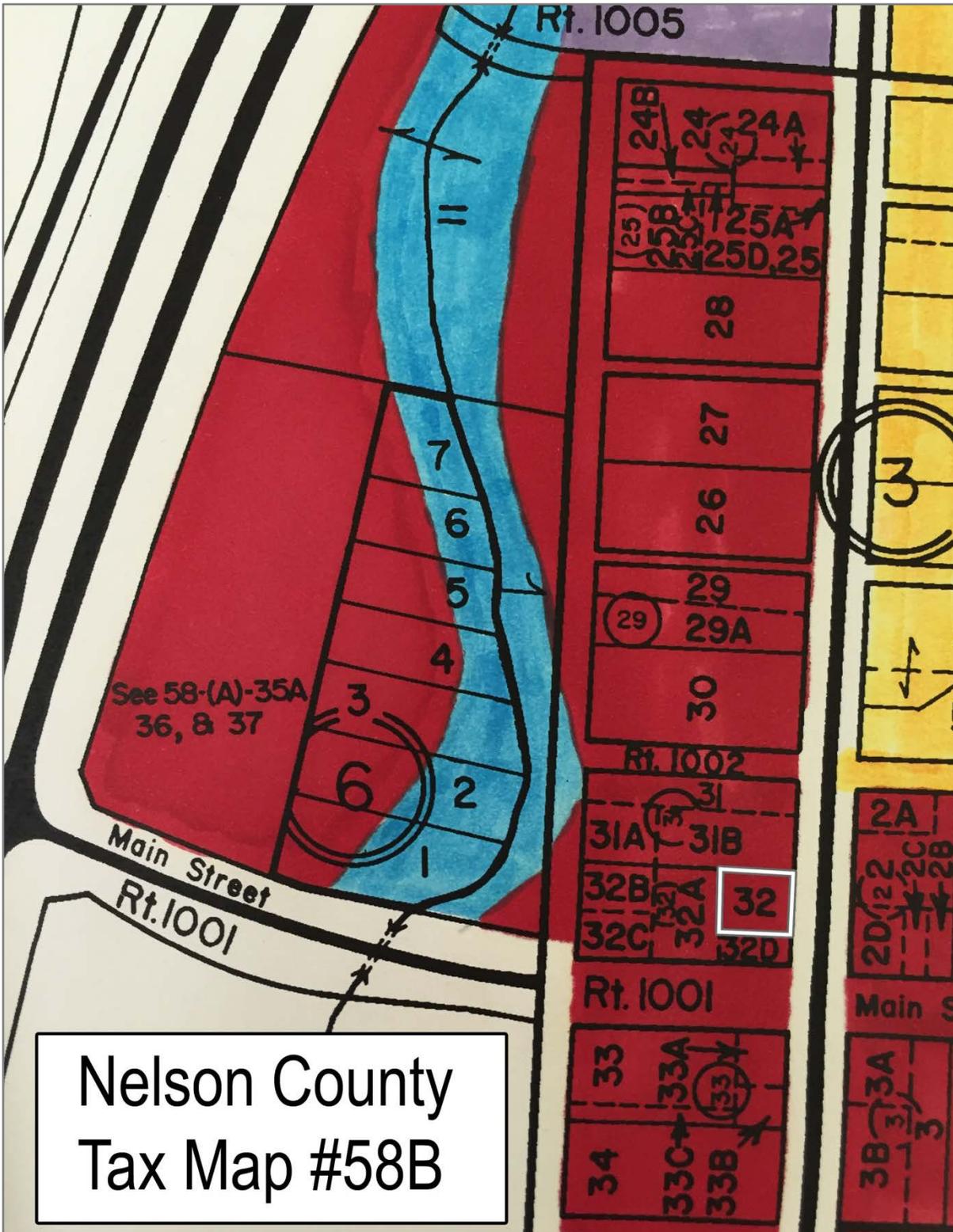
Planning Commission Review and Recommendation(s):

On August 24th, the Planning Commission conducted a properly-advertised public hearing and reviewed SUP #2016-03. After conducting the hearing (and receiving no comments from any members of the public), and after reviewing and discussing the application, Commissioner Russell made the following motion:

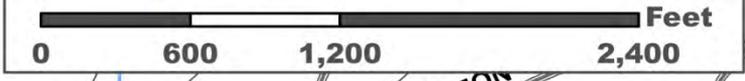
"The Planning Commission has received a request for a Special Use Permit #2016-03 for property owned by the John J. Bradshaw Irrevocable Trust, located on Front Street, Tax Map #58B-3-32, in order to permit the top floor of the structure to be used for residential purposes. The PC recommends approval of this request to the Board of Supervisor (BOS)."

Commissioner Allen provided the second; and the Commissioners voted 5-0 in favor of the motion.

In conclusion, please contact me with any questions, concerns, or requests for assistance leading up to the September 13th Board of Supervisors public hearing for Special Use Permit #2016-03. Thank you very much for your time and attention to this application.

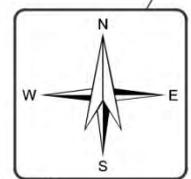
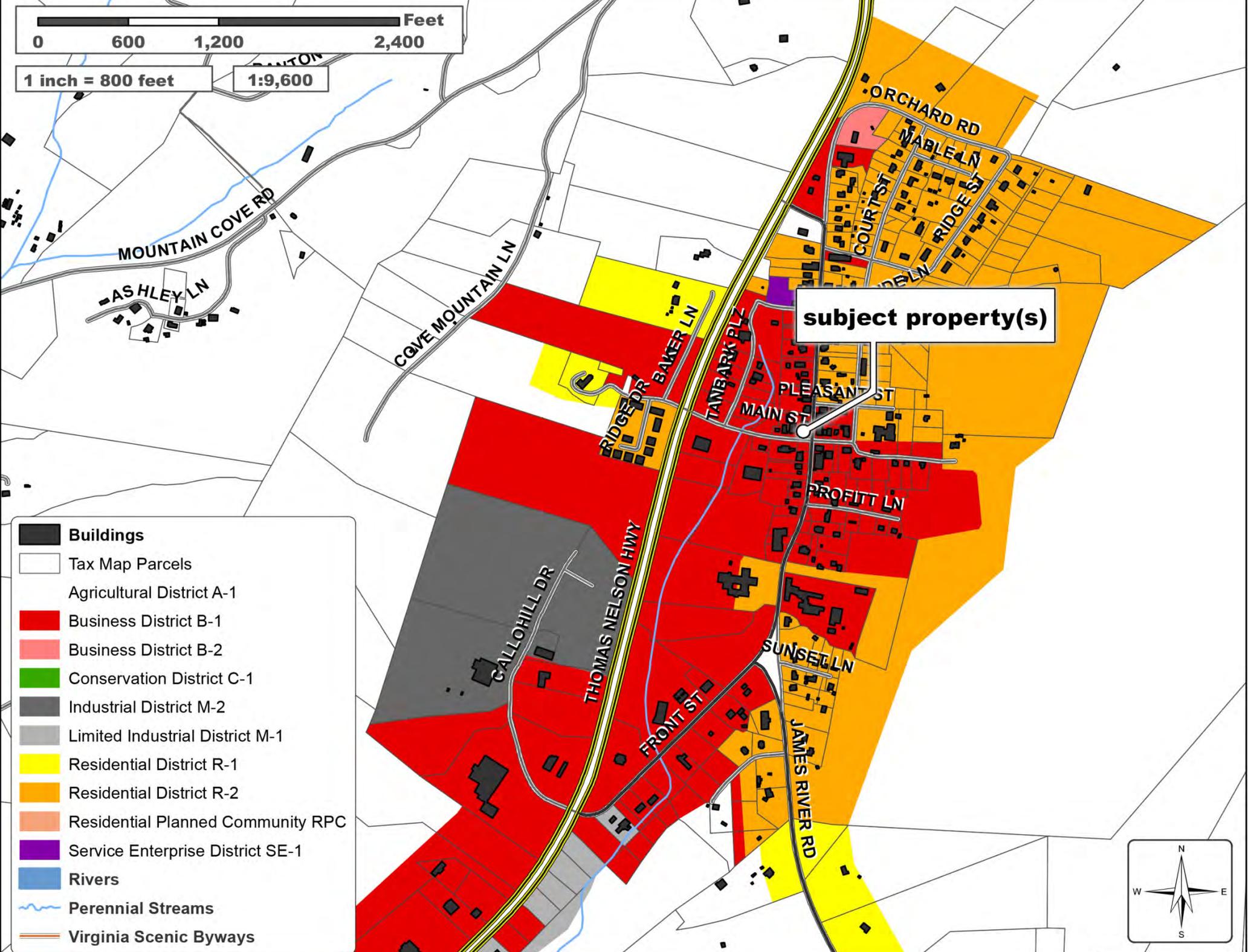


Official Tax Map showing location of subject property (Tax Map Parcel #58-3-32)



1 inch = 800 feet
1:9,600

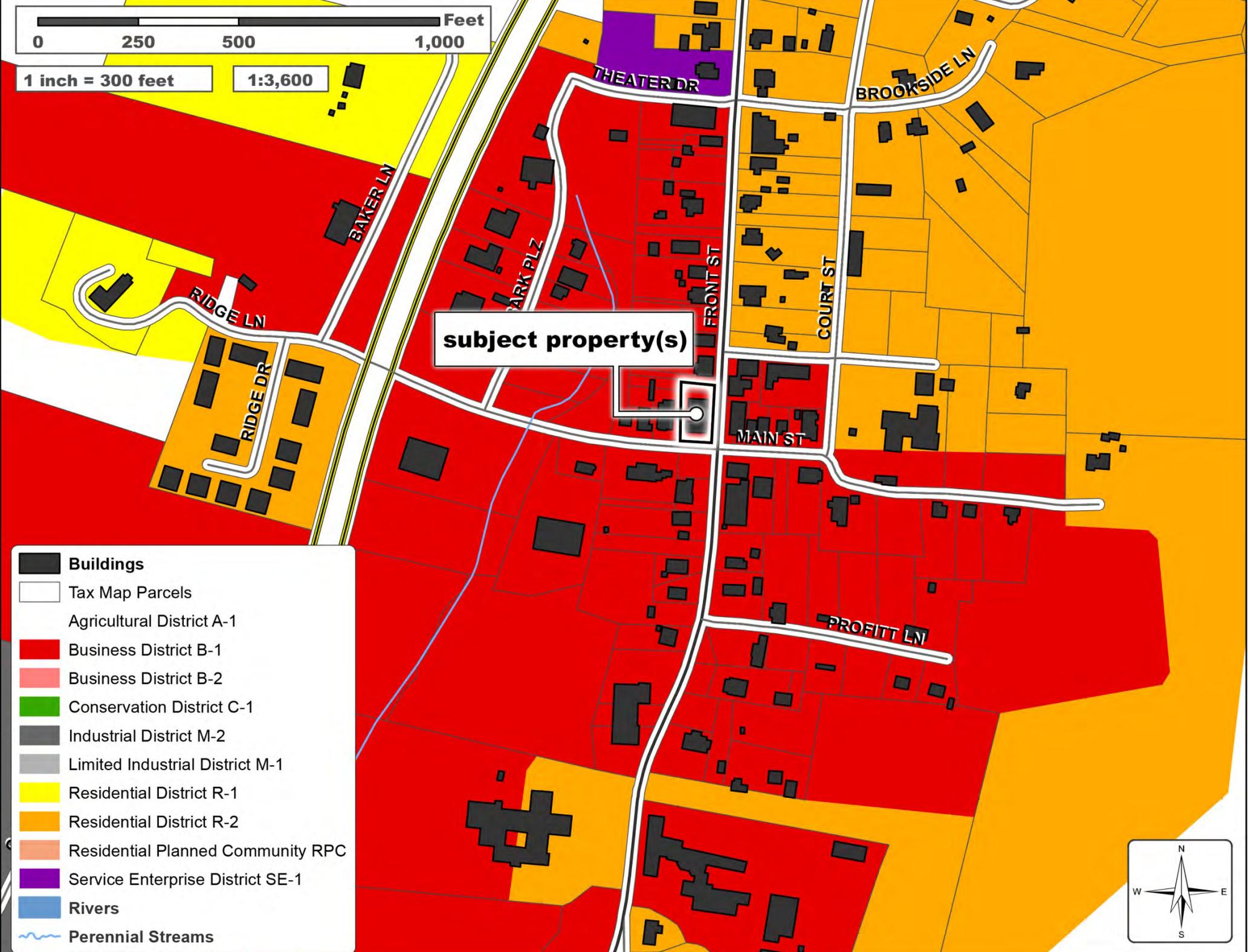
-  Buildings
-  Tax Map Parcels
-  Agricultural District A-1
-  Business District B-1
-  Business District B-2
-  Conservation District C-1
-  Industrial District M-2
-  Limited Industrial District M-1
-  Residential District R-1
-  Residential District R-2
-  Residential Planned Community RPC
-  Service Enterprise District SE-1
-  Rivers
-  Perennial Streams
-  Virginia Scenic Byways





1 inch = 300 feet

1:3,600



- Buildings
- Tax Map Parcels
- Agricultural District A-1
- Business District B-1
- Business District B-2
- Conservation District C-1
- Industrial District M-2
- Limited Industrial District M-1
- Residential District R-1
- Residential District R-2
- Residential Planned Community RPC
- Service Enterprise District SE-1
- Rivers
- Perennial Streams





PERMIT APPLICATION:

Nelson County Department of Planning & Zoning

TO THE ZONING ADMINISTRATOR: Special Use Permit # 2016-03
application type application number

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

- | | |
|---|---|
| <input type="checkbox"/> Rezoning from _____ to _____ | <input type="checkbox"/> Conditional Rezoning from _____ to _____ |
| <input type="checkbox"/> Subdivision – Preliminary | <input type="checkbox"/> Site Plan – Preliminary (optional) |
| <input type="checkbox"/> Subdivision – Final | <input type="checkbox"/> Site Plan – Final |
| <input type="checkbox"/> Major Site Plan | <input checked="" type="checkbox"/> Special Use Permit |
| <input type="checkbox"/> Minor Site Plan | <input type="checkbox"/> Other: _____ |

- Pursuant to Article 8, Section 1-10A of the Nelson County Zoning Ordinance.
 Pursuant to Section _____, Subsection _____ of the Nelson County Subdivision Ordinance.

Reason(s) for request: Special Use Permit to continue to allow "on apartment use in a business zoned building."

(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: John J. Bradshaw Irrevocable Trust
Mailing Address: c/o John J. Bradshaw, Jr. 11262 Stones Throw Drive, Reston, VA 20194
Telephone # (703) 742-6161 E-mail Address: john.bradshaw@aol.com
Relationship (if applicable): P.O.A. and Trustee

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.):

652 Front Street, Lovington, Va 22949

b. Official tax map number: 58 B-3-32

c. Acreage of property: Shows as 0 in G.I.S. records.

d. Present use: Apartment on top floor.

e. Present zoning classification: Class 4 - Commercial / Industrial (according to 615)

f. Zoning classification of surrounding properties: Same

4. Names of Adjacent Property Owners: Common walls - self. Across street -

Interstate Industries, Inc. Behind - Lovington Post Office -> Brikey Morris Fuel Co.

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] P.O.A./Trustee Printed Name: John J. Brundshaw, Jr.
Signature: _____ Printed Name: _____

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

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

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

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

- o Completed application and fee (\$ 200.00) received on July 11, 2016
- o Hearing Notice published on August 11th & 18th 2016
- o Planning Commission action: Date of Meeting / Hearing: August 24, 2016
Recommendation: _____
- o Board of Supervisors action: Date of Hearing: _____ Date of Decision: _____
Action: _____

Waiver of Site Plan Requirement Request

July 5, 2016

County of Nelson
Planning and Zoning
PO Box 558
Lovington, VA 22949

RE: 652 Front Street, Lovington, VA

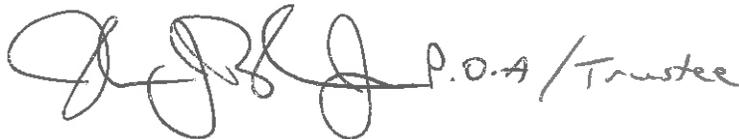
To Whom It May Concern:

I'm asking for a waiver of requirements for a site plan to be submitted with this special use permit application. This permit will allow a long-standing residential use to continue on the top floor of this building. The space has been an apartment until recently and is still set up that way. It has not had a change in use and has been vacant in the last several years while restoration and rehabilitation work has been planned.

This continued use, once granted, will be done without additions of any kind, both interior and exterior. There will be no change in building envelop, access, parking, drainage nor utilities. All improvements will be done on the interior of the space.

The building was built in the early 1880s and I propose no exterior modifications and no change in prior uses. Once the special use permit is granted, I plan to pull permits to upgrade the plumbing and electrical within the building and to the space being considered.

Thank you for your assistance.

A handwritten signature in black ink, appearing to read "John J. Bradshaw, Jr. P.O.A / Trustee". The signature is cursive and somewhat stylized.

John J. Bradshaw, Jr. POA and Trustee

John J. Bradshaw Irrevocable Trust
11262 Stones Throw Drive
Reston, VA 20194
(703) 742-6161



DEPARTMENT OF
PLANNING & ZONING

PLANNING COMMISSION
BOARD OF ZONING APPEALS

To: Chair and Members, Nelson County Board of Supervisors

CC: Mr. Stephen A. Carter, County Administrator

From: Tim Padalino | Planning & Zoning Director

Date: September 8, 2016

Subject: Public Hearing for Conditional Rezoning #2016-01 (Old Hickory Buildings, LLC)

Summary of Application(s)	
<u>Site Address:</u>	3907 and 3965 Thomas Nelson Hwy / Colleen / West District
<u>Tax Map Parcel:</u>	#76-A-1
<u>Parcel Size:</u>	7.806 acres
<u>Zoning:</u>	Business (B-1)
<u>Applicants:</u>	Mr. Brian Berryman, Old Hickory Buildings, LLC
<u>Request:</u>	Conditional Rezoning from Business (B-1) to Limited Industrial (M-1) Conditional, pursuant to ZO 16-1-1 and 16-1-4
<ul style="list-style-type: none"> ▪ <i>Completed Application Received On: July 22nd</i> 	

Application Overview:

On July 22nd the Department of Planning & Zoning received a Conditional Rezoning application from Mr. Brian Berryman of Old Hickory Buildings, LLC who is the contract purchaser of the subject property. The application seeks County approval to utilize the subject property to, *“allow for the manufacturing, storage, and display for the storage buildings for sale to the general public.”*

Please see the following enclosed application materials:

- Authorization letter from Mr. Marshall A. Mays, Jr. and Ms. Marlene M. Fitzgerald, owners of Tax Map Parcel #76-A-1 (signed July 22, 2016), authorizing the applicants to request Conditional Rezoning #2016-01;
- Authorization letter from Mr. Berryman (signed July 22, 2016), designating Mr. Tom Berry, Esq., and Acres of Virginia (represented by Mr. Tommy Brooks, Jr., LS) to act as agents for this application;

- Conditional Rezoning Proffers letter (dated July 20, 2016 and signed July 22, 2016), which voluntarily offers to limit the use of the subject property to, “outside storage, display, and manufacturing of storage buildings for sale to the general public;” and which further proffers that, “any new or additional outside lighting will be glare-shielded,” and “the underground storage tanks shown on the plan will be removed;” and
- Minor Site Plan prepared by Mr. Tommy Brooks, Jr., LS and Mr. Samuel K. Roskelley, PE of Acres of Virginia (dated July 20, 2016).

