

AGENDA
NELSON COUNTY BOARD OF SUPERVISORS
September 8, 2015
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. Resolution recognizing the Service of Mary Coy, Former Jefferson Madison Regional Library Trustee (R2015-70)**

- III. Consent Agenda**
 - A. Resolution – **R2015-71** Minutes for Approval
 - B. Resolution – **R2015-72** FY16 Budget Amendment
 - C. Resolution – **R2015-73** COR Refunds

- IV. Public Comments and Presentations**
 - A. Public Comments
 - B. Presentation – Courthouse Phase II Project
 - 1. Authorization to Award & Execute Construction Contract (**R2015-74**)
 - 2. VRA Lease Financing Approval (**R2015-75**)
 - C. Presentation – 2016 TJPDC Legislative Priorities (D. Blount)
 - D. Presentation - Virginia Department of Forestry (M. Warring)
 - E. VDOT Report
 - 1. Shipman No Passing Zone Report
 - 2. HB2 Funding Applications (**R2015-76**)

- V. New Business/ Unfinished Business**
 - A. Planning & Zoning Project – Monarch Inn and Farm
 - B. Proposed Zoning Ordinance Amendments: “Wayside Stands” & “Farmers Markets” (**R2015-67**)- Authorization for Public Hearing (Deferred from 8/11/15)
 - C. Agricultural & Forestal District Applications – Authorization for Public Hearing (**R2015-77**)
 - D. Massies Mill Property Disposition-Authorization for Public Hearing (**R2015-78**)
 - E. Board of Supervisors Retreat
 - F. Dominion Atlantic Coast Pipeline Questionnaire

- VI. Reports, Appointments, Directives, and Correspondence**
 - A. Reports
 - 1. County Administrator’s Report
 - 2. Board Reports
 - B. Appointments
 - C. Correspondence
 - 1. Nelson Middle School FFA
 - D. Directives

- VII. Adjourn and Reconvene for Evening Session**

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

- I. Call to Order**
- II. Public Comments**
- III. Other Business**
 - A. Special Use Permit #2015-03** – “Dance Hall” / Jose & Elpidia Gaona
(Deferred from July 14, 2015)
- IV. Adjournment**

**RESOLUTION R2015-70
NELSON COUNTY BOARD OF SUPERVISORS
RECOGNITION OF SERVICE: MARY COY, FORMER JEFFERSON MADISON
REGIONAL LIBRARY TRUSTEE**

WHEREAS, Mary Coy served as a Library Trustee on the Jefferson Madison Regional Library Board for Nelson Memorial Library from 2008 to 2015 and;

WHEREAS, Mary Coy has faithfully and diligently contributed to the interests of Nelson County on the Jefferson Madison Regional Library Board for seven years on a variety of committees and;

WHEREAS, Mary Coy has both dedicated her service to the library and has been a strong advocate for the promotion of reading in Nelson County and;

WHEREAS, the members of the Nelson County Board of Supervisors wish to commend and thank Mary Coy for her service to Nelson County, which is indeed appreciated by all our citizens,

NOW, THEREFORE, BE IT RESOLVED, that the Nelson County Board of Supervisors does hereby recognize Mary Coy, and respectfully asks all citizens alike to join in expressing their sincere gratitude and appreciation for the many long hours of outstanding service and commitment she has given to our community.

Adopted: September 8, 2015

Attest: _____, Clerk
Nelson County Board of Supervisors

**RESOLUTION R2015-71
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF MEETING MINUTES
(August 11, 2015)**

RESOLVED, by the Nelson County Board of Supervisors that the minutes of said Board meeting conducted on **August 11, 2015** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

Approved: September 8, 2015

Attest: _____, Clerk
Nelson County Board of Supervisors

August 11, 2015

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: Constance Brennan, Central District Supervisor
Thomas H. Bruguere, Jr. West District Supervisor
Allen M. Hale, East District Supervisor – Vice Chair
Larry D. Saunders, South District Supervisor – Chair
Thomas D. Harvey, North District Supervisor
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

Absent: None

I. Call to Order

Mr. Saunders called the meeting to order at 2:00 PM, with all Supervisors present to establish a quorum.

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

Mr. Hale made a minor grammatical correction to the July 14, 2015 meeting minutes on page 15; which was acknowledged by Ms. McGarry. He then moved to approve the consent agenda and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted (3-0-1) by roll call vote to approve the motion. Mr. Bruguere abstained due to his absence from the July meeting and the following resolutions were adopted:

II. Consent Agenda

- A. Resolution – **R2015-63** Minutes for Approval

**RESOLUTION R2015-63
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF MEETING MINUTES
(July 14, 2015)**

RESOLVED, by the Nelson County Board of Supervisors that the minutes of said Board meeting conducted on **July 14, 2015** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

- B. Resolution – **R2015-64** FY16 Budget Amendment

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**RESOLUTION R2015-64
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF FISCAL YEAR 2015-2016 BUDGET
NELSON COUNTY, VA
August 11, 2015**

BE IT RESOLVED by the Board of Supervisors of Nelson County that the Fiscal Year 2015-2016 Budget be hereby amended as follows:

I. Transfer of Funds (General Fund)

<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$2,500.00	4-100-999000-9905	4-100-031020-5412

C. Resolution – **R2015-65** Healthcare Flexible Spending Account Plan Amendment

**RESOLUTION R2015-65
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF NELSON COUNTY FLEXIBLE BENEFITS PLAN**

WHEREAS, Nelson County Board of Supervisors established a flexible benefits plan (cafeteria plan) in accordance with Internal Revenue Code Section 125 (IRC 125) for the benefit of its eligible employees on June 13, 1990 and amended the plan to include medical and dependent daycare flexible spending accounts effective July 1, 2008;

BE IT RESOLVED by the Nelson County Board of Supervisors to amend the Nelson County Flexible Benefits Plan relative to the medical and dependent care flexible spending accounts to be compliant with the nondiscrimination requirements of IRC 125 as follows:

**ARTICLE I
PREAMBLE**

- 1.1 **Adoption and effective date of amendment.** The Employer adopts this Amendment to the Nelson County Flexible Benefits Plan (“Plan”) to reflect changes to the Nondiscrimination Requirements of the Plan. The sponsor intends this Amendment as good faith compliance with the requirements of this provision. This Amendment shall be effective as of August 1, 2015.
- 1.2 **Supersession of inconsistent provisions.** This Amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.

**ARTICLE II
NONDISCRIMINATION REQUIREMENTS**

- 2.1 **Effective Date.** This Amendment is effective as of August 1, 2015.

2.2 Nondiscrimination Requirements. Notwithstanding any provision contained in this Health Care/Dependent Care Flexible Spending Account Plan to the contrary, the “Adjustment to avoid test failure.” shall read as follows:

(c) **Adjustment to avoid test failure.** If the Administrator deems it necessary to avoid discrimination or possible taxation to Key Employees or a group of employees in whose favor discrimination may not occur in violation of Code Section 125, it may, but shall not be required to, reduce contributions or non-taxable Benefits in order to assure compliance with the Code and regulations. Any act taken by the Administrator shall be carried out in a uniform and nondiscriminatory manner. With respect to any affected Participant who has had Benefits reduced pursuant to this Section, the reduction shall be made proportionately among Health Flexible Spending Account Benefits and Dependent Care Flexible Spending Account Benefits, and once all these Benefits are expended, proportionately among insured Benefits. Contributions which are not utilized to provide Benefits to any Participant by virtue of any administrative act under this paragraph shall be forfeited and deposited into the benefit plan surplus.

NOW THEREFORE, BE IT FURTHER RESOLVED that the Nelson County Board of Supervisors hereby authorizes the County Administrator or Director of Finance and Human Resources to execute the amended plan document and any related documents which may be necessary or appropriate to implement the above amendment.

III. Public Comments and Presentations

A. Public Comments

Mr. Saunders opened the floor for public comments and the following persons were recognized:

1. Joe Lee, McClellan – Nelson Cable

Mr. McClellan read the following prepared statement pertaining to Broadband in the County:

- Nelson Cable is opposed to the County spending taxpayer money to extend the NCBA Network to “overbuild” its system on Route 151 south of Route 6 to Nellysford and beyond to Route 664.
- Nelson Cable intends to have our Internet in operation, at the intersection of Router 151 and Route 664, in time for the event at Devils Backbone later this month.
- Nelson Cable will make available to the other Internet Provider on the NCBA Network, Blue Ridge Internet (BRI), and access to its system along Route 151, at complete rates.
- Shentel has purchased nTelos and Nelson Cable is in discussions with them concerning their leasing our fiber to certain locations within and adjacent to Wintergreen to serve their and other Cell Towers.
- And finally, I will tell you again that Blue Ridge Internet and Nelson Cable will be able to connect more subscribers to the NCBA Network going to Piney River, than down Route 151 through Nellysford, where we already have or will have Cable and Internet service.

2. Woody Lynch, Lovington

Ms. Lynch noted she was speaking about the sidewalks in Lovington and that she had requested that these be assessed from between the corners of Front and Main Street. She added that the town residents had to get their mail at the post office and she noted the variance in the steps down on the sides of the street. She added that there was no access to sidewalks past the bank and up to the new Dollar Store and none from Claudia's flower shop to Tanbark; which housed the Horizon House and the drug store containing the only pharmacy in town. She noted it was difficult for the Horizon House clients to walk anywhere in town without sidewalks and if one was on crutches or in a wheel chair; the road would have to be used which was unsafe. Ms. Lynch noted that three people had fallen using the sidewalks; that two had broken their wrists and one was bruised. She concluded that she was asking VDOT to assess the sidewalks for universal access within the town.

B. Presentation – Delegate P. Richard “Dickie” Bell

Delegate Bell noted that he had a commending resolution to present to Mr. Harvey for his years of service on the Board of Supervisors. He noted that House Joint Resolution #764 was agreed to in February 2015 and that he had partnered with Delegate Fariss and Senator Deeds on the resolution.

Delegate Bell then read aloud the resolution as follows:

HOUSE JOINT RESOLUTION NO. 764

Offered February 5, 2015

WHEREAS, Tommy Harvey, a business owner and longtime public servant, has worked to support and enhance the lives of his fellow Nelson County residents as a member of the Nelson County Board of Supervisors for three decades; and

WHEREAS, a resident of Afton, Tommy Harvey owns Afton Service Center and was first elected to the Nelson County Board of Supervisors in 1984 when he was 30 years old, making him one of the youngest supervisors in the history of the county; and

WHEREAS, now serving his eighth term, Tommy Harvey has become the longest-serving member of the Nelson County Board of Supervisors; he has distinguished himself as an open-minded public servant who worked to support policies in the best interest of all local residents; and

WHEREAS, throughout his 30-year career, Tommy Harvey has made many important contributions to the community, including efforts to secure adequate funding for local emergency services; and

WHEREAS, Tommy Harvey is most proud of his contributions to strengthening Nelson County Public Schools; under his tenure, the county opened Rockfish River Elementary School and Tye River Elementary School and completed renovations on Nelson County High School, as well as the addition of a middle school; and

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WHEREAS, as a member of the Nelson County Broadband Authority, Tommy Harvey promotes the use of technology to ensure that Nelson County students have the tools to achieve success; and

WHEREAS, Tommy Harvey is an exemplar of the professionalism, vision, and care for the community shown by local public servants throughout the Commonwealth; he has received many awards and accolades for his good work, including recognition from the Virginia Association of Counties in 2014; now, therefore, be it

RESOLVED, by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Tommy Harvey for 30 years of service to the community as a member of the Nelson County Board of Supervisors; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tommy Harvey as an expression of the General Assembly's admiration for his leadership and dedication to the well-being of all Nelson County residents.

Mr. Harvey thanked Delegate Bell and noted that it meant a lot to him and he appreciated it.

Mr. Saunders also thanked Delegate Bell and Ms. Brennan added the recognition was well deserved.

C. Presentation – Nelson County Community Fund Advisory Committee (J. Francis, I. Joiner)

Ms. Jane Francis Co-Chair of the Nelson County Community Fund (NCCF) Advisory Committee expressed her thanks to the Board for their work.

She then noted that the NCCF has been helping county citizens for fifteen (15) years. She noted that the fund began with a donation from Gordon Smyth and has grown to giving out over \$1 million dollars to over 50 organizations within the county. She added that they were a committee advised fund operating under the Charlottesville Area Community Fund (CACF); who she noted took care of the fiscal affairs and they doled out the money.

Ms. Francis noted that they awarded grants twice a year in December and June. She reported that the previous winter, they gave out \$86,000 to local organizations and in June they would be awarding over \$66,000. She added that they provided financial assistance to charitable organizations and government agencies. She noted that those awarded tended to have imaginative and collaborative approaches and that they liked to give seed money and sustaining funds for them to keep going.

Ms. Francis then introduced Ms. Ika Joyner, Co-Chair of NCCF.

Ms. Joyner noted that she was Chair of the Opportunity Ball which was a large fundraiser for NCCF. She added that she was hoping they could count on the Board in getting one whole table together to come and that it would be held on October 24th at the Carriage House at Oak Ridge. She noted they would have a live auction and were asking businesses to support them. Ms. Joyner

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related that this event usually raised \$60,000 to \$80,000. She then noted that another fundraiser was a cruise in a real sailing ship and that for every 10th ticket sold, they got that amount and otherwise they got \$100 from every ticket sale; raising \$8,000 the previous year.

D. VDOT Report

Mr. Don Austin gave the following VDOT report:

Mr. Austin noted that regarding the turn lane projects right of ways, the property owners would be contacted in late fall and he would find out about the west side possibly shifting as noted by Mr. Harvey.

Mr. Austin noted he has discussed the issues with the sight distance and passing zone at the Shipman collection site with the traffic engineer and has asked for the trees to be cut in the area; however he has not heard back on this request.

Mr. Austin noted that there was ongoing plant mix installation occurring.

Mr. Austin noted he would discuss the sidewalks with the Ms. Lynch to see about the locations she mentioned. He noted that this may or may not fall under the new HB2 funding; however, if some repair work was needed, they would look at that.

Mr. Austin noted that they had received notice of special funds of \$50,000 and they could look into how to use the funds.

The Board then discussed the following VDOT issues:

Ms. Brennan:

Ms. Brennan noted that when coming out of Buck Creek Lane looking to the left in the southbound lane, the hillside needed cutting as it was hard to see there.

Ms. Brennan asked about the possibility of reducing the speed limit to 35mph through Nellysford and she asked Mr. Austin to pass the request on to the traffic division. She noted that the 35mph zone should start at the turn into Stoney Creek and go past Valley View Market.

Mr. Bruguere:

Mr. Bruguere asked if Cub Creek Road was slated to be patched where the culvert was replaced, and Mr. Austin noted it was. He added that they would let the stone settle before the permanent patch was done. Mr. Austin then noted he thought that the patch would be done and then it would be tarred and graveled; however he would check on that.

Mr. Bruguere noted that where they did the surface treatment, secondary sand and dust was piling up and needed to be brushed off. Mr. Austin noted that they would go back and do this; and Mr. Bruguere noted that it was a dangerous situation and that the loose gravel signs were still up.

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Mr. Bruguere then asked if VDOT was knocking off the hump in the median in Colleen and Mr. Austin noted they were; however they needed to check the location of water and sewer lines first. Mr. Bruguere then noted that he would like to see trench widening done on St. James Church Road since a lot of trucks were using the road now. He suggested that they at least put crusher run down and pack it.

Mr. Hale:

Mr. Hale noted it was worth looking into extending the sidewalk in Lovingson down to the Tanbark area.

Mr. Hale then asked about the Dollar Store installation and it was noted that these were done in isolation with the installation of the business. He noted that VDOT should be responsible for the ones in Lovingson.

Mr. Austin then asked if any pedestrian studies had been done in Lovingson and it was noted that a Master Plan had been done in the last ten (10) years. Mr. Austin then noted that this would help if the County were to apply for funds for this.

Mr. Harvey:

Mr. Harvey inquired about the requested speed limit reduction for the remainder of Route 151 and Mr. Austin noted he still had not heard anything. Mr. Harvey noted that when cars got backed up some, the speed limit did drop on Route 151. Mr. Harvey then asked who he could call that was above Mr. Austin and Mr. Austin noted that he could call Chris Winsted. Mr. Austin advised that he would ask about this again. Mr. Harvey noted that the blinking sign on Twin Poplars Road had been very effective.

Mr. Harvey then asked Delegate Dickie Bell in attendance about him helping to reduce the speed limit to 35 mph from Route 250 to Route 664. He added that the Spruce Creek intersection needed to be looked at along there. Mr. Harvey then noted that the County had a great study done of Route 151 and had gotten safety money to fix two (2) other dangerous intersections.

Mr. Hale then commented that he had been by the Afton Overlook and that there were people there. It was noted that the property owner there had counted 300 cars that came through and stopped one day. Mr. Harvey noted that VDOT would be bringing a boom ax up there to trim back the trees some more. He added that they have had meetings with local professionals to come up with a plan for the Overlook.

Mr. Austin noted that he was working on shifting the historical marker there and Mr. Harvey noted he thought the post had been twisted. Mr. Austin noted that Mr. Carter would need to work with Augusta County on this since Augusta County was on one side and Nelson was on the other.

Mr. Harvey noted that the rock wall needed repair and that he had some rock masons that were willing to repair it.

Mr. Saunders:

Mr. Saunders noted he wanted a report back on the issues in Shipman and on the Nelson Wayside.

IV. New Business/ Unfinished Business

A. Proposed Zoning Ordinance Amendment: “Bed & Breakfast” Uses (R2015-66) –Referral to Planning Commission

Mr. Padalino noted that the proposed uses included Bed & Breakfasts and other forms of lodging. He noted that the existing Ordinance was unclear and sometimes was contradictory. He noted for example, the ordinance did not define “bed and breakfast” or specifically provide for that type of use, despite the fact that “B&Bs” are a common and important part of the local economy.

He added that the existing “tourist home” use (which is how the “bed and breakfast” use has been interpreted) was co-defined with “boarding house,” despite the fact that tourist homes were for short-term lodging and boarding houses were for semi-permanent lodging. He noted that these distinct land uses should not be co-defined or co-regulated.

Mr. Padalino then noted that there were numerous other issues with the ordinance regarding these types of overnight lodging uses; and after repeatedly spending a disproportionate amount of time attempting to correctly interpret these elements of the ordinance, County staff believed the appropriate solution was to amend the ordinance to provide better clarity and consistency.

He then noted the following proposed definitions:

Article 2: Definitions

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

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

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

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

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

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

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

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

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

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

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

Mr. Padalino then noted that this was an initial draft presented and it needed more work before it should be voted on and he was requesting that the Board refer these proposed amendments to the Planning Commission. He added that the Planning Commission would need to recommend in which districts these were permissible by right or by Special Use permit or not at all.

Mr. Harvey suggested that these changes were proposed to accommodate one applicant and that some were in violation and nothing was being done about it. Mr. Padalino disagreed and noted that his office dealt with this daily and the lodging piece was missing from the Ordinance. He added that it put the burden on staff when the Ordinance was so poor and the proposed changes would benefit staff and applicants.

Mr. Harvey questioned the benefits of this and noted he has asked that the VDOT permit got done first. Mr. Padalino note that would be part of the site plan review process which did incorporate VDOT from the beginning. He noted that VDOT did not want to work with applicants unless it came through the County. He added that VDOT did look at entrances etc. Mr. Harvey indicated that he was unhappy about what was happening at Blue Haven 151 and he thought these amendments applied to all of their issues.

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Ms. Brennan and Mr. Carter both noted that the intent was to clean up the ordinance and make it easier to work with; not to assist one business. It was noted that Mr. Padalino was not trying to help the particular business that Mr. Harvey was concerned about; although his concerns were understood.

Mr. Hale questioned why Home Occupation was included as it was already defined and Mr. Padalino noted that these were drafted by Grant Massie who could not attend the meeting. He then noted that it was one of the more glaring contradictions in the ordinance and was why they were included. He added that one could apply “home occupation” to either a “B&B” or “home occupation”. Mr. Carter noted that the current definition was broad.

Mr. Harvey supposed that in some cases if the property was turned into a business zoning, and most were off of back roads, VDOT would make them put in entrances and instead of being a little shop, it would turn into something big. Mr. Carter agreed this usually happened.

Ms. Brennan reiterated that the secondary part of this was deciding where they could go once the definitions were cleaned up.

Mr. Padalino advised that “B&B” vs “home occupation” could be addressed more in depth if this was referred. He noted that “B&B” as a home occupation was unusual and had only come up recently. He added that “B&Bs” were very popular and people were trying to do these in A-1 and R-1 and interpretation of the current ordinance had not been easy.

Mr. Harvey supposed that in Afton, the only way to preserve old homes was to create revenue to put back into the structure, otherwise it would deteriorate.

Ms. Brennan noted this would help define it and encourage it and she thought the Planning Commission could sort this all out.

Mr. Hale then moved to approve resolution **R2015-56**, Referral of Amendments to Appendix A, Nelson County Zoning Ordinance – “Bed and Breakfast Uses” to the Nelson County Planning commission and Ms. Brennan seconded the motion. It was noted that the Planning Commission would have 100 days from their next meeting on August 26th to send a recommendation back to the Board.

There being no further discussion, Supervisors voted (4-1) by roll call vote to approve the motion with Mr. Harvey voting No and the following resolution was adopted:

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

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

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

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

B. Proposed Zoning Ordinance Amendments: “Wayside Stands” & “Farmers Markets” (R2015-67)- Authorization for Public Hearing

Mr. Padalino noted the issues that were described in his staff report as follows:

He noted that the Planning Commission (PC) had undertaken a policy review of the Zoning Ordinance provisions for “wayside stands,” and (over the course of many work sessions) had developed proposed amendments to the Zoning Ordinance for consideration by the Board of Supervisors. The PC’s policy review process recently culminated in a public hearing on July 22nd for proposed zoning ordinance amendments that, if adopted, would:

- substantially revise the existing “wayside stand” provision by creating new definitions and new regulations; and
- establish a new “farmers market” land use category, including a new definition and regulations.

He noted that for the purposes of discussion, these two types of land uses were being informally referred to as “off-farm agricultural retail sales.”

Mr. Padalino noted that the existing Zoning Ordinance regulations provided for “wayside stand” as a permissible land use in the Agricultural (A-1) District. Per §2 and §4-11-2, the operation of a wayside stand required an administrative zoning permit to be obtained; and all sales at wayside stands were by definition limited only to products produced by the permit-holder (and/or his or her family) on an agricultural operation owned or controlled by the permit-holder (and/or his or her family).