Subject Property Location, Characteristics, and Comprehensive Plan Designation:

The subject property is listed as 3907 and 3965 Thomas Nelson Highway, and is further identified as Tax Map Parcel #76-A-1. This 7.806-acre property is currently zoned Business (B-1). *Please see maps on pages 4-7 – and please note: the County’s GIS data is inaccurate with respect to the subject property’s boundaries and tax map parcel labels. Please refer to the Minor Site Plan for accurate boundaries and parcel data.*

The subject property has a long history of commercial and quasi-industrial use (such as former Mays’ Farmers Services’ store and fuel storage tanks, respectively). It is adjacent to multiple parcels zoned Business (B-1), and multiple parcels zoned Limited Industrial (M-1). Some of the adjacent Limited Industrial uses include commercial storage units and the California Sidecar manufacturing site.

This area of Colleen is served by the Nelson County Service Authority’s water and sewer utilities; and is designated as a “Light Industrial / Mixed Commercial” area, which supports “the highest level of commercial activity permitted.”

Site Plan Review Committee Comments:

The Site Plan Review Committee reviewed the Minor Site Plan for this Conditional Rezoning application on July 13th, which resulted in the following review comments:

- VDOT: Mr. Jeff Kessler, Virginia Department of Transportation representative, provided review comments. Mr. Kessler’s initial review included requirements to implement “access management” practices, which will result in the closure of the middle entrance; to reconstruct the southern entrance to meet commercial entrance design standards; and to provide a twenty-five (25) foot wide shared access easement to adjoining properties to the south. The Minor Site Plan dated July 20th incorporates details and notes for these requirements, as specified by VDOT. Mr. Kessler also noted that VDOT needs to receive documentation of the recorded instrument for the shared access easement, whenever it is recorded. Finally, Mr. Kessler noted that VDOT requires a trip generation report which is to estimate all vehicular trips – including those associated with the manufacturing and distribution operations, as well as office-related trips and retail trips.
- Nelson County Building Official: Mr. David Thompson provided written review comments on July 13th. Because this project involves existing structures which will be reused and repurposed, Mr. Thompson noted the following requirements: “Any alteration, repair, or *change of use* requires issuance of a building permit; the work, plan design, construction, and completion must be in accordance with the VRC (Virginia Rehabilitation Code).”
- TJSWCD: No review comments were received or recorded during the Site Plan Review Committee meeting. The Minor Site Plan (Note 14, Sheet “Civil-1”) states that, “Any land disturbance at this

site will be under 10,000 square feet. If more than 10,000 square feet of land disturbance occurs, the owners will be required to submit an erosion control plan and stormwater computations to the erosion control authority of Nelson County for approval, bonding, and permitting.”

- VDH: No review comments were received or recorded during the Site Plan Review Committee meeting. Please note that the subject property is served by public sewer service (not a private septic system).
- NCSA: Mr. George Miller of the Nelson County Service Authority was present at the July 13th meeting and provided the applicant with detailed requirements regarding the water and sewer utility connections and equipment. Mr. Miller clarified that the subject property is required to have independent water and sewer services (separate from the services to Tax Map Parcel #76-A-1A, where 3901 Thomas Nelson Highway is located).

Staff Evaluation and Recommendation(s):

The requested conditional rezoning seems appropriate with respect to the applicant’s proffered conditions; to adjacent zoning districts and land uses; and to the area’s designation as a “Light Industrial / Mixed Commercial” development mode. Therefore, with consideration of all of the above factors, the Planning & Zoning Director recommends approval of Conditional Rezoning #2016-01.

Planning Commission Review and Recommendation(s):

On August 24th, the Planning Commission conducted a properly-advertised public hearing and reviewed Conditional Rezoning #2016-01. After conducting the hearing (and receiving no comments from any members of the public), and after reviewing and discussing the application, Commissioner Russell made the following motion:

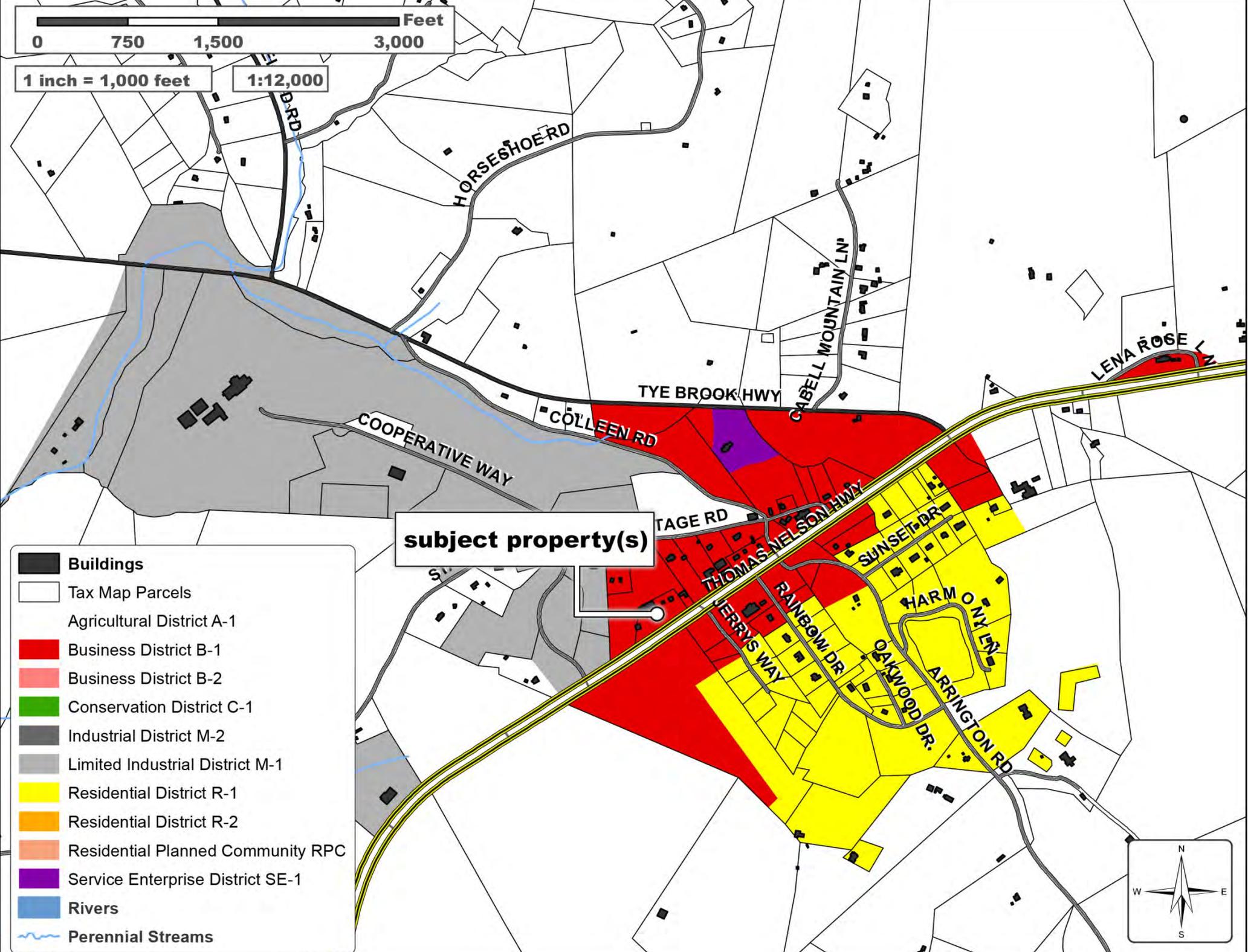
“In the matter of the application by Old Hickory Buildings for Conditional Rezoning #2016-01 for property located at 3907 and 3965 Thomas Nelson Highway in Colleen, Tax Map #76-A-1: the request is to rezone property from B-1 to M-1 Conditional, subject to three proffers dated July 22, 2016, which the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

Commissioner Harman provided the second; and the Commissioners voted 5-0 in favor of the motion.

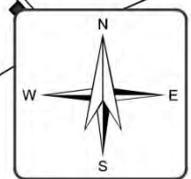
In conclusion, please contact me with any questions, concerns, or requests for assistance leading up to the September 13th Board of Supervisors public hearing for Conditional Rezoning #2016-01. Thank you very much for your time and attention to this application.



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

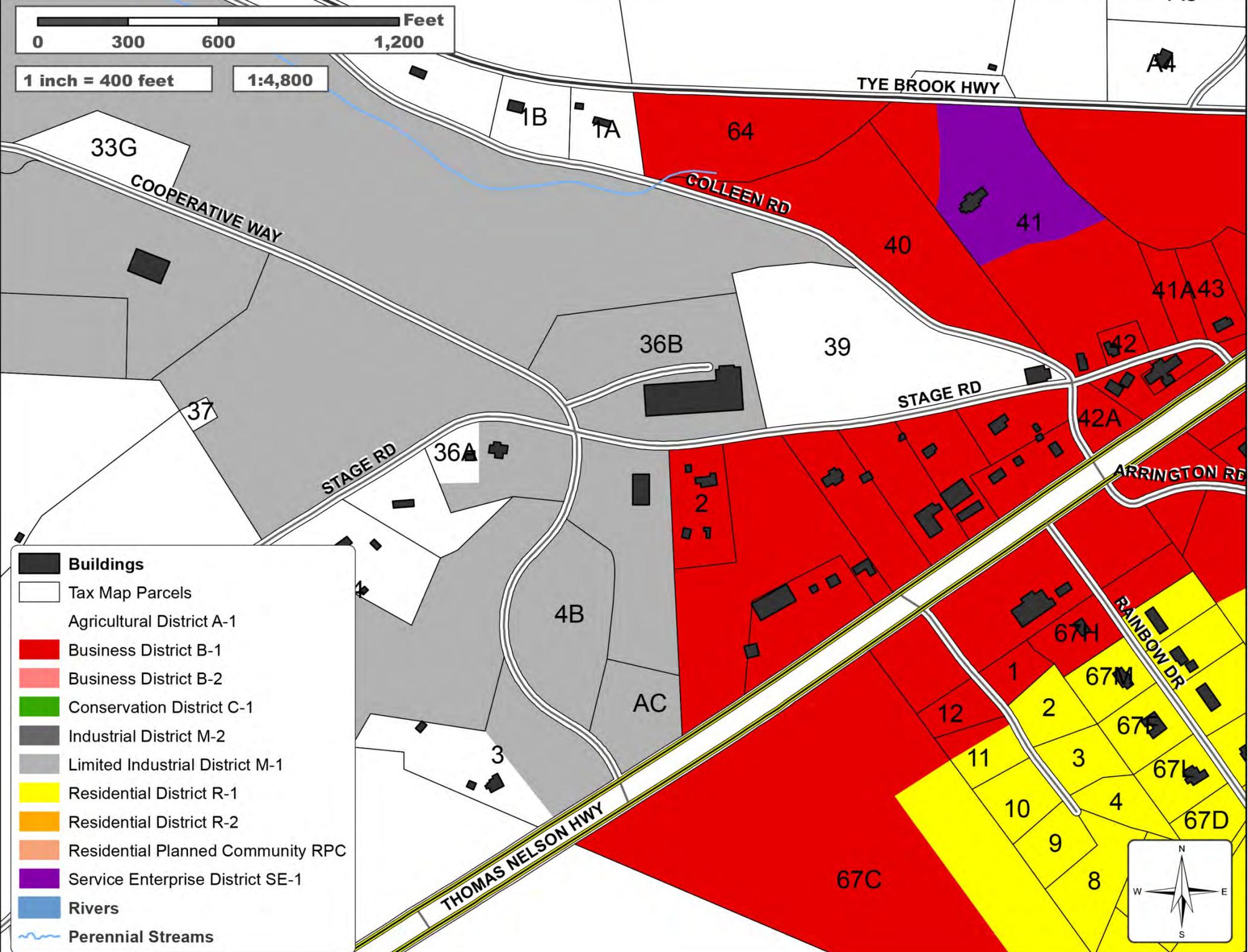


-  Buildings
-  Tax Map Parcels
-  Agricultural District A-1
-  Business District B-1
-  Business District B-2
-  Conservation District C-1
-  Industrial District M-2
-  Limited Industrial District M-1
-  Residential District R-1
-  Residential District R-2
-  Residential Planned Community RPC
-  Service Enterprise District SE-1
-  Rivers
-  Perennial Streams

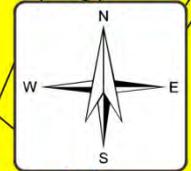




1 inch = 400 feet
1:4,800



- Buildings
- Tax Map Parcels
- Agricultural District A-1
- Business District B-1
- Business District B-2
- Conservation District C-1
- Industrial District M-2
- Limited Industrial District M-1
- Residential District R-1
- Residential District R-2
- Residential Planned Community RPC
- Service Enterprise District SE-1
- Rivers
- Perennial Streams



0 100 200 400 Feet

1 inch = 150 feet

1:1,800

COOPERATIVE WAY

STAGE RD

THOMAS NELSON HWY

4B

2

1

1A

AC

-  Tax Map Parcels
-  Rivers
-  Perennial Streams





PERMIT APPLICATION:

Nelson County Department of Planning & Zoning

TO THE ZONING ADMINISTRATOR: Rezoning (conditional) # 2016-01
application type application number

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

- | | |
|---|---|
| <input type="checkbox"/> Rezoning from _____ to _____ | <input checked="" type="checkbox"/> Conditional Rezoning from <u>B-1</u> to <u>M-1C</u> |
| <input type="checkbox"/> Subdivision – Preliminary | <input type="checkbox"/> Site Plan – Preliminary (optional) |
| <input type="checkbox"/> Subdivision – Final | <input type="checkbox"/> Site Plan – Final |
| <input type="checkbox"/> Major Site Plan | <input type="checkbox"/> Special Use Permit |
| <input type="checkbox"/> Minor Site Plan | <input type="checkbox"/> Other: _____ |

- Pursuant to Article 13, Section 1 of the Nelson County Zoning Ordinance.
 Pursuant to Section _____, Subsection _____ of the Nelson County Subdivision Ordinance.

Reason(s) for request: The proposed use does not comply with the B-1 zoning, therefore we are requesting that the property be rezoned to M-1C to allow for the manufacturing, storage and display for the storage buildings for sale to the general public.

(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: Old Hickory Buildings, LLC
Mailing Address: P. O. Box 331973, Murfreesboro, TN 37133
Telephone # 615-890-8975 E-mail Address: kevin.nolan@oldhickorybuildings.com
Relationship (if applicable): contract purchaser

Applicant Property Owner Name: Marshall A. Mays, Jr. & Marlene M. Fitzgerald
Mailing Address: P. O. Box 990, Amherst, VA 24521
Telephone # 434-946-7531 E-mail Address: _____
Relationship (if applicable): owner

(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.):
3907 & 3965 Thomas Nelson Highway, Arrington, VA 22922 at Colleen (southbound lane for U. S. Route 29
- b. Official tax map number: 76-A-1
- c. Acreage of property: 7.806
- d. Present use: vacant land
- e. Present zoning classification: B-1
- f. Zoning classification of surrounding properties: B-2 and M-1

4. Names of Adjacent Property Owners: Tommy C. & Anna B. Williams (TM# 76-A-1A); Edward Harris (TM# 76-A-4C); Piney Mountain Vinyl Siding (TM# 76-A-4D); Malcolm P. Parrish (TM# 76-A-2); Kenneth R. & Patricia Sites (TM# 76A-1-25); and Nancy U. Saunders Trustee (TM #76A-1-10 & 25-A-30A)

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

Signature:  Printed Name: Brian Berryman/Old Hickory Buildings, LLC
 Signature: _____ Printed Name: _____

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

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

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

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

- o Completed application and fee (\$ _____) received on 7-22-2016
- o Hearing Notice published on August 11th & 18th, 2016
- o Planning Commission action: Date of Meeting / Hearing: August 24th, 2016
Recommendation: _____
- o Board of Supervisors action: Date of Hearing: _____ Date of Decision: _____
Action: _____

Old Hickory Buildings, LLC
P. O. Box 331973
Murfreesboro, TN 37133
Phone: 615-890-8075

AUTHORIZATION

To Whom It May Concern:

The undersigned Contract Purchaser, Old Hickory Buildings, LLC, does hereby authorize Thomas Berry, Esq. and Acres of Virginia, Inc. to act as our agents in the matter of rezoning 7.806 acres identified on the Nelson County Tax Map as 76-A-1.

This property is located in the Lovingson Magisterial District of Nelson County, Virginia, in the Colleen area adjoining the south bound lane of Thomas Nelson Highway, U. S. Route 29. The purpose for rezoning said property from Limited Business B-1 to Limited Industrial M-1 Conditional is to allow individual unattached storage units to be stored and manufactured onsite and to be sold to the general public.

Date: 7-22-16



Brian Berryman
Old Hickory Buildings, LLC
P. O. Box 331973
Murfreesboro, TN 37133
Phone Number: 615-890-8075

Old Hickory Buildings, LLC

P. O. Box 331973
Murfreesboro, TN 37133
Phone: 615-890-8075

July 20, 2016

Board of Supervisors
Nelson County
P. O. Box 558
Lovington, VA 22949

Re: Rezoning #2016-01/Old Hickory Buildings, LLC
Proffers

The undersigned Contract Purchaser hereby proffer to limit the use of this property to the following uses:

- (i) To use the property as outside storage, display and manufacturing of storage buildings for sale to the general public.
- (ii) Any new or additional outside lighting will be glare-shielded
- (iii) The underground storage tanks shown on the plan will be removed.



Brian Berryman, Old Hickory Buildings, LLC

7-22-16

Date

Marshall A. Mays
Marlene M. Fitzgerald
P. O. Box 990
Amherst, VA 24521
Phone: 434-946-7531

Authorization

To Whom It May Concern:

The undersigned, Marshall A. Mays, Jr. and Marlene M. Fitzgerald, do hereby authorize Old Hickory Buildings, LLC/Brian Berryman to act in the matter of rezoning 7.806 acres identified on the Nelson County Tax Map as 76-A-1. This property is currently owned by the above-named and is located in the Lovingson Magisterial District of Nelson County, Virginia, in the Colleen area adjoining the south bound lane of Thomas Nelson Highway, U. S. Route 29.

Date: 7-22-2016


Marshall A. Mays, Jr., Owner
P. O. Box 990
Amherst, VA 24521


Marlene M. Fitzgerald, Owner
P. O. Box 990
Amherst, VA 24521

Old Hickory Buildings, LLC

P. O. Box 331973
Murfreesboro, TN 37133
Phone: 615-890-8075

AFFIDAVIT FOR REZONING

To the Honorable Members of the Planning Commission and
To the Honorable Members of the Board of Supervisors of Nelson County:

Old Hickory Buildings, LLC, is the Contract Purchaser for property located at 3907 and 3965 Thomas Nelson Highway, Arrington, Virginia 22922 identified on the Nelson County tax map as Parcel #76-A-1. Old Hickory Buildings, LLC, does hereby petition the Nelson County Board of Supervisors to allow their LLC to rezone the above property from Limited Business (B-1) to Limited Industrial (M-1) with conditions as proffered.

Date:

7-22-16



Brian Berryman, *PRESIDENT*
Old Hickory Buildings, LLC
P. O. Box 331973
Murfreesboro, TN 37133

**NOTICE OF PUBLIC HEARING
NELSON COUNTY BOARD OF SUPERVISORS
ARTICLE 24 TEMPORARY EVENTS, FESTIVAL GROUNDS,
OUT-OF-DOORS ACCESSORY USES,
ARTICLE 2 DEFINITIONS & PERMITTED USES
IN VARIOUS ZONING DISTRICTS**

In accordance with Volume 3A, Title 15.2, Counties, Cities and Towns, of the Code of Virginia, 1950, as amended, and pursuant to §15.2-1427 and §15.2-2204, the Nelson County Board of Supervisors hereby gives notice that a Public Hearing will be held at **7:00 p.m., Tuesday September 13, 2016** in the **General District Courtroom** on the third floor of the Nelson County Courthouse located at 84 Courthouse Square, Lovingston. The purpose of said public hearing is to receive public input on an Ordinance proposed for passage, Appendix A, Zoning Ordinance Article 24, Temporary Events, Festival Grounds, and Out-of-doors Accessory Uses and associated uses in Article 2 Definitions, Article 4 (A-1), Article 5 (R-1), Article 8 (B-1) Article 8A (B-2), and Article 8B (SE-1). A descriptive summary of the proposed amendments is as follows:

ARTICLE 24. TEMPORARY EVENTS, FESTIVAL GROUNDS, OUT-OF-DOORS ACCESSORY USES

The proposed Article provides regulations designed to address temporary uses in districts where such uses would not otherwise be permissible, establishes criteria for the approval or disapproval of such temporary uses, and provides requirements for the permitting and conduct of such uses. The Article also requires the issuance of a Special Use Permit for properties where the intended use envisions large scale events, and provides for the regulation of out-of-door activities conducted as an accessory use to certain permitted commercial uses. **The Article is not intended to regulate, and does not regulate, the traditional non-commercial use of property by its owners.**

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

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

Festival Grounds: The use of land for the hosting and operation of Category 3 Temporary Events, and the construction of structures or other improvements associated with Category 3 Temporary Events. The minimum acreage is 250 acres. Contiguous parcels under the same or different ownership or control may be aggregated to attain the minimum acreage.

Out-of-Door, Accessory Use: The following out-of-door activities are accessory uses to a Banquet Hall, Conference Center, Corporate Training Center, Restaurant, Brewery, and Distillery: receptions, dining, and entertainment, such as musical, or other cultural performances, which (i) are conducted in connection with the primary permitted use, (ii) do not involve amplified sound later than 9:00 p.m. on Sundays through Thursdays or later than

10:00 p.m. on Fridays or Saturdays, and (iii) hosts no more than 500 attendees at any one time during the activity. Unless otherwise specified in (ii), all such accessory activities are limited to 10:00 p.m. on Sundays through Thursdays, and are limited to 11:00 p.m. on Fridays and Saturdays.

Temporary Event: The temporary use of property that is not otherwise a by-right use or use permitted by special or conditional use permit.

Temporary Event, Historical Property: An event such as historical reenactments, living history, home tours conducted in connection with a property of historical or natural value when there is no or only nominal admission.

Temporary Event, Non-Profit: An event conducted by local non-profit community service organizations.

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

24-2. A Temporary Event Permit is required for Temporary Events defined in this subsection as either Category 1, 2, or 3.

24-2-A. Lists Temporary Events exempted from Temporary Event Permit requirements and fees: Private non-commercial functions conducted on the property of the host, Social Temporary Events where permitted by right, Historical Property Temporary Events, Non-Profit Temporary Events having or projecting no more than 500 attendees at any time during the event, Athletic and sporting events conducted on sites approved for such events, Political gatherings, Religious gatherings, Out-of-Door Accessory Uses, and Farm winery and Agritourism activities which by virtue of the number of attendees, size and location of property, or hours of conduct cause any substantial impact(s) on the health, safety, or general welfare of the public.

24-2-B. Provides that a Category 1 Temporary Event is any event which is neither an otherwise permitted use nor exempt and (i) for which admission is charged or at which goods and services are sold, having or projecting no more than 500 attendees at any time during the event, or, (ii) is a Non-Profit Temporary Event having or projecting more than 500 attendees and less than 1,000 attendees at any time during the event, or, (iii) is a Farm winery activity or Agritourism activity which by virtue of the number of attendees, size and location of property, or hours of conduct cause any substantial impact(s) on the health, safety, or general welfare of the public, and having or projecting less than 1,000 attendees at any time during the event. Contains limitations on duration and amplified sound.

24-2-C. Provides that a Category 2 Temporary Event is any event which is neither an otherwise permitted use nor exempt and (i) for which admission is charged or at which goods and services are sold, having or projecting more than 500 attendees but less than 10,000 attendees, or (ii) Non-Profit Temporary Events having or projecting more than 1,000 attendees but less than 10,000 attendees at any time during the event, or (iii) Farm winery activities or Agritourism activities which by virtue of the number of attendees, size and location of property, or hours of conduct cause any substantial impact(s) on the health,

safety, or general welfare of the public, and having or projecting more than 1,000 attendees but less than 10,000 attendees at any time during the event. Contains limitations on duration and amplified sound.

24-2-D. Addresses structures used for either a Category 1 or 2 event and their required permitting. Contains provisions for removal of temporary structures.

24-2-E. Defines a Category 3 Temporary Event as any event having or projecting more than 10,000 attendees and requires a Special Use Permit for Festival Grounds, provides for review of a Festival Grounds Special Use Permit by the Board of Supervisors every five (5) years and contains limitations on duration and amplified sound.

24-2-F. For the purposes of Article 24, defines “applicant” to include the members of an applicant’s immediate family or an affiliated business entity relationship and lists factors.

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

24-3-C. Permits the Director to issue a single Temporary Event Permit for more than one Temporary Event.

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

24-3-E. Permits the Director to approve modifications to the Temporary Event Permit for unforeseen circumstances outside of the event promoter’s control or causation.

In addition to the proposed introduction of Article 24, the following amendments are also proposed for existing Articles:

Article 2. Definitions

Modify the following:

Community Center: A building and grounds used for recreation, social, educational, health, or cultural activities open to the public or a portion of the public, owned and operated by a public or private non-profit group or agency. The activities may involve leasing of space for the sale of goods and services, offices, and Temporary Events in conjunction with Article 24 of this ordinance and subject to applicable zoning district regulations. The sale of goods and services may be carried on a for-profit basis or for charitable non-profit purposes by the owner or the owner’s approved lessee or licensee. Community Center uses, structures, and activities are subject to site plan approval. Signage conveying information about permissible Temporary Events and/or a permitted Outdoor Entertainment Venue is permissible, subject to applicable regulations and approval requirements contained elsewhere in this Ordinance. There can be no other exterior indication of non-temporary commercial activities at the center, such as outside storage, sales area, or signage, except for a principal sign identifying the center, a single changeable letter sign, and additional small wayfinding and directional signs which may include identification of tenants.

Add the following:

Outdoor Entertainment Venue: The non-temporary use of any land, including the erection or use of non-temporary structure(s) or the installation of non-temporary infrastructure, for the hosting and operation of Category 1 and Category 2 Temporary Events, Exempt Events, or other entertainment activities for cultural, artistic, social, or recreational purposes.

Article 4. Agricultural District (A-1)

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

Add the following:

4-1 Uses – Permitted by right:

Agritourism Activity

Social Temporary Event, provided that there are no more than twelve such events in a calendar year and that the event complies with the County Noise Ordinance

Category 1 Temporary Event

Category 2 Temporary Event

Category 3 Temporary Event in connection with a Festival Grounds Special Use Permit

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

Festival Grounds

Social Temporary Event, in excess of twelve such events in a calendar year and provided that the event complies with the County Noise Ordinance

Outdoor Entertainment Venue

Article 5. Residential District (R-1)

Add the following:

5-1-a Uses – Permitted by Special Use Permit only:

Outdoor Entertainment Venue in connection with a permissible public or semi-public use pursuant to 5-1-4

Article 8. Business District (B-1)

Add the following:

8-1 Uses – Permitted by right:

Category 1 Temporary Event

Category 2 Temporary Event

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

Outdoor Entertainment Venue

Article 8A. Business District (B-2),

Add the following:

8A-1 Uses – Permitted by right:

Category 1 Temporary Event

Category 2 Temporary Event

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

Outdoor Entertainment Venue

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

Add the following:

8B-1 – Uses – Permitted by right:

Category 1 Temporary Event

Category 2 Temporary Event

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

Outdoor Entertainment Venue

The full text of the proposed Ordinance is available for review in the County Administrator's Office or the Dept. of Planning & Zoning, 84 Courthouse Square or 80 Front Street, Lovingson, Virginia, M-F, 9am to 5pm. For more information, call (434) 263-7000 or (434) 263-7090, or toll free at 888-662-9400, selections 4 and 1. EOE

BY AUTHORITY OF NELSON COUNTY BOARD OF SUPERVISORS



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

From: Tim Padalino | Planning & Zoning Director

Date: September 9, 2016

Subject: **Brief Summary of “Temporary Events and Festival Grounds” Zoning Ordinance Amendments as recommended by Work Group Members and County Staff**

This staff report was prepared as a brief summary of the proposed amendments relating to “Temporary Events, Festival Grounds, and Out-of-Door Accessory Uses.” Please reference this report as a quick overview of the main (proposed) changes; and please reference the previous staff report (dated July 26) and the most recent version of the proposed amendments (dated July 29) for full details.

Brief Overview of Proposed Zoning Ordinance Amendments:

[Establish Category for “Exempt Events”]: The amendments would identify a wide variety of events which would be exempt from County permitting requirements. See (proposed) Section 24-2-A (“Exempt Events”) and 24-1 (“Definitions”) for details. Some types of “Exempt Events” include:

- Private non-commercial functions conducted on property of the host
- “Social Temporary Events” (weddings, etc.) where permitted by-right
 - Note: Permissible by-right in A-1 up to 12 times per year (A-1 properties wanting to host more than 12 Social Temp. Events in a calendar year would need to obtain a SUP)
- “Non-Profit Temporary Events” having up to 500 attendees at any time
- “Out-of-Door Accessory Uses” (at permitted commercial establishments; up to 500 attendees at any time; includes P.M. time limits on outdoor amplification of music)
- “Farm Winery” activities and “Agritourism” activities that, “do not cause any substantial impact(s) on the health, safety, or general welfare of the public.”

[Establish 3 Categories of “Temporary Events”]: The amendments would establish three separate categories of events (determined by number of attendees), with a separate application fee for each category (to replace the \$25 fee which is currently in effect for all Special Event Permit applications).

- Category 1: Up to 500 attendees at any time (or “Non-Profit Temporary Events” between 500 and 1,000 attendees)
 - *Application fee* = \$100
- Category 2: Between 500 and 10,000 attendees at any time (or “Non-Profit Temporary Events” between 1,000 and 10,000 attendees)
 - *Application fee* = \$500
- Category 3: Having or projecting more than 10,000 attendees at any time
 - Note: requires a “Festival Grounds” Special Use Permit to be issued by the BOS, and a Site Plan to be approved by the PC, before a Category 3 Temporary Event Permit can be accepted, reviewed, or approved
 - Note: would be subject to BOS review and public hearing every five (5) years
 - *Application fee* = \$2,500

[Establish Definition and Provisions for “Outdoor Entertainment Venue”]: This would allow property owners to request County permission to construct/operate a non-temporary venue for hosting Category 1 or Category 2 Temporary Events (and Exempt Events). This definition is a counterpoint to “Festival Grounds,” which also involves non-temporary infrastructure but which is specific to Category 3 events. This is also a counterpoint to events that typically require the temporary installation of infrastructure (stage, tents, bathrooms, etc.) before an event, and the prompt removal of that infrastructure shortly after the event ends.

[Farm Wineries & Agritourism]: The amendments would establish agritourism activities and farm winery activities as “Exempt Events,” as long as they “do not cause any substantial impact(s) on the health, safety, or general welfare of the public” by virtue of “the number of attendees, size and location of property, or hours of conduct.” This is a permissive approach, and allows farms and wineries a lot of flexibility to conduct events – but it also gives the County the flexibility to get involved to address and resolve any problematic patterns that could potentially happen, as they arise on a case-by-case basis.

[Weddings or “Social Temporary Events”]: Weddings (and related private events like receptions) would be exempt, if conducted on private property with no compensation for use of the land. They would be permissible by-right in Ag (A-1) District, up to 12 times per calendar year. They would require a SUP in the Ag (A-1) District if conducted more than 12 times per year.

Note: “Banquet Hall” and “Conference Center” are similar existing land uses which would allow a property owner to conduct private social functions such as weddings, receptions, etc.; both “Banquet Hall” and “Conference Center” require a SUP in the Ag (A-1) District.

[Community Centers]: The amendments would modify the existing definition of Community Centers to allow the following:

- the hosting of Temporary Events (subject to Temporary Event Permit requirements)
- outdoor signage related to temporary events (subject to all applicable sign regulations; see Z.O. 12-11)
- additional signage related to non-temporary uses (currently only one principal sign is permissible)

[Maximum Number of Temporary Events per Property per Year]: The Planning Commission recommended that the number of events which can be held each calendar year on a given property be subject to limits. The Planning Commission also recommended that this maximum number of events per year could be increased, if a property owner obtained BOS approval at a public hearing. The Work Group recommended eliminating all such limitations; as a result, the current version of the proposed amendments (dated July 29, and being reviewed at public hearing on 9/13) does not contain any such limitations.

[Updated Processes for Permit Application Submission, Review, and Approval]: The amendments would establish the following:

- clear instructions for submitting a complete application; these requirements are listed in (proposed) Section 24-3-D
- clear guidelines for reviewing all Temporary Event Permit applications; these factors are listed in (proposed) Section 24-3-A
- clear authority for the Planning and Zoning Director to modify the terms of permit approval in the event of unforeseen circumstances (hazardous weather, traffic accidents, etc.) and/or in the event of other factors which may be necessary to protect public health safety, and welfare; these modifications are listed in (proposed) Section 24-3-B and 24-3-E

Conclusion:

As indicated above, this brief summary of the proposed amendments is offered as a starting point to begin to understand the proposed policies and definitions. Please carefully review the proposed amendments (dated July 29th); and please contact me with any questions, comments, and/or concerns about the proposed amendments at any time.

BOS Referral 2015-68 > PC Recommendations >
Work Group and County Staff Recommendations
JULY 29, 2016

**ARTICLE 24. TEMPORARY EVENTS, FESTIVAL GROUNDS, OUT-OF-DOORS
ACCESSORY USES**

Statement of Intent

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

24-1 *Definitions*

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

Community Center: A building and grounds used for recreation, social, educational, health, or cultural activities open to the public or a portion of the public, owned and operated by a public or private non-profit group or agency. The activities may involve leasing of space, for the sale of goods and services, offices, and Temporary Events in conjunction with Article 24 of this ordinance and subject to applicable zoning district regulations. The sale of goods and services may be carried on a for-profit basis or for charitable non-profit purposes by the owner or the owner's approved lessee or licensee. Community Center uses, structures, and activities are subject to site plan approval, Signage conveying information about permissible Temporary Events and/or a permitted Outdoor Entertainment Venue is permissible, subject to applicable regulations and approval requirements contained elsewhere in this Ordinance. There can be no other exterior indication of non-temporary commercial activities at the center, such as outside storage, sales area, or signage, except for a principal sign identifying the center, a single changeable letter sign, and additional small wayfinding and directional signs which may include identification of tenants.

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Deleted: with a listing of its tenants

Comment [TMP1]: Relocate "this definition to Zoning Ordinance Article 2 ("Definitions")

Festival Grounds: The use of land for the hosting and operation of Category 3 Temporary Events, and the construction, erection, or other use of structures or other improvements (temporary or permanent) associated with Category 3 Temporary Events. The minimum acreage for a Festival Grounds is 250 acres. Contiguous parcels under the same or different ownership or control may be aggregated to attain the minimum acreage; if contiguous parcels are under different ownership or control, the owner or agent for each parcel must formally authorize the application for a Festival Grounds Special Use Permit.