The existing Zoning Ordinance regulations do not define or otherwise provide for “farmers markets” as a permissible land use. The proposed amendments attempt to resolve that omission.

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Mr. Padalino reiterated that Farmer's Market was not currently addressed in the Ordinance. He noted that the Planning Commission held a public hearing on July 22nd and the proposed amendments were a product of 8-10 work sessions and was reviewed in detail. He added that the next step would be for the Board to authorize a public hearing.

Mr. Bruguere asked where the Nellysford Farmer's Market fell in the Ordinance now and Mr. Padalino noted it was not included. Mr. Carter noted that this was an issue because it was in an RPC (Residential Planned Community). Mr. Bruguere pointed out that it was now more than a farmer's market and a good portion of it now included crafts.

Mr. Hale noted that they would not want to do anything to limit the Farmer's Market operation there as it was booming.

Mr. Bruguere noted that the crafters were taking up farmers' space now and he was wondering what classification it would be in. Mr. Padalino noted that this could be in any business and A-1 district and RPC could be added and the definition could be changed to include crafts.

Mr. Carter asked how the Board wanted to consider this; work on it first or after the public hearing.

Mr. Hale indicated he wanted to study it more and Mr. Carter suggested that the Board could establish a two-person committee to work on this with Mr. Padalino. He added that the Board did not have to act on it immediately. Mr. Padalino noted that they were seeing a trend of people setting up stalls on the busiest roads and the proposed ordinance addressed this under a SUP and there would be a more rigorous process. He added that they would have to fill out an application and while there would be more regulation on paper, it would improve its real life application.

Mr. Bruguere noted that these were popping up on busy roads because they needed that exposure and they would not do well on a side road.

Ms. Brennan noted they should look at it especially on Route 151. Mr. Harvey questioned the difference between this and a yard sale. He noted he agreed with Mr. Bruguere, that most orchards were not on a main road and he thought they should be able to sell their products.

Mr. Bruguere noted he would like to study this for a month and have a public hearing in October. Mr. Carter noted staff could bring it back next month to discuss and then go from there.

Supervisors then agreed by consensus to defer consideration of this until September.

C. Proposed Zoning Ordinance Amendment: "Temporary Events" (R2015-68) – Referral to Planning Commission

Mr. Padalino noted the staff report and the issues as follows:

He noted that the existing Zoning Ordinance provisions for "special events" were fundamentally inadequate and gave the following examples:

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There was ongoing confusion (among members of the public and among County staff) regarding how to determine which events require Special Events Permits, and which did not. "Special events" were not defined in the ordinance, and there were no clear boundaries for types of activities which may be exempt from the permit requirement, or which types of events absolutely needed to obtain permits. He noted that this lack of clarity would continue to be a recurring issue, based on the ongoing, successful proliferation of the agritourism and events industries.

He noted that the ordinance did not contain specific evaluation criteria to guide the County's decision-making process during the review and approval/denial of Special Events Permit applications. Staff have done the best they could to develop processes and apply common-sense criteria on a case-by-case basis; and the results have been mostly successful. However, the decision-making process should be based on clear criteria that is consistently applied to each and every event.

He added that the ordinance made no distinction between small events (such as a brief parade down Front Street in Lovington) and major events (such as Lockn' Festival or other mass gatherings). Currently, the same application and same \$25 application fee applied to all events.

He noted that the ordinance currently only contemplated the proposed special event in isolation, and did not account for how the venue / property should be addressed (especially if the special events, which are temporary, propose to include permanent improvements such as roads, utilities, structures, etc.).

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

Mr. Padalino then noted that these were prepared by him, Phil Payne, Mr. Carter and Ms. McGarry. He added that the Events were growing more complex and it was time for more sophisticated means to regulate them. He added that he was not against them and he thought they were great; however the Ordinance needed work. He added that these proposed amendments needed to be referred to the Planning Commission.

Mr. Carter noted that the Board may want to study it for a month or so; however he thought something needed to be done. Mr. Padalino added that his office was inundated with questions about needing a special events permit.

Mr. Padalino then noted the proposed amendments would serve to substantially modify the way events were regulated, in the following ways:

“Special Events Permits” would be redefined as “Temporary Event Permits,” to help avoid confusion with “Special Use Permits” and to emphasize that these are primarily meant to be temporary activities, not permanent land uses.

Three categories of events would be established. These would be primarily determined by the number of attendees, and would require different fee payments.

Numerous different types of events would be specifically exempted from Temporary Event Permit requirements; see proposed §23-2-1 “Exempt Events.”

He then noted the following proposed amendments that would mostly be contained in their own Article of the Code:

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

Statement of Intent

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

23-1 Definitions

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

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

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

Temporary Event, Historical Property: An event such as historical reenactments, living history, home tours, or similar activities which are conducted in connection with a property of historical or

natural value when there is either (i) no admission or (ii) a nominal admission dedicated to preservation, restoration, or charitable purposes.

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

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

23-2 Temporary Event Permits

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

23-2-1 Exempt Events

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

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

23-2-2 Temporary Event, Category 1

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

23-2-3 Temporary Event, Category 2:

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

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Monday, Tuesday, or Wednesday night; nor after 11:59 p.m. on any Thursday night; nor after 1:00 a.m. on any Saturday and Sunday morning. A Category 2 Temporary Event Requires a Temporary Event Permit.

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

2-4 Structures for Category 1 and 2 Temporary Events

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

23-2-5 Temporary Event, Category 3

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

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

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

23-3 Issuance of Temporary Event Permits

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

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

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

1. Establish or modify times during which activities or amplified sound, or both, may be conducted;
2. Fix the permitted dates for the event;
3. Limit the number of attendees; and
4. Impose such conditions as are necessary to protect the health, safety and welfare of attendees and residents of the County.

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

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

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

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

Article 4. Agricultural District (A-1)

Remove the following:

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

Add the following:

4-1 Uses – Permitted by right:

Agritourism activity

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

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Category 1 Temporary Event
Category 2 Temporary Event
Category 3 Temporary Event
4-1a Uses – Permitted by Special Use Permit Only:
Festival Grounds

Article 8. Business District (B-1)

Add the following:

8-1 Uses – Permitted by right:
Category 1 Temporary Event
Category 2 Temporary Event
Category 3 Temporary Event
8-1a Uses – Permitted by Special Use Permit Only:
Festival Grounds

Article 8A. Business District (B-2)

Add the following:

8A-1 Uses – Permitted by right:
Category 1 Temporary Event
Category 2 Temporary Event
Category 3 Temporary Event
8A-1a Uses – Permitted by Special Use Permit Only:
Festival Grounds

Mr. Padalino noted that the long list of exempt events would complement the increase in rules for larger events.

Mr. Hale noted he was in favor of the fees involved with the larger events.

Ms. Brennan then moved to approve resolution **R2015-58**, Referral of Amendment to Appendix A, Nelson County Zoning Ordinance – Addition of Article 23, Temporary Events, Festival Grounds, and Out-Of-Doors Accessory Uses to the Nelson County Planning Commission. Mr. Bruguere seconded the motion and suggested including a minimum threshold of attendees as well.

Mr. Hale commended Mr. Padalino for the job he was doing and noted he has gotten favorable comment from the public and he thanked him for his work.

There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the following resolution was adopted:

RESOLUTION R2015-68
NELSON COUNTY BOARD OF SUPERVISORS
REFERRAL OF AMENDMENT TO APPENDIX A, NELSON COUNTY

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**ZONING ORDINANCE- ADDITION OF ARTICLE 23, TEMPORARY EVENTS,
FESTIVAL GROUNDS, AND OUT-OF-DOORS ACCESSORY USES
TO THE NELSON COUNTY PLANNING COMMISSION**

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

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

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

V. Reports, Appointments, Directives, and Correspondence

A. Reports

1. County Administrator’s Report

Prior to giving his report, Mr. Carter echoed Mr. Hale’s complimentary remarks about the Planning Department and reiterated that proposed amendments to the Zoning Ordinance were an effort to strengthen the ordinance and make it easier to work with; while being business friendly.

Mr. Harvey noted he liked them having some discretion and Mr. Carter noted that they had been wrangling with Special Events since LOCKN came in; however it was for the Board to decide.

Ms. Brennan then noted that Mr. Padalino worked hard and took his job extremely seriously and it was hard to treat people the same with the numerous vagaries that were in the ordinance.

1. Courthouse Project Phase II: A mandatory pre-bid meeting was conducted on 8-6 with very good attendance. Sealed bids for the project are due on 9-2-15 at 2 p.m. Additionally, the County’s application to VRA for financing of the project was also submitted on 8-6.

Mr. Carter noted staff would have a conference call with VRA on the financing application on Friday at 2pm. He noted that the construction firms that attended the pre-bid meeting were recognized as quality firms that the County would be happy to have. He noted that they were from Roanoke to Richmond and Mr. Saunders noted some were from Lynchburg and he concurred that they would do a good job. Mr. Carter noted that Blair Construction was present and overall he hoped to have a good bidding outcome.

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2. Broadband: A) Local Innovation Grant Project: Phase 1 construction (from Rtes. 151&6 to Rtes. 151 & 664t) will commence after receipt of right of way permits from VDOT (application(s) submitted on 8-5). A 6-8 week construction period is projected. Thereafter, Phase 2 and 3 will be initiated. Significant interest is being expressed in the Phase 1 network extension. **B) Broadband Strategic Plan:** Development of the scope of work for the project is pending completion.

Mr. Carter noted he thought the network would have 50-100 new customers once the extensions were built. He added that staff had a positive conversation with a large ISP about them providing services in the County. He noted they had the potential to provide Triple Play services.

3. BR Tunnel: An application to VA-DCR for \$250,000 in Recreational Trails Program grant funding was submitted to the Department on 8-4. If successful, the DCR grant funding will be combined with VDOT TAP funding presently in place to provide for completion of a revised Phase 2 (of 3) Project, which encompasses full Tunnel restoration, including bulkhead(s) removal and trail installation, etc. At present, the prospects for overall completion of the project are very promising.

Mr. Carter noted that Ms. McGarry and Woolpert worked on the Recreational Trails Grant application and he was optimistic the County would be awarded funds to complete phase II. He noted that these funds would help tie in two pots of VDOT money and the County would be able to construct the trail through the tunnel and rehabilitate the tunnel. He noted that these funds were Federal Government funds. He also noted that VDOT staff was working on consolidating the phase monies so it would be combined together and the County could get it quickly.

Mr. Hale asked if it was necessary to wait for DCR funding before bidding the project and Mr. Carter noted that this would need to be discussed; however the input from VDOT was to go forward once the County got the consolidated funding agreement.

4. Lovingson Health Care Center: The Citizen's Committee is continuing to meet. Region Ten has previously submitted a purchase proposal and input is pending from Piedmont Housing Alliance on specific interest it may have in ownership and operation of the Center. Staff has a scheduled conference call on 8-12 with a Harrisonburg based adult care company to discuss the company's specific interest in acquiring the property. Input on 8-5 from Medical Facilities of America staff noted that closing of the Center is presently projected in February 2016.

Mr. Carter noted that PHA's input was that they would like to do something like the Ryan School Apartments which would be more akin to affordable housing than assisted living. He noted that the Harrisonburg company was trying to determine how to make an assisted living facility there successful. He then added that the assessed value of the property was \$1.9 Million and that prospects were looking more promising now with three (3) entities wanting further discussion. He then noted that the Committee was meeting the next Tuesday to review things.

5. Radio Project: The Director of Information Services (S. Rorrer) is drafting a more comprehensive status of the project to be included in the agenda package. Input subsequently received from S. Rorrer is, as follows:

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I met with the Emergency Services Council on July 21, 2015 to give them an update on the system and listen to their concerns.

I assured them that the County was committed to finding solutions to the problems that they were experiencing. I noted that most were related to coverage that additional tower sites would be required to improve it. I also noted that the research, planning and deployment of additional tower sites is a complicated and will take quite a bit of time to accomplish.

Motorola has initiated a new project that will look at how various tower sites (Buck's Elbow, Rockfish Fire Dept., Stoney Creek) will enhance system coverage in the County. RCC is also looking at coverage. (We will need to determine if we want to work with Motorola on next steps or if we want to work with RCC to evaluate and make recommendations on our next steps.)

Motorola has found a resolution to the reported "ghost tone" heard on pagers. I am working with Motorola to determine how we will schedule reprogramming and agencies are working to determine how many need to be reprogrammed. Most of them report that it is practically all of them

6. CDBG Grant Application for Sewer Line Extension: An application to VA-DHCD for funding of the project is in process with additional guidance from DHCD pending receipt.

Mr. Carter noted that the application had to be in By September 30th. He noted that the sale of Valley the water system had gone through.

7. Maintenance: Roof replacement for the new Maintenance Building is scheduled to commence on 8-13 and be completed by 8-28. Repairs at Nelson Memorial Library are pending a more extensive approach, which will require prior review and approval by the Board.

Mr. Carter reported that the roofing contractor noted he could not start when he originally thought because work on another job was extended. He noted that the County's agreement had been amended to extend the work dates.

8. Coffey v. County of Nelson et al: The hearing for the suit brought against the County, Sheriff David Brooks and County Administrator Steve Carter by former Deputy Sheriff Joshua Coffey (seeking compensation for vacation, holiday and compensatory time) was held on 8-5 in the General District Court. The Judge's decision was to remove Nelson County and S. Carter from the suit (as the County had sought). However, Sheriff Brooks and the Sheriff's Department (also named in the suit) were not dismissed from the suit and in his ruling the Judge established a monetary amount (\$4,752.60, inclusive of court costs with 6% interest added as of 8-5-15) to be paid by the Sheriff and the Department to Mr. Coffey.

Ms. Brennan asked about policies being set to make sure this did not happen again and Mr. Carter noted that they had not been as it was the Sheriff's Department policy of holding positions open until their accrued time was paid off and the Judge found no fault with that. He noted that the Judge did acknowledge that employees of the Sheriff's Department were their employees and were not employees of the County. He noted that overtime was incurred due to the nature of the

department and it was likely that way everywhere. He added that how it would be paid was to be determined. He noted they could use Asset Forfeiture funds or could come and ask the Board for the money.

9. FY 14-15 Budget & Audit: The recently completed fiscal year/operational budget resulted in no financial issues or concerns. The FY 15 Audit Report (CAFR) is in process but will not be completed until early in the fourth quarter of 2015 (November- December).

Mr. Carter noted that local revenues came in \$1.2 Million more than budgeted and expenditures were less by \$2-3 Million. He clarified that some of this was due to grant funds and he noted that the General Fund was noted to be \$23 million in the Treasurer's report. He advised that the County was still in good financial position.

10. Voting Machines: The County's Registrar, Ms. J. Britt, reported in late July that the new voting machines were delivered in July and acceptance testing and training were successfully completed on 7-21 such that the new machines were be in service for the 11-15 elections.

11. Board Retreat: A work sessions with Mr. Saunders and Ms. Brennan is scheduled for 8-20.

12. Department Reports: Included with the 8-11-15 BOS agenda.

2. Board Reports

Mr. Hale reported the following:

1. He made a courtesy call on Judge Garrett and noted he seemed very reasonable and happy with the Courthouse project.
2. Attended the TJPDC meeting and heard a presentation by the regional Department of Social Services. He noted that they provided a profile of the County that he found distressing as it noted in 2003, the County's poverty rate was 11.2 % and in 2013, it was 15.8%. He asked Ms. Brennan if this was discussed at the DSS meetings and noted that it was a concern. He added that the report showed that for these same years, the number of children in poverty was 16.7% and 23.1% respectively. It was noted that this could be discussed at the Board's retreat; and they discussed inviting a regional head of DSS to discuss the County's statistics.

Mr. Harvey reported that the Service Authority meeting was very quick and easy with nothing to report.

Ms. Brennan reported the following:

1. Attended the DSS meeting and noted that they were almost fully staffed and things were going well. She noted that their work was being done according to state criteria and they were following up on kids in foster care as they should.

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2. Attended a ribbon cutting for the new events center at Wild Wolf Brewing Company.
3. Attended Judge Ken Farrar's retirement reception and the Judge was presented with the Board's resolution.
4. Attended a meeting with Mr. Saunders, Hank Thiess, and Richard Averitt about the impact of the pipeline coming through Reed's Gap and the rest of the county. She added that Devil's Backbone has put together their financial impact and that Todd Rath, the new owner of Wintergreen Winery, would also be doing that to present to Legislators and the Governor.
5. Attended a meeting with South District landowners, Dominion, and the staff of Creigh Deeds. She noted they discussed their concerns and Dominion was apologetic about it and was looking at another potential rerouting there. Mr. Hale noted that FERC asked Dominion to change the line. They then discussed both the East and South Districts. Mr. Saunders noted he would have been there had he known about it as would Mr. Hale.

Mr. Bruguere reported the following:

1. Attended an EMS Council meeting where lengthy discussion was had about the radio system. He noted that most pagers were not working and needed reprogramming. He added that there was more study to be done by Motorola, mostly in the Rockfish area. He noted that Susan Rorrer was on top of it but it may take a while to figure out. He added that more towers and repeaters may be needed and that they needed to do what was necessary to fix the problems.
2. Reported that Roseland Recue had reported that the Toughbooks needed to be upgraded to Windows 10 and Mr. Carter noted that Jaime Miler had informed him of a grant that could help with this. Mr. Bruguere noted that the upgrade would cost \$1,000. He added that they may need to re-evaluate using these as they were not very user friendly. Mr. Carter noted that staff would look at it and would pursue the grant funding for this.

Mr. Saunders reported the following:

1. Attended Judge Farrar's retirement reception.
2. Attended the Courthouse project pre bid meeting.
3. Attended the meeting with Mr. Averitt and Mr. Thiess on the pipeline and noted that he thought it was time to start talking about it.

Mr. Hale noted that they have been asked by Dominion on several occasions for a meeting and they have outlined a set of questions that would be the subject. He noted that the Board's position has been not to meet with them and he would like to propose they look at the eleven (11) questions they want answered and provide them with a written response in which they answer them to the extent they could. He added they could also include the Board's questions. He noted that he would direct staff to provide draft answers to their questions.

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He noted that they had also addressed many of their questions through resolutions, such as the question regarding conflicts with the Comprehensive Plan. He then suggested this be done in writing and that it come back to the Board after staff worked on it. He noted that he thought they could answer questions and make it clear that they were not stonewalling them.

Mr. Bruguere agreed that the questions needed to be answered and he would prefer a face to face meeting. Mr. Harvey noted he thought a written response was better because everyone would get the same thing.

Mr. Hale noted that the role of the Board was not to determine the route; however they could point out issues and concerns. He suggested that they could send the questions and answers and suggest that they meet if they want to discuss it further.

Mr. Saunders noted he thought they could express their concerns more strongly in person than in writing and Mr. Hale agreed; but noted that they may have to go up the ladder first.

Mr. Bruguere suggested that they do the questionnaire and set a date to discuss it.

Mr. Hale moved that staff be directed to prepare written answers to the questions to be sent in to Dominion and await their response. Ms. Brennan asked to amend the motion to include questions from the Board not yet answered by them and that it be brought back to the Board for review prior to submission. Mr. Hale accepted the amended motion and Ms. Brennan seconded the amended motion.

The Board then had the following discussion:

Ms. Brennan noted that she would help work on the responses. Mr. Saunders reiterated that he thought meeting face to face was more compelling and would present a clearer picture. He then suggested that they answer the questions and show them the impact reports in person. Mr. Hale noted he agreed and Mr. Bruguere suggested they do both. Ms. Brennan noted her concern of attending a meeting and then that being the end of it; she preferred to do something in writing with everyone's input. Mr. Saunders noted he thought they would need to meet in person at some point and Mr. Bruguere agreed.

Ms. McGarry then reread the motion on the floor and Mr. Saunders noted they were looking at a sixty (60) day timeframe.

There being no further discussion, Supervisors voted (4-1) by roll call vote to approve the motion with Mr. Bruguere voting No.

Mr. Saunders noted it was a serious situation and if they did not do anything, then nothing would happen. Mr. Hale noted they could summarize the economic impact and put it on the table. Ms. Brennan noted that she thought anyone could contribute to the document.

Mr. Carter advised that the Board could have a called meeting to discuss it once it was completed. Mr. Hale suggested that the adopted resolutions could be attached so that everything that had already been said was not reiterated.

Supervisors then agreed by consensus to circulate drafts of the responses among themselves and Ms. Brennan noted that she had a statement from Hank Thiess that would be acceptable to use for this and could be public information.

B. Appointments

<u>Board/Commission</u>	<u>Term Expiring</u>	<u>Term & Limit Y/N</u>	<u>Incumbent</u>	<u>Re-appointment</u>	<u>Applicant (Order of Pref.)</u>
JAUNT Board	9/30/2015	3 Years/No Limit	Mercedes Sotura	N-Resigned	None
Board of Zoning Appeals	11/10/2015	5 Years/No Limit	Kim Cash	Resigned-7/14/15	Shelby Bruguere Ronald Moyer - BZA Alternate David Hight
<u>(2) Existing Vacancies:</u>					
-					
<u>Board/Commission</u>	<u>Terms Expired</u>	<u>Term & Limit Y/N</u>	<u>Number of Vacancies</u>		
Region Ten Community Services Board	6/30/2015	3 Years/3 Terms	Michael W. Kelley (T3)	NA	None
			Ineligible		

Ms. McGarry advised that there were no applicants for the JAUNT vacancy and that Kim Cash had resigned her post on the Board of Zoning Appeals. She noted that there were three (3) BZA applicants: Shelby Bruguere, David Hight, and Ronald Moyer, the current BZA alternate. Ms. McGarry explained that Mr. Moyer had served approximately three (3) terms as the alternate and would like to be recommended for appointment to the full time member vacancy. She then noted should the Board do this and the Judge make the appointment, the BZA Alternate seat would be vacated and would be subject to be filled.

Mr. Bruguere moved to recommend to the Judge that Ronald R. Moyer, the current BZA alternate, be appointed to fill the BZA vacancy and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

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Mr. Saunders noted there was now a vacancy for the BZA Alternate seat and Mr. Hale advised that this should be advertised before they considered it but not until the Judge made the official appointment of Mr. Moyer.

Mr. Carter noted that he had set up training for the BZA and Ms. Brennan noted that she thought it should be mandatory. Mr. Carter explained that this stemmed from a call from the BZA Chairman, who was concerned with the new membership and the complexity of the issues they were dealing with. He noted that Mike Chandler of Virginia Tech was holding the date of August 24th for the training which would be held in Nelson. He added that people considering being on the BZA could also attend the training and there was no consensus on this.

C. Correspondence

1. Jean Payne, Commissioner of Revenue

Ms. Payne referred to the following correspondence provided to the Board.

To Nelson County Board of Supervisors:

The Commissioner of Revenue's office has two full time positions, Deputy I and Deputy II, which are fully paid by the county. The Deputy II position was vacated on July 31, 2015. I am requesting that I be able to move the Deputy I person into the Deputy II position. The Deputy I salary is \$25,264 and the Deputy II salary is \$30,926. I will be hiring a new person as soon as I find a qualified person to fill the position.

Also, I would like to be able to use part of the Deputy I salary to pay a part time person. This would only be a day or two every now and then until I fill the vacant position. Thank you for your consideration.

Mr. Harvey questioned why she came to the Board and Ms. Payne noted it was suggested that she do so given that it dealt with local funding.

Supervisors agreed by consensus to approve her proposed personnel changes.

2. Ed McCann, NCHS FFA Advisor

The Board considered the following correspondence:

Dear Mr. Carter,

It is with a great deal of pride and satisfaction that I write to you and the Nelson County Board of Supervisors. This past winter and spring, the Nelson County High School FFA teams did very well competing against the best teams from across the state.

These two teams won their state contests and were recognized in Blacksburg, at VA Tech, during the State FFA Convention in June. The students that will be competing in Louisville Kentucky that are on my Forestry team are Noah Fitzgerald, Shelby Dixon, Phillip Saunders, and Brandy

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Campbell. The students that are competing on my Meat Evaluation and Technology team are Ruth Fitzgerald, Elizabeth Sites, and Trevor Carter. While at the national FFA Convention, Nelson Senior FFA will be recognized in front of over 60,000 FFA members as being a multiple star chapter, one of the top programs in the nation. This is the highest degree of recognition our FFA Chapter can receive.

In past years, the Nelson County Board of Supervisors has money budgeted for state winning teams that are traveling to compete in National Competitions. The past trips would not have been possible without the Nelson County School Board's support.

These children have spent most of the summer preparing to go to the National FFA Convention and compete in Louisville, Kentucky October 26-31, 2015. The months, and yes for some the years, of preparation has paid off for these young citizens of our county. These students will be representing Nelson County and Virginia in the National contests.

The chapter has been working hard to raise the funds to send the two teams from the high school and to Louisville. The anticipated costs for these teams alone is of over \$13,000. We recently started off our annual 29th FFA Apple Butter sale. Unfortunately due to the current state of the economy, I am afraid this will not be enough to fund the trip. I feel that with the chapter's hard work and community support we can raise over half of the expected costs by the time the national contest begins on October 26, 2015.

My request is to ask the Board if they would once again assist me with the transportation cost of my students to the National contest and the convention for these state winning teams that are competing in the national finals. In past years, when needed, the Nelson County Board of Supervisors has provided up to \$2,000.00 to assist my teams in their travel expenses to competitions that they had earned the right to compete in by becoming the state champions. On behalf of the chapter members, I would like to ask you to consider assisting the High School FFA chapter with their travel expenses in the amount of \$2,000.

I appreciate any assistance that you and the Board members can provide me in this matter. The Board's tradition of rewarding students that distinguish themselves and the County of Nelson above all other localities in the State, is a key motivating factor for these students. I appreciate the Board's generosity in the past and look forward to working with you in the future.

Mr. Bruguiere then moved to donate \$2,000 to the FFA for their trip to Louisville KY to compete in National events and Mr. Hale seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

D. Directives

Ms. Brennan and Mr. Saunders had no directives.

Mr. Bruguiere stated he would like for the Board and the Service Authority to meet on the connection fees as he thought they were an impediment to customers hooking up.

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Mr. Harvey noted that the purpose of these fees was for future expansions given the premise that if more customers were brought on, they would soon have to expand the system. He added that if the Board wanted something done, they needed to fund it.

It was noted that the Board was funding it with Fire Hydrant fees of over \$300,000.

Mr. Bruguere stated that they needed to look at adjusting the fees and Mr. Harvey noted it was brought up at the last Service Authority meeting. He noted that the new connection fees associated with the new Colleen line went back to the County and this cost was 2-3 times as much as putting in a well.

Mr. Harvey then noted that the Board controlled the Piney River system rates and fees and Mr. Saunders noted that the connection fees were much higher than in surrounding areas.

Mr. Harvey noted that they needed to look at the numbers. Mr. Saunders then suggested that this be discussed at the Board's retreat and he added that the County could not bring businesses in because there was not enough water and sewer capacity.

Mr. Harvey disagreed; however Supervisors agreed by consensus to discuss this at their retreat.

Mr. Hale then questioned the role of a private utility providing water and sewer; noting that he had been told it should be a public utility.

Mr. Harvey noted that the developer installs the system in according to the Service Authority's standards and then it was turned over to the Service Authority. Mr. Carter agreed and noted that this was required by the Service Authority's regulations and the County's Ordinance. He reiterated that if someone developed a subdivision, it had to be developed and built to specs and then turned over to the Service Authority to be operated. He added that a private system was regulated by the Virginia Department of Health and the Department of Environmental Quality and that a private company could provide services but not within the scope of the existing regulations.

Ms. Brennan then asked for an update on LOCKN and Mr. Carter noted they were using the same plan as last year. He added that Mr. Padalino's office was reviewing the plan and it should go smoothly; noting that the event was administratively approved per the current Ordinance. Mr. Bruguere noted that he had heard that ticket sales were down; however per Maureen Kelly they had picked up.

VI. Adjourn and Reconvene for Evening Session

At 4:30 PM, Mr. Harvey moved to adjourn and continue the meeting until 7:00 PM and Mr. Hale seconded the motion. There being no further discussion, Supervisors voted unanimously by voice vote to approve the motion and the meeting adjourned.

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

I. Call to Order

Mr. Saunders called the meeting to order at 7:00 PM, with all Supervisors present to establish a quorum.

Mr. Saunders then noted to the Supervisors and the public that at around 1:00 PM that afternoon, the Special Use Permit #2015-03 applicants had asked for deferral of the Board's consideration. He then asked what the pleasure of the Board was in regards to this request.

Mr. Hale noted that the Board had held a public hearing on it that was well attended and he preferred to move forward with a decision.

Mr. Saunders reiterated that they had gotten the request for deferral that afternoon around 1:00 PM. Mr. Carter noted that the applicants stated that they were still addressing the Board's questions and he noted that he told them that he would report this to the Board and that it may or may not be deferred.

Ms. Brennan noted that since they asked for deferral and were working on something, she would like to hear what they had to say and Mr. Bruguere added he could go either way.

Mr. Hale then moved that the Board proceed with a decision on SUP #2015-03 and Mr. Bruguere seconded the motion. There being no further discussion, Supervisors voted (2-2-1) by roll call vote, with Ms. Brennan and Mr. Harvey voting No and Mr. Saunders abstaining. Mr. Carter noted that the tie vote defeated the motion and the subject was deferred until the next meeting.

II. Public Comments

1. Patty Avalon, Lovington and Ed Hicks, Lovington

Ms. Avalon noted that they were asking the Board to vote No on opening a Dance Hall in Lovington for the following reasons: Late night hours (2 am), lack of noise control, inadequate parking and traffic planning, and it being an inappropriate venue for the largely residential community. She noted that they were presenting the Board with a petition of fifty (50) signatures opposing the approval of SUP #2015-03.

2. Patty Avalon, Lovington

Ms. Avalon then read aloud a letter written earlier on the dance hall bar as follows:

Dear Members of the Nelson County Board of Supervisors,

I am writing you in almost desperation, asking you to not allow the dance hall/bar to come into the village of Lovington for the obvious and not so obvious reasons.

Please let me clearly restate the points as to why the bar/dance hall will have a negative impact on the community and surrounding areas:

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1. The late night hours (2 a.m.) is not found anywhere in similar venues in the area, including the restaurant owner's own Charlottesville hours.
2. There is no resource for legally monitoring noise levels, therefore making noise pollution nearly unenforceable.
3. The parking and traffic planning was not well considered. There is only one stoplight in the entire county. How will drivers impaired with alcohol make their way in and out safely from Route 29? From what we have learned about the types of 'dances' the proprietors are planning, we may be having 200-300 people trying to drive in and out of, and find parking in this small area.
4. The vice that follows bars in most areas. Primarily drugs and prostitution. I am not saying the proprietors would want any of this, I am saying it would just follow large groups of people wanting to 'unwind'. Drug dealing has made its way into the village. I am sure you know by now, drugs are a very serious and growing problem all over, and small, economically challenged rural communities with small law enforcement budgets are particularly vulnerable. Many residents have come together in the spirit of helping keep Lovingson safe, clean and a good place to visit, live and work. Many who live here know what has been going on, and what is likely to come in once a bar/dance hall should enter. Drinking is one thing, but I can assure you, the drug dealers will not be far behind. Especially in that area back by the creek, Tanbark / IGA lot.

I have been to the Pipeline meetings and what is being proposed for Lovingson and the bar/dance hall, is similar to what is being proposed for Nelson County and the Pipeline. This is a perfect example of a company from the outside coming in for financial and commercial gain, without regard to how it will impact the larger community, quite likely for many years to come.

I sincerely appreciate your fairness in matters, and understand why you may lean toward giving the venue a try. But in this case, there is too much at stake for a trial run. In closing, I call on you, as *people who do not reside* in Lovingson, to rely on the *people who do*, to help make this decision. We who do live here know what we are talking about. This would not be a good addition to Lovingson.

3. Julia Rodgers, Nellysford, President of Nelson County Chamber of Commerce

Ms. Rodgers noted that she was addressing the issue of the revised rezoning for Mr. Kober and Mr. Saunders advised that she could speak on that issue during the upcoming public hearing on the matter.

4. Joe Lee McClellan, Lovingson

Mr. McClellan noted he was called that day by Mr. Gaona who told him their SUP application would not be on the agenda that night and not to come. He noted his surprise that they were taking it up.

Supervisors then advised that they were not taking it up that night and it would be heard the following month.

III. Public Hearings and Presentations

A. Public Hearing: Conditional Rezoning #2015-02 – Mountain Sports Retail Space / Mr. Joseph B. Kober: Consideration of an application to rezone (with conditions) two parcels, consisting of 6.06 total acres, from Residential (R-1) to Business (B-1) Conditional. The subject properties are identified as Tax Map Parcels #22-A-18 (owned by Herbert F. Hughes) and #22-A-19 (owned by Claude Malcolm Dodd), and are located at 2950 Rockfish Valley Highway in Nellysford. Specifically, the applicant wishes to rezone (with conditions) the properties to construct an 8,000 square foot “retail store” and accompanying parking lot on the subject properties.

Mr. Padalino’s staff report noted the following:

Site Address / Location: 2950 Rockfish Valley Highway / Nellysford / Central District, Tax Parcel(s): #22-A-19 and #22-A-18, Parcel Size: 1.27 acres and 4.79-acres, respectively
Zoning: Residential (R-1) with General Floodplain District (FP) on portion of #22-A-18.

Applicant: Mr. Joseph “Sepp” Kober of Mountain Sports, Request: Approval of Conditional Rezoning #2015-02 to rezone Tax Map Parcels #22-A-18 and #22-A-19 to Business (B-1) Conditional, in order to construct an 8,000 SF retail store and accompanying parking pursuant to Article 8, Section 1-2.

Mr. Padalino noted that the request was to rezone the property from Residential R-1 to Business B-1 Conditional. He noted that the use was permissible in a Business District pursuant to Article 8 1-2. He noted that the applicant had submitted uses and noted those that were proffered away. He added that the County had received all of the required approval signatures.

He then noted that the reasoning for this [rezoning] request was fourfold:

1. The “Mountain Sports” store would offer for sale a complete line of outdoor sports equipment and clothing.
2. The Mountain Sports store would provide shopping that fits well with the other venues along the 151 corridor. It is also projected to provide 25 local jobs.
3. The site is in the center of what is a mixed use commercial area. It would fit well with the other businesses in the vicinity.
4. The plan is designed to provide minimal environmental impact and storm water runoff generation. The parcels slope gently from southwest to northeast with a slightly steeper spot in the middle that drops to the flood plain. The relative flatness of the front allow storm water to soak in rather than run off.

Mr. Padalino then noted the following and showed various maps regarding the subject property:

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

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

He noted that the subject properties were located in the heart of Nellysford, with some adjoining properties zoned Agricultural (A-1), Residential (R-1), and Residential Planned Community (RPC) (“Multiple Use – Village Center” designation). Additionally, some properties were designated Business (B-1) zoning were located in close proximity. He then noted these on related maps.

He noted that the rear portion of parcel 18 contained FEMA-designated “Special Flood Hazard Areas.” Specifically, parcel 18 contained both the 100-year floodplain and the floodway for the South Fork of the Rockfish River. He noted that during his initial site visit on April 17th, he observed that the flat, low-lying landscape contained ephemeral pools, wet soils, and other features characteristic of river bottoms.

With regards to the “Future Land Use Plan” in the *Nelson County Comprehensive Plan*, the Nellysford area is designated as Nelson County’s only “Neighborhood Mixed Use Development Model.” It is further identified as a “primary development area.” He then noted the following highlights from the “Neighborhood Mixed Use” section of the Future Land Use Plan:

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

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Mr. Padalino then noted that all rezoning requests came with a minor site plan and he reviewed the following relative to this:

- The applicant noted that the existing structure may be retained, or may be demolished. The applicant is undecided on how to proceed. The structure’s historic character, reuse potential, and poor condition were all discussed.

He noted that at the July 22nd PC hearing, the applicant noted they intend to demolish this structure, but they also intend to look for opportunities to salvage and reuse specific materials in the new development, if possible.

- The proposed facility would be 8,000 SF with approximately 6,000 SF dedicated to public floor area. 32 parking spaces and additional handicap parking spaces would be made available in a parking lot on the side and rear of the proposed retail building.

- The applicant has submitted a conceptual rendering of the proposed facility’s facade; this elevation was included in the packet.

- The applicant team will be prepared to address specific site details (such as landscaping, exterior lighting, and signage) at later stages of the permitting process and on the Major Site Plan, if the conditional rezoning request is approved.

Mr. Padalino then noted that in May, the applicant team submitted a transportation plan and VDOT commented on the following:

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

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

Mr. Padalino then read his and the Planning Commission’s recommendation to the Board as follows:

Staff Evaluation and Recommendation(s):

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

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

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

- The applicant’s request to rezone Tax Map Parcel #22-A-19 from Residential (R-1) to Business (B-1) be approved; and
- The applicant’s request to rezone Tax Map Parcel #22-A-18 from Residential (R-1) to Business (B-1) be approved. Please note that it is the opinion of the Planning & Zoning Director that a substantial portion of parcel 18 is not suitable for commercial development (such as all of the low-lying portions of the property located behind the slope which begins approximately 400’ from the edge of VDOT ROW, an area which includes the “Special Flood Hazard Area” / 100-year floodplain). Please also note that the portion of Tax Map Parcel #22-A-18 adjacent to Rockfish Valley Highway (including, in particular, all of the relatively flat portion of the property within 345’ of the VDOT ROW) is suitable for commercial development, with respect to the site’s physical characteristics

PC Review, Public Hearing, and Recommendation(s):

The Planning Commission conducted a properly-advertised public hearing at their July 22nd meeting. The following members of the public provided comments:

Julia Rogers: Stated she is a business owner in Nellysford as well as the president of the Nelson

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

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

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

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

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

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

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

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

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

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

Also, the Planning Commission directs the Planning and Zoning Director to assume the lead in the correction of all county records with the correct positioning of these two properties regardless of final disposition of this application.

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Also, we recommend the Board of Supervisors look at the current development of the east side of Route 151 as well as the comp plans of future development of the area so that it may consider if a joint commercial entrance for this property and a required front yard setback would enhanced future development in this area. Commissioner Harman provided the second, and the motion passed on a 5-0 vote with Supervisor Saunders abstaining.

Mr. Padalino then took questions from the Board as follows:

Ms. Brennan asked if parcels 15 & 16 were A-1 and Mr. Padalino confirmed they were. Ms. Brennan noted that the whole area was mixed use and Mr. Padalino confirmed that there was a wide variety in a short stretch. She then asked if the area behind was not conducive to development and Mr. Padalino advised that it had the same zoning but had a floodplain overlay and other restrictions. He noted that this area would not be developed per the site plan. Ms. Brennan then asked if there was any concern about them doing development there and Mr. Padalino noted that it was not common to develop in those areas, however permits could be obtained to do so but would be difficult. He emphasized that they wanted to keep the proposed project out of this area.

Ms. Brennan then noted that the building was 8,000 square feet and asked if it would include a basement and if so, would this be included in the total square footage and could it be used. Mr. Padalino noted that if it were all open to the public, they would need more parking. He noted that in terms of Erosion and Sediment Control and parking, they were looking at a two dimensional footprint.

Ms. Brennan then questioned the shared access management entrance and Mr. Padalino noted that this would mean VDOT would look at where other intersections were and there was a minimum distance for commercial entrances. He added that they were suggesting that they should account for future development and other commercial entrances. Mr. Carter added it would probably mean there would be shared drives and entrances along a parallel road to Route 151 and that this would be a best practice not a mandate. Mr. Padalino noted that this was not explored in depth but was a comment made by VDOT.

Mr. Harvey asked for clarification on the different colors (blue and green) shown in the floodplain areas of the map and Mr. Padalino noted that the green was due to the overlaying of blue over yellow making green. He noted that this involved lots 18 & 19. Mr. Harvey then noted that the majority of parcel 18 was designated as floodplain and there was also a wetland mapped on the edge of it.

Supervisors then invited the Applicant, Mr. Sep Kober to address the Board and he noted he was there to answer any questions they had.

Mr. Kober then noted that he was not planning a basement right now and noted that his store in Charlottesville did not have one, it was 9,500 square feet, and 7,000 square feet of it was retail space.

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Mr. Harvey asked if the front of the building would be facing Route 151, and Mr. Kober noted it would be facing the northbound way, so if travelling south, you would see one side of it. He added that the major entrance would be seen travelling south rather than north. He added that he wanted to put a nice looking building on the property that would enhance the area as it was a pretty property and he wanted to maintain that.

Mr. Hale asked if it was possible that the commercial entrance could be on the other side. Mr. Kober noted that it was and in the next steps, he would go through the major site plan process. He noted he was open to that and would work with the adjoining neighbors. He noted he could not commit to anything until he went down that road.

Mr. Harvey noted that the Board was considering the rezoning and there were no guarantees of anything. Mr. Kober noted that this would be tying him to a retail project because he had proffered away the other uses and he wanted to put a retail store there.

Ms. Brennan asked if he could move away from the neighbor on the one side and Mr. Kober noted that he thought it could be switched; however he was unsure of the technicalities of it and if it were, it may have to be studied again by VDOT. Mr. Harvey noted that it looked like the current entrance would be right in front of the other adjoining property because of the cut and taper that would be required and that part of the driveway would be in front of the other property.

Ms. Brennan asked if a major site plan would have to be done if the property were rezoned, and Mr. Carter confirmed it would. Ms. Brennan then noted that she thought that any major site plan should be reviewed by the Board. Mr. Carter noted that the Planning Commission would review the major site plan; and that it had to conform to site plan requirements which were extensive.

Mr. Hale then noted the existing brick house on parcel 16 and that the existing white house was on parcel 19.

There being no other questions for the applicant, Mr. Saunders opened the public hearing and the following persons were recognized:

1. Julia Rodgers, Resident and Business owner in Nellysford and President of the Chamber of Commerce

Ms. Rodgers noted that when she spoke at the Planning Commission public hearing, the Chamber of Commerce presented a resolution supporting the revised zoning request. She noted that Mr. Kober had proffered many of the uses away. She then distributed the resolution to the Board and noted some key points as follows: the property has not always been residential and has served as many business uses over the years so this was not a new thing; second, that particular establishment would provide up to twenty-five (25) jobs to Nelson County in an industry that was different than the prevailing ones, which provided variety in Nellysford. She then noted the concept of a shared entryway; noting that across the road from the area was a doctor's office, a dental office, and a bank that roughly had a shared entryway. She noted that these were cohesive businesses and it worked well. Ms. Rodgers noted that when establishing her CPA firm in Nellysford, she adjoined a brewery and VDOT suggested that they share an entryway; however

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these were not cohesive businesses and it would be difficult. She noted that Mr. Kober had no idea what may develop on one side or the other so she thought he should be careful with that idea. She concluded by reiterating this would be a wonderful opportunity to expand diversity and provide jobs and she would like to see it approved.

2. Joe Lee McClellan, Lovington

Mr. McClellan noted he supported the business. He added that he owned the shopping center, land on Lodebar, and fifty (50) acres across from the old Rockfish School and he thought it would be a benefit to the community. He added that the building blended in well and he welcomed it.

3. Carlton Ballowe, Faber

Mr. Ballowe noted that there were only two things wrong with the curb appeal in Nellysford: power lines and some of the abandoned and out of use properties that were too close to the road. He noted that this was an opportunity to address one of those; replacing a building that was not contributing to the curb appeal with one that would. He added that he welcome diversity in the jobs in the area and that the time to address the shared commercial entrances was if and when other commercial properties were developed.

4. Charlie Wineberg, Ennis Mountain Lane

Mr. Wineberg noted he liked that the inappropriate uses were proffered away. He noted he also liked the potential use of shared entrances and he thought that if they were not planned for now, they may not be possible in the future. He added that it seemed there were special rules for developing in the floodplain and the rezoning would be for the entire five (5) acres. He concluded by noting he supported the applicants and suggested that they could also proffer away development of the floodplain.

5. Herbert Hughes, Charlottesville Resident and Son of Previous Property Owners

Mr. Hughes noted the various uses of the property and the adjoining property over the years. He noted that they had tried to maintain the property and that his mother would be proud of the property being used for Mountain Sports. He noted that he was in support of the project and could not see why this would not be approved.

6. Judy Hughes, Owner of the Subject Property

Ms. Hughes noted that this property had been on the market for five (5) years. She noted that they had the property surveyed and it was 1.27 acres. She noted that they have had a hard time selling it because of the dilapidated house on it. Ms. Hughes noted that her mother had lived there for seventy (70) years and died at age 90. She noted she would like the rezoning approved because they needed to sell it and they were selling it for half of the original asking price. She concluded by noting she supported the Board's approval of the rezoning.