Out-of-Door, Accessory Use: The following out-of-door activities are accessory uses to a Banquet Hall, Conference Center, Corporate Training Center, Restaurant, Brewery, and Distillery: receptions, dining, and entertainment, such as musical or other cultural performances, which (i) are conducted in connection with the primary permitted use, (ii) do not involve amplified sound later than 9:00 p.m. on Sundays through Thursdays or later than 10:00 p.m. on Fridays or Saturdays, and (iii) host no more than than 500 attendees at any one time during the activity. Unless otherwise specified in (ii), all such accessory activities are limited to 10:00 p.m. on Sundays through Thursdays, and are limited to 11:00 p.m. on Fridays and Saturdays.

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Outdoor Entertainment Venue: The non-temporary use of any land, including the erection or use of non-temporary structure(s) or the installation of non-temporary infrastructure, for the hosting and operation of Category 1 and Category 2 Temporary Events, Exempt Events, or other entertainment activities for cultural, artistic, social, or recreational purposes.

Comment [TMP2]: Relocate "this definition to Zoning Ordinance Article 2 ("Definitions")

Temporary Event: The temporary use of property that is not otherwise a by-right use or use permitted by special or conditional use permit.

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

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

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

Deleted: such as weddings, receptions, and reunions,

Deleted: conducted on property not zoned for commercial uses

24-2 Temporary Event Permits

A Temporary Event Permit is required for Temporary Events defined in this subsection as either Category 1, 2, or 3.

24-2-A Exempt Events

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

1. Private non-commercial functions conducted on the property of the host

- 2. Social Temporary Events where permitted by right
- 3. Historical Property Temporary Events
- 4. Non-Profit Temporary Events having or projecting no more than 500 attendees at any time during the event
- 5. Athletic and sporting events conducted on sites approved for such events
- 6. Political gatherings
- 7. Religious gatherings
- 8. Out-of-Door Accessory Uses
- 9. Farm winery activities that, by virtue of the number of attendees, size and location of property, or hours of conduct, do not cause any substantial impact(s) on the health, safety, or general welfare of the public.
- 10. Agritourism activities that, by virtue of the number of attendees, size and location of property, or hours of conduct, do not cause any substantial impact(s) on the health, safety, or general welfare of the public.

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24-2-B Temporary Event, Category 1

A Category 1 Temporary Event is any event which is neither an otherwise permitted use nor exempt and:

- (i) for which admission is charged or at which goods and services are sold, having or projecting no more than 500 attendees at any time during the event, or,
- (ii) Non-Profit Temporary Events having or projecting more than 500 attendees and less than 1,000 attendees at any time during the event, or,
- (iii) Farm winery activities or Agritourism activities which – by virtue of the number of attendees, size and location of property, or hours of conduct – cause any substantial impact(s) on the health, safety, or general welfare of the public, and having or projecting less than 1,000 attendees at any time during the event.

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Each such event may not exceed a maximum duration of four (4) consecutive days open to the attending public, inclusive of an arrival day and a departure day. Amplified sound is not permitted after 11:00 p.m. on any Sunday, Monday, Tuesday, or Wednesday night; nor after 11:59 p.m. on any Thursday night; nor after 1:00 a.m. on any Saturday or Sunday morning. A Category 1 Temporary Event Requires a Temporary Event Permit.

24-2-C Temporary Event, Category 2

24-2-C-1 A Category 2 Temporary Event is any event which is neither an otherwise permitted use nor exempt:

- (i) for which admission is charged or at which goods and services are sold, and having or projecting more than 500 attendees but less than 10,000 attendees, or
- (ii) Non-Profit Temporary Events having or projecting more than 1,000 attendees but less than 10,000 attendees at any time during the event, or,
- (iii) Farm winery activities or Agritourism activities which – by virtue of the number of attendees, size and location of property, or hours of conduct – cause any substantial impact(s) on the health, safety, or general welfare of the public, and having or

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projecting more than 1,000 attendees but less than 10,000 attendees at any time during the event,

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Each such event may not exceed a maximum duration of six (6) consecutive days open to the attending public, inclusive of an arrival day and a departure day. Amplified sound is not permitted after 11:00 p.m. on any Sunday, Monday, Tuesday, or Wednesday night; nor after 11:59 p.m. on any Thursday night; nor after 1:00 a.m. on any Saturday or Sunday morning. A Category 2 Temporary Event Requires a Temporary Event Permit.

24-2-D Structures for Category 1 and 2 Temporary Events

The installation of temporary structures and facilities, such as tents and portable lavatories, is permissible in connection with approved Temporary Event Permits, subject to all applicable laws and regulations. All such temporary structures and facilities shall be lawfully removed within ten (10) days of the approved end date.

No new non-temporary structure(s) used for either Category 1 or 2 Temporary Event(s) shall be installed or constructed unless all required zoning permit approvals and building permit approvals are obtained, as may be applicable.

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Existing non-temporary structures proposed for use for either Category 1 or 2 Temporary Event(s) (i) shall have been in existence on the date of adoption of this Article, provided that this requirement shall not apply to accessory structures less than 150 square feet in size, and (ii) shall be a lawful conforming properly permitted structure and shall support or have supported a lawful use of the property.

24-2-E Temporary Event, Category 3

24-2-E-1 A Category 3 Temporary Event is any event having or projecting more than 10,000 attendees and requires a Special Use Permit for Festival Grounds land use to be obtained pursuant to Article 12, Section 3 “Special Use Permits” and Article 13 “Site Development Plan” and also a Temporary Event Permit. The erection of non-temporary structures and/or the installation of permanent infrastructure used in connection with Category 3 Temporary Events is permissible in connection with a Festival Grounds Special Use Permit, and subject to all other required zoning permit approvals and building permit approvals, including but not limited to Zoning Ordinance Article 13 “Site Development Plan.”

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24-2-E-2 A Festival Grounds Special Use Permit shall be automatically reviewed at a public hearing conducted by the Board of Supervisors every five (5) years after the initial issuance, after which hearing the Board may revoke or modify the terms and conditions of the Special Use Permit in accordance with Article 12, Section 3 “Special Use Permits.”

24-2-E-3 A Category 3 Temporary Event may not exceed a maximum duration of six (6) consecutive days open to the attending public, inclusive of an arrival day and a departure day. Amplified sound is not permitted after 11:00 p.m. on any Sunday,

Monday, Tuesday, or Wednesday night; nor after 11:59 p.m. on any Thursday night; nor after 1:00 a.m. on any Saturday and Sunday morning. Without limiting the general authority of the Board of Supervisors under Article 12, the Board of Supervisors may impose additional conditions or further modify the number of events, days, and times in granting a Special Use Permit for Festival Grounds land use.

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24-2-F For the purposes of this Article 24, “applicant” includes the members of an applicant’s immediate family or an affiliated business entity relationship. An affiliated business entity relationship exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that may be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person owns or manages the two entities, there are common or commingled funds or assets, the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis, or there is otherwise a close working relationship between the entities.

24-3 Issuance of Temporary Event Permits

24-3-A The Planning and Zoning Director shall evaluate Temporary Event Permit applications to determine if any substantial impacts to public health, safety, or welfare would be reasonably likely to occur, due to the proposed event’s operational details such as location, size, or number of attendees; frequency of events; or hours of conduct.

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Specifically, the following factors shall be considered when determining whether a Temporary Event Permit will be issued:

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1. The completeness of the Temporary Event Permit application as specified in Section 24-3-D;
2. If and how the proposed event would alter the character of the area or circumvent the ordinance;
3. The relationship between the proposed event and the permitted primary use(s) of the property;
4. If and how the proposed event would result in undue interference with other planned activities in the County;
5. The schedules of churches, schools, governmental operations, and similar public and quasi-public entities;
6. The availability and provision of necessary resources such as transportation infrastructure, law enforcement, emergency services, parking, and similar considerations;
7. The location and operation(s) of other permitted Temporary Events during the same time period as the proposed event; and
8. Compliance with the requirements of other agencies and departments; and

9. The prior history of compliance by the applicant or landowner with this article, the zoning ordinance, and applicable conditions. Prior or existing non-compliance may be grounds for the denial of a permit.

24-3-B In issuing the permit, the Planning and Zoning Director, may, after consideration of the foregoing factors, modify the terms of approval, as may be necessary to protect the health, safety and welfare of attendees and residents of the County.

~~24-3-C The maximum number of properly permitted non-exempt Temporary Events which may be conducted in a calendar year on the same subject property, or on properties contiguous to or adjacent to the subject property if under the same ownership or control as the subject property, is limited as specified in the following chart. Event promoters and/or property owners may formally request approval to conduct additional non-exempt Temporary Events, beyond the limits specified in the following chart, at a public hearing conducted by the Board of Supervisors.~~

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 Establish or modify times during which activities or amplified sound, or both, may be conducted; ¶
 Fix the permitted dates for the event; ¶
 Limit the number of attendees; and ¶
 Impose such conditions

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Type of Property	Category 1	Category 2	Category 3
Eligible property(s) zoned A-1, B-1, B-2, SE-1, or R-1 with an aggregate acreage of less than 250 acres*	10	6	0
Farm Winery or Bona Fide Agricultural Operation, the aggregate acreage of which is less than 100 acres*	12	8	0
Farm Winery or Bona Fide Agricultural Operation, the aggregate acreage of which is equal to or greater than 100 acres but less than 250 acres*	16	10	0
Any eligible property(s) zoned A-1 with an aggregate acreage equal to or greater than 250 acres*	18	12	4

**Contiguous parcels under the same or different ownership or control may be aggregated to attain the minimum acreage.*

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24-3-C The Director may issue a single Temporary Event Permit for more than one Temporary Event if he determines that each Temporary Event is substantially similar in nature and size and that a single set of conditions would apply to each Temporary Event. ~~Any such combined Temporary Event Permit shall not have the effect of allowing more Temporary Events than the limits set forth in the preceding subsections.~~

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24-3-D A Temporary Event Permit application requires the following submissions to be considered a completed application:

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1. Temporary Event Permit application signed by the property owner(s) and the event promoter or sponsor, who shall collectively constitute the “Applicant”;
2. Temporary Event Permit application fee, as follows:
 - a. Category 1 Temporary Event Permit application = \$100
 - b. Category 2 Temporary Event Permit application = \$500
 - c. Category 3 Temporary Event Permit application = \$2,500
3. Site Plan, drawn to scale and containing all necessary dimensions, annotation, and other details regarding event layout and event operations; except that Category 3 Temporary Event Permit applications require a Site Plan to be prepared in accordance with Article 13 “Site Development Plan” and Article 24-2-E-1 and submitted with the Festival Grounds Special Use Permit application in accordance with Article 12, Section 3 “Special Use Permits.”
4. Transportation Plan, containing all necessary details regarding vehicular arrival, departure, informational signage, and on-site circulation (as applicable);
5. Safety Plan, containing all necessary details regarding emergency preparedness and emergency response plans, emergency services, medical services, law enforcement and security services, and similar details necessary for ensuring the safety of attendees and the general public; and
6. Any other event information deemed necessary by the Director of Planning and Zoning.

24-3-~~E~~ After formal approval of a Temporary Event Permit, and in the event of unforeseen circumstances outside of the event promoter’s control or causation, the Planning & Zoning Director has the authority to formally approve modifications to the Temporary Event Permit and/or the various event plans specified in the preceding subsection, in consultation with the applicable law enforcement and regulatory agencies and with the event promoter(s).

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In addition to the proposed introduction of Article 24 (above), the following amendments are also proposed for existing Articles:

➤ **Article 2. Definitions**

Modify the following:

Community Center: A building and grounds used for recreation, social, educational, health, or cultural activities open to the public or a portion of the public, owned and operated by a public or private non-profit group or agency. The activities may involve leasing of space for the sale of goods and services, offices, and Temporary Events in conjunction with Article 24 of this ordinance and subject to applicable zoning district regulations. The sale of goods and services may be carried on a for-profit basis or for charitable non-profit purposes by the owner or the owner’s approved lessee or licensee. Community Center uses, structures, and activities are subject to site plan approval. Signage conveying information about permissible Temporary Events and/or a permitted Outdoor Entertainment Venue is permissible, subject to applicable

regulations and approval requirements contained elsewhere in this Ordinance. There can be no other exterior indication of non-temporary commercial activities at the center, such as outside storage, sales area, or signage, except for a principal sign identifying the center, a single changeable letter sign, and additional small wayfinding and directional signs which may include identification of tenants.

Add the following:

Outdoor Entertainment Venue: The non-temporary use of any land, including the erection or use of non-temporary structure(s) or the installation of non-temporary infrastructure, for the hosting and operation of Category 1 and Category 2 Temporary Events, Exempt Events, or other entertainment activities for cultural, artistic, social, or recreational purposes.

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

Remove the following:

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

Add the following:

4-1 Uses – Permitted by right:

- Agritourism Activity
- Social Temporary Event, provided that there are no more than twelve such events in a calendar year and that the event complies with the County Noise Ordinance
- Category 1 Temporary Event
- Category 2 Temporary Event
- Category 3 Temporary Event in connection with a Festival Grounds Special Use Permit

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

- Festival Grounds
- Social Temporary Event, in excess of twelve such events in a calendar year and provided that the event complies with the County Noise Ordinance
- Outdoor Entertainment Venue

➤ **Article 5. Residential District (R-1)**

Add the following:

5-1-a Uses – Permitted by Special Use Permit only:

- Outdoor Entertainment Venue in connection with a permissible public or semi-public use pursuant to 5-1-4

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

Add the following:

8-1 Uses – Permitted by right:

Category 1 Temporary Event

Category 2 Temporary Event

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

Outdoor Entertainment Venue

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

Add the following:

8A-1 Uses – Permitted by right:

Category 1 Temporary Event

Category 2 Temporary Event

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

Outdoor Entertainment Venue

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

Add the following:

8B-1 – Uses – Permitted by right:

Category 1 Temporary Event

Category 2 Temporary Event

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

Outdoor Entertainment Venue



To: Chair and Members, Nelson County Board of Supervisors
Appointed Members, "Temporary Events Work Group"
Mr. Stephen A. Carter, County Administrator

From: Tim Padalino | Planning & Zoning Director

Date: July 26, 2016

Subject: **Revised text amendments re: "Temporary Events and Festival Grounds" as recommended by Work Group Members and County Staff**

Quick Guide to Contents of Staff Report:

Page(s):	Content:
p. 1-2	Brief review of purpose/intent for proposed Zoning Ordinance Amendments
pp. 2-3	Summary of proposed modifications recommended at Work Group Meeting #1...(3/30)
pp. 3-4	Summary of further modifications recommended at Work Group Meeting #2...(5/19)
p. 4	Summary of recommended modifications identified during County Staff review...(7/13)
pp. 5-6	<u>Background information</u> : overview of topics and issues that were discussed during Work Group Meetings and County Staff review (<i>Note – these discussions were the basis for the proposed modifications summarized in pages 2-4 and contained in the enclosed text amendments</i>)
(enclosed)	<u>Proposed Z.O. Amendments</u> (Work Group and County Staff recommendations; dated 7/29)

Brief Review of Purposes and Benefits of Proposed Zoning Ordinance Amendments:

[Purposes] A comprehensive update to the existing provisions for "Special Events" is necessary. Consider the following:

- Currently, Special Event Permits are issued administratively for "temporary events not otherwise a permitted use." These approval(s) of commercial activities at properties not zoned for commercial activities – which have been increasing in number and scale over the previous several years – raise concerns about "*de facto rezonings*" and the protection of property rights for nearby landowners in A-1 and R-1 zoning districts.
- Currently, the Special Events Permits section of the ordinance contains no review criteria for making an administrative decision (approval or denial). This leaves the Zoning Administrator with almost no foundation for making legally defensible decisions. See Z.O. 4-11-3, which has become overly simple and inadequate with respect to the number and type of special events occurring in the County.

[Benefits] A successful text amendment process would:

- benefit local businesses by exempting a large variety of activities from permit requirements;
- benefit event promoters and members of the public by establishing a permitting process that is clear, consistent, and transparent;
- benefit County staff by establishing a clear and consistent application and review process; and
- benefit everyone by ensuring a balance of property rights Countywide:
 - o property rights to utilize land for commercial enterprise and economic vitality
 - o property rights to enjoy stable sense of place, rural community character, and a comfortable quality of life

Summary of Proposed Modifications as Discussed by Work Group at Meeting #1 on 3/30:

- **Modify the “Exempt Events” section**
 - separate “Farm Winery” from “Agritourism Activities”
 - replace “7Am to 7PM” clause with language about public health, safety, and welfare
 - reduce from 1,000 to 500 the number of attendees permissible at any one time at “Exempt Non-Profit Temporary Events”
 - o *Note: Non-Profit Temporary Events could have more than 500 attendees, but such events would no longer be eligible as “exempt” and would require the appropriate Temporary Event Permit (either Category 1 or Category 2).*
- **Modify the “number of attendees” as it relates to the classification of Cat. 1 and Cat. 2 Temp. Events, Exempt Events, and Out of Door Accessory Uses**
 - Out-of-Door Accessory Use: up to 300 attendees at any one time (formerly 1,000 attendees)
 - Exempt Events:
 - o Non-Profit Temp Events up to 500 attendees at any one time (formerly 1,000);
 - o Farm Winery activities with no substantial impact(s);
 - o Agritourism Activities with no substantial impact(s)
 - Category 1 Temporary Event:
 - o All “non-exempt” Temporary Events up to 500 attendees at any one time (formerly 1,000);
 - o Non-Profit Temporary Events with more than 500 attendees at any one time (formerly 1,000 attendees) but less than 1,000 attendees at any one time;
 - o Farm Winery or Agritourism Activities causing substantial impact(s) and having up to 1,000 attendees
 - Category 2 Temporary Event:
 - o all “non-exempt” Temporary Events with more than 500 attendees but less than 10,000 attendees;
 - o Non-Profit Temporary Events with more than 1,000 attendees at any one time but less than 10,000 attendees at any one time;
 - o Farm Winery or Agritourism Activities causing substantial impact(s) and having more than 1,000 attendees but less than 10,000 attendees at any one time