7. Donna Small, Nellysford

Ms. Small noted that her mother, Maxine Small owned lot 20. She noted that she was not opposed to more development but would like to keep it in the Residential Planned Community (RPC). She then cited the Comprehensive Plan page 32 "The availability of central water and sewer service is key to future development for any large scale commercial or industrial uses as well as for those development areas with a planned higher density". She then noted that this was in the only residential (R-1) section in Nellysford and to rezone this would be spot zoning. Ms. Small then noted that 8,000 square feet was large and it would have a large impact on the neighbors. She then noted that the site plan had a commercial entrance that would impact lot 20 and that if rezoned, there should be a common entrance. She added that if there was already a commercial property there, they could not tell him what had to be put in, they would have to see what was there in the future.

8. Carole Saunders, Realtor for the Subject Property (Hughes)

Ms. Saunders noted the challenge it had been to market the property because of the deteriorating house on the property. She noted she had been impressed with the manner in which this was presented; that the residential value was gone out of the property and she had thought it would be a good business or office location. She noted that she grew up in that community and there had been a lot of changes there. Ms. Saunders noted that Mr. Kober had gone over and above in listening to the Planning Commission and he had completed every request made of him. She noted that she had not attended many Planning Commission meetings and that it had taken months to get this passed. She noted that she felt like this would be an asset for the community and would provide jobs in the area. She added that she knew there were concerns with the size of the building, but it needed to be sufficient for the business's future needs. Ms. Saunders then added she hoped for much success for Mr. Kober and that she felt he would do a good job and supported it wholeheartedly.

9. William Smith, Faber

Mr. Smith noted he grew up in Nellysford and noted that Route 151 had changed a lot. He noted that traffic had increased 200% since he was growing up and there needed to be some kind of moratorium on commercial development in the area until there was a comprehensive plan in place for roads there. He noted he was not opposed to development; however until VDOT did something with the roads, he urged the Board to hold up on any further development in that corridor.

10. Carolyn Tinder

Ms. Tinder noted that the subject property was her Grandmother's property. She noted that it was not Mr. Kober's proposed business that was causing the traffic issues, but rather it was the breweries or wineries that had been approved by the Board. She added that they could not put a moratorium on his business and punished him because he wanted to use the property. She added that she thought he had jumped through every hoop put out by the neighbors and the Planning Commission and they should allow him the opportunity to proceed and help improve the County's economy in a non-alcoholic way.

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10. Tim Hess, Wintergreen Real Estate Company - Nellysford

Mr. Hess encouraged the Board to look at development in a comprehensive way. He noted that people wanted to come to Nelson and its biggest asset was recreation. He noted that Mr. Kober was offering another layer that was adding to the recreation layer. He noted that those coming for recreation, come and then they leave and don't add to local costs. He added that they had an opportunity to add quality to Nelson County. He noted that Nellysford had charm and this would be adding to it. He encouraged the Board to think about layers, long term planning, and what was adding to the ambiance of the county in making the decision.

11. Donald Cochran, General Manager of Mr. Kober's Businesses

Mr. Cochran noted that in terms of traffic; their customers were already travelling on Route 151 driving to Wintergreen or other destinations. He noted that they would tap into that traffic and would not be increasing it. He then commented that in regards to the wetlands and floodplain, these were governed by EPA and to develop one; one had to offer at least double the area and the wetland area exceeded the non-wetland area; so it would remain in its original vegetative state. He added that Mr. Kober wanted to improve things and bring jobs and tax revenue to the county.

12. Dan and Lucy Haslam, Nellysford via Email letter dated August 10, 2015

Dear Nelson County Board of Supervisors,

As owners of 3042 Rockfish Valley Highway, a registered Virginia and National historic property, we object to the proposed 8,000 square foot retail store that could potentially be built within 95' of our property line.

This proposed retail space will negatively impact us in many ways. It will cause increased noise from traffic, delivery trucks, trash trucks and general activity that accompanies business locations. It will cause light pollution from the large amount of lighting necessary to illuminate the parking area of an 8,000 square foot business 24 hours a day. These negative impacts from the proposed business will cause a decrease in the value of our property, which was purchased in a residentially zoned area. This proposed change will create a single spot of B-1 in a clearly residential line of properties and seems like spot zoning.

As a Virginia native and owner of an historic property in a rural historic district, we are concerned that if this piece of land is designated as a B-1 property, not only will an historic building on the proposed B-1 site, with portions built as early as 1878, be simply demolished without thought, but our own property's future will be put in jeopardy. Our house has stood for over 220 years and is one of the earliest buildings in Nelson County, but our property will be tarnished for many years to come by the close proximity of this retail space.

We are lovingly restoring our historic property and preserving the land and ecosystem it serves in proximity to the South Fork of the Rockfish River. The value and appeal of our property will be decreased, and with it the opportunity for future responsible stewards who would further preserve

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the character and significance of this historic property of Nelson County. Who will want it after us? Who will want any of the residential properties adjacent or close to the proposed B-1 designated property?

We are not opposed to development and improvements to the community of Nellysford, but we are opposed to changes that are unsympathetic to the adjacent and nearby residential properties. Please consider that an 8,000 square foot business is going to significantly change the noise, the light levels, the traffic and character of the residential area in which it is proposed to be placed. Will the benefit of this business be worth the devaluation and possible future vacancy of the adjacent and nearby residential properties? Please consider the future that this decision will have on the character and appeal of the village of Nellysford, and its residents.

Thank you,
Dan and Lucy Haslam

There being no other persons wishing to be recognized, the public hearing was closed.

Mr. Saunders noted that due to a conflict of interest, he would not be discussing the matter or voting; only listening. Mr. Hale then assumed the proceedings.

Ms. Brennan asked if Mr. Dodd, who lived in the brick house, had been heard from and it was noted that Mr. Dodd was present and could have made his feelings known.

Mr. Harvey noted he would like to correct what Mr. Cochran said about wetlands and Floodplains. He noted he was correct about the Floodplain; however there was a small portion of it on the back side and they would have to mitigate it. He added that wetland and floodplain were defined differently. He then noted that this was the only chance for the Board to comment on this and weigh in. Mr. Harvey then asked if the drawings were to scale and it was noted they were 1 inch = 20 feet on the large site plan. Mr. Harvey noted that the distance looked off between the house and that it looked like it was crowding everything to the North and should be moved over. He added that he would not have to do anything to the house if didn't want to.

Mr. Kober then noted that the house would be going as there was no historical value; however they would salvage some lumber if possible. He noted he would demolish the house near the road and then would do a major site plan. He noted that they had provided what they felt like would work on the site.

Mr. Hale then noted that the conceptual plan was taking place on parcel 18 that went out to the road. Mr. Harvey noted that the furthest taper to the North would be in front of the adjacent lot. Mr. Kober advised that his engineer worked with VDOT on the siting and that they may be able to shift it south; however he was not sure. He noted that he would not be able to use a well that was on site.

Mr. Hale then suggested that the detailed discussion of the site plan, which was only conceptual, be ceased and the Board only deal with the rezoning request.

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Mr. Hale then noted that it was obviously a difficult question, however the Board was being asked to rezone two (2) residential R-1 parcels adjoined by additional residential R-1 parcels and agricultural A-1 zoned parcels and he knew zoning was not a perfect tool. He noted that were he an owner of an R-1 lot; he would have an expectation that an adjacent R-1 lot would remain an R-1 lot. He noted that he was all for the business; however he did not think rezoning it was the answer. He noted that there were other lots with residential R-1 buildings on them in the agricultural A-1 to the southwest and that this was a rezoning that he did not think was appropriate for the area. Mr. Hale then added that the Study of Nellysford suggested that commercial development take place in the RPC, and he noted that the other business B-1 zones across Adial Road would not be adjacent to those. He noted another concern for him was the size of the building, and he noted he did not believe there were businesses that were of that size in the area. He concluded by noting that in terms of the Comprehensive Plan, the proposed building was a much larger size than he would prefer; however his real objection was rezoning it away from residential R-1.

Mr. Hale then moved that the Board not approve the rezoning of these two (2) parcels as requested. There was no second and the Board had the following discussion:

Mr. Bruguire noted he disagreed with Mr. Hale; noting that the Comprehensive Plan said that Nellysford was a mixed use development and it was to be in this area. He noted that Mr. Kober had proffered away everything else and was looking out for the community in doing that. He noted that the 8,000 square foot building would be on six (6) acres and there was an opportunity for screening with landscaping. He noted he was in favor of it and the business and that the County could not turn away twenty-five (25) new jobs.

Ms. Brennan noted that she has thought about this noting it was a complicated issue. She noted she could appreciate that folks hoped nothing changed in the neighborhood; however the area was changing dramatically and there were mixed uses all along Route 151. She noted she agreed with Mr. Cochran, that more traffic would not be brought in because of the business and she liked what Mr. Wineberg said about planning for joint shared connector roads. She noted that she thought that the fact that the house on the property had to go made it a valuable property for commercial development and she liked the idea of a high quality building being in the area. She added that the staggering of the building was good and she hoped that the Mr. Kober would move the entrance away from the unhappy neighbor. Ms. Brennan then noted that she thought that twenty-five (25) jobs were needed in the County and she was hoping the Board would pass the rezoning application. She concluded by noting that she was confident Mr. Kober would be a good neighbor and would work with them and she was in favor of the rezoning.

Mr. Bruguire added that the Architect, Robin Meyer, had done an exemplary job on other projects in the county.

Mr. Harvey noted that there was a line of residential development all through there and if it were rezoned, it became undesirable for residential use and he agreed with Mr. Hale. He noted that there was limited property there and a service road would not work. He noted that they could not move back further because of the floodplain; however they could move south a bit. He noted that development should not have this much effect on neighboring properties. He noted that the flood zone there was real. Mr. Harvey then noted that he believed that the commercial property on the

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opposite side of Adial Road had been there a while and the garage had been there for more than thirty (30) years.

Mr. Harvey then noted that he had not heard anything about water and sewer; however he thought the water table there was high but he was not sure. He noted he thought a septic system could be put in a floodplain; however there was sandy rocky soil there. Mr. Harvey then noted he loved the building plan, however he thought it would look huge and disproportionate on the property. He reiterated he thought it was a great plan and he noted he would love to see it come into the area; however he was not sure this was the best location.

Mr. Harvey then asked Mr. Padalino if Mr. Kober could do the same thing in A-1 and Mr. Padalino noted he would have to check, however he did not think it would be a by right use. Mr. Carter supposed it would take a Special Use Permit; however it was not the same as a neighborhood retail store allowed by SUP in A-1.

Ms. Brennan asked if other areas along the road were zoned individually and if so, she questioned how it happened. Mr. Harvey reiterated that this was the only opportunity for the Board to comment since they did not see the site plan again. Mr. Bruguere suggested that they could attend the site plan meetings and make suggestions. He noted that they were looking at denying folks the sale of their land.

Following discussion, there was no call for the vote from the Chairman and the motion died on the table.

Mr. Bruguere then moved to approve the conditional rezoning #2015-02 and Ms. Brennan seconded the motion.

There being no further discussion, Supervisors voted (2-2-1) by roll call vote, with Mr. Hale and Mr. Harvey voting No and Mr. Saunders abstaining. Mr. Carter then advised that a tie vote was not approval.

Mr. Carter then advised that the Planning Commission had a similar situation and was advised after the fact by the County Attorney that they should have had a vote on whether to deny the application.

Mr. Hale then moved that the conditional rezoning #2015-02 be denied and Mr. Harvey seconded the motion. Supervisors voted (2-2-1) by roll call vote with Mr. Bruguere and Ms. Brennan voting No and Mr. Saunders abstaining.

Mr. Carter then advised that the vote was again tied and therefore the vote was No.

In response to questions from the Realtor, the Board advised that the current zoning should be considered when trying to sell the property.

Mr. Hess of Wintergreen Real Estate Company asked if they could collectively come back to rezone adjoining parcels to B-1 and Mr. Hale noted he thought that would be a more appropriate

request than the current one. It was noted that the other side of the streetscape was commercial uses and had larger scaled buildings. He added that if it did not fit into two (2) R-1 parcels, then the property owners should work together to make this work.

Ms. Carole Saunders, Realtor for the property, inquired as to whether or not Mr. Saunders would still have a conflict of interest if she relinquished her commission and was no longer the listing agent. She asked if she did that, could he then vote on the matter. Mr. Saunders then advised that the vote had been taken and the applicants could now take it to Circuit Court.

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

Mr. Padalino noted the following in regards to the proposed amendments:

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

He noted that the existing business currently brewed a non-alcoholic beverage called “kombucha,” which was essentially fermented tea infused with natural flavors such as berries, herbs, etc. He advised that this existing operation was currently permitted as a Home Occupation and that Barefoot Bucha’s proposed new facility would not be eligible as a home occupation, as the new facility would not be located at their residence.

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

Brewery: A facility for the production of beer.

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

- The proposed new facility would be located in the Agricultural (A-1) District;
- They would brew less than 15,000 barrels per year; and
- They would produce agricultural products on premises at the proposed new facility.

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He reported that the co-owners had submitted in writing their calculations that they produced approximately 30% - 90% of their total ingredients on site, depending on whether or not “water” was considered an eligible ingredient for the purposes of calculating the proportion of on-site agricultural operations or products.

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

Mr. Padalino then noted the proposed definitions to be:

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

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

Mr. Padalino then noted that staff was not aware of other fermented beverages at the time these definitions were originally put in place.

Mr. Padalino then referred to the information provided to the Board regarding kombucha.

There being no questions for Mr. Padalino, Mr. Saunders opened the public hearing and the following persons were recognized:

1. Ethan Zuckerman, Owner of Barefoot Bucha

Mr. Zuckerman noted that his company brewed a non-alcoholic carbonated tea called kombucha. He noted that they wanted to grow their business and hoped the Board would allow this and create the opportunity for them to move from their current space.

There being no other persons wishing to be recognized, the public hearing was closed.

Ms. Brennan moved to approve the new definitions of “brewery” and “limited farm brewery” and Mr. Hale seconded the motion.

It was noted that this would not change the production thresholds but would allow for brewed beverages other than beer.

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There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the following Ordinance was adopted:

ORDINANCE O2015-06
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF APPENDIX A, ZONING ORDINANCE,
OF THE CODE OF NELSON COUNTY VIRGINIA
ARTICLE 2, DEFINITIONS – BREWERY AND LIMITED FARM BREWERY

BE IT HEREBY ORDAINED, that the Nelson County Board of Supervisors does hereby amend Appendix A (Zoning Ordinance) of the Code of Nelson County, as follows:

Article 2 – Definitions

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

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

BE IT FURTHER ORDAINED, that this Ordinance becomes effective upon adoption.

IV. Other Business

- A.** Deferred from July 14, 2015: **Special Use Permit #2015-03** – “Dance Hall”
/ Jose & Elpidia Gaona

Consideration of this item was deferred at the applicants’ request and affirmative vote by the Board at the beginning of the evening session.

B. *Introduced: Massies Mill Property*

Mr. Bruguiere noted that he had been approached by someone that wanted to purchase the remaining Massies Mill property that formerly housed the Massies Mill Community Center that had been demolished. He noted he thought there was a little over five (5) acres there and Jay Rostow wanted to put up a 6,000 square foot building to ferment and bottle vinegar there.

Mr. Carter advised that the Board would need to have a public hearing for disposal of the property.

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Mr. Harvey noted that the Board would want to be careful to preserve the broadband tower property and access to it and Mr. Bruguere noted that if he bought it, there would have to be a right of way to the tower.

Mr. Carter noted that at minimum, the Board would need to advertise this. Mr. Hale suggested looking at the plat etc. and Mr. Bruguere noted that there was not much property left after the collection site. He then noted he could get the plats and he would like to proceed with the process.

Mr. Hale then inquired if this was within the Board's purview to discuss in closed session and Mr. Harvey and Mr. Carter advised it was not and should be discussed in public.

Mr. Harvey noted that the old building foundation was still there and Mr. Bruguere noted that he would pour a slab and put up a metal building. Mr. Carter noted the zoning would have to be checked and Mr. Padalino noted they would need to look at the needed setbacks from the tower.

Supervisors then agreed by consensus to have staff bring this back at the next meeting as a report and then they could decide whether or not to authorize staff to advertise it for sale. Mr. Carter noted that this could then move forward by the October meeting. He also advised that the party could propose to buy the property and he would confer with the County Attorney and bring back the particulars.

V. Adjournment

At 9:00 PM, Mr. Hale moved to adjourn the meeting and Mr. Harvey seconded the motion. There being no further discussion, Supervisors voted unanimously by voice vote to approve the motion and the meeting adjourned.

**RESOLUTION R2015-72
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF FISCAL YEAR 2015-2016 BUDGET
NELSON COUNTY, VA
September 8, 2015**

BE IT RESOLVED by the Board of Supervisors of Nelson County that the Fiscal Year 2015-2016 Budget be hereby amended as follows:

I. Appropriation of Funds (General Fund)

<u>Amount</u>	<u>Revenue Account (-)</u>	<u>Expenditure Account (+)</u>
\$ 6,100.00	3-100-009999-0001	4-100-031020-5419
\$ 1,230.00	3-100-003303-0025	4-100-031020-7045
\$ 137.00	3-100-009999-0001	4-100-031020-7045
\$ 3,500.00	3-100-009999-0001	4-100-081010-3002
<u>\$ 10,000.00</u>	3-100-002404-0060	4-100-081020-7060
\$ 20,967.00		

Adopted: September 8, 2015

Attest: _____, Clerk
Nelson County Board of Supervisors

EXPLANATION OF BUDGET AMENDMENT

- I. The **Appropriation of Funds** reflects an appropriation request by the Sheriff's Department for asset forfeiture funds in the amount of **\$6,100**. The department plans to purchase a copier and equipment for the K-9 vehicle. These funds must be spent in accordance with the Virginia Forfeited Asset Sharing Program guidelines. An appropriation is also requested for a Byrne Justice Assistance Grant (#15-Q1159LO14) in the amount of **\$1,230** plus the local match of **\$137**. This grant funding was previously approved in FY15 but was unexpended. The Planning Department requests an appropriation of **\$3,500** for work done by the TJPDC on the Rockfish Valley Area Plan. These funds were originally appropriated in FY15 but remained unexpended so the request is to carry forward the funding. The Tourism Department requests an appropriation of **\$10,000** which is supported by the Virginia Tourism Corporation "Drive Tourism" grant. The grant will provide additional signage for the Route 151 corridor. The balance in General Fund Contingency after this request is \$1,417,851 of which \$1,146,895 is recurring contingency.

RESOLUTION R2015-73
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF COMMISSIONER OF REVENUE REFUNDS

RESOLVED, by the Nelson County Board of Supervisors that the following refunds, as certified by the Nelson County Commissioner of Revenue and County Attorney pursuant to §58.1-3981 of the Code of Virginia, be and hereby are approved for payment.

<u>Amount</u>	<u>Category</u>	<u>Payee</u>
\$207.76	RE Tax Correction	Mr. Lowell T. Underwood 57 Jessica Lane Afton, VA 22920
\$84.57	2012 PP Tax & Vehicle License Fee	Rachel V. McNeal 110 Rhue Hollow Lane Roseland, VA 22967

Approved: September 8, 2015

Attest: _____, Clerk
 Nelson County Board of Supervisors

COUNTY OF NELSON
JEAN W. PAYNE
COMMISSIONER OF REVENUE
P. O. Box 246
Lovington, VA 22949
Telephone: 434-263-7070
Fax: 434-263-7074
email: jpayne@nelsoncounty.org

August 24, 2015

Mr. Larry Saunders, Chairman
Nelson County Board of Supervisors
P O Box 336
Lovington, Va. 22949

Dear Larry,

This letter shall serve as a written request that a refund of \$207.76 be issued to Mr. Lowell T. Underwood, 57 Jessica lane, Afton, Va. 22920. This is for an acreage difference that we did not catch.

Sincerely,



Jean W. Payne
Commissioner of the Revenue

The undersigned has reviewed the request of the Commissioner and consents to the refund requested above.



Phillip D. Payne, IV
County Attorney

COUNTY OF NELSON
JEAN W. PAYNE
COMMISSIONER OF REVENUE
P. O. Box 246
Lovington, VA 22949

Telephone: 434-263-7070
Fax: 434-263-7074
Email: jpayne@nelsoncounty.org

September 3, 2015

Mr. Larry Saunders, Chairman
Nelson County Board of Supervisors
P. O. Box 336
Lovington, VA 22949

Re: MCNEAL RACHEL V
110 RHUE HOLLOW LANE
ROSELAND VA 22967 – 2316
2002 DODGE INTREPID #7966

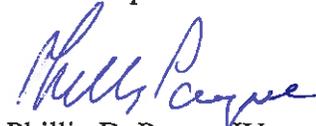
This letter shall serve as written request that a 2012 personal property tax & license fee refund of \$84.57 be issued to the above referenced taxpayer. The Tax Payer no longer owned vehicle effective 03/02/2011.

Respectfully requested,



Jean W. Payne
Commissioner of Revenue

The undersigned has reviewed the request of the Commissioner and consents to the refund requested above.



Phillip D. Payne, IV
County Attorney



ARCHITECTURAL PARTNERS

IV B1

September 4, 2015

Mr. Stephen A. Carter
County of Nelson Administrator
P.O. Box 336
Lovington, VA 22949

Re: Nelson County Courthouse Phase 2 – Apparent Low Bidder

Dear Mr. Carter and Members of the Board of Supervisors,

We have reviewed the apparent low bid for IFB #2015-NCCH Nelson County Courthouse Complex Phase 2 from Jamerson-Lewis Construction, Inc., licensed Class A Virginia Contractor #2705152634 and are satisfied that the bid documents are complete and in good order, satisfying County requirements. We recommend that a Notice of Award be sent to Jamerson-Lewis and a contract agreement executed based on their lump sum base bid amount of \$4,598,000.00 plus the cost of any negotiated alternates.

Sincerely,



Jim Vernon, Project Manager

RESOLUTION R2015-74
NELSON COUNTY BOARD OF SUPERVISORS
RESOLUTION AUTHORIZING THE AWARD AND EXECUTION OF AN
AGREEMENT FOR CONSTRUCTION OF
NELSON COUNTY COURTHOUSE COMPLEX PHASE 2

WHEREAS, in accordance with §2.2-4300 et seq. of the Code of Virginia, 1950 as amended, sealed bids were advertised and subsequently received on September 2, 2015 for the project known as the Nelson County Courthouse Complex Phase 2, and

WHEREAS, two sealed bids were received, with the lowest responsive and responsible bidder being Jamerson-Lewis Construction Company; and

WHEREAS, the consulting Architect, Architectural Partners, Inc. and the Courthouse Committee has evaluated the bid submitted by Jamerson-Lewis Construction Company and has recommended it's acceptance by the County;

NOW THEREFORE BE IT RESOLVED, by the Nelson County Board of Supervisors, the County Administrator, Stephen A. Carter, be and is hereby authorized to award and execute an agreement on behalf of Nelson County with Jamerson-Lewis Construction Company for the construction of Nelson County Courthouse Complex Phase 2, as recommended by the Courthouse Committee and its Architect, Architectural Partners, Inc. to include five (5) bid alternates, for a contract amount not to exceed \$4,890,300.

Approved: _____, 2015

Attest: _____ Clerk,
Nelson County Board of Supervisors

IV B 2

Nelson County
VPFP Series 2015A Sample Schedule Summary (Spring 2015)
Estimated Rates as of 12/12/2014*

VPFP Project Fund	Equity Contribution	Bridge Funding FY16-FY20	Term (yrs)	Estimated True Interest Cost	Estimated All-In True Interest Cost	Average Annual Debt Service	Additional Annual Cash Excess (Requirement) from Debt Decline-FY20
9,500,000	-	1,829,246	15	2.31%	2.42%	758,977	(116,250)
9,500,000	-	1,312,144	20	2.60%	2.68%	616,455	26,272
7,500,000	2,000,000	1,196,769	15	2.31%	2.42%	599,030	43,697
7,500,000	2,000,000	883,036	20	2.60%	2.68%	486,672	156,055
Option B							
8,500,000	-	1,498,227	15	2.31%	2.42%	680,226	(37,499)
8,500,000	-	1,101,308	20	2.60%	2.68%	552,951	89,776
6,500,000	2,000,000	941,472	15	2.31%	2.42%	519,020	123,707
6,500,000	2,000,000	665,898	20	2.60%	2.68%	421,729	220,998
Option E							
7,500,000	-	1,196,769	15	2.31%	2.42%	599,030	43,697
7,500,000	-	883,036	20	2.60%	2.68%	486,672	156,055
5,500,000	2,000,000	685,749	15	2.31%	2.42%	440,146	202,581
5,500,000	2,000,000	498,148	20	2.60%	2.68%	357,792	284,935
6,500,000	-	941,472	15	2.31%	2.42%	519,020	123,707
6,500,000	-	665,898	20	2.60%	2.68%	421,729	220,998
4,500,000	2,000,000	470,060	15	2.31%	2.42%	360,120	282,607
4,500,000	2,000,000	386,708	20	2.60%	2.68%	292,739	349,988
Option D							
6,000,000	-	814,349	15	2.31%	2.42%	479,308	163,419
6,000,000	-	569,376	20	2.60%	2.68%	389,382	253,345
4,000,000	2,000,000	389,226	15	2.31%	2.42%	319,400	323,327
4,000,000	2,000,000	342,528	20	2.60%	2.68%	259,559	383,168

Current Debt Service	Available
332,287.00	FY18
70,467.95	FY19
239,971.88	FY20
<u>642,727</u>	

Bridge Funding (\$7.5 million project) By Year

Term	Project Fund	FY16	FY17	FY18	FY19	FY20	Total
15 yr	7.5 million	134,881.19	599,976.58	265,445.07	196,466.19	0.00	1,196,769.03
20 yr	7.5 million	155,655.74	487,685.06	153,819.51	85,875.54	0.00	883,035.85
15 yr	5.5 million	100,353.30	440,146.44	107,859.44	37,391.49	0.00	685,750.67
15 yr	5.5 million	114,851.20	357,792.14	25,505.14	0.00	0.00	498,148.48
15 yr	4.0 million	71,919.04	317,306.75	0.00	0.00	0.00	389,225.79
20 yr	4.0 million	83,054.07	259,473.99	0.00	0.00	0.00	342,528.06

Current Debt	
Service	Available
332,287.00	FY18
70,467.95	FY19
<u>239,971.88</u>	FY20
642,727	

RESOLUTION R2015-75
NELSON COUNTY BOARD OF SUPERVISORS
RESOLUTION APPROVING LEASE FINANCING OF
COURTHOUSE CAPITAL IMPROVEMENTS

WHEREAS, the Board of Supervisors (**the "Board"**) of Nelson County, Virginia (**the "County"**) has determined that a true and very real need exists for the design, acquisition, construction, expansion, renovation and equipping of County courthouse facilities and related administrative space and holding areas (**the "Project"**) on certain real estate (**the "Real Estate"**) owned by the County, described in the Prime Lease and Local Lease Acquisition Agreement and Financing Lease (each as hereinafter defined); and

WHEREAS, the Board has the power to acquire by lease real property and personal property consisting of the Real Estate and the Project and additional real property currently being used for County purposes which includes, as may be required by VRA (as defined below) for financing of the Project, real property currently subject to a Prime Lease between the County and VRA dated as of June 1, 2013 and a Local Lease Acquisition Agreement and Financing Lease dated as of April 4, 2013 between the County and VRA (**collectively, the "2013 Leases"**) as well as real property used by the County for public library and office purposes, all as further described in the Local Lease Acquisition Agreement and Financing Lease (**together, the "Leased Property"**); and

WHEREAS, the Leased Property, including the Project; is essential to the governmental functions of the County and the Board reasonably expects the Leased Property, including the Project, to continue to be essential to the governmental functions of the County for a period not less than the terms of the Prime Lease (as defined below) and the Local Lease Acquisition Agreement and Financing Lease; and

WHEREAS, to assist in providing financing of the Project, the Virginia Resources Authority ("**VRA**") intends to (a) issue its Series 2015 VRA Fall Pool Bonds (**as more particularly defined in the below defined Local Lease Acquisition Agreement and Financing Lease, the "VRA Bonds"**) and, subject to VRA credit approval, to make available a portion of the proceeds to the County to finance all or a portion of the costs of the Project in the amount of approximately \$4,500,000 or such other amount as requested by the County in writing and approved by VRA prior to the VRA Sale Date, as defined below (**the "Proceeds Requested"**); (b) acquire a leasehold interest in the Leased Property pursuant to the terms of the Prime Lease; and (c) lease the Leased Property to the County pursuant to the terms of the Local Lease Acquisition Agreement and Financing Lease (**collectively, the "Lease Obligations"**); and

WHEREAS, the County has submitted its application to VRA to finance the Project and to undertake the Lease Obligations; and

WHEREAS, VRA has advised the County that the sale date of the VRA Bonds is tentatively scheduled for November 4, 2015 but may occur, subject to market conditions, at any time between October 28 and November 30, 2015 (**the “VRA Sale Date”**), and that VRA’s objective is to pay the County an amount which, in VRA’s judgment, reflects the market value of the Lease Obligations under the Local Lease Acquisition Agreement and Financing Lease (**the “Purchase Price Objective”**), taking into consideration such factors as the purchase price received by VRA for the VRA Bonds, the underwriters’ discount and other issuance costs of the VRA Bonds, and other market conditions relating to the sale of the VRA Bonds; and

WHEREAS, such factors may result in the County receiving an amount other than the par amount of the aggregate principal components of the Lease Obligations under the Local Lease Acquisition Agreement and Financing Lease and consequently the aggregate principal components of the Lease Obligations under the Local Lease Acquisition Agreement and Financing Lease may be greater than the Proceeds Requested in order to receive an amount of proceeds that is not less than the Proceeds Requested;

WHEREAS, the Local Lease Acquisition Agreement and Financing Lease shall provide that the aggregate total principal components of Lease Obligations and the interest component of the Lease Obligations will not exceed the parameters set forth herein; and

WHEREAS, there have been presented to this meeting drafts of the following documents (**together, the “Basic Documents”**) in connection with the transactions described above, copies of which shall be filed with the records of the Board:

- A. Prime Lease, between the County and VRA, dated as of November 1, 2015 conveying certain interests in the Leased Property to VRA (**the “Prime Lease”**);
- B. Local Lease Acquisition Agreement and Financing Lease, between the County and VRA, dated as of September 25, 2015 (i) providing for a portion of the proceeds of the sale of the VRA Bonds to be provided by VRA to the County and (ii) conveying to the County a leasehold interest in the Leased Property (**the “Local Lease Acquisition Agreement and Financing Lease”**); and
- C. Leasehold Deed of Trust and Security Agreement, between VRA and certain deed of trust trustees to be named therein, dated as of November 1, 2015 regarding VRA’s leasehold interest in the Leased Property (**the “Leasehold Deed of Trust”**).

NOW, THEREFORE, BE IT RESOLVED, THAT:

1. It is hereby found and determined that the terms of the Basic Documents in the respective forms presented to this meeting and incorporated in this Resolution are in the best interests of the County for the design, acquisition, construction, expansion, renovation and equipping of the Project.

2. The Basic Documents and related financing documents are hereby approved in substantially the respective forms presented to this meeting. The Chairman, Vice Chairman, County Administrator and any officer of the Board who shall have power generally to execute contracts on behalf of the Board be, and each of them hereby is, authorized to execute, acknowledge, consent to and deliver, as appropriate, the Basic Documents, any amendments to the 2013 Leases that may be required by VRA for financing of the Project and any other related financing documents, with any changes, insertions and omissions therein as may be approved by the individuals executing them, such approval to be conclusively evidenced by the execution and delivery thereof. The actions of the Chairman, the Vice Chairman and the County Administrator, each of whom is authorized to act, shall be conclusive, and no further action shall be necessary on the part of the County.

The final pricing terms of the Local Lease Acquisition Agreement and Financing Lease will be determined by VRA, subject to VRA's Purchase Price Objective and market conditions described in the Recitals hereof; provided, however that (i) the Lease Obligations shall be composed of principal components having a maximum aggregate principal amount of not to exceed \$4,815,000 (**the "Maximum Authorized Principal Amount"**) and interest components with a maximum interest rate of 4.5% per annum (exclusive of "supplemental interest" as provided in the Local Lease Acquisition Agreement and Financing Lease) and (ii) the Lease Obligations shall be payable over a term expiring not later than December 1, 2035. Subject to the preceding terms, the Board further authorizes VRA to determine the aggregate total of principal and interest components of the Lease Obligations, establish a schedule of Lease Obligations including the dates and amounts and the optional and extraordinary prepayment provisions, if any, of the Lease Obligations, all in accordance with the provisions hereof. The term of the Prime Lease shall not be more than five years longer than the term of the Local Lease Acquisition Agreement and Financing Lease; such term is intended to provide security to VRA in the event of default or non-appropriation by the County, all as more fully set forth in the Local Lease Acquisition Agreement and Financing Lease (or any supplement thereto).

Given the Purchase Price Objective and market conditions, it may become necessary to enter into the Local Lease Acquisition Agreement and Financing Lease with aggregate principal components of the Lease Obligations greater than the Proceeds Requested. If the limitation on the maximum aggregate principal components of Lease Obligations on the Local Lease Acquisition Agreement and Financing Lease set forth in this Section 2 restricts VRA's ability to generate the Proceeds Requested, the Local Lease Acquisition Agreement and Financing Lease may be entered into for an amount less than the Proceeds Requested.

The Chairman, the Vice Chairman, the County Administrator, or any of them and such other officer or officers of the County as either may designate are hereby authorized and directed to enter into the Local Lease Acquisition Agreement and Financing Lease, the Prime Lease and any amendments to the 2013 Leases that may be required by VRA for financing of the Project.

As set forth in the Local Lease Acquisition Agreement and Financing Lease, the County agrees to pay such "supplemental interest" and other charges as provided therein, including such amounts as may be necessary to maintain or replenish any VRA Reserve (as defined in the Local Lease Acquisition Agreement and Financing Lease).

Rental Payments (as defined in the Local Lease Acquisition Agreement and Financing Lease) due under the Local Lease Acquisition Agreement and Financing Lease shall be payable in lawful money of the United States of America and otherwise comply with the terms set forth in the Local Lease Acquisition Agreement and Financing Lease. The County may, at its option, prepay the principal components of Rental Payments upon the terms set forth in the Local Lease Acquisition Agreement and Financing Lease.

3. The same officers of the Board, and the County Administrator and the County Attorney be, and each of them hereby is, authorized and directed to take all actions and procure, execute and deliver any and all other agreements, financing statements, papers, instruments, title insurance policies, real property surveys and inspections, opinions, certificates, affidavits and other documents, and to do or cause to be done any and all other acts and things necessary or proper for carrying out the purposes and intent of this resolution, the Basic Documents and any amendments to the 2013 Leases that may be required by VRA for financing of the Project, including the final selection of property to be utilized as the Leased Property as may be required by VRA prior to the recording of the Local Lease Acquisition and Financing Lease. The same officers are authorized and directed to work with the County's bond counsel, Sands Anderson PC, and representatives of VRA, including without limitation McGuireWoods LLP, Bond Counsel to VRA, to perform all services and prepare all documentation necessary or appropriate for the execution, delivery and recording, as appropriate, of the Basic Documents.

4. The County represents and covenants that it shall not take or omit to take any action the taking or omission of which would (a) cause the VRA Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (**the "Code"**) or (b) otherwise cause interest on any VRA Bonds to be includable in the gross income for Federal income tax purposes of the registered owners thereof under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of law that may require it at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the VRA Bonds. The County shall pay any such required rebate from legally available funds.

5. The County covenants that it shall not permit any proceeds derived from the Lease Obligations to be used in any manner that would result in (a) 10% or more of such proceeds being used in a trade or business carried on by any person other than a governmental unit, as provided in Section 141(b) of the Code, provided that no more than 5% of such proceeds may be used in a trade or business unrelated to the County's use of the Project, (b) 5% or more of such proceeds being used with respect to any "output facility" (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) 5% or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a governmental unit, as provided in Section 141(c) of the Code; provided, however, that if the County receives an opinion of nationally recognized bond counsel that compliance with any such covenant is not required or is no longer required in order to prevent the interest on the VRA Bonds from being includable in the gross income for Federal income tax purposes of the registered owner thereof under existing law, the County need not comply with such covenant to the extent provided in such opinion.

6. Such officers of the County as may be requested are authorized and directed to execute and deliver a tax compliance agreement in relation to the Lease Obligations (**the “Tax Compliance Agreement”**) in the form approved by the Chairman or Vice Chairman of the Board or the County Administrator, or any of them, in collaboration with the County’s bond counsel, with such completions, omissions, insertions and changes as may be approved by the officers of the County executing such Tax Compliance Agreement, whose approval shall be evidenced conclusively by the execution and delivery thereof.

7. The undertaking by the County under the Local Lease Acquisition Agreement and Financing Lease to make Rental Payments and any other payments due under the Lease Obligations shall be a limited obligation of the County, payable solely from funds to be appropriated by the Board from time to time for such purpose and shall not constitute a debt of the County within the meaning of any constitutional or statutory limitation or a pledge of the faith and credit of the County beyond any fiscal year for which the Board has lawfully appropriated from time to time. Nothing herein or in the Lease Obligations shall constitute a debt of the County within the meaning of any constitutional or statutory limitation or a pledge of the faith and credit or taxing power of the County.

8. The Board believes that funds sufficient to make payment of all amounts payable under the Lease Obligations can be obtained. While recognizing that it is not empowered to make any binding commitment to make such payments beyond the current fiscal year, the Board hereby states its intent to make annual appropriations for future fiscal years in amounts sufficient to make all such payments and hereby recommends that future Boards do likewise during the term of the Lease Obligations. The Board directs the County Administrator, or such other officer who may be charged with the responsibility for preparing the County’s annual budget, to include in the budget request for each fiscal year during the term of the Lease Obligations an amount sufficient to pay all amounts coming due under the Lease Obligations during such fiscal year. As soon as practicable after the submission of the County’s annual budget to the Board, the County Administrator is authorized and directed to deliver to VRA evidence that a request for an amount sufficient to make the payment of all amounts payable under the Lease Obligations has been made. Throughout the term of the Lease Obligations, the County Administrator shall deliver to VRA within 30 days after the adoption of the budget for each fiscal year, but not later than July 1, a certificate stating whether an amount equal to the Rental Payments and any other amounts due under the Lease Obligations which will be due during the next fiscal year has been appropriated by the Board in such budget. If at any time during any fiscal year of the County, the amount appropriated in the County’s annual budget in any such fiscal year is insufficient to pay when due the amounts payable under the Lease Obligations, the Board directs the County Administrator, or such other officer who may be charged with the responsibility for preparing the County’s annual budget, to submit to the Board at the next scheduled meeting, or as promptly as practicable but in any event within 45 days, a request for a supplemental appropriation sufficient to cover the deficit.

9. The County authorizes and consents to the inclusion of information with respect to the County to be contained in VRA’s Preliminary Official Statement and VRA’s Official Statement in final form, both prepared in connection with the sale of the VRA Bonds, a portion of the proceeds of which will be used to purchase the Lease Obligations. If appropriate, such disclosure documents shall be distributed in such manner and at such times as the Chairman of

the Board, the Vice Chairman of the Board or the County Administrator, each of whom is authorized to act, shall determine. The Chairman of the Board, the Vice Chairman of the Board or the County Administrator, each of whom is authorized to act, are authorized and directed to take whatever actions are necessary and/or appropriate to aid VRA in ensuring compliance with Securities and Exchange Commission Rule 15c2-12.

10. The recitals to this resolution are hereby incorporated by reference and are declared to be findings of the Board in connection with its decision to finance the Project.

11. The Board hereby determines that it is in the best interests of the County to authorize the County Treasurer to participate in the Virginia State Non-Arbitrage Program in connection with the Lease Obligations if requested by VRA.

12. Nothing in this Resolution, the Basic Documents or other related documents shall constitute a debt or a pledge of the faith and credit of the County, and the County shall not be obligated to make any payments under the Basic Documents except from funds that may be appropriated by the Board.

13. All acts of the officers, agents and representatives of the County that are in conformity with the purposes and intent of this resolution and in furtherance of the leasing of the Leased Property by the County to finance the Project are hereby approved, ratified and confirmed.

14. Any authorization herein to execute a document shall include authorization to deliver it to the other parties thereto, to record such document where appropriate and to pay from County funds all appropriate recording fees, taxes and related charges.

15. This Resolution shall be effective immediately upon its adoption.

Adopted: _____, 2015

Attest: _____, Clerk
Nelson County Board of Supervisors

CERTIFICATION OF ADOPTION OF RESOLUTION

The undersigned Clerk of the Board of Supervisors of the County of Nelson, Virginia hereby certifies that the Resolution set forth above was adopted during an open meeting on September 8, 2015, by the Board of Supervisors with the following votes:

Aye:

Nay:

Abstentions:

Absent:

Signed this ___ day of _____, 2015.

By: _____
Clerk, Board of Supervisors



2015 Legislative Priorities
 (Counties of Albemarle, Fluvanna, Greene, Louisa and Nelson &
 Charlottesville City)

***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 governor and legislature to 1) not impose financial or administrative mandates on localities; 2) not shift costs for state programs to localities; and 3) not 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.

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.

- Public education funding is 32% of the State's FY15/16 general fund budget (35.4% in FY08/10).
- Local governments boost education funding by over \$3.5 billion more per year than required.

TRANSPORTATION FUNDING and DEVOLUTION: We urge the State to find additional revenues for secondary/urban construction and unpaved roads. We oppose transfer of secondary road responsibilities to counties.

- Construction funding, suspended in 2010, will continue to be elusive given recent revenue reductions of nearly \$500 million in the current Six-Year Improvement Program.

(more)

WATER QUALITY: We support the goal of improved water quality, but as we face mounting costs for remedies, we need major and reliable forms of financial and technical assistance from the federal and state governments.

- Investments should include authority, funding and other resources, and cost/benefit analyses of solutions that yield the greatest pollution reductions per dollar spent.
- High priority areas are stormwater management, upgrading treatment plants, and aid to farmers for best management practices.

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.

- Tools and solutions should be helpful, rather than one-size-fits-all rules that hamper different local approaches to land use planning.

***Top Priority and Legislative Request**

Candy McGarry

From: Austin Sr., Donald L. (VDOT) <Don.Austin@VDOT.Virginia.gov>
Sent: Monday, August 24, 2015 4:06 PM
To: Steve Carter; Candy McGarry
Subject: Passing Zone Route 56
Attachments: WO-NC-RTE 56- No passing zone- Larry Carpenter BOS.doc

Steve<

As discussed the passing zone on Route 56 at the County Transfer site at Shipman has been reviewed by Traffic Engineering. The recommendation is to remove the Westbound passing zone and retain the Eastbound passing zone which is prior to the transfer site.

Attached is a copy of their findings and recommendations. We plan to proceed with the recommendations.

Please advise Larry and Rev. Rose.

Don

TO: Gerry L. Harter, P.E., PTOE
 DISTRICT: Lynchburg
 e-mail to Marie.Gibson@VDOT.Virginia.gov

FR: Don Austin
 DISTRICT: Lynchburg

Received By: (Name)	Don Austin	Location:	56
Received From: (Name)	Larry Carpenter BOS	Address:	
Phone #:		City, State, Zip:	

County:	Nelson	Subdivision:	N/A
Route:	56	Specific Location:	Route 56 0.30 miles north of the
Area:			Intersection of Route 653 at transfer site
District:	Lynchburg		

Description of Request

Date: 08/14/15

Request the passing zone at this location be eliminated due to hazards of vehicle entering and exiting the transfer site. Vehicles exiting pull out and vehicles start passing creating a hazard. Also reports of vehicles being passed when turning from Route 56.

Traffic Engineering Recommendation

Date: 08/21/15

Work Scope: A Traffic Engineering Review has been conducted for Route 56 (James River Road) from Route 650 (Oak Ridge Road) to Route 844 (Hilltop Lane) to determine if the existing back-to-back eastbound/westbound passing zone can be eliminated.

Existing Conditions and Crash Data: Route 56, in the vicinity of the passing zone, is a two-lane, Rural Major Collector roadway with 21-feet of pavement width and 1- to 3-foot grass shoulders. Route 56 is governed by a posted 45 MPH Speed Limit to 0.36 miles west of Route 650 where a 35 MPH Posted Speed Limit begins. The year 2014 Annual Average Daily Traffic (AADT) publication shows a volume of 2,200 vehicles per day (vpd) from Route 29 Business (Front Street) in Lovington to Route 639 (Craigtown Road), a distance of 3.79 miles, which includes the study section.