- Category 3 Temporary Event:
 - all “non-exempt” Temporary Events with 10,000 or more attendees (remains unchanged)
- **Modify the “maximum number of events” chart in 24-3-C**
 - increase the maximum numbers of permissible non-exempt Temporary Events
 - clarify that this chart only limits the number of non-exempt Temporary Events, and does not affect (limit) the number of activities that qualify as Exempt Temporary Events
 - insert “Residential (R-1)” as an eligible type of property for non-exempt Temporary Events
 - (Temporary Events would only be permissible in R-1 in coordination with the proposed addition of “Outdoor Entertainment Venue” as a permissible use in R-1, requiring a Special Use Permit and only in connection with a public or semi-public use)
- **Modify the “Structures for Category 1 and 2 Temporary Events” section**
 - distinguish the use of existing structures from the use of proposed new structures
 - clarify that new structures may be constructed, if all required permits are properly obtained
 - include clause about removing temporary structures within ten (10) days after event ends
- **Modify the existing definition for “Community Center”**
 - eliminate the clause about the leasing of space being restricted to “within the building”
 - eliminate the clause about Planning Commission establishing conditions
 - insert clause about Temporary Events being permissible (subject to other regs)
 - modify the language re: the total prohibition of “exterior indication of commercial activities”
- **Define “Outdoor Entertainment Venue” and establish it as a permissible use**
 - permissible by-right in: N/A
 - permissible by SUP only in: A-1, B-1, B-2, SE-1, and R-1 in connection with public or semi-public use pursuant to Z.O. 5-1-4
- **Modify the number of “Social Temporary Events” permissible by-right**
 - permissible twelve (12) times per year by-right in A-1 district (formerly 50 times per year)

Summary of Proposed Modifications as Discussed by Work Group at Meeting #2 on 5/19:

- **Further modify 24-1 “Definitions”**
 - Revise the proposed redefinition of “Community Center” –
 - establish separate signage regulations for (non-temporary uses and activities) versus (temporary events and outdoor entertainment venues)
 - establish separate regulations for outdoor activities and displays in connection with (permissible non-temporary uses) versus (temporary events)
 - Replace “and” with “or” in the first sentence
 - Add “structures” to sentence about Community Centers being subject to site plan approval
 - Recommendation to remove final sentence prohibiting “exterior indication of non-temporary commercial activities” – (*note: request received June 30th*)

- Revise the proposed new definition of “Out-of-Door, Accessory Use” –
 - Eliminate the phrase “small band performances” and replace with “or other cultural performances”
 - Increase “300” attendees to “500” attendees to be consistent with other language in the proposed Article
- Relocate proposed definitions for “Community Center” and Outdoor Entertainment Venue” from proposed Article 24 to existing Article 2 (as these definitions pertain to more than just Temporary Events)
- **Modify 24-3-B “Issuance of Temporary Event Permits”**
 - Revise the proposed section about the Planning & Zoning Director imposing conditions –
 - Delete item 1 (establishing time limits), item 2 (fixing the dates), and item 3 (limiting the number of attendees)
 - Combine item 4 (protecting health, safety, and welfare of attendees and residents of the County) into the first sentence
- **Delete 24-3-C (“maximum number of properly-permitted non-exempt events”)**
 - This chart was eliminated due to Work Group members insisting it was too permissive and “ripe for abuse,” too complicated to enforce, and too restrictive for certain types of properties.

Summary of Proposed Modifications as Discussed During County Staff Review on 7/13:

- **Modify “evaluation factors” in Z.O. 24-3 (“Issuance of Temporary Event Permits”):**
 - include a clear connection to the responsibility to ensure “public health, safety, and welfare”
 - reference specific factors such as size and location of events, frequency of events, number of attendees, hours of conduct, etc.
 - insert new criteria that allows the Zoning Administrator to evaluate whether or not events would “alter the character of the area or circumvent the ordinance” (similar to the existing language in Z.O. 4-11-3) and evaluate the proposed event relative to the property’s primary use
- **Modify definition and regulations for “social temporary events”:**
 - Revise definition to clarify that “social temporary events” are defined and regulated separately from “agritourism activities” and “farm wineries”
 - Create a new special use provision in A-1 for “more than 12 social temporary events per year”
 - Up to 12 social temporary events per year would still be permissible by-right in A-1

Requested Actions & Next Steps:

The requested action at the August 9th BOS meeting, and the required next step in this ongoing Z.O. text amendment process, is for the BOS to authorize a public hearing for the September 13th BOS meeting, and to receive public comments from all interested or concerned members of the public. Hearing from the public will allow the BOS to make a well-informed decision regarding these proposed amendments.

Please do not hesitate to contact me with any of your questions and/or requests for assistance. Thank you very much for your time, attention, energy, and effort towards these important and complex issues.

BACKGROUND INFORMATION

Brief Overview of Issues Identified by Work Group Members during Meeting #1 (3/30):

- *Revising the (proposed) Farm Winery regulations:*
 - Ensure that all proposed local regulations are harmonious with State Code provisions, with particular emphasis on state protections for “usual and customary” activities (see Code of Virginia §15.2-2288.3 – “License farm wineries; local regulation of certain activities.”)
 - Reconsider “7AM – 7PM” clause (previously contained in proposed 24-2-A-9).
- *Revising the (proposed) list of Exempt activities:*
 - Consider separating “farm winery” and “agritourism” provisions (in proposed 24-2-A-9).
 - Consider eliminating “hours of operation” or “acreage” as criteria for determining which specific activities are exempt; maintain “number of attendees” as most important criteria.
- *Revising the (proposed) limitation on maximum number of Temporary Events permissible by-right in a given calendar year:*
 - Ensure that any such limitation is both appropriate and necessary.
 - Determine how to best categorize different properties as it pertains to this limitation; and determine what maximum number makes sense for each different property type.
 - Maintain procedure by which applicants can arrange a public hearing with the Board of Supervisors to request County approval for conducting additional (extra) Temp. Events.
- *Addressing the need to provide for permanent land use provisions and regulations in connection with the conduct of all types of temporary events:*
 - Consider how to include provisions for land uses, structures, and infrastructure associated with Cat. 1 and Cat. 2 Temp. Events (as a corollary to “Festival Grounds” provision for Cat. 3 Temp. Events).
- *Identifying opportunities to simplify the (proposed) provisions and regulations:*
 - Consider if/how the amount of text can be reduced through simplification.
 - Avoid over-complication and avoid over-regulation.
- *Additional miscellaneous points of discussion and topics of further discussion:*
 - Consider how to accommodate public and semi-public institutions (and to not focus solely on commercial establishments).
 - Consider how to best define (categorize) various Temp. Event classifications: determine the best and most appropriate “break points” for distinguishing Exempt Events from Cat. 1 Temp. Events; distinguishing Cat. 1 Temp. Events from Cat.2 Temp. Events; etc.
 - Consider how to best protect rural character, sense of place, and quality of life while also maximizing economic opportunities and promoting rural economic vitality.
 - Consider striking a slightly different balance by having:
 - additional/expanded rights and exemptions for “agritourism operations,” “farm wineries,” “farm breweries,” and “farm distilleries”; and
 - comparatively less rights and exemptions for other properties which do not qualify as any of the above land uses, and which are zoned Agricultural A-1, and which are located within areas designated as “Rural Areas” (“Rural Residential District” and “Rural and Farming District”).

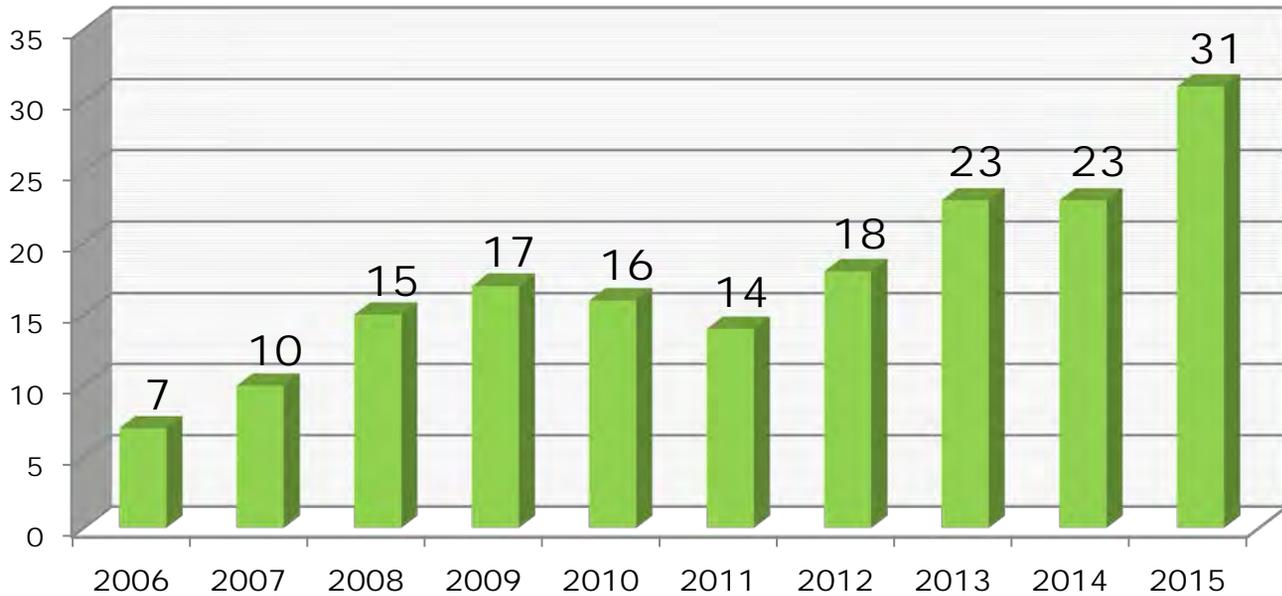
Brief Overview of Issues Discussed by Work Group Members During Meeting #2 (5/19):

- *Carefully consider the role and effects of these proposed new regulations:*
 - Recognize the existence and importance of “self-policing” – Work Group members explained that it is in their own best interest to be “good neighbors” and to not tolerate “bad actors”
 - Recognize the difficulty of defining “substantial impact,” and recognize that there are other important factors beyond just the scale/size of any given event, such as:
 - the frequency and number of multiple temporary events (for recurring events)
 - the presence or absence of overnight camping (versus day trips only)
 - other site-specific or property-specific issues
- *Be sensitive to existing events:*
 - Determine if these proposed new regulations would apply to all properties and all events, if there would be opportunities for “grandfathering,” or if the concept of “vested rights” is applicable.
 - Review and reference the list of existing (recent) special events, and understand what proportion of those would be exempt under the proposed new regulations versus what proportion would be subject to permitting requirements.

Brief Overview of Issues Discussed During County Staff Review (7/13):

- *Ensure that the “review factors” contained in the “Issuance of Temporary Event Permits” section (proposed Z.O. 24-3) are sufficient and appropriate:*
 - include a clear connection to the responsibility to ensure “public health, safety, and welfare”
 - specify factors which could impact public health, safety, and welfare, such as size and location of events, frequency of events, number of attendees, hours of conduct, etc.
 - insert new criteria that allows the Zoning Administrator to evaluate whether or not events would “alter the character of the area or circumvent the ordinance” (similar to the existing language in Z.O. 4-11-3)
- *Try to find a better balance between how many “social temporary events” should be permissible on a property zoned A-1 (which is not an “agritourism operation”):*
 - Maintain a low number (currently proposed as 12 per year) for what is permissible by-right
 - Create a new special use in A-1 for “more than 12 social temporary events per year”
 - this would create business opportunities for landowners, but would allow County Supervisors to set conditions (if necessary) to protect property rights of nearby landowners

Annual Number of Special Event Permits: 2006 - 2015



Over the previous ten years (2006 – 2015), there has been a steadily increasing number of Special Event Permit applications being received, processed, reviewed, and approved by the Planning & Zoning Department. Please note the following:

- From 2006 – 2012, the average number of SEPs issued each year was 14. In 2015, the Planning & Zoning Department coordinated and approved more than double that figure.
- A significant increase in the number of approved SEPs began in 2013.
- In addition to this increase in the total number of events, the Planning & Zoning Department also began reviewing and approving Special Event Permits for a notably larger-scale event (Lockn Festival “mass gathering”) in 2013.
- Through the first 7 months of 2016, the Planning & Zoning Department has processed twenty-one (21) SEP applications.

ORDINANCE O2016-04
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA, APPENDIX A
ZONING, ARTICLE 24 TEMPORARY EVENTS, FESTIVAL GROUNDS, OUT-OF-
DOORS ACCESSORY USES, ARTICLE 2 DEFINITIONS, ARTICLE 4
AGRICULTURAL (A-1), ARTICLE 5 RESIDENTIAL DISTRICT (R-1), ARTICLE 8
BUSINESS DISTRICT (B-1), ARTICLE 8A BUSINESS DISTRICT (B-2) , AND
ARTICLE 8B SERVICE ENTERPRISE DISTRICT (SE-1) “TEMPORARY EVENT”
USES

BE IT ORDAINED, by the Nelson County Board of Supervisors that Appendix A Zoning, Article 24, Temporary Events, Festival Grounds, Out-of-Door Accessory Uses, Article 2, Definitions, Article 4 Agricultural District (A-1), Article 5 Residential District (R-1), Article 8: Business District (B-1), Article 8A Business District (B-2), and Article 8B Service Enterprise District (SE-1) be amended as follows:

ARTICLE 24. TEMPORARY EVENTS, FESTIVAL GROUNDS, OUT-OF-DOORS
ACCESSORY USES

Statement of Intent

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

24-1 Definitions

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

Festival Grounds: The use of land for the hosting and operation of Category 3 Temporary Events, and the construction, erection, or other use of structures or other improvements (temporary or permanent) associated with Category 3 Temporary Events. The minimum acreage for a Festival Grounds is 250 acres. Contiguous parcels under the same or different ownership or control may be aggregated to attain the minimum acreage; if contiguous parcels are under different ownership or control, the owner or agent for each parcel must formally authorize the application for a Festival Grounds Special Use Permit.

Out-of-Door, Accessory Use: The following out-of-door activities are accessory uses to a Banquet Hall, Conference Center, Corporate Training Center, Restaurant, Brewery, and Distillery: receptions, dining, and entertainment, such as musical or other cultural performances, which (i) are conducted in connection with the primary permitted use, (ii) do not involve amplified sound later than 9:00 p.m. on Sundays through Thursdays or later than 10:00 p.m. on Fridays or Saturdays, and (iii) host no more than 500 attendees at any one time during the activity. Unless otherwise specified in (ii), all such accessory activities are limited to 10:00 p.m. on Sundays through Thursdays, and are limited to 11:00 p.m. on Fridays and Saturdays.

Temporary Event: The temporary use of property that is not otherwise a by-right use or use permitted by special or conditional use permit.

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

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

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

24-2 Temporary Event Permits

A Temporary Event Permit is required for Temporary Events defined in this subsection as either Category 1, 2, or 3.

24-2-A Exempt Events

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

1. Private non-commercial functions conducted on the property of the host
2. Social Temporary Events where permitted by right
3. Historical Property Temporary Events
4. Non-Profit Temporary Events having or projecting no more than 500 attendees at any time during the event
5. Athletic and sporting events conducted on sites approved for such events
6. Political gatherings
7. Religious gatherings
8. Out-of-Door Accessory Uses
9. Farm winery activities that, by virtue of the number of attendees, size and location of property, or hours of conduct, do not cause any substantial impact(s) on the health, safety, or general welfare of the public.

10. Agritourism activities that, by virtue of the number of attendees, size and location of property, or hours of conduct, do not cause any substantial impact(s) on the health, safety, or general welfare of the public.

24-2-B Temporary Event, Category 1

A Category 1 Temporary Event is any event which is neither an otherwise permitted use nor exempt and:

- (i) for which admission is charged or at which goods and services are sold, having or projecting no more than 500 attendees at any time during the event, or,
- (ii) Non-Profit Temporary Events having or projecting more than 500 attendees and less than 1,000 attendees at any time during the event, or,
- (iii) Farm winery activities or Agritourism activities which – by virtue of the number of attendees, size and location of property, or hours of conduct – cause any substantial impact(s) on the health, safety, or general welfare of the public, and having or projecting less than 1,000 attendees at any time during the event.

Each such event may not exceed a maximum duration of four (4) consecutive days open to the attending public, inclusive of an arrival day and a departure day. Amplified sound is not permitted after 11:00 p.m. on any Sunday, Monday, Tuesday, or Wednesday night; nor after 11:59 p.m. on any Thursday night; nor after 1:00 a.m. on any Saturday or Sunday morning. A Category 1 Temporary Event Requires a Temporary Event Permit.

24-2-C Temporary Event, Category 2

24-2-C-1 A Category 2 Temporary Event is any event which is neither an otherwise permitted use nor exempt:

- (i) for which admission is charged or at which goods and services are sold, and having or projecting more than 500 attendees but less than 10,000 attendees, or
- (ii) Non-Profit Temporary Events having or projecting more than 1,000 attendees but less than 10,000 attendees at any time during the event, or,
- (iii) Farm winery activities or Agritourism activities which by virtue of the number of attendees, size and location of property, or hours of conduct cause any substantial impact(s) on the health, safety, or general welfare of the public, and having or projecting more than 1,000 attendees but less than 10,000 attendees at any time during the event

Each such event may not exceed a maximum duration of six (6) consecutive days open to the attending public, inclusive of an arrival day and a departure day. Amplified sound is not permitted after 11:00 p.m. on any Sunday, Monday, Tuesday, or Wednesday night; nor after 11:59 p.m. on any Thursday night; nor after 1:00 a.m. on any Saturday or Sunday morning. A Category 2 Temporary Event Requires a Temporary Event Permit.

24-2-D Structures for Category 1 and 2 Temporary Events

The installation of temporary structures and facilities, such as tents and portable lavatories, is permissible in connection with approved Temporary Event Permits, subject to all applicable laws and regulations. All such temporary structures and facilities shall be lawfully removed within ten (10) days of the approved end date.

No new non-temporary structure(s) used for either Category 1 or 2 Temporary Event(s) shall be installed or constructed unless all required zoning permit approvals and building permit approvals are obtained, as may be applicable.

Existing non-temporary structures proposed for use for either Category 1 or 2 Temporary Event(s) (i) shall have been in existence on the date of adoption of this Article, provided that this requirement shall not apply to accessory structures less than 150 square feet in size, and (ii) shall be a lawful conforming properly permitted structure and shall support or have supported a lawful use of the property.

24-2-E Temporary Event, Category 3

24-2-E-1 A Category 3 Temporary Event is any event having or projecting more than 10,000 attendees and requires a Special Use Permit for Festival Grounds land use to be obtained pursuant to Article 12, Section 3 “Special Use Permits” and Article 13 “Site Development Plan” and also a Temporary Event Permit. The erection of non-temporary structures and/or the installation of permanent infrastructure used in connection with Category 3 Temporary Events is permissible in connection with a Festival Grounds Special Use Permit, and subject to all other required zoning permit approvals and building permit approvals, including but not limited to Zoning Ordinance Article 13 “Site Development Plan.”