The passing zones in question accommodate both eastbound and westbound traffic. For westbound traffic, the passing zone begins approximately 0.12 miles west of Route 650 and terminates approximately 0.27 miles west of Route 650, a distance of 810 feet. For eastbound traffic, the passing zone begins approximately 0.27 miles west of Route 650 and terminates approximately 0.42 miles west of Route 650, a distance of 815 feet. Passing is prohibited immediately north and south of the back-to-back passing zones. It should be noted that a speed limit reduction occurs within the eastbound passing zone as mentioned above.

The most recent three years of available crash data, from June 1, 2012 to May 31, 2014, reveals that there have been four (4) reported crashes within the study section resulting in six (6) injuries and an estimated \$51,885 in property damage. Of these crashes, two (2) were Road Departure type caused by alcohol and slick tires, respectively, one (1) was a Rear End type at the intersection of Route 653, and one (1) was a Sideswipe Opposite Direction type occurring at the intersection of Route 844. None of the reported crashes involved the passing zones.

County:	Nelson	Subdivision:	N/A
Route:	56	Specific Location:	Route 56 0.30 miles north of the
Area:			Intersection of Route 653 at transfer site
District:	Lynchburg		

Page 2

Analysis: Current guidelines for passing zones call for 700 feet of sight distance for roads with a 45 MPH Speed Limit, and 550 feet for roads with a 35 MPH Speed Limit. In this scenario, a driver must maintain 700 feet (or 550 feet) of passing sight distance throughout the duration of the passing maneuver. Thus, at any arbitrary location within the passing zone, there must be 700 feet (or 550 feet) feet of sight distance from that point.

For the subject passing zones, field measurements confirm that both the eastbound and westbound passing zones maintain the required minimum sight distances for more than the required length thus fulfilling the criteria.

Traffic Engineering's historical records show that traffic counts conducted over a 48-hour period in May of 2013 for traffic using the transfer site revealed a volume of 862 vehicles, an average of 431 vpd. The volumes generated by this transfer site give us reason to be concerned about potential conflicts within the passing zone. In addition to the transfer site, the VDOT Shipman Area Headquarters is located across the roadway and potentially causes additional conflicts within the passing zone.

Recommendations: Based on the above analysis, Traffic Engineering recommends the following:

- Close the westbound passing zone on Route 56 beginning at 0.12 miles west of Route 650 and ending at 0.27 miles west of Route 650 by installing double solid yellow centerline markings.
- Remove the NO PASSING ZONE Pennant Sign for westbound traffic located at the end of the passing zone that is being closed.
- Install 1000 feet in advance of the closed passing zone for each direction of travel a NEW TRAFFIC PATTERN AHEAD (W23-2) Sign. **This sign is to be removed 30 days from the date of installation.**

No change is recommended for the eastbound passing zone since it falls outside the area where the conflicts are occurring.

If you concur, we will have our crew perform the recommended changes, notifying this office of the completion date.

Residency Concurrence

Date:

RECOMMENDATION BY: Bobby C. Pierce, Administrative Program Manager III – SWRO Lynchburg
 COMPLETED BY: Steven T. Wright, Engineering Intern

DATE RECOMMENDED WORK COMPLETED:

- Close Passing Zone
- Sign Work
- Remove Temporary Sign

VDOT Recommended HB2 Applications for Nelson County

- 1) **Route 151/6/638 HSIP Project (Existing Project)** Existing HSIP Project with revenue shortfall and identified VTRANS Safety Hotspot. Located on a Regional Network (US 151) and in an area of high Economic Development.

Intersection Improvement Safety Project submittal to secure shortfall

2015 Long Range Transportation Plan Prioritization: **Rank #5, Project ID: 28**

2013 Route 151 Corridor Study Identified Intersection **Recommendation #14**

VTRANS Top 100 PSI Intersections (Fatalities & Serious Injuries), **Lynchburg District #27**

- 2) **Route 29 / 655 Intersection Improvement** Identified VTRANS Safety Hotspot on a Corridor of Statewide Significance (Seminole Corridor, Segment I2-US Route 29)

- 1) Right turn lane and taper to be constructed on Route 29 Southbound at the intersection of Route 655
- 2) The existing right turn lane and taper on Route 29 Northbound at the intersection of Route 655 to be extended / widened

2015 Long Range Transportation Plan Prioritization: **Rank #2, Project ID: 10**

VTRANS Top 100 PSI Intersections (Fatalities & Serious Injuries), **Lynchburg District #3**

- 3) **Route 151 / 664 Turn Lane** Identified Safety Improvement in Route 151 Study and located on a Regional Network (US 151) and in an area of high Economic Development.

- 1) Offset Right turn lane and taper to be constructed on Route 151 Southbound at the intersection of Route 664

2013 Route 151 Corridor Study Identified Intersection **Recommendation #1**



**Nelson County Rural Long Range Transportation Plan Prioritization
Project Evaluation and Scoring Results**

July 2015

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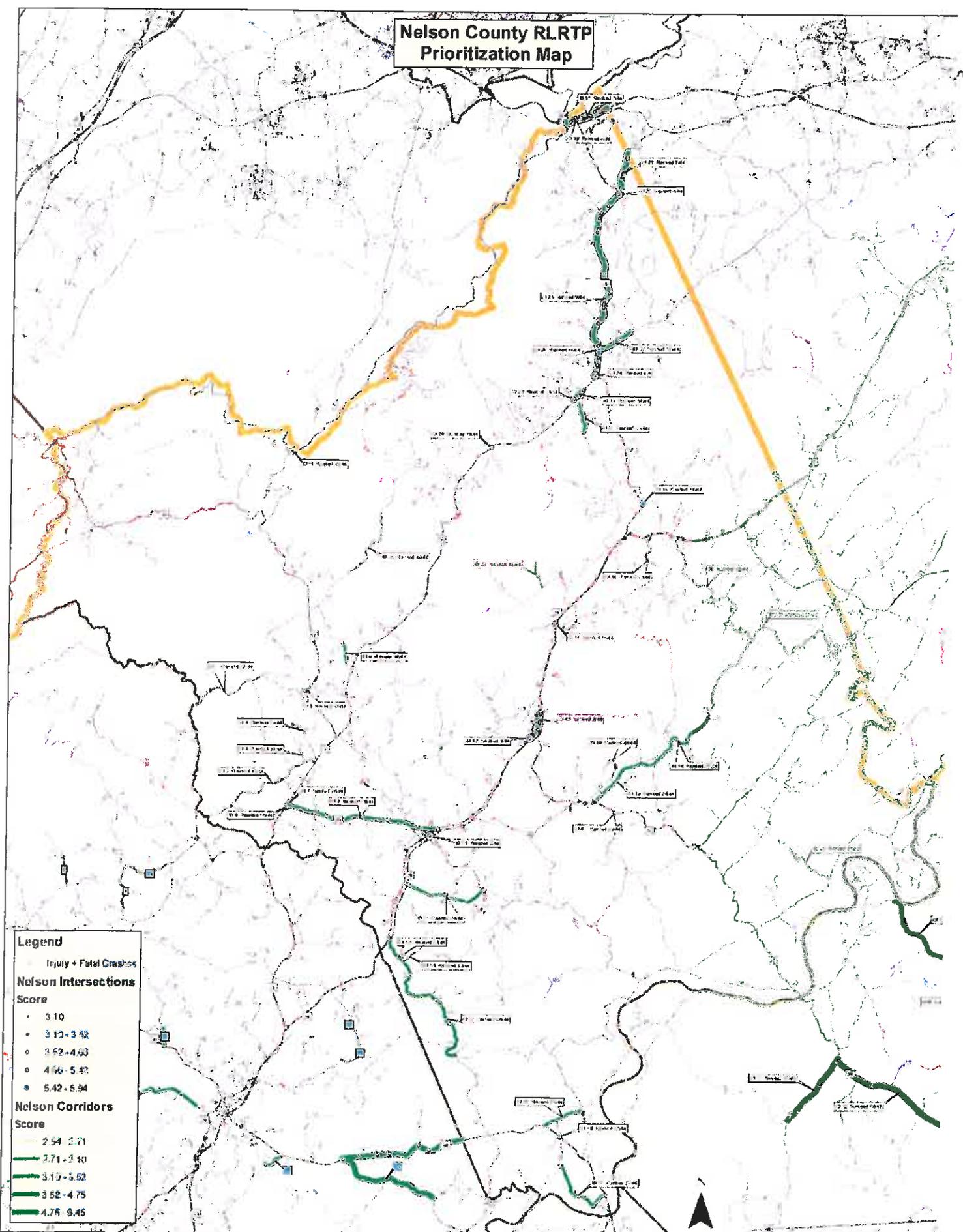
Introduction

- Recently, a growing emphasis has been placed both at the federal and state levels to develop a more objective and transparent method of evaluating transportation improvement projects in transportation plans in order to develop priorities. The development of a district-wide prioritization ranking process that ranks all of the rural long range transportation plan projects based on performance measures and the technical attributes of each project has become not only a priority at VDOT, but also at the national level.
- The MAP-21 transportation reauthorization bill, which took effect on October 1st, 2012, places new emphasis on performance-based measures as well as performance-based funding. In 2002, the Virginia Auditor of Public Accounts and in 2001, the Joint Legislative Audit and Review Commission developed separate reports recommending that VDOT develop a prioritization methodology for transportation plan improvement projects that would help provide additional justification for project selection and programming. This was further necessitated by the passage of HB 771 by the Virginia General Assembly in 2002 which specified requirements of plans to assess transportation needs and assign priorities. The VTrans2035 Statewide Multi-Modal Policy Plan and the Virginia Surface Transportation Plan (VSTP) placed new emphasis on performance-based ranking and the prioritization of transportation plan projects. There are a number of key reasons why the creation of a performance-based ranking of projects within a transportation plan will ultimately lead to more professional and thoughtful project selection and funding decisions as outlined below. Data compiled for the ranking process is meant to be transparent and without political bias to indicate the technical need of each project relative to all the others from a transportation plan.
- In January of 2014, Virginia House Bill 2 was passed which provides for the development of a prioritization process for projects funded by the Commonwealth Transportation Board (CTB). The new mandated prioritization process will score and rank CTB projects by factors such as economic development, accessibility, congestion mitigation, safety and environmental quality. This new focus on prioritizing projects at the state level only validates the importance of this document which aims to prioritize and rank rural projects based on similar weighted factors.
- Why develop a prioritization process and ranking for road improvement projects from long range transportation plans?
 - Brings more transparency to the project selection process.
 - Provides a common basis with which to rank planned transportation projects of different types, purposes, and origins.
 - Creates transparency in the public process.
 - Streamlines the project development process across the state.
 - Encourages decision makers to focus limited transportation funds on selecting projects for the SYIP with the most needs based on weighted technical attributes.
 - Strengthens the link between planning and programming.
 - To provide a better assessment of system performance using transparent data.
- The VDOT developed performance targets and a prioritization process in coordination with Metropolitan Planning Organizations (MPO's) and Planning District Commissions (PDC's) that aims to streamline the project selection process and create more transparency in the technical attribute data of each project within a transportation plan. MAP-21 identifies seven principle areas to determine performance measures including safety, infrastructure condition, system reliability, congestion reduction, freight movement and economic vitality, environmental sustainability, and reduced project delivery delays. Developing a prioritization process and ranking matrix is also consistent with the goals in the statewide multi-modal transportation policy plan known as VTrans2035 and House Bill 2. Funding constraints and declining revenue for transportation improvements means that funds must be optimized to ensure that the most critically needed projects receive a higher priority. The VTrans2035 report specifies that performance-based scenario analysis should be utilized in order to optimize revenue in a professional and sustainable fashion.
- Each project was ranked by county based on weighted attribute data such as vehicle to capacity ratio, current and future daily traffic counts (AADT), flow rate, level of service, number of crash injuries and fatalities per mile, number of heavy trucks, and a number of environmental and social attributes. The final priority rankings of the 2035 Rural LRTP planned transportation projects based on a technical needs assessment will serve as an additional guide and tool to assist in the project selection process and optimize funds available for projects.

Roadway Elements Weights Relative to Prioritization Goals

Roadway Element/Attribute	Description	Weight Relative to Prioritization Goals
Proposed Number of Lanes	Number of recommended lanes	N/A
Length of project	Total length in miles of the proposed recommendation.	N/A
2012 Level of Service	Measure used to determine the effectiveness	33%
2012 V/C Ratio	Volume-to-Capacity Ratio is an index to assess traffic	33%
2013 AADT	2011 Average Annual Daily Traffic is the total volume of	N/A
2035 AADT	Projected 2035 Average	N/A
Flow Rate (pcphpl)	The maximum rate of flow reasonably expected on an existing roadway while maintaining a certain LOS in person cars per hour per lane	33%
Fatal + Injury Crash Rate per Mile 2010-2013	Total number of aggregate injuries and fatalities on the roadway per mile from 2006 - 2010	100%
Number of Heavy Trucks	Total number of heavy trucks in 2011 on a select roadway	50%
Cultural Resources	Total number of historic properties and cultural resources	N/A
T&E Species	Threatened and Endangered	50%
R/W Impact	Any impacts on the right-of-way considered	50%
Include HOV, Bike/Ped. other Modes	Any special accommodation features for HOV, bicycle, pedestrian, or transit are considered here	25%
Sq. Ft. Structurally Deficient Bridge	Total Square footage of a structurally deficient bridge from the 2035 Rural LRTP	25%
Total Cost	Estimated cost of the recommended	25%

Nelson County RL RTP Prioritization Map



Legend

- Injury + Fatal Crashes

Nelson Intersections

Score

- 3.10
- 3.10 - 3.52
- 3.52 - 4.03
- 4.06 - 5.43
- 5.42 - 5.94

Nelson Corridors

Score

- 2.54 - 3.71
- 3.71 - 3.90
- 3.10 - 5.02
- 3.52 - 4.75
- 4.76 - 5.45

Project Prioritization Matrix Results

RANK	ID	ROUTE	CONSTRUCTION DISTRICT	JURISDICTION	FROM:	TO:	TYPICAL SECTION	AVERAGE
1	31	64	Lynchburg	Nelson	Augusta CL	Albemarle CL	6	6.45
2	10	29/655	Lynchburg	Nelson	Amherst CL	56	4	5.94
3	42	29/BUS29	Lynchburg	Nelson	56	29S BUS	4	5.58
4	24	151/635	Lynchburg	Nelson	6 S	784	2	5.56
5	28	151/6/638	Lynchburg	Nelson	6 N	Albemarle CL	2	5.42
6	30	250	Lynchburg	Nelson	Augusta CL	6	3	5.41
7	29	151	Lynchburg	Nelson	6 N	Albemarle CL	2	5.19
8	43	29 BUS	Lynchburg	Nelson	29S BUS	29N BUS	2	5.16
9	25	151	Lynchburg	Nelson	6 S	784	2	5.10
10	23	151	Lynchburg	Nelson	751	6	2	4.75
11	32	29/775	Lynchburg	Nelson	29N BUS	623	2	4.66
12	26	151/6	Lynchburg	Nelson	6 S	784	2	4.64
13	22	151/613	Lynchburg	Nelson	751	6	2	4.52
14	35	6/634	Lynchburg	Nelson	151	29	2	4.29
15	27	635	Lynchburg	Nelson	6/151	633	2	4.08
16	7	151/56	Lynchburg	Nelson	151 Y	56	2	3.52
16	8	151	Lynchburg	Nelson	151 Y	56	2	3.52
18	16	60/622	Lynchburg	Nelson	Amherst CL	622	2	3.38
19	20	151/627	Lynchburg	Nelson	707	751	2	3.29
19	9	56	Lynchburg	Nelson	151	29	2	3.29
21	21	613	Lynchburg	Nelson	612 S	612 N	2	3.19
22	12	739	Lynchburg	Nelson	657	29	2	3.10
22	41	56/647	Lynchburg	Nelson	639	722	2	3.10
24	11	665	Lynchburg	Nelson	29	655	2	3.00
24	39	639	Lynchburg	Nelson	56	719	2	3.00
26	13	657	Lynchburg	Nelson	721	739	2	2.99
27	15	626	Lynchburg	Nelson	60	606	2	2.90
27	17	656	Lynchburg	Nelson	60	622	2	2.90
27	38	639	Lynchburg	Nelson	719	643	2	2.90
30	5	666	Lynchburg	Nelson	679	56	2	2.81
30	6	681	Lynchburg	Nelson	666	679	2	2.81
32	1	666	Lynchburg	Nelson	827	679	2	2.71
33	2	676	Lynchburg	Nelson	778	151	2	2.65

Project Prioritization Matrix Results Continued

RANK	ID	ROUTE	CONSTRUCTION DISTRICT	JURISDICTION	FROM:	TO:	TYPICAL SECTION	AVERAGE
33	3	705	Lynchburg	Nelson	676	Dead End	2	2.65
33	4	780	Lynchburg	Nelson	674	Dead End	2	2.65
33	14	662	Lynchburg	Nelson	739	661	2	2.65
33	33	756	Lynchburg	Nelson	623	Dead End	2	2.65
33	34	828	Lynchburg	Nelson	19	Dead End	2	2.65
33	37	617	Lynchburg	Nelson	800	639	2	2.65
40	36	617	Lynchburg	Nelson	639	29	2	2.64
41	45	604	Lynchburg	Nelson	626	626	2	2.55
42	18	680	Lynchburg	Nelson	699	.5 699	2	2.54
42	19	814	Lynchburg	Nelson	Blue Ridge Pky	Augusta CL	2	2.54
42	40	694	Lynchburg	Nelson	649	Dead End	2	2.54

Project Description

Project ID: 28

Location: VA 151 at VA 6 at VA 638

Description: Deficiencies with low priority, Continue to monitor for potential improvements

Estimated 2020 Cost: \$50,000

Prioritization Results

Final Score: 5.42 (High)

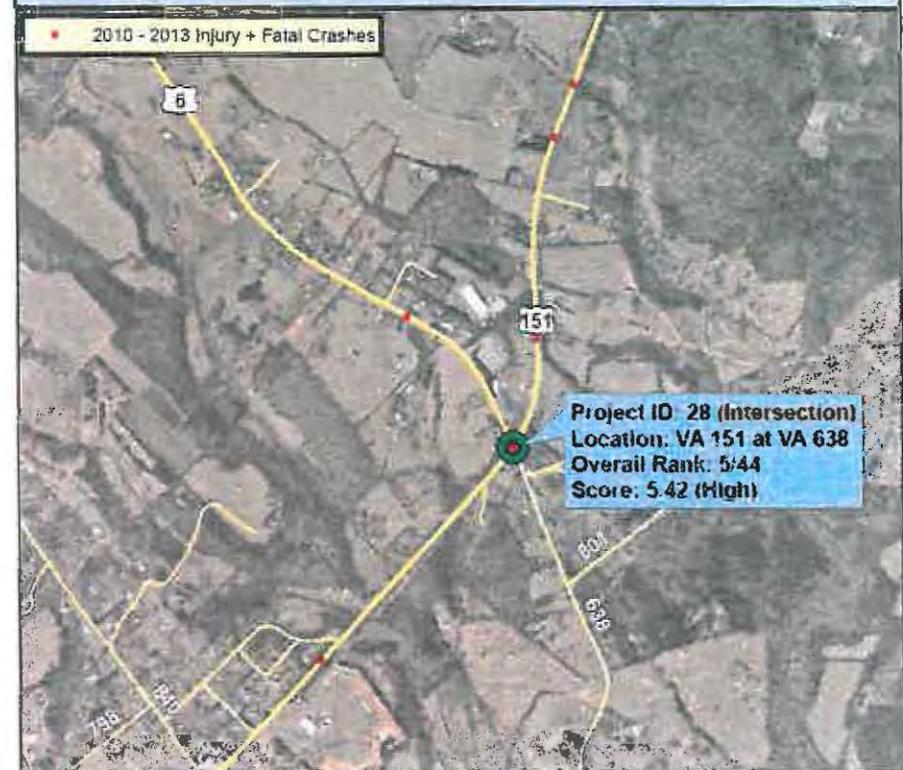
Overall Rank: 5 of 44

Intersection Projects Rank: 4 of 12

2010—13 Fatal + Severe Injuries Crashes per Mile: 8

Major Environmental Impacts: N/A

Project Location Map



Overview of Performance Measure Data

ID	CONSTRUCTION DISTRICT	JURISDICTION(S)	ROUTE	FROM:	TO:	PROPOSED NUMBER LANES	Goal 1			Goal 2	Goal 3		Goal 6				
							Mobility			Safety/Security	Economic Development		System Management and Preservation				
							A	B	C	A	A	B	A	B	C	D	
							2012 LOS	2012 VIC	2013 AADT	2035 AADT	Flow Rate (pcphpl)	Fatal+injury Crashes per mile (2010-13)	# Heavy Trucks	ARRA Factors (Unemployment and Per Capita Income)	Pavement Condition	Include HOV, Bike/Ped other modes	Sq Ft Structurally Deficient Bridges
28	Lynchburg	Nelson	151/6/638	5N	Albemarle CL	2	4	0.32	8090	9653	529	8	435	1	1	0	50

* Cross / Safety Collec / Oct 29

Project Description

Project ID: 10

Location: US 29 at VA 655

Description: Short-term improve signage; Mid-term lengthen turn lanes. (Local Priority)

Estimated 2020 Cost: Short-term / Mid-term: \$750,000

Prioritization Results

Final Score: 5.94 (High)

Overall Rank: 2 of 44

Intersection Projects Rank: 1 of 12

2010—13 Fatal + Severe Injuries Crashes per Mile: 22

Major Environmental Impacts: N/A

Project Location Map



Overview of Performance Measure Data

ID	CONSTRUCTION DISTRICT	JURISDICTION(S)	ROUTE	FROM:	TO:	PROPOSED NUMBER LANES	Goal 1		Goal 2	Goal 3		Goal 5					
							Mobility			Safety/Security	Economic Development		System Management and Preservation				
							A	B	C	A	A	B	A	B	C	D	
							2012 LOS	2012 V/C	2013 AADT	2035 AADT	Flow Rate (pcphpl)	Fatal+Injury Crashes per mile (2010-13)	# Heavy Trucks	ARRA Factors (Unemployment and Per Capita Income)	Pavement Condition	Include HOV, Bike/Ped other modes	Sq Ft Structurally Deficient Bridges
10	Lynchburg	Nelson	29/655	Arboret CL	56	4	1	0.17	15737	26223	382	22	1731	0	1	0	750

3.5 Safety Assessments

The Existing Conditions safety assessment, presented in **Section 2.4**, focused on identifying crash patterns at the 15 study intersections along the study corridor, general patterns for the corridor, and identifying potential mitigation measures. Information gathered from public comments received at the first public meeting was also considered in the process. The safety assessment considered Crash Modification Factors (CMFs) to quantify an expected reduction in crashes if various measures were implemented. The primary source for CMF was the AASHTO Highway Safety Manual (HSM)¹, while the VDOT Highway Safety Improvement Program (HSIP) CRFs were used as a supplement reference where the HSM did not have listed factors. The HSM was also used to develop additional countermeasures or recommendations to improve safety. The operations of any improvements that recommended new turn lanes or a roundabout was tested and presented in **Section 3.4**.