24-2-E-2 A Festival Grounds Special Use Permit shall be automatically reviewed at a public hearing conducted by the Board of Supervisors every five (5) years after the initial issuance, after which hearing the Board may revoke or modify the terms and conditions of the Special Use Permit in accordance with Article 12, Section 3 “Special Use Permits.”

24-2-E-3 A Category 3 Temporary Event may not exceed a maximum duration of six (6) consecutive days open to the attending public, inclusive of an arrival day and a departure day. Amplified sound is not permitted after 11:00 p.m. on any Sunday, Monday, Tuesday, or Wednesday night; nor after 11:59 p.m. on any Thursday night; nor after 1:00 a.m. on any Saturday and Sunday morning. Without limiting the general authority of the Board of Supervisors under Article 12, the Board of Supervisors may impose additional conditions or further modify the number of events, days, and times in granting a Special Use Permit for Festival Grounds land use.

24-2-F For the purposes of this Article 24, “applicant” includes the members of an applicant’s immediate family or an affiliated business entity relationship. An affiliated business entity relationship exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control

between the business entities. Factors that may be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person owns or manages the two entities, there are common or commingled funds or assets, the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis, or there is otherwise a close working relationship between the entities.

24-3 Issuance of Temporary Event Permits

24-3-A The Planning and Zoning Director shall evaluate Temporary Event Permit applications to determine if any substantial impacts to public health, safety, or welfare would be reasonably likely to occur, due to the proposed event's operational details such as location, size, or number of attendees; frequency of events; or hours of conduct.

Specifically, the following factors shall be considered when determining whether a Temporary Event Permit will be issued:

1. The completeness of the Temporary Event Permit application as specified in Section 24-3-D;
2. If and how the proposed event would alter the character of the area or circumvent the ordinance;
3. The relationship between the proposed event and the permitted primary use(s) of the property;
4. If and how the proposed event would result in undue interference with other planned activities in the County;
5. The schedules of churches, schools, governmental operations, and similar public and quasi-public entities;
6. The availability and provision of necessary resources such as transportation infrastructure, law enforcement, emergency services, parking, and similar considerations;
7. The location and operation(s) of other permitted Temporary Events during the same time period as the proposed event; and
8. Compliance with the requirements of other agencies and departments; and
9. The prior history of compliance by the applicant or landowner with this article, the zoning ordinance, and applicable conditions. Prior or existing non-compliance may be grounds for the denial of a permit.

24-3-B In issuing the permit, the Planning and Zoning Director, may, after consideration of the foregoing factors, modify the terms of approval as may be necessary to protect the health, safety and welfare of attendees and residents of the County.

24-3-C The Director may issue a single Temporary Event Permit for more than one Temporary Event if he determines that each Temporary Event is substantially similar in nature and size and that a single set of conditions would apply to each Temporary Event.

- 24-3-D A Temporary Event Permit application requires the following submissions to be considered a completed application:
1. Temporary Event Permit application signed by the property owner(s) and the event promoter or sponsor, who shall collectively constitute the “Applicant”;
 2. Temporary Event Permit application fee, as follows:
 - a. Category 1 Temporary Event Permit application = \$100
 - b. Category 2 Temporary Event Permit application = \$500
 - c. Category 3 Temporary Event Permit application = \$2,500
 3. Site Plan, drawn to scale and containing all necessary dimensions, annotation, and other details regarding event layout and event operations; except that Category 3 Temporary Event Permit applications require a Site Plan to be prepared in accordance with Article 13 “Site Development Plan” and Article 24-2-E-1 and submitted with the Festival Grounds Special Use Permit application in accordance with Article 12, Section 3 “Special Use Permits.”
 4. Transportation Plan, containing all necessary details regarding vehicular arrival, departure, informational signage, and on-site circulation (as applicable);
 5. Safety Plan, containing all necessary details regarding emergency preparedness and emergency response plans, emergency services, medical services, law enforcement and security services, and similar details necessary for ensuring the safety of attendees and the general public; and
 6. Any other event information deemed necessary by the Director of Planning and Zoning.
- 24-3-E After formal approval of a Temporary Event Permit, and in the event of unforeseen circumstances outside of the event promoter’s control or causation, the Planning & Zoning Director has the authority to formally approve modifications to the Temporary Event Permit and/or the various event plans specified in the preceding subsection, in consultation with the applicable law enforcement and regulatory agencies and with the event promoter(s).

In addition to the proposed introduction of Article 24 (above), the following amendments are also proposed for existing Articles:

Article 2. Definitions

Modify the following:

Community Center: A building and grounds used for recreation, social, educational, health, or cultural activities open to the public or a portion of the public, owned and operated by a public or private non-profit group or agency. The activities may involve leasing of space for the sale of goods and services, offices, and Temporary Events in conjunction with Article 24 of this ordinance and subject to applicable zoning district regulations. The sale of goods and services may be carried on a for-profit basis or for charitable non-profit purposes by the owner or the owner’s approved lessee or licensee. Community Center uses, structures, and activities are subject to site plan approval. Signage conveying information about permissible Temporary Events and/or a permitted Outdoor Entertainment Venue is permissible, subject to applicable

regulations and approval requirements contained elsewhere in this Ordinance. There can be no other exterior indication of non-temporary commercial activities at the center, such as outside storage, sales area, or signage, except for a principal sign identifying the center, a single changeable letter sign, and additional small wayfinding and directional signs which may include identification of tenants.

Add the following:

Outdoor Entertainment Venue: The non-temporary use of any land, including the erection or use of non-temporary structure(s) or the installation of non-temporary infrastructure, for the hosting and operation of Category 1 and Category 2 Temporary Events, Exempt Events, or other entertainment activities for cultural, artistic, social, or recreational purposes.

Article 4. Agricultural District (A-1)

Remove the following:

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

Add the following:

4-1 Uses – Permitted by right:

- Agritourism Activity
- Social Temporary Event, provided that there are no more than twelve such events in a calendar year and that the event complies with the County Noise Ordinance
- Category 1 Temporary Event
- Category 2 Temporary Event
- Category 3 Temporary Event in connection with a Festival Grounds Special Use Permit

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

- Festival Grounds
- Social Temporary Event, in excess of twelve such events in a calendar year and provided that the event complies with the County Noise Ordinance
- Outdoor Entertainment Venue

Article 5. Residential District (R-1)

Add the following:

5-1-a Uses – Permitted by Special Use Permit only:

- Outdoor Entertainment Venue in connection with a permissible public or semi-public use pursuant to 5-1-4

Article 8. Business District (B-1)

Add the following:

8-1 Uses – Permitted by right:

Category 1 Temporary Event
Category 2 Temporary Event

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

Article 8A. Business District (B-2)

Add the following:

8A-1 Uses – Permitted by right:
Category 1 Temporary Event
Category 2 Temporary Event

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

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

Add the following:

8B-1 – Uses – Permitted by right:
Category 1 Temporary Event
Category 2 Temporary Event

8B-1-a Uses – Permitted by Special Use Permit Only:
Outdoor Entertainment Venue

BE IT FURTHER ORDAINED, by the Nelson County Board of Supervisors that this Ordinance becomes effective upon adoption.

Adopted: _____, 2016

Attest: _____, Clerk

Nelson County Board of Supervisors

**PUBLIC HEARING NOTICE
NELSON COUNTY BOARD OF SUPERVISORS
DISPOSITION OF PUBLIC PROPERTY
FORMER LOVINGSTON HEALTHCARE CENTER BUILDING**

Pursuant to §15.2-1800 and §15.2-1427 of the Code of Virginia 1950 as amended, the Nelson County Board of Supervisors will conduct a public hearing to be held on September 13, 2016 at 7:00 PM in the General District Courtroom in the Courthouse in Lovingston, Virginia to receive public input on the proposed disposition of County Property located at 393 Front Street, Lovingston, Virginia 22949, Tax Map #58-A-38a, known as the former Lovingston Healthcare Center.

Public input is invited on the following options:

1. Donation,
2. Sale,
3. Auction,
4. Lease purchase to Region Ten Community Services Board for an assisted living facility primarily for Region Ten CSB clientele, with one wing of the building to include individuals who are not necessarily associated with Region Ten Services.
5. Renovation for County office space for those off-site departments incurring annual rent expenses. Upon completion, these rent expense funds could be used to partially or fully pay for annual debt service payments on funds borrowed for the renovation project, or
6. Other

BY AUTHORITY OF NELSON COUNTY BOARD OF SUPERVISORS

August 4, 2016

Agenda Item IV.F: Closed Session – Lovingson Health and Rehab Center

The proposed closed session is pursuant to §2.2-3711.A.3 of the Code of VA (Disposition of Publicly Held Real Property). Motions have been drafted by staff to provide for the conduct of the closed meeting.

Information provided for the discussion of this subject include: 1) The previously received purchase proposal from Region Ten Community Services Board and, 2) an email communication (6-8-16) from D. McCann to Supervisor Saunders denoting current lease agreements and annual expenses related thereto and three estimates of annual debt payment costs for financing \$1.0 - \$2.0 million over a 20 year term at 2.90% interest.

Staff Comment: The Board established at the June 14th regular session a 60 day deadline for receipt of proposals from private entities for the acquisition and operation of the LHRC (the Center). The August 9 regular session is commensurate with the end of the 60 period.

The County has been in ongoing discussion(s) and meetings with Harrisonburg based Valley Care Management (VCM), which had expressed what was understood to be definite interest in the Center as an assisted living and memory care facility (the Center cannot, per state regulation, be re-licensed as a nursing home operation). VCM was advised, following the Board's 6-8 meeting, of the 60 day time period and subsequently advised (by Supervisors Brennan) of the need for receipt of a response from VCM sooner than the Board's 8-9 meeting with a non-response from VCM determined to be the company's withdrawal of any/all interest in the property. VCM has not, to date, responded even to acknowledge receipt of the County's communications.

Approximately the following day after the Board's 6-14 meeting; staff (Marica Becker, Assistant Administrator) of Region Ten contacted County staff to make inquiry on the status of the Center and Region Ten's previous proposal. Staff provided this input to Ms. Becker and also met briefly with her the third week of July. Subsequent to that meeting Ms. Becker sent the following via email:

"Thanks for meeting with me last week. I talked with Robert and we are still interested. We have some other rather large projects going on at this time and would not be able to work on this until the end of the year. Our proposal that we submitted earlier is the one we would propose at this time. This will give your Board of Supervisors time to decide the direction they want to go in with the property. If they elect to go with the Assisted Living Facility we will certainly be interested in meeting with them in the new year."

Given the above status, the current options to be discussed include: 1) The County retaining the Center for its use (office facility or other- TBD) or, 2) Reaching agreement with Region Ten, which in its current proposal would pay the County (over time) 75% of the properties assessed value (the Region Ten proposal denotes that value as \$1,966,400) or, \$1,447,800. (No other potential operator of the facility has ever suggested monetary payments).

In a discussion on 8-3 with Jim Vernon of Architectural Partners, he noted that AP is currently working with Bedford County on a similar project to convert the County owned nursing home to County office space. I asked Jim if it would be more cost effective for the County to construct a new office facility or to re-construct the Center facility. Jim's response was that it could very possibly save the County up to

\$500,000 to re-construct the Center as an office facility not including the cost of purchasing property for a new facility. This of course was based on a very brief conversation with Mr. Vernon.

Options (no specific order):

1. Commission an AE study of the Center to determine the cost of reconstructing the Center for County offices. The timing of the study, if commissioned soon, would enable an actual decision on proceeding with the project to be made in time for the spring or summer VRA financing periods, if a decision was made to use the property for County purposes. Financial pro forma(s) can be completed by County and VRA staff throughout the study and, if decided, design phases to further enable the Board to decide on implementing this consideration. And, as an additional consideration, the County could meet with Region Ten and discuss an informal agreement to sell the property to the CSB (including additional negotiations) should the outcome(s) of the AE study not be conducive to the County's interests (as Region Ten has indicated in Ms. Becker's response copied herein that Region Ten could not undertake their ownership and operation of the Center until the end of 2016, possibly 2017).
2. Negotiate the sale of the property to Region Ten, predicated on further discussions with the CSB that provide for a final purchase agreement. As an example, the County could seek to offset (reduce) Region Ten's annual budget requests (increases) by the 25% balance amount (\$491,600) of the total assessed value for a specified period of time. The County could also use the proceeds from the sale of the Center to Region Ten for another County capital project (Broadband, Library, Recreation, etc.).
3. Continue the effort to market the property. This option is not deemed to be feasible.
4. Auction the property with an established minimum purchase amount.



Lovington Health and Rehabilitation Center

Proposal for an Assisted Living Facility in Nelson County

Access to assisted living services in Virginia is problematic primarily for the State's auxiliary grant recipients and lower income individuals. This shortage of available beds often forces individuals to live independently much longer than they are able or in inadequate care settings. Access becomes even more problematic for adults with mental disabilities as many Adult Living Facilities (ALFs) are more hesitant to take individuals whom they may see as more difficult. Locally and across the state we are experiencing a decrease in the availability of auxiliary grant beds. The population eligible for assisted living is likely to continue growing. The proportions of Virginians over 85 years of age will more than double between 2000 and 2030 according to the Census Bureau, increasing from 87,000 to about 250,000 making access to available beds even more competitive.

Region Ten has a long history of providing residential services for individuals with Serious Mental Illness and Intellectual Disabilities. In the past we have operated a small ALF and currently provide supervised residential services for 30 individuals with Serious Mental Illness and 58 individuals with Intellectual Disabilities. All of our facilities are licensed by the Department of Behavioral Health and Developmental Services.

Region Ten proposes to operate an Assisted Living Facility that includes 2 private rooms and 29 semi-private rooms. We will accept Auxiliary grant recipients as well as lower income private pay individuals. The design of the building allows for separation of rooms for private pay individuals. Priority will be given to Nelson County residents. However, we will be able to draw from a wide area to insure full occupancy. Total capacity will be 60 individuals. We will provide specialized services to individuals with mental disabilities who will receive a continuum of services through the Nelson Counseling Center including Case Management and daily attendance at Horizon House. Staff at the ALF will receive specialized training in assisting individuals with mental disabilities. We have toured the facility and talked with Mr. Bruce Hedrick of Medical Facilities of America and he has confirmed that the facility is well maintained and, other than some work needed on the roof, is in "move in ready" condition.

Financial Information:

We are recommending the establishment of a 10 year lease purchase agreement. The agreement would include the following:

- Initial payment (option fee) of \$200,000
- Annual payments of approximately \$100,000.
- 100% rent credit and option fee used as down payment at purchase
- Purchased price equal to 75% of current assessed value (\$1,966,400)
- Typical landlord responsibilities assumed by the tenant through the term of the lease.

Budget at Full Capacity with expected 7% Vacancy Rate

93% Occupancy

Expenses

Mortgage/Rent	106,704
Property	60,000
Taxes, insurance	24,070
Utilities	180,000
Staffing	600,000
Dietary @ 5.25 per person per day	114,975
Supplies	159,000
Vacancy Rate @ 7%	89,040
Total	1,333,789
Admin	123,211

Total Expenses 1,457,000

Revenue

Direct Pay	720,000
Grants	552,000
Medicaid	185,000
Total Revenue	1,457,000



393 Front Street

Parcel Information

Parcel No: 58 A 38a	City: Lovington
Address: 393 Front Street	LRS No: 2138
Class: 74	Total Acres: 7.2600
Class Description: 74- Local Gov	Description1: Lovington
Magisterial District: 01	Description2: Db 218/753
Deed Book and Page:	Description3:

Valuation

Fiscal Year (January 1 - December 31)
Land: \$192,600
Improvements: \$1,966,400
Total: \$2,159,000

Ownership

Current Owner
Owner Name: County Of Nelson
Mailing Address: P O Box 336
State: Va

Owner Name 2:
City: Lovington
Zip: 22949

Site Description

Water: Y	Sewer: Y
Gas:	Electric:
Easement: Paved	Topography: Rolling
Characteristic:	Sidewalk: Y

Dwelling Information Exterior

Stories: 1	Year Built: 1986
Size: 26721	Foundation (SqFt):
Structure: Wood Frame	Exterior:
Roof Style: 4	Roof Cover:
Attached Garage:	Detached Garage:
Attached Carport:	Basement Garage:
Enclosed Porch:	Open Porch:
Wood Deck:	



Dwelling Information Interior

Total Rooms: 0	Bedrooms:
Full Baths:	Half Baths:
Interior Walls:	Floor Finish:
Heating Type: 26721 Sf	Central Air: Y
Attic Type: None	Attic Finished:
Fireplace:	Basement:
Basement Finished:	Lower:
Lower Finished:	

Prior Record of Ownership

Previous Owner

Sale Date: 04/21/2016	Sale Price: \$0
Grantor: Medical Facilities Of America	Deed Reference: 160000962

Previous Owner 2

Sale Date: 12/31/1899	Sale Price: \$0
Grantor:	Deed Reference: 0

Previous Owner 3

Sale Date: N/A	Sale Price: \$0
Grantor:	Deed Reference:

Candy McGarry

From: Debbie McCann
Sent: Wednesday, August 03, 2016 12:12 PM
To: Steve Carter
Subject: FW: Rents and Debt

Steve

The email below contains the info on the rent amounts the county pays and the annual debt service for various amounts of debt assuming a 20 yr. term.

Debbie

From: Debbie McCann
Sent: Wednesday, June 08, 2016 11:14 AM
To: 'Larry Saunders' <larrya5819@aol.com>
Subject: RE: Rents and Debt

FY17 Rents

McGinnis	\$12,256.59
Moyer	\$10,257.07
Front Street	\$16,024.80
Nelson Center:	
Recreation	\$36,108.00
Extension	<u>\$23,172.00</u>
	\$97,818.47

The county also contributes towards the health department rent at the Blue Ridge Medical Center. It is a 7 year lease that ends 11/30/2019. The total rent is currently \$65,150 but the local share of the rent is approximately \$25,500. This may or may not be a consideration.

It is also a consideration that the Department of Social Services may be able to utilize state/federal funding towards debt for renovated facilities.

Below is the debt service information using a 20 year term. It is likely that the interest rate would be somewhat higher than the interest rate on the courthouse renovation.

20 Year Term

Interest Rate	2.90%
Term (mos.)	240
Principal	\$1,000,000.00
Payment(mo)	\$5,496.05
Annual Debt	\$65,952.60

Interest Rate	2.90%
Term (mos.)	240
Principal	\$1,500,000.00
Payment(mo)	\$8,244.07
Annual Debt	\$98,928.90

Interest Rate	2.90%
Term (mos.)	240
Principal	\$2,000,000.00
Payment(mo)	\$10,992.10
Annual Debt	\$131,905.20

Let me know if you have questions or need anything further.

Debbie

Debbie McCann
Director of Finance & Human Resources
Nelson County
PO Box 336
Lovingston, VA 22949
434-263-7136
dmccann@nelsoncounty.org

From: Larry Saunders [<mailto:larrya5819@aol.com>]
Sent: Wednesday, June 08, 2016 9:45 AM
To: Debbie McCann <DMcCann@nelsoncounty.org>
Subject:

Debbie

Couple of things

How much does the county pay in rent per year on all buildings spaces

What would the annual payment be on 1 million 1.5 and 2 million based on the interested rate we now have on the courthouse project

Thanks
Larry

Code of Virginia
 Title 15.2. Counties, Cities and Towns
 Chapter 18. Buildings, Monuments and Lands Generally

§ 15.2-1800. Purchase, sale, use, etc., of real property.

A. A locality may acquire by purchase, gift, devise, bequest, exchange, lease as lessee, or otherwise, title to, or any interests in, any real property, whether improved or unimproved, within its jurisdiction, for any public use. Acquisition of any interest in real property by condemnation is governed by Chapter 19 (§ 15.2-1901 et seq.). The acquisition of a leasehold or other interest in a telecommunications tower, owned by a nongovernmental source, for the operation of a locality's wireless radio communications systems shall be governed by this chapter.

B. Subject to any applicable requirements of Article VII, Section 9 of the Constitution, any locality may sell, at public or private sale, exchange, lease as lessor, mortgage, pledge, subordinate interest in or otherwise dispose of its real property, which includes the superjacent airspace (except airspace provided for in § 15.2-2030) which may be subdivided and conveyed separate from the subjacent land surface, provided that no such real property, whether improved or unimproved, shall be disposed of until the governing body has held a public hearing concerning such disposal. However, the holding of a public hearing shall not apply to (i) the leasing of real property to another public body, political subdivision or authority of the Commonwealth or (ii) conveyance of site development easements across public property, including, but not limited to, easements for ingress, egress, utilities, cable, telecommunications, storm water management, and other similar conveyances, that are consistent with the local capital improvement program, involving improvement of property owned by the locality. The provisions of this section shall not apply to the vacation of public interests in real property under the provisions of Articles 6 (§ 15.2-2240 et seq.) and 7 (§ 15.2-2280 et seq.) of Chapter 22 of this title.

C. A city or town may also acquire real property for a public use outside its boundaries; a county may acquire real property for a public use outside its boundaries when expressly authorized by law.

D. A locality may construct, insure, and equip buildings, structures and other improvements on real property owned or leased by it.

E. A locality may operate, maintain, and regulate the use of its real property or may contract with other persons to do so.

Notwithstanding any contrary provision of law, general or special, no locality providing access and opportunity to use its real property, whether improved or unimproved, may deny equal access or a fair opportunity to use such real property to, or otherwise discriminate against, the Boy Scouts of America or the Girl Scouts of the USA. Nothing in this paragraph shall be construed to require any locality to sponsor the Boy Scouts of America or the Girl Scouts of the USA, or to exempt any such groups from local policies governing access to and use of a locality's real property. The provisions of this paragraph applicable to a locality shall also apply equally to any local governmental entity, including a department, agency, or authority.

F. This section shall not be construed to deprive the resident judge or judges of the right to control the use of the courthouse.

G. "Public use" as used in this section shall have the same meaning as in § 1-219.1.

Code 1950, § 15-692; 1962, c. 623, § 15.1-262; 1968, c. 418; 1974, c. 282; 1977, c. 269; 1979, c. 431; 1980, cc. 212, 559; 1984, c. 241; 1986, cc. 477, 573; 1990, c. 813; 1997, c. 587; 1998, c. 696; 2005, c. 822; 2006, c. 57; 2007, cc. 882, 901, 926.

**NOTICE OF PUBLIC HEARING
NELSON COUNTY BOARD OF SUPERVISORS
ADDITION TO GREENFIELD AGRICULTURAL AND FORESTAL DISTRICT**

In accordance with the Code of Virginia, 1950, as amended, §15.2-1427, §15.2-2204, §15.2-4303 §15.2-4307, and §15.2-4309, the Nelson County Board of Supervisors will hold a public hearing at 7:00 p.m., Tuesday, September 13, 2016 in the General District Courtroom of the Nelson County Courthouse located at 84 Courthouse Square, Lovingston. The purpose of said public hearing is to receive public input on an Ordinance proposed for passage that would include application #2016-01 requesting voluntary expansion of the existing Greenfield AFD by 13.88 total acres, pursuant to the Chapter 9 “Planning and Development,” Article V, “Agricultural and Forestal Districts” of the Code of Nelson County.

Application #2016-01 requests inclusion of the following parcels to the Greenfield AFD:

Tax Map Parcel #13-10-1 – Marc Chanin – 2.43 acres (zoned A-1)

Tax Map Parcel #13-10-3 – Marc Chanin – 11.45 acres (zoned A-1)

Following the public hearing, action by the Board may include taking a vote to approve, modify, or reject this application.

The full text of the proposed Ordinance and copies of the above files are available for review in the County Administrator’s Office or the Dept. of Planning & Zoning, 84 Courthouse Square or 80 Front Street, Lovingston, Virginia, M-F, 9am to 5pm. For more information, call (434) 263-7000 or (434) 263-7090, or toll free at 888-662-9400, selections 4 and 1. EOE

BY AUTHORITY OF NELSON COUNTY BOARD OF SUPERVISORS



To: Chair and Members, Nelson County Board of Supervisors
CC: Mr. Stephen A. Carter, County Administrator
From: Tim Padalino | Planning & Zoning Director, AFD Program Administrator
Date: September 8, 2016
**Subject: Public Hearing for Agricultural and Forestal District Application #2016-01
(Proposed Additions to Greenfield AFD / Mr. Marc Chanin)**

Summary of Application(s)	
<u>Site Address / Location:</u>	Greenfield / Afton / North District
<u>Tax Parcel(s):</u>	#13-10-1 (2.43 acres) and #13-10-3 (11.45 acres)
<u>Parcel Size:</u>	13.88 acres (total)
<u>Zoning:</u>	Agricultural (A-1)
<u>Applicants:</u>	Mr. Marc Chanin
<u>Request:</u>	Public hearing and BOS review for AFD Application #2016-01
▪ <i>Application Received On: May 31, 2016</i>	

On May 31st the Department of Planning & Zoning received an application from Mr. Marc Chanin requesting an expansion of the existing Greenfield Agricultural and Forestal District (AFD).

Specifically, AFD #2016-01 proposes the addition of two parcels of record, totaling 13.88 acres, into the existing Greenfield AFD: Tax Map Parcel #13-10-1 (2.43 acres, zoned A-1) and Tax Map Parcel #13-10-3 (11.45 acres, zoned A-1). *Please see the enclosed application materials and maps.*

This application was forwarded to the AFD Advisory Committee for their review and recommendation to the Planning Commission, pursuant to Code of Nelson County Virginia, Chapter 9, Article V, Section 9-201. The AFD Advisory Committee met on Tuesday, July 19th, and voted unanimously to recommend to the Planning Commission and the Board of Supervisors that they approve the addition of parcels 13-10-1 and 13-10-3 to the Greenfield AFD.

The Planning Commission (PC) then conducted a properly-advertised public hearing at their regular meeting on July 27th and, after receiving no comments from any members of the public, the PC voted unanimously (5-0) to recommend Board of Supervisors (BOS) approval of AFD #2016-01.

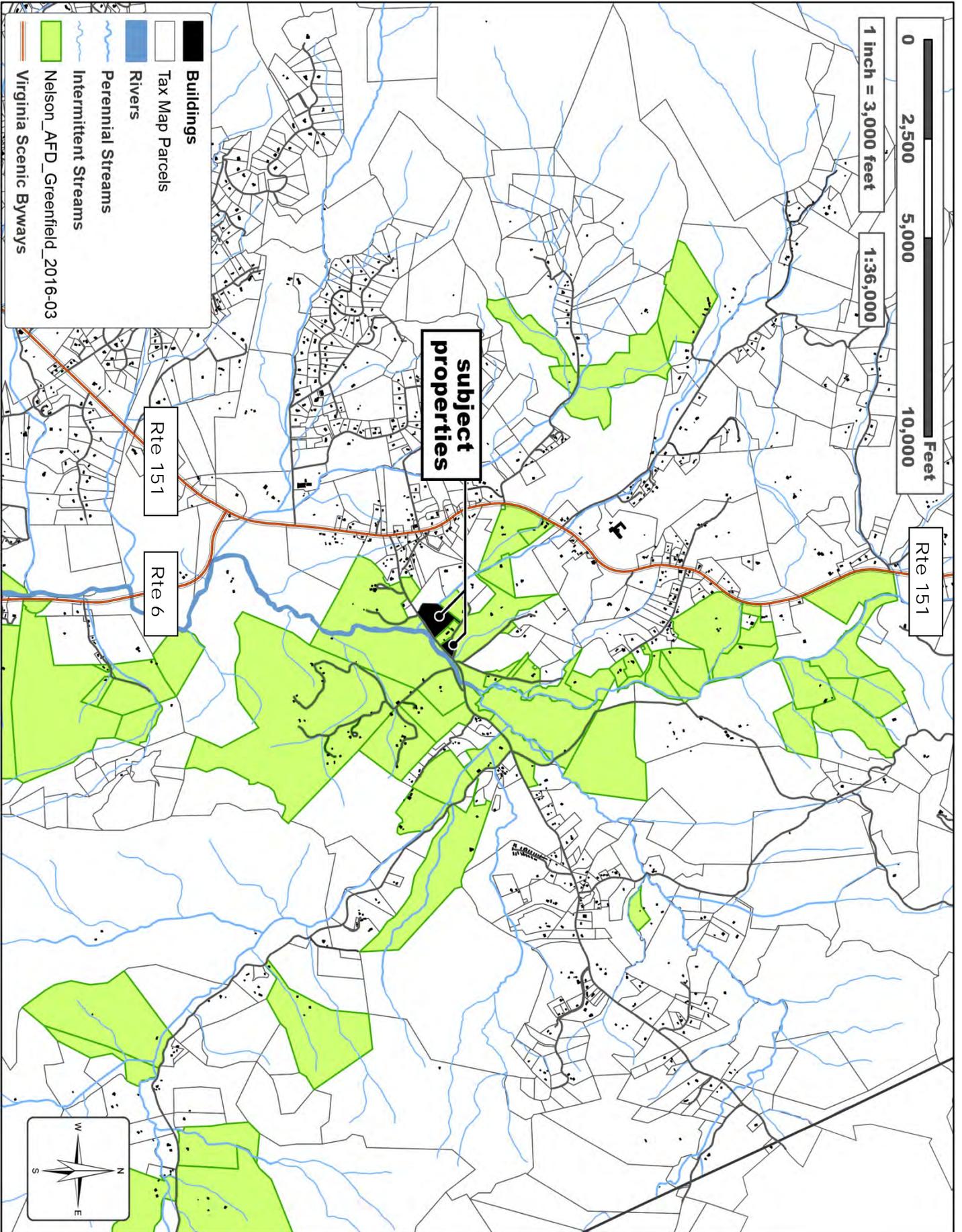
The BOS public hearing will be conducted on September 13th as provided by law, and, after such public hearing, may by ordinance add the proposed lands to the existing Greenfield AFD as applied for, or with any modifications it deems appropriate.

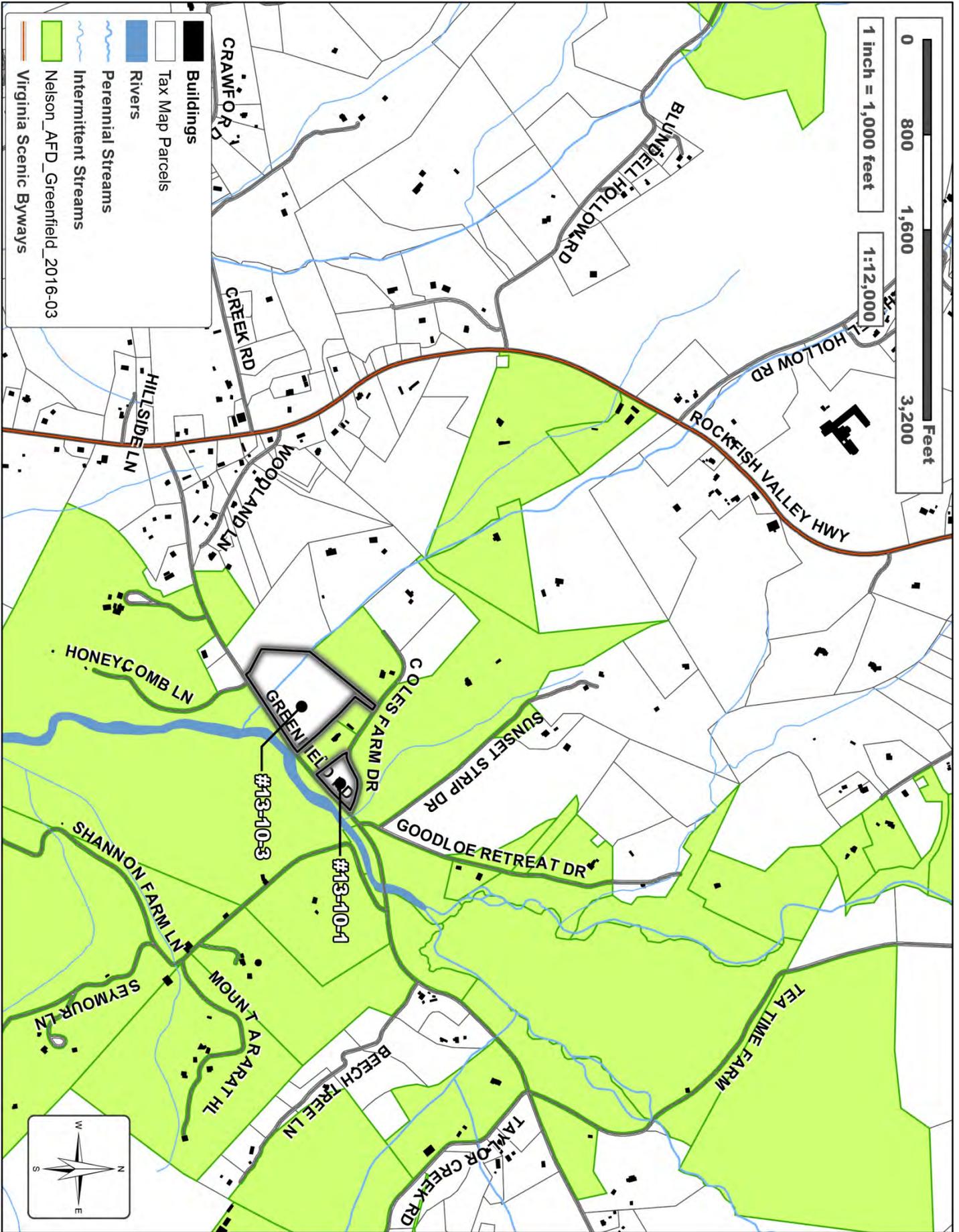
Please reference Section 9-201 "*Evaluation criteria*" for a list of factors to be considered by the Advisory Committee, Planning Commission, and Board of Supervisors when reviewing the application for AFD #2016-01, as follows:

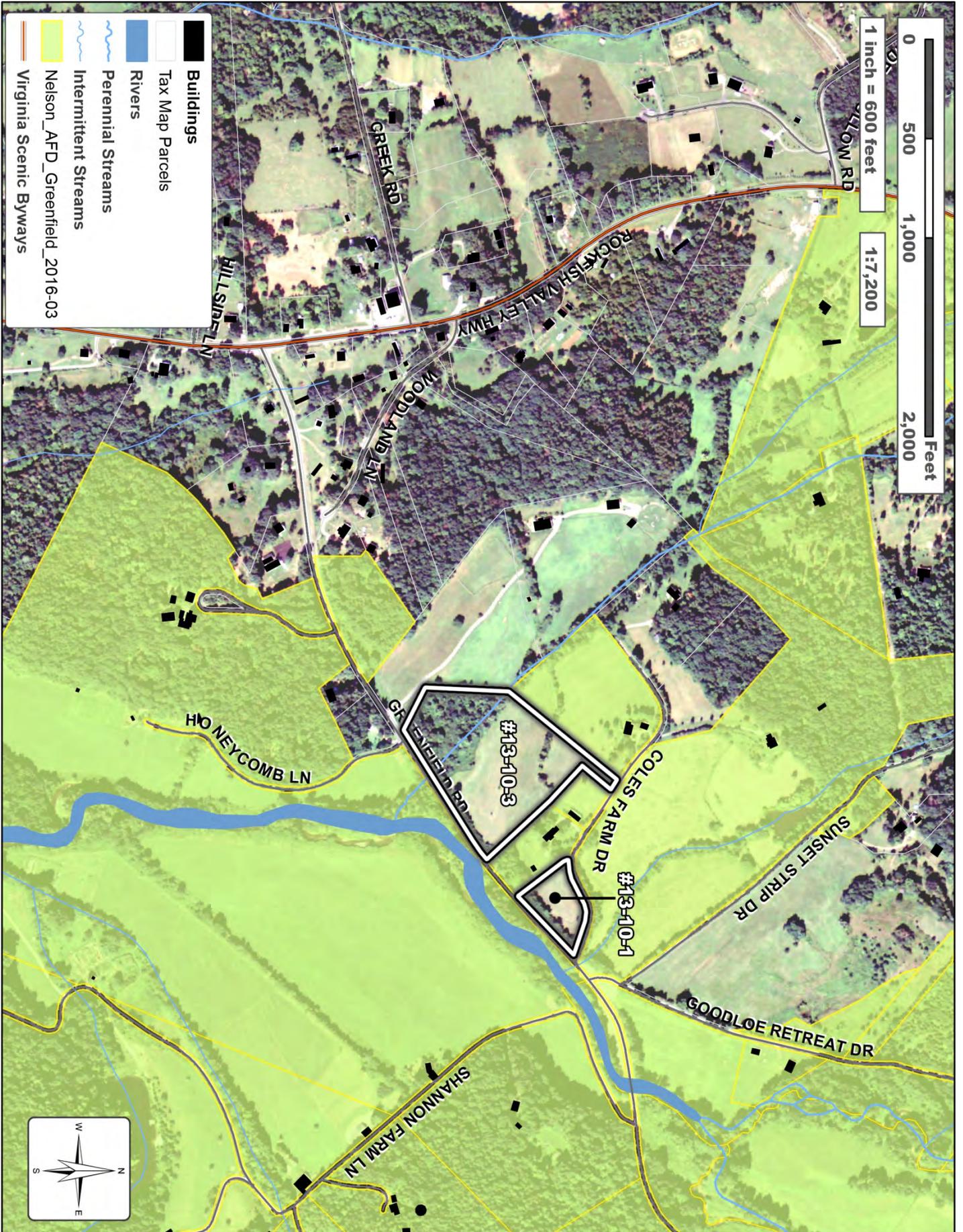
- a) *The agricultural and forestal significance of land within the district or addition and in areas adjacent thereto;*
- b) *The presence of any significant agricultural lands or significant forestal lands within the district and in areas adjacent thereto that are not now in active agricultural or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

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

In conclusion, please contact me with any questions, concerns, or requests for assistance leading up to the BOS review and public hearing for AFD #2016-01. Thank you very much for your time and attention to this application.