Intersection Recommendations

Full details by intersection are presented in **Appendix D**, and include a crash type diagram, crash summary, including time of day, field observations, as well as detailed recommendations. Corridor-wide recommendations to address general deficiencies are also provided. Key recommendations, listed by intersections and the corridor, are as follows:

1. Route 664 (Beech Grove Road / Glenthorne Loop) at Route 151

- Adjust the signage along northbound Route 151.
- Add a southbound right turn bay; offset the turn bay by 6 feet to aid drivers on the eastbound approach to differentiating of southbound through movement versus right turning vehicles.

2. Route 627 (Spruce Creek Lane and Glenthorne Loop) at Route 151

- Realign Route 627 to reduce skew (by 25 degrees) and improve sight distance.
- Add intersection-ahead signage with flashers on the northbound approach.
- Regrade the embankment in the southwest quadrant.

3. Route 634 (Adial Road)/Nellysford area at Route 151

- Add sidewalks for pedestrians.
- As new development or re-development occurs, improve access management and inter-parcel connectivity.

4. Route 613 (Rodes Farm Drive and Lodebar Estate) at Route 151

- Reduce the crest of hill and regrade the embankments to improve sight distance.
- Review commercial signage to ensure signage is not within the VDOT right-of-way.

¹ AASHTO, Highway Safety Manual, 1st Edition, 2010.

- 5. Route 6 (River Road) at Route 151**
 - Widen the east leg of the intersection creating a wider receiving lane for turning vehicles.
 - Consider a roundabout or southbound left turn bay.

- 6. Route 635 (Rockfish School Lane) at Route 151**
 - Construct a northbound left turn lane. Note that an HSIP grant for the turn bay was recently approved. Designs will be prepared and the preliminary start date of construction is October 2015.

- 7. Route 635 (Greenfield Road) at Route 151**
 - Extend the northbound right turn bay by utilizing (restriping) the existing northbound shoulder prior to the start of the turn bay.

- 8. Route 729 (Creek Road) at Route 151**
 - Restripe the roadway to provide a northbound left turn into the Ashley's Market southern access.
 - Add a southbound right turn bay on Route 151 for turning traffic onto Creek Road, move the stop bar on Creek Road closer to the southbound through lane.

- 9. Route 784 (Bland Wade Lane) at Route 151**
 - Consider changing flashers to be demand responsive, so that they flash only when a vehicle is present or approaching (35 mph advisory speed sign with flashers already present).
 - Regrade the roadway to improve sight distance and eliminate the dip in the road, or
 - Consider relocating Bland Wade Lane south of the Fitness Center.

- 10. Route 760 (Sunrise Drive) at Route 151**
 - Regrade the roadway to reduce crest and reduce embankment.
 - Add deer crossing signs in vicinity of intersection.

- 11. Route 609 (Mill Lane) at Route 151**
 - Improve access management.
 - Widen the bridge structure.

- 12. Route 638 S (Avon Road) at Route 151**
 - Move the stop bar on Route 638 closer to the roadway to improve sight distance.
 - Add deer crossing signs south of the intersection and gas station.

- 13. Route 840 (Tanbark Drive) at Route 151**
 - Refresh the yellow lines and stop bars and move the stop sign.
 - Consider rumble strips on Route 840 approaches.
 - Regrade Tanbark Road to improve visibility to Route 151.
 - Regrade the embankment in the southwest and southeast quadrants.

14. Route 6 (Afton Mountain Road) and Route 638 North (Avon Road) at Route 151

- Construct left turn lanes for the northbound and southbound approaches. Note that an HSIP grant for the turn bays was recently approved, designs will be prepared and the preliminary start date of construction is March 2016.
- Reconfigure the eastbound right turn lane to reduce skew by 20 percent.
- Improve signage.
- Consider rumble strips on the approaches of Routes 6 and 638 to the intersection.
- Regrade the approaches of Routes 6 and 638 to the intersection.

15. U.S. Route 250 (Rockfish Gap Turnpike) at Route 151

- Extend the westbound left turn lane.
- Offset the eastbound right turn bay by 12 feet to improve the visibility of eastbound through vehicles.
- Consider street lighting at the intersection.
- Consider a roundabout or signalization with a northbound right turn lane. If this improvement would not be constructed, consider a northbound right turn lane with an acceleration lane on U.S. 250.

General Recommendations

In addition to the location-specific recommendations, general recommendations were developed for the corridor, which include:

- Perform speed studies to set speed limits appropriate for traffic patterns and land uses along the corridor.
- Improve access management for existing parcels by looking for opportunities to consolidate existing driveways and inter-parcel connectivity. Ensure new developments comply with VDOT access management guidelines.
- Develop a comprehensive plan for the Village of Nellysford. For the transportation components, key elements to be considered include parallel road(s) to Route 151, inter-parcel connectivity and pedestrian/bicyclist accommodations.
- Reconstruct Route 151 to correct geometric deficiencies (horizontal, vertical and/or sight distance) and to provide paved shoulders to accommodate pedestrians and cyclists. This project can be phased by segment.
- Reduce sign clutter. VDOT should improve wayfinding and other roadway signage as projects are implemented along the corridor. Nelson County will review and update its zoning ordinance relative to commercial signage within and adjacent to the VDOT right-of-way.
- As state funding becomes available, replace deficient guardrail or install new guardrail at the identified locations.
- Nelson County police should continue its active program in enforcing the speed limit and truck size regulations for the corridor. Nelson County should continue to work with VDOT on geometric safety issues.

Intersection Number	Jurisdiction	Route ID	AADT	Crashes 2010-2012	Fatal & Serious Injury Crashes 2010-2012	Rank by Total Crash PSI	Rank by Fatal & Serious Injury PSI
253129	City of Hampton	US00258	3533	38	14	32	88
611853	City of Franklin	14503904	3696	22	13	84	89
541189	City of Virginia Beach	SR00190	3437	18	12	98	90
484107	City of Portsmouth	12408540	1807	16	8	68	91
542061	City of Virginia Beach	13408726	4121	18	9	89	92
253170	City of Hampton	11407049	5592	33	13	41	93
483340	City of Chesapeake	C1SR00168	7670	42	15	28	94
398045	James City County	4700614	3592	11	9	95	95
398156	James City County	US00060	4472	15	10	100	96
483448	City of Chesapeake	C1SR00168	2126	13	8	88	97
541328	City of Virginia Beach	13408691	3669	12	7	86	98
730703	City of Norfolk	SR00165	4282	15	7	64	99
483281	City of Portsmouth	SR00141	2376	18	11	90	100

Table A-5: Top 100 PSI Intersections (Fatalities & Serious Injuries), Lynchburg District

Intersection Number	Jurisdiction	Route ID	AADT	Crashes 2010-2012	Fatal & Serious Injury Crashes 2010-2012	Rank by Total Crash PSI	Rank by Fatal & Serious Injury PSI
178797	Campbell County	CBUS00460	6917	63	19	1	1
179392	City of Lynchburg	11806044	2595	18	11	6	2
373185	Nelson County	US00029	419	15	10	13	3
178442	Campbell County	CBUS00460	7134	46	15	2	4
519779	City of Danville	C1US00029	6997	24	12	10	5
519778	City of Danville	C1US00029	1651	21	9	4	6
802043	Albemarle County	SR00151	2603	17	10	11	7
519809	City of Danville	C1US00029	1986	27	9	8	8
368641	Halifax County	US00501	7008	34	14	12	9
531450	Prince Edward Co.	US00015	2433	12	7	15	10
575002	Nelson County	US00029	1615	13	7	22	11
130057	Appomattox County	US00460	237	9	6	32	12
179478	City of Lynchburg	CBUS00460	2985	16	8	51	13
519807	City of Danville	C1US00029	1645	26	9	9	14
125265	Amherst County	CSUS00029	862	11	5	16	15
178558	Campbell County	CBUS00460	882	12	6	18	16
368777	Halifax County	SR00129	763	11	5	20	17
368217	Halifax County	4100654	1429	8	5	77	18
734281	City of Danville	C1US00029	958	9	5	23	19
519743	City of Danville	SR00293	2645	11	5	14	20
178232	Campbell County	US00460	1690	6	5	82	21
518588	Pittsylvania County	SR00041	1344	9	4	35	22
173151	Buckingham County	US00015	425	6	5	60	23
700706	Nelson County	SR00151	1870	10	5	24	24

Summary of Comments on Pages from 2_- _VMTP_Statewide_Safety_073015 Lynchburg District.pdf

Page: 1

 Number: 1	Author: cmcgarry	Subject: Highlight	Date: 9/2/2015 12:13:11 PM
 Number: 2	Author: cmcgarry	Subject: Sticky Note	Date: 9/2/2015 12:12:50 PM
location is Intersection of Rt. 29 and Route 655 (Arrington Rd.) in Colleen at the Dairy Isle Cross Over.			
 Number: 3	Author: cmcgarry	Subject: Highlight	Date: 8/14/2015 10:44:35 AM
 Number: 4	Author: cmcgarry	Subject: Sticky Note	Date: 9/2/2015 12:11:49 PM
Location is the Food Lion intersection in Lovington.			
 Number: 5	Author: cmcgarry	Subject: Highlight	Date: 8/14/2015 10:44:41 AM
 Number: 6	Author: cmcgarry	Subject: Sticky Note	Date: 9/2/2015 12:11:43 PM
Location is intersection of Route 151 and Route 6 at Martin's Store.			
 Number: 7	Author: cmcgarry	Subject: Highlight	Date: 8/14/2015 10:44:46 AM

Intersection Number	Jurisdiction	Route ID	AADT	Crashes 2010-2012	Fatal & Serious Injury Crashes 2010-2012	Rank by Total Crash PSI	Rank by Fatal & Serious Injury PSI
125106	Amherst County	0500622	947	7	5	30	25
273535	Nelson County	SR00151	680	9	6	33	26
473118	Nelson County	SR00151	383	7	4	45	27
519923	City of Danville	CFUS00058	2158	26	7	5	28
178783	Campbell County	CBUS00460	585	8	4	71	29
178196	Campbell County	SR00024	911	11	4	25	30
518543	Pittsylvania County	7100729	1422	8	4	39	31
741483	Amherst County	SR00130	1668	8	5	28	32
179607	City of Lynchburg	11806012	2868	29	7	3	33
126036	Amherst County	US00029	992	11	5	26	34
519849	Pittsylvania County	SR00057	560	9	7	41	35
727314	Town of South Boston	US00501	643	8	4	40	36
531454	Prince Edward County	US00460	2690	13	5	21	37
179228	City of Lynchburg	11806035	1507	6	4	68	38
520338	City of Danville	10803755	982	6	4	34	39
178109	Campbell County	1500622	162	18	4	7	40
518909	Pittsylvania County	US00058	100	6	5	57	41
178299	Campbell County	1500682	1065	5	3	67	42
712480	Town of South Boston	1US00501P	429	10	3	19	43
520350	City of Danville	10803759	1071	8	3	31	44
368147	Halifax County	US00501	408	7	3	38	45
368214	Halifax County	SR00360	59	4	4	85	46
179546	City of Lynchburg	11806012	1284	10	3	27	47
518454	Pittsylvania County	SR00057	247	4	4	86	48
732957	Prince Edward Co.	US00015	806	8	4	44	49
178636	Campbell County	US00501	86	7	3	36	50
178462	Campbell County	US00501	948	7	3	47	51
125479	Amherst County	US00060	668	6	4	59	52
520132	City of Danville	10803727	682	4	3	78	53
673603	Nelson County	US00029	1870	8	4	50	54
178572	Town of Brookneal	US00501	27	5	5	70	55
518622	Pittsylvania County	7100750	1750	5	3	61	56
812074	Nelson County	US00029	201	4	3	84	57
518566	Pittsylvania County	7100729	226	5	3	58	58
130242	Appomattox County	US00460	1161	7	3	52	59
178230	Campbell County	SR00024	554	5	3	72	60
238004	Cumberland County	2400600	194	5	3	66	61
518531	Pittsylvania County	7100750	1434	10	3	17	62
178086	Campbell County	1500615	196	4	3	87	63
179223	City of Lynchburg	11806033	7	6	4	53	64
103413	Nelson County	SR00151	62	4	3	73	65
178606	Campbell County	US00029	155	5	3	81	66
727316	Town of South Boston	US00501	430	6	2	63	67
368082	Halifax County	US00501	97	3	3	90	68

Page: 2

Number: 1 Author: cmcgarry Subject: Sticky Note Date: 9/2/2015 12:11:26 PM
Location is US 151 and Route 635 Rockfish School Lane HSIP Project Area.

T Number: 2 Author: cmcgarry Subject: Highlight Date: 8/14/2015 10:44:51 AM

Number: 3 Author: cmcgarry Subject: Sticky Note Date: 9/2/2015 12:11:09 PM
Location is US 151 and Route 6/Route 638 HSIP Project Area in Afton.

T Number: 4 Author: cmcgarry Subject: Highlight Date: 8/14/2015 10:44:54 AM

Number: 5 Author: cmcgarry Subject: Sticky Note Date: 9/2/2015 12:13:26 PM
Location is US 29 and Route 6 Intersection at Woods Mill.

T Number: 6 Author: cmcgarry Subject: Highlight Date: 8/14/2015 10:45:03 AM

Number: 7 Author: cmcgarry Subject: Sticky Note Date: 9/2/2015 12:13:35 PM
Location is US 29 South of Nelson County HS and Middle School in Lovingston.

I Number: 8 Author: cmcgarry Subject: Highlight Date: 9/2/2015 11:57:41 AM

Number: 9 Author: cmcgarry Subject: Sticky Note Date: 9/2/2015 12:13:32 PM
Location is US 151 and Route 784 (Bland Wade LN) Intersection in Afton.

I Number: 10 Author: cmcgarry Subject: Highlight Date: 8/14/2015 10:45:08 AM

Intersection Number	Jurisdiction	Route ID	AADT	Crashes 2010-2012	Fatal & Serious Injury Crashes 2010-2012	Rank by Total Crash PSI	Rank by Fatal & Serious Injury PSI
519274	Pittsylvania County	C1US00029	102	4	2	62	69
179806	City of Lynchburg	11806048	1233	5	2	43	70
179512	City of Lynchburg	C1US00501	1079	4	2	65	71
125342	Amherst County	0500681	935	7	2	29	72
50383	Prince Edward Co.	US00015	294	5	2	64	73
368412	Halifax County	US00360	238	6	2	55	74
173136	Buckingham County	US00060	470	4	2	94	75
273469	Nelson County	SR00151	145	7	2	46	76
473402	Nelson County	US00029	39	8	2	42	77
520337	City of Danville	10800011	1149	4	2	83	78
518444	Pittsylvania County	7100703	239	4	3	80	79
179845	City of Lynchburg	11806070	1058	4	2	88	80
518447	Pittsylvania County	7100703	299	3	2	95	81
125351	Amherst County	0500766	357	3	2	79	82
368216	Halifax County	4100654	62	2	2	97	83
706923	Pittsylvania County	7100729	31	3	3	92	84
178849	Campbell County	CBUS00460	79	6	2	37	85
178123	Campbell County	1500858	504	4	2	56	86
368937	Town of South Boston	13004713	848	5	2	54	87
518167	Pittsylvania County	7100634	195	3	2	89	88
238199	Cumberland County	SR00045	275	4	2	75	89
125107	Amherst County	0500622	300	3	2	74	90
178343	Campbell County	SR00024	221	2	2	96	91
518568	Pittsylvania County	7100730	324	6	2	48	92
710830	Pittsylvania County	US00058	116	7	2	49	93
130125	Appomattox County	US00460	392	5	2	76	94
178615	Town of Brookneal	US00501	313	2	2	100	95
518678	Pittsylvania County	US00029	95	4	2	93	96
178611	Campbell County	US00029	48	2	2	99	97
130145	Appomattox County	US00460	86	5	2	69	98
518459	Pittsylvania County	US00058	79	4	2	91	99
178627	Campbell County	US00460	28	3	2	98	100

Table A-6: Top 100 PSI Intersections (Fatalities & Serious Injuries), Northern Virginia District

Intersection Number	Jurisdiction	Route ID	AADT	Crashes 2010-2012	Fatal & Serious Injury Crashes 2010-2012	Rank by Total Crash PSI	Rank by Fatal & Serious Injury PSI
263347	Fairfax County	2900620	7362	88	50	1	1
549330	City of Manassas	15504361	13531	68	43	11	2
263257	Fairfax County	US00001	1495	63	30	4	3
263885	Fairfax County	US00029	8150	60	38	18	4
731589	Loudoun County	5300625	444	87	39	2	5

Page: 3

Number: 1 Author: cmcgarry Subject: Sticky Note Date: 9/2/2015 12:13:43 PM

Location is US 151 and Route 840 (Tan Bark Dr.) Intersection in Afton.

Number: 2 Author: cmcgarry Subject: Highlight Date: 9/2/2015 12:09:59 PM

Number: 3 Author: cmcgarry Subject: Sticky Note Date: 9/2/2015 12:13:41 PM

Location is US 29 and Route 775 (Anderson LN) North of Lovington between Almost Home Pet Adoption Center and Davis Creek.

Number: 4 Author: cmcgarry Subject: Highlight Date: 8/14/2015 10:45:20 AM

RESOLUTION R2015-76
NELSON COUNTY BOARD OF SUPERVISORS
ENDORSEMENT OF HB2 FUNDING APPLICATIONS

RESOLVED, by the Nelson County Board of Supervisors that the following projects are hereby endorsed by the Board for submittal to the Virginia Department of Transportation for HB2 funding consideration:

- 1) **Route 151/6/638 HSIP Project (Existing Project)** Existing HSIP Project with revenue shortfall and identified VTRANS Safety Hotspot. Located on a Regional Network (US 151) and in an area of high Economic Development.

Intersection Improvement Safety Project submittal to secure shortfall

- 2) **Route 29 / 655 Intersection Improvement** Identified VTRANS Safety Hotspot on a Corridor of Statewide Significance (Seminole Corridor, Segment I2-US Route 29)

Right turn lane and taper to be constructed on Route 29 Southbound at the intersection of Route 655

The existing right turn lane and taper on Route 29 Northbound at the intersection of Route 655 to be extended / widened

- 3) **Route 151 / 664 Turn Lane** Identified Safety Improvement in Route 151 Corridor Study and located on a Regional Network (US 151) and in an area of high Economic Development.

Offset Right turn lane and taper to be constructed on Route 151 Southbound at the intersection of Route 664

Approved: _____, 2015

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

From: Tim Padalino | Planning & Zoning Director

Date: August 5, 2015

**Subject: proposed amendments re: “off-farm agricultural retail sales”
(wayside stands and farmers markets)**

Issue Introduction:

The Planning Commission (PC) has undertaken a policy review of the Zoning Ordinance provisions for “wayside stands,” and (over the course of many work sessions) has developed proposed amendments to the Zoning Ordinance for consideration by the Board of Supervisors. The PC’s policy review process recently culminated in a public hearing on July 22nd for proposed zoning ordinance amendments that, if adopted, would:

- substantially revise the existing “wayside stand” provision by creating new definitions and new regulations; and
- establish a new “farmers market” land use category, including a new definition and regulations.

For the purposes of discussion, these two types of land uses are being informally referred to as “off-farm agricultural retail sales.” This report provides an explanation of the background and context for these proposed amendments; the specific proposed text amendments that the PC has voted to recommend for BOS consideration; and a few staff comments to summarize the proposed changes.

Issue Background & Context:

The existing Zoning Ordinance regulations provide for “wayside stand” as a permissible land use in the Agricultural (A-1) District. Per §2 and §4-11-2, the operation of a wayside stand requires an administrative zoning permit to be obtained; and all sales at wayside stands are by definition limited only to products produced by the permit-holder (and/or his or her family) on an agricultural operation owned or controlled by the permit-holder (and/or his or her family).

The existing Zoning Ordinance regulations do not define or otherwise provide for “farmers markets” as a permissible land use. The proposed amendments attempt to resolve that omission.

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

Specifically, the difference is that the previous amendments deal with the sale of ag products on the farm or at the site of the "bona fide agricultural operation" – whereas the PC's recommended amendments relate to "off-farm ag retail sales." This retail sale of ag products off-site from the actual ag operation can further be divided into two types of land uses:

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

Proposed Text Amendments (as Recommended by PC):

Pursuant to Zoning Ordinance Article 16, Section 1-3, the PC conducted a properly-advertised public hearing on July 22nd and voted 6-0 to recommend the following text amendments to Articles 2, 4, 8, 8A, and 8B:

➤ Article 2: Definitions

Remove the following definition:

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

Add the following definitions:

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

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

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

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

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

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

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

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

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

- (i) Signed affidavit declaring that any and all products offered for sale have their source from, or are otherwise derived from, an agricultural operation that is owned or controlled by the wayside stand operator**
- (ii) Proposed frequency and duration of operations (throughout the day, week, month, or calendar year):**
 - a. may not exceed ____ consecutive days; and/or**
 - b. limited to a maximum of _____ hours per day; and/or**
 - c. limited to a maximum of _____ days per week; and/or**
 - d. limited to a maximum of _____ weeks per year**
- (iii) Location and type of proposed wayside stand equipment or facility:**
 - a. All wayside stand structures or facilities must be located outside of VDOT right-of-way**
 - b. All permanent wayside stand structures must comply with the required front yard setback areas of the applicable zoning district**
- (iv) Location and details of proposed signage:**
 - a. Maximum of one sign allowed, which may be double-sided**
 - b. Maximum of twelve (12) square feet of signage**
- (v) Sketch site plan, including accurate locations and dimensions of:**
 - a. property boundaries and right-of-way**
 - b. proposed location of wayside stand equipment and/or facility(s)**
 - c. proposed signage**
 - d. proposed layout and provisions for safe vehicular ingress, egress, and parking**
 - e. lighting plan and lighting details (for any wayside stand request involving any proposed operation(s) after daylight hours)**
- (vi) Review comments from Virginia Department of Transportation:**

- a. VDOT review comments must include a formal “recommendation for approval” by VDOT before a Class A Wayside Stand permit can be approved by the Zoning Administrator**

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

4-1-46a Wayside Stand, Class B

4-1-47a Farmers Market

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

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

8-1-13a Farmers Market

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

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

8A-1-7a Farmers Market

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

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

8B-1-14a Farmers Market

Staff Comments and Summary:

These proposed amendments would address the fact that “farmers market” is not currently defined or provided for by Ordinance, yet is something that currently exists in Nelson County.