**APPLICATION FOR AN ADDITION TO AN AGRICULTURAL
AND FORESTAL DISTRICT**

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

TO BE COMPLETED BY APPLICANT

1. *Name of the District:* Greenfield Agricultural and Forestal District

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

Current proposed addition to the Greenfield Ag/Forestal District is consists of two parcels that border Rte 151 and are contiguous on multiple sides with lands already in the District.

3. *Total Acreage in the District Addition:* 13.88 acres

4. *Landowners applying for the District:* Marc Chanin

5. *Designated Landowner Contact:* Marc Chanin, 224 Coles Farm Drive, Afton VA 22920
(434-361-1222)

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

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

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

ORDINANCE O2016-05
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA
CHAPTER 9 “PLANNING AND DEVELOPMENT,” ARTICLE V,
“AGRICULTURAL AND FORESTAL DISTRICTS”
EXPANSION OF THE GREENFIELD AGRICULTURAL AND FORESTAL DISTRICT

WHEREAS, Mr. Marc Chanin has filed application #2016-01 to expand the Greenfield Agricultural and Forestal District centered along Greenfield Road (Rte. 635) near Shannon Farm Lane (Rte. 843), roughly following the route of the North Fork of the Rockfish River starting near the intersection of Rte. 151 and Pounding Branch Road (Rte. 709), extending due south in a nearly continuous swath for approximately 5.1 miles, and ending just south of the river's North/South Fork confluence (near the intersection of Rte. 6 and Hill Hollow Road/Rte. 810) and extending NW and SE to include properties flanking Rte. 633 (Blundell Hollow and Taylor Creek Roads) for a total addition of **13.88** acres; and

WHEREAS, the new parcels to be added to Greenfield Agricultural and Forestal District are as follows:

Parcel #13-10-1- 2.43 acres zoned A-1
Parcel #13-10-3– 11.45 acres zoned A-1, and

WHEREAS, the property owner voluntarily agreed to subject their property to the requirements stated in Section 9-202 of the Code of Nelson County and in addition, the following conditions will also apply:

- a. No parcel within the District shall be developed to a use more intensive than that existing on the date of creation of the district, other than uses resulting in more intensive agricultural or forestal production;
- b. Parcels of land within the District may only be subdivided by purchase or gift to immediate family members. However, subdivided parcels shall remain in the District for at least until the time of the next scheduled District renewal; and
- c. Parcels of land within the District may be sold in their entirety to a non-family member during the term of the District. However, the parcel under new ownership shall remain in the District at least until the time of the next scheduled District renewal; and

- d. Membership in this AFD does not preclude building a home on land on which no structure exists, or construction of guest house, garage, workshop, barn or similar auxiliary structure as allowed by County Regulations.
- e. The period before first review is four (4) years; and

WHEREAS, all procedural matters have been completed pursuant to §15.2-4300 et seq. of the Code of Virginia, 1950 as amended and pursuant Article V, Agricultural and Forestal Districts of the Code of Nelson County; and

WHEREAS, after reviewing the Planning Department’s report, the Agricultural and Forestal Districts Advisory Committee’s recommendation, and considering the comments from the public received at its public hearing held on **July 27, 2016** it is the Board’s finding that there are significant agricultural and forestal lands within the proposed expanded Districts and the newly proposed District and that they meet the requirements for such designation;

NOW THEREFORE BE IT ORDAINED, by the Nelson County Board of Supervisors that the Code of Nelson County, Chapter 9 “Planning and Development,” Article V, “Agricultural and Forestal Districts” be amended to expand the Greenfield Agricultural and Forestal District as proposed with the conditions (restrictions) as stated in the application; which each property owner voluntarily agreed to place on his and/or her property; and

BE IT FURTHER ORDAINED, by the Nelson County Board of Supervisors that this Ordinance becomes effective upon adoption.

Adopted: _____, 2016

Attest: _____, Clerk
Nelson County Board of Supervisors

**NOTICE OF PUBLIC HEARING
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF THE CODE OF NELSON COUNTY
DISPOSITION OF UNCLAIMED PROPERTY HELD BY THE SHERIFF**

In accordance with Volume 3A, Title 15.2, Counties, Cities and Towns, of the Code of Virginia, 1950, as amended, and pursuant to §15.2-1427, §15.2-1719, §15.2-1720, and §15.2-1721, the Nelson County Board of Supervisors hereby gives notice that a Public Hearing will be held at **7:00 p.m., Tuesday September 13, 2016** in the **General District Courtroom** on the third floor of the Nelson County Courthouse located at 84 Courthouse Square, Lovingston. The purpose of said public hearing is to receive public input on an Ordinance proposed for passage concerning the disposition of unclaimed property held by the Sheriff. A descriptive summary of the proposed amendment is as follows:

Section (a) authorizes the Sheriff to dispose of unclaimed personal property following reasonable attempts to notify the rightful owner of the property. Such disposition includes: public sale and or retained use by the department. This section also defines “unclaimed personal property” and provides for public notice requirements prior to disposition.

Section (b) provides for the optional disposition of unclaimed bicycles, electric power-assisted bicycles, mopeds, and electric personal assistive mobility devices that go unclaimed for more than 30 days by public sale or donation to a charitable organization. This section also provides for the circumstances under which these items found and delivered to the Sheriff’s Department can be given to the finder.

Section (c) provides for the optional disposal or destruction of unclaimed firearms or other weapons in possession of the Sheriff inclusive of destruction after 120 days or donation to the Department of Forensic Science, upon agreement of the Department. This section also defines “unclaimed firearms and other weapons” and provides for public notice requirements prior to disposal or destruction.

The full text of the proposed Ordinance is available for review in the County Administrator’s Office, 84 Courthouse Square Lovingston, Virginia, M-F, 9am to 5pm. For more information, call (434) 263-7000. EOE

AUTHORIZED BY THE NELSON COUNTY BOARD OF SUPERVISORS

ORDINANCE O2016-06
NELSON COUNTY BOARD OF SUPERVISORS
DISPOSITION OF UNCLAIMED PROPERTY HELD BY THE SHERIFF

BE IT ORDAINED, pursuant to the Code of Virginia §§ 15.2-1719, 15.2-1720, and 15.2-1721, that the Nelson County Board of Supervisors does hereby amend the Code of Nelson County, Virginia 1950 as amended; as follows:

County Unclaimed property ordinance

Sec. _____. Unclaimed Personal Property Held by the Sheriff.

(a) Disposition of Certain Unclaimed Personal Property.

(1) In connection with unclaimed personal property held by the sheriff, other than personal property disposed of pursuant to subsections (b) and (c) of this ordinance, the sheriff is authorized to either (i) conduct a public sale in accordance with the provisions of this section or (ii) retain for use by the sheriff's department any such unclaimed personal property which has been in the possession of its law-enforcement agencies and unclaimed for a period of more than 60 days, after payment of a reasonable storage fee to the sheriff or other agency storing such property. No storage fee shall be charged or accounted for if such property has been stored by and is to be retained by the sheriff's office or other law-enforcement agency. As used herein, "unclaimed personal property" shall be any personal property belonging to another which has been acquired by a law-enforcement officer pursuant to his duties, which is not needed in any criminal prosecution, which has not been claimed by its rightful owner, and which the State Treasurer has indicated will be declined if remitted under the Uniform Disposition of Unclaimed Property Act (Va. Code § 55-210.1 *et seq.*).

(2) Prior to the sale or retention for use by the law-enforcement agency of any unclaimed item, the sheriff or his duly authorized agents shall make reasonable attempts to notify the rightful owner of the property, obtain from the attorney for the Commonwealth in writing a statement advising that the item is not needed in any criminal prosecution, and cause to be published in a newspaper of general circulation in Nelson County once a week for two successive weeks, notice that there will be a public display and sale of unclaimed personal property. Such property, including property selected for retention by the law-enforcement agency, shall be described generally in the notice, together with the date, time and place of the sale and shall be made available for public viewing at the sale. The sheriff or his duly authorized agents shall pay from the proceeds of sale the costs of advertisement, removal, storage, investigation as to ownership and liens, and notice of sale. The balance of the funds shall be held by such officer for the owner and paid to the owner upon satisfactory proof of ownership. Any unclaimed item retained for use by the law-enforcement agency shall become the property of the County served by the agency and shall be retained only if, in the opinion of the chief law-

enforcement officer, there is a legitimate use for the property by the agency and that retention of the item is a more economical alternative than purchase of a similar or equivalent item.

(3) If no claim has been made by the owner for the property or proceeds of such sale within 60 days of the sale, the remaining funds shall be deposited in the general fund of the County and the retained property may be placed into use by the law-enforcement agency. Any such owner shall be entitled to apply to the County within three years from the date of the sale and, if timely application is made therefor and satisfactory proof of ownership of the funds or property is made, the County shall pay the remaining proceeds of the sale or return the property to the owner without interest or other charges or compensation. No claim shall be made nor any suit, action or proceeding be instituted for the recovery of such funds or property after three years from the date of the sale.

(b) Optional Disposition of Unclaimed Bicycles, Electric Power-Assisted Bicycles, Mopeds, and Electric Personal Assistive Mobility Devices.

(1) The sheriff is authorized to provide for the public sale or donation to a charitable organization of any bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped that has been in the possession of the sheriff's department, unclaimed, for more than thirty days. The procedures for sale shall be the same as provided in Subsection (a) above.

(2) Any bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped found and delivered to the sheriff's department by a private person that thereafter remains unclaimed for thirty days after the final date of publication as required herein may be given to the finder; however, the location and description of the bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped shall be published at least once a week for two successive weeks in a newspaper of general circulation within the County. In addition, if there is a license, tag, or adhesive license decal affixed to the bicycle, electric personal assistive mobility device, or electric power-assisted bicycle, or moped, the record owner shall be notified directly.

(c) Optional Disposal of Unclaimed Firearms or Other Weapons in Possession of the Sheriff.

(1) The sheriff may elect to destroy unclaimed firearms and other weapons which have been in the possession of law-enforcement agencies for a period of more than 120 days. For the purposes of this section, "unclaimed firearms and other weapons" means any firearm or other weapon belonging to another which has been acquired by a law-enforcement officer pursuant to his duties, which is not needed in any criminal prosecution, which has not been claimed by its rightful owner and which the State Treasurer has indicated will be declined if remitted under the Uniform Disposition of Unclaimed Property Act (Va. Code § 55-210.1 *et seq.*).

(2) At the discretion of the sheriff, or his duly authorized agents, unclaimed firearms and other weapons may be destroyed by any means which renders the firearms and other weapons permanently inoperable. Prior to the destruction of such firearms and other weapons, the sheriff,

or his duly authorized agents shall comply with the notice provision contained in subsection (a) above.

(3) In lieu of destroying any such unclaimed firearm, the County may donate the firearm to the Department of Forensic Science, upon agreement of the Department.

State law reference--Virginia Code §§ 15.2-1719, 15.2-1720, and 15.2-1721.

BE IT FURTHER ORDAINED, by the Nelson County Board of Supervisors that this Ordinance becomes effective upon adoption.

Adopted: _____, 2016

Attest: _____, Clerk
Nelson County Board of Supervisors

DRAFT

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 17. Police and Public Order

§ 15.2-1719. Disposal of unclaimed property in possession of sheriff or police.

Any locality may provide by ordinance for (i) the public sale in accordance with the provisions of this section or (ii) the retention for use by the law-enforcement agency, of any unclaimed personal property which has been in the possession of its law-enforcement agencies and unclaimed for a period of more than 60 days, after payment of a reasonable storage fee to the sheriff or other agency storing such property. No storage fee shall be charged or accounted for if such property has been stored by and is to be retained by the sheriff's office or other law-enforcement agency. As used herein, "unclaimed personal property" shall be any personal property belonging to another which has been acquired by a law-enforcement officer pursuant to his duties, which is not needed in any criminal prosecution, which has not been claimed by its rightful owner and which the State Treasurer has indicated will be declined if remitted under the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.). Unclaimed bicycles and mopeds may also be disposed of in accordance with § 15.2-1720. Unclaimed firearms may also be disposed of in accordance with § 15.2-1721.

Prior to the sale or retention for use by the law-enforcement agency of any unclaimed item, the chief of police, sheriff or their duly authorized agents shall make reasonable attempts to notify the rightful owner of the property, obtain from the attorney for the Commonwealth in writing a statement advising that the item is not needed in any criminal prosecution, and cause to be published in a newspaper of general circulation in the locality once a week for two successive weeks, notice that there will be a public display and sale of unclaimed personal property. Such property, including property selected for retention by the law-enforcement agency, shall be described generally in the notice, together with the date, time and place of the sale and shall be made available for public viewing at the sale. The chief of police, sheriff or their duly authorized agents shall pay from the proceeds of sale the costs of advertisement, removal, storage, investigation as to ownership and liens, and notice of sale. The balance of the funds shall be held by such officer for the owner and paid to the owner upon satisfactory proof of ownership. Any unclaimed item retained for use by the law-enforcement agency shall become the property of the locality served by the agency and shall be retained only if, in the opinion of the chief law-enforcement officer, there is a legitimate use for the property by the agency and that retention of the item is a more economical alternative than purchase of a similar or equivalent item.

If no claim has been made by the owner for the property or proceeds of such sale within 60 days of the sale, the remaining funds shall be deposited in the general fund of the locality and the retained property may be placed into use by the law-enforcement agency. Any such owner shall be entitled to apply to the locality within three years from the date of the sale and, if timely application is made therefor and satisfactory proof of ownership of the funds or property is made, the locality shall pay the remaining proceeds of the sale or return the property to the owner without interest or other charges or compensation. No claim shall be made nor any suit, action or proceeding be instituted for the recovery of such funds or property after three years from the date of the sale.

1982, c. 163, § 15.1-133.01; 1994, c. 144; 1997, c. 587; 2010, c. 333.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 17. Police and Public Order

§ 15.2-1720. Localities authorized to license bicycles, electric power-assisted bicycles, mopeds, and electric personal assistive mobility devices; disposition of unclaimed bicycles, electric power-assisted bicycles, mopeds, and electric personal assistive mobility devices.

Any locality may, by ordinance, (i) provide for the public sale or donation to a charitable organization of any bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped that has been in the possession of the police or sheriff's department, unclaimed, for more than thirty days; (ii) require every resident owner of a bicycle, electric power-assisted bicycle, electric personal assistive mobility device, or moped to obtain a license therefor and a license plate, tag, or adhesive license decal of such design and material as the ordinance may prescribe, to be substantially attached to the bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped; (iii) prescribe the license fee, the license application forms and the license form; and (iv) prescribe penalties for operating a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped on public roads or streets within the locality without an attached license plate, tag, or adhesive decal. The ordinance shall require the license plates, tags, or adhesive decals to be provided by and at the cost of the locality. Any locality may provide that the license plates, tags, or adhesive decals shall be valid for the life of the bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, and mopeds to which they are attached or for such other period as it may prescribe and may prescribe such fee therefor as it may deem reasonable. When any town license is required as provided for herein, the license shall be in lieu of any license required by any county ordinance. Any bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped found and delivered to the police or sheriff's department by a private person that thereafter remains unclaimed for thirty days after the final date of publication as required herein may be given to the finder; however, the location and description of the bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped shall be published at least once a week for two successive weeks in a newspaper of general circulation within the locality. In addition, if there is a license, tag, or adhesive license decal affixed to the bicycle, electric personal assistive mobility device, or electric power-assisted bicycle, or moped, the record owner shall be notified directly.

Code 1950, § 15-554; 1962, c. 623, § 15.1-133; 1968, c. 24; 1970, c. 285; 1975, c. 76; 1986, c. 52; 1994, c. 449; 1997, c. 587; 2001, c. 834; 2002, c. 254; 2013, c. 783.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 17. Police and Public Order

§ 15.2-1721. Disposal of unclaimed firearms or other weapons in possession of sheriff or police.

Any locality may destroy unclaimed firearms and other weapons which have been in the possession of law-enforcement agencies for a period of more than 120 days. For the purposes of this section, "unclaimed firearms and other weapons" means any firearm or other weapon belonging to another which has been acquired by a law-enforcement officer pursuant to his duties, which is not needed in any criminal prosecution, which has not been claimed by its rightful owner and which the State Treasurer has indicated will be declined if remitted under the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.).

At the discretion of the chief of police, sheriff, or their duly authorized agents, unclaimed firearms and other weapons may be destroyed by any means which renders the firearms and other weapons permanently inoperable. Prior to the destruction of such firearms and other weapons, the chief of police, sheriff, or their duly authorized agents shall comply with the notice provision contained in § 15.2-1719.

In lieu of destroying any such unclaimed firearm, the locality may donate the firearm to the Department of Forensic Science, upon agreement of the Department.

1990, c. 324, § 15.1-133.01:1; 1997, c. 587; 2015, c. 220.