These proposed amendments would also improve the “wayside stand” provisions in the following ways:

- They would bring clarity and consistency to the current provision (§4-11-2), which is extremely vague and which currently lacks any clear methods or criteria for applying for, reviewing, approving, or denying these types of administrative permits.
- They would create two separate categories or classes for the “wayside stand” land use, determined by the type of road it would be located on (or accessed from).
 - The two categories would be determined by using VDOT’s “Functional Classification Code” to treat some wayside stands as a by-right use, while treating other wayside stands (on busier roads) to be treated as a special use, all based on the location.
 - This allows for proposed wayside stands located on smaller roads to be reviewed and approved more easily than proposed wayside stands located on roads with high traffic counts, high rates of speed, or other transportation factors which inherently create more concerns regarding public safety and land use changes.

Thank you for your attention to these proposed amendments regarding “wayside stands” and “farmers markets,” which are now presented to the BOS for you to review and to consider authorizing for public hearing. Please contact me with any questions you may have regarding any of the information contained in this packet.

RESOLUTION R2015-67
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR PUBLIC HEARING
AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA
APPENDIX A, ZONING, “WAYSIDE STANDS” AND “FARMERS MARKETS”

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 _____, at 7:00 PM in the General District Courtroom in the Courthouse in Lovingston, Virginia to receive public input on an Ordinance proposed for passage to revise the definitions, application requirements, and regulations for “off-farm agricultural retail sales” land uses, including Wayside Stands and Farmers Markets. Affected Sections of the Zoning Ordinance include: Article 2; Article 4, Sections 1-a and 11-2; Article 8, Section 1-a; Article 8A, Section 1-a; and Article 8B, Section 1-a.

Adopted: _____, 2015

Attest: _____, Clerk
Nelson County Board of Supervisors

**NOTICE OF PUBLIC HEARING
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF THE CODE OF NELSON COUNTY**

In accordance with Volume 3A, Title 15.2, Counties, Cities and Towns, of the Code of Virginia, 1950, as amended, and pursuant to §15.2-107, §15.2-2204, §15.2-2285, §15.2-2310, and §15.2-4307, the Nelson County Board of Supervisors hereby gives notice that a Public Hearing will start at **7:00 p.m.**, _____, **2015** in the **General District Courtroom** on the third floor of the Nelson County Courthouse located at 84 Courthouse Square, Lovingston, 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, Virginia, Appendix A Zoning to revise the definitions, application requirements, and regulations for “off-farm agricultural retail sales” land uses, including Wayside Stands and Farmers Markets. The full text of the proposed Ordinance is as follows:

Article 2: Definitions

Remove the following definition:

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

Add the following definitions:

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

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

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

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

Article 4: Agricultural District (A-1)

Revise the following provision in Section 4-11 “Administrative Approvals:”

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

4-11-2 Wayside Stands.

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

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

(i) Signed affidavit declaring that any and all products offered for sale have their source from, or are otherwise derived from, an agricultural operation that is owned or controlled by the wayside stand operator

(ii) Proposed frequency and duration of operations (throughout the day, week, month, or calendar year):

- a. may not exceed ___ consecutive days; and/or
- b. limited to a maximum of ___ hours per day; and/or
- c. limited to a maximum of ___ days per week; and/or
- d. limited to a maximum of ___ weeks per year

(iii) Location and type of proposed wayside stand equipment or facility:

- a. All wayside stand structures or facilities must be located outside of VDOT right-of-way
- b. All permanent wayside stand structures must comply with the required front yard setback areas of the applicable zoning district

(iv) Location and details of proposed signage:

- a. Maximum of one sign allowed, which may be double-sided
- b. Maximum of twelve (12) square feet of signage

(v) Sketch site plan, including accurate locations and dimensions of:

- a. property boundaries and right-of-way
- b. proposed location of wayside stand equipment and/or facility(s)
- c. proposed signage
- d. proposed layout and provisions for safe vehicular ingress, egress, and parking
- e. lighting plan and lighting details (for any wayside stand request involving any proposed operation(s) after daylight hours)

(vi) Review comments from Virginia Department of Transportation:

- a. VDOT review comments must include a formal “recommendation for approval” by VDOT before a Class A Wayside Stand permit can be approved by the Zoning Administrator

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

- 4-1-46a Wayside Stand, Class B
- 4-1-47a Farmers Market

Article 8: Business District (B-1)

Add the following provisions to Section 8-1-a “Uses – Permitted by Special Use Permit only:”
8-1-13a Farmers Market

Article 8A: Business District (B-2)

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

8A-1-7a Farmers Market

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

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

8B-1-14a Farmers Market

§ 15.2-2204. Advertisement of plans, ordinances, etc.; joint public hearings; written notice of certain amendments

A. Plans or ordinances, or amendments thereof, recommended or adopted under the powers conferred by this chapter need not be advertised in full, but may be advertised by reference. Every such advertisement shall contain a descriptive summary of the proposed action and a reference to the place or places within the locality where copies of the proposed plans, ordinances or amendments may be examined.

The local planning commission shall not recommend nor the governing body adopt any plan, ordinance or amendment thereof until notice of intention to do so has been published once a week for two successive weeks in some newspaper published or having general circulation in the locality; however, the notice for both the local planning commission and the governing body may be published concurrently. The notice shall specify the time and place of hearing at which persons affected may appear and present their views, not less than five days nor more than 21 days after the second advertisement appears in such newspaper. The local planning commission and governing body may hold a joint public hearing after public notice as set forth hereinabove. If a joint hearing is held, then public notice as set forth above need be given only by the governing body. The term "two successive weeks" as used in this paragraph shall mean that such notice shall be published at least twice in such newspaper with not less than six days elapsing between the first and second publication. After enactment of any plan, ordinance or amendment, further publication thereof shall not be required.

B. When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of 25 or fewer parcels of land, then, in addition to the advertising as required by subsection A, written notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner or owners, their agent or the occupant, of each parcel involved; to the owners, their agent or the occupant, of all abutting property and property immediately across the street or road from the property affected, including those parcels which lie in other localities of the Commonwealth; and, if any portion of the affected property is within a planned unit development, then to such incorporated property owner's associations within the planned unit development that have members owning property located within 2,000 feet of the affected property as may be required by the commission or its agent. However, when a proposed amendment to the zoning ordinance involves a tract of land not less than 500 acres owned by the Commonwealth or by the federal government, and when the proposed change affects only a portion of the larger tract, notice need be given only to the owners of those properties that are adjacent to the affected area of the larger tract. Notice sent by registered or certified mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement. If the hearing is continued, notice shall be remailed. Costs of any notice required under this chapter shall be taxed to the applicant.

When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of more than 25 parcels of land, or a change to the applicable zoning ordinance text regulations that decreases the allowed dwelling unit density of any parcel of land, then, in

addition to the advertising as required by subsection A, written notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner, owners, or their agent of each parcel of land involved, provided, however, that written notice of such changes to zoning ordinance text regulations shall not have to be mailed to the owner, owners, or their agent of lots shown on a subdivision plat approved and recorded pursuant to the provisions of Article 6 (§ 15.2-2240 et seq.) where such lots are less than 11,500 square feet. One notice sent by first class mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that a representative of the local commission shall make affidavit that such mailings have been made and file such affidavit with the papers in the case. Nothing in this subsection shall be construed as to invalidate any subsequently adopted amendment or ordinance because of the inadvertent failure by the representative of the local commission to give written notice to the owner, owners or their agent of any parcel involved.

The governing body may provide that, in the case of a condominium or a cooperative, the written notice may be mailed to the unit owners' association or proprietary lessees' association, respectively, in lieu of each individual unit owner.

Whenever the notices required hereby are sent by an agency, department or division of the local governing body, or their representative, such notices may be sent by first class mail; however, a representative of such agency, department or division shall make affidavit that such mailings have been made and file such affidavit with the papers in the case.

A party's actual notice of, or active participation in, the proceedings for which the written notice provided by this section is required shall waive the right of that party to challenge the validity of the proceeding due to failure of the party to receive the written notice required by this section.

C. When a proposed comprehensive plan or amendment thereto; a proposed change in zoning map classification; or an application for special exception for a change in use or to increase by greater than 50 percent of the bulk or height of an existing or proposed building, but not including renewals of previously approved special exceptions, involves any parcel of land located within one-half mile of a boundary of an adjoining locality of the Commonwealth, then, in addition to the advertising and written notification as required by this section, written notice shall also be given by the local commission, or its representative, at least 10 days before the hearing to the chief administrative officer, or his designee, of such adjoining locality.

D. When (i) a proposed comprehensive plan or amendment thereto, (ii) a proposed change in zoning map classification, or (iii) an application for special exception for a change in use involves any parcel of land located within 3,000 feet of a boundary of a military base, military installation, military airport, excluding armories operated by the Virginia National Guard, or licensed public-use airport then, in addition to the advertising and written notification as required by this section, written notice shall also be given by the local commission, or its representative, at least 30 days before the hearing to the commander of the military base, military installation, military airport, or owner of such public-use airport, and the notice shall advise the military commander or owner of such public-use airport of the opportunity to submit comments or recommendations.

E. The adoption or amendment prior to July 1, 1996, of any plan or ordinance under the authority of prior acts shall not be declared invalid by reason of a failure to advertise or give notice as may be required by such act or by this chapter, provided a public hearing was conducted by the

governing body prior to such adoption or amendment. Every action contesting a decision of a locality based on a failure to advertise or give notice as may be required by this chapter shall be filed within 30 days of such decision with the circuit court having jurisdiction of the land affected by the decision. However, any litigation pending prior to July 1, 1996, shall not be affected by the 1996 amendment to this section.

F. Notwithstanding any contrary provision of law, general or special, the City of Richmond may cause such notice to be published in any newspaper of general circulation in the city.

G. When a proposed comprehensive plan or amendment of an existing plan designates or alters previously designated corridors or routes for electric transmission lines of 150 kilovolts or more, written notice shall also be given by the local planning commission, or its representative, at least 10 days before the hearing to each electric utility with a certificated service territory that includes all or any part of such designated electric transmission corridors or routes.

H. When any applicant requesting a written order, requirement, decision, or determination from the zoning administrator, other administrative officer, or a board of zoning appeals that is subject to the appeal provisions contained in § 15.2-2311 or 15.2-2314, is not the owner or the agent of the owner of the real property subject to the written order, requirement, decision or determination, written notice shall be given to the owner of the property within 10 days of the receipt of such request. Such written notice shall be given by the zoning administrator or other administrative officer or, at the direction of the administrator or officer, the requesting applicant shall be required to give the owner such notice and to provide satisfactory evidence to the zoning administrator or other administrative officer that the notice has been given. Written notice mailed to the owner at the last known address of the owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall satisfy the notice requirements of this subsection.

This subsection shall not apply to inquiries from the governing body, planning commission, or employees of the locality made in the normal course of business.

Code 1950, § 15-961.4; 1962, c. 407, § 15.1-431; 1964, c. 632; 1968, cc. 354, 714; 1973, cc. 117, 334; 1974, cc. 100, 570; 1975, c. 641; 1976, c. 642; 1977, c. 65; 1982, c. 291; 1990, c. 61; 1992, cc. 353, 757; 1993, cc. 128, 734; 1994, c. 774; 1995, c. 178; 1996, cc. 613, 667; 1997, c. 587; 2001, c. 406; 2002, c. 634; 2004, cc. 539, 799; 2005, c. 514; 2007, cc. 761, 813; 2011, c. 457; 2012, c. 548; 2013, cc. 149, 213.

§ 15.2-1427. Adoption of ordinances and resolutions generally; amending or repealing ordinances

A. Unless otherwise specifically provided for by the Constitution or by other general or special law, an ordinance may be adopted by majority vote of those present and voting at any lawful meeting.

B. On final vote on any ordinance or resolution, the name of each member of the governing body voting and how he voted shall be recorded; however, votes on all ordinances and resolutions adopted prior to February 27, 1998, in which an unanimous vote of the governing body was recorded, shall be deemed to have been validly recorded. The governing body may adopt an ordinance or resolution by a recorded voice vote unless otherwise provided by law, or any member calls for a roll call vote. An ordinance shall become effective upon adoption or upon a date fixed by the governing body.

C. All ordinances or resolutions heretofore adopted by a governing body shall be deemed to have been validly adopted, unless some provision of the Constitution of Virginia or the Constitution of the United States has been violated in such adoption.

D. An ordinance may be amended or repealed in the same manner, or by the same procedure, in which, or by which, ordinances are adopted.

E. An amendment or repeal of an ordinance shall be in the form of an ordinance which shall become effective upon adoption or upon a date fixed by the governing body, but, if no effective date is specified, then such ordinance shall become effective upon adoption.

F. In counties, except as otherwise authorized by law, no ordinance shall be passed until after descriptive notice of an intention to propose the ordinance for passage has been published once a week for two successive weeks prior to its passage in a newspaper having a general circulation in the county. The second publication shall not be sooner than one calendar week after the first publication. The publication shall include a statement either that the publication contains the full text of the ordinance or that a copy of the full text of the ordinance is on file in the clerk's office of the circuit court of the county or in the office of the county administrator; or in the case of any county organized under the form of government set out in Chapter 5, 7 or 8 of this title, a statement that a copy of the full text of the ordinance is on file in the office of the clerk of the county board. Even if the publication contains the full text of the ordinance, a complete copy shall be available for public inspection in the offices named herein.

In counties, emergency ordinances may be adopted without prior notice; however, no such ordinance shall be enforced for more than sixty days unless readopted in conformity with the provisions of this Code.

G. In towns, no tax shall be imposed except by a two-thirds vote of the council members.

Code 1950, §§ 15-8, 15-10; 1950, p. 113; 1954, c. 529; 1956, cc. 218, 664; 1956, Ex. Sess., c. 40; 1958, cc. 190, 279; 1960, c. 606; 1962, c. 623, § 15.1-504; 1966, cc. 405, 612; 1968, c. 625; 1970, c. 581; 1972, cc. 41, 837; 1973, c. 380; 1978, c. 235; 1983, c. 11; 1997, c. 587; 1998, c. 823; 2000, c.

895.



To: Chair and Members, Nelson County Board of Supervisors

From: Tim Padalino, Planning & Zoning Director

Date: September 3, 2015

Subject: Agricultural & Forestal District Applications #2015-05, -06

At the September 8th Board of Supervisors (BOS) meeting, the BOS will receive two (2) applications involving requests to expand existing Agricultural and Forestal Districts (AFD) in Nelson County. These applications have been forwarded to the BOS by the Planning Commission (PC), and are presented for your consideration to authorize a public hearing.

This report provides a detailed summary of the two (2) pending AFD applications, as well as detailed information about the review procedures and requirements. Please see page 2 of this report for the evaluation criteria for AFD applications; and please see page 3 for detailed information about the overall application review process, including status updates for each step.

Summary of AFD Applications under BOS review at the 9/8 meeting:

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

– *Date received:* 5/26/2015

– *Total size of proposed expansion:* 165.08 acres

– *Parcels and property owners in proposed addition:* 1 total property owner / 1 total parcel

- Parcel #44-A-29B – Michael Scelzi – 165.08 acres
- Please see Map 1 and Map 2 on pages 4 – 5.

– *Advisory Committee Recommendation:* The committee reviewed this application on June 29th and unanimously voted to recommend to the Planning Commission and the Board of Supervisors that they approve this proposed expansion of the existing Davis Creek AFD.

– *Planning Commission Recommendation:* After conducting a public hearing, the PC voted to recommend approval of this proposed expansion of the existing Davis Creek AFD.

– *Staff comment:* The applicant has requested a 4-year “term” (review period). However, the review period for the existing Davis Creek AFD has previously been established as a 5-year term by the Board of Supervisors in 2003; this request for a 4-year term appears to be invalid.

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

- *Date received:* 6/1/2015
- *Total size of proposed expansion:* 258.43 acres
- *Parcels and property owners in proposed addition:* 5 total property owners / 5 total parcels
 - Parcel #12-A-113A – Erin Johnson and Kim Grosner – 3.83 acres
 - Parcel #13-A-35C – Freeman Mowrer and Mary Connolly Mowrer – 12.6 acres
 - Parcel #24-A-8 – Aristedes Avgeris and Despina Avgeris – 74.5 acres
 - Parcel #24-3-Y – Thomas E. Proulx, Phillipa Proulx, and Maya Proulx – 5.43 acres
 - Parcel #24-4-B – Paul Gifford Childs and Amy Larson Childs – 162.07 acres
 - *Please see Map 3 and Map 4 on pages 6 – 7.*
- *Advisory Committee Recommendation:* The committee reviewed this application on June 29th and unanimously voted to recommend to the Planning Commission and the Board of Supervisors that they approve the proposed addition of all parcels to the Greenfield AFD.
- *Planning Commission Recommendation:* After conducting a public hearing, the PC voted to recommend approval of this proposed expansion of the existing Greenfield AFD.

Review Procedures for AFD Applications: “Evaluation Criteria”

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

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

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

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

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

Sec. 9-201. - Creation of district.

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

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

The *planning commission* shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Prohibition of development to more intensive use.

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

RESOLUTION R2015-77
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 DAVIS CREEK AND GREENFIELD
AGRICULTURAL AND FORESTAL DISTRICTS

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 _____, 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 Ordinances proposed for passage to amend Chapter 9 “Planning and Development”, Article V, “Agricultural and Forestal Districts” to expand the existing Davis Creek and Greenfield Agricultural and Forestal Districts.

Adopted: _____, 2015

Attest: _____, Clerk
Nelson County Board of Supervisors

**NOTICE OF PUBLIC HEARING
NELSON COUNTY BOARD OF SUPERVISORS
EXPANSION OF THE DAVIS CREEK &
GREENFIELD AGRICULTURAL & FORESTAL DISTRICTS**

In accordance with Volume 3A, Title 15.2, Counties, Cities and Towns, of the Code of Virginia, 1950, as amended, and pursuant to §15.2-107, §15.2-2204, §15.2-2285, §15.2-2310, and §15.2-4307, the Nelson County Board of Supervisors hereby gives notice that a Public Hearing will start at **7:00 p.m.**, _____, **2015** in the **General District Courtroom** on the third floor of the Nelson County Courthouse located at 84 Courthouse Square, Lovingson, Virginia. The purpose of the public hearing is to receive public input on Ordinances proposed for passage that would amend the Code of Nelson County, Virginia, Chapter 9 “Planning and Development,” Article V, “Agricultural and Forestal Districts” to expand the Davis Creek and Greenfield Agricultural and Forestal Districts, and are summarized as follows:

Ordinance O2015-XX Expansion of Davis Creek Ag Forestal District, 165.08 acres

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

Ordinance O2015-XX Expansion of Greenfield Ag Forestal District, 258.43 acres

Parcel #12-A-113A – Erin Johnson and Kim Grosner – 3.83 acres

Parcel #13-A-35C – Freeman Mowrer and Mary Connolly Mowrer – 12.6 acres

Parcel #24-A-8 – Aristedes Avgeris and Despina Avgeris – 74.5 acres

Parcel #24-3-Y – Thomas E. Proulx, Phillipa Proulx, and Maya Proulx – 5.43 acres

Parcel #24-4-B – Paul Gifford Childs and Amy Larson Childs – 162.07 acres

Copies of the application materials and the full text of the proposed Ordinance amendments are available for public inspection in the Department of Planning & Zoning, 80 Front Street, and in the Office of the County Administrator, 84 Courthouse Square, both in Lovingson, VA, 22949, from Monday through Friday, between 9:00 a.m. and 5:00 p.m. Telephone inquiries may also be directed to the Dept. of Planning & Zoning, (434) 263-7090, or toll free at 888-662-9400, selections 4 and 1.

BY AUTHORITY OF NELSON COUNTY BOARD OF SUPERVISORS

2 September, 2015

To: Board of Supervisors
From: S. Carter
Re: Massies Mill (Former School) Property

I. Chronology of Property Conveyances

- A. June 29, 1995 – Nelson County School Board to County of Nelson – 10 acres more or less.
- B. November 17, 1999 – County of Nelson to Massies Mill Recreation Center, Inc. – 10 acres more/less.
- C. August 21, 2007 – Massies Mill Recreation Center, Inc. to County of Nelson – 3.75 acres (the acreage was used to construct the Massies Mill Solid Waste Collection Center).
- D. November 15, 2012 – Massies Mill Recreation Center, Inc. to County of Nelson -6.25 acres more/less. (A portion of this property was used to construct one of the County’s wireless telecommunications Towers – see site drawing).

II. Assessed Value of Land (only) per 2014 Gen. Reassessment, as revised in 2015 per demolition of former school building is \$71,500.00 (\$11,440 per acre @ 6.25 acres).

III. Locational Drawing – See agenda. The drawing depicts the MM Collection Site, the Tower Site with tower fall zone (circled), internal grave access road to tower site, and former school building footprint following demolition with well and septic systems locations denoted; Acreage beyond the tower fall zone is 2.7 acres.

IV. Code of VA Requirements – Public Hearing required per §15.2-1800 to provide for sale of public property and advertised per §15.2-1427 (see agenda for Code sections).

V. Staff Comment: Should a decision be made to sell County property to a third party, the County should retain property inclusive of the tower fall zone, retain an easement for use of the tower access road with road maintenance shared with the third party purchaser and, sell the property as-is, no warranties, etc.



Former School, Septic Tank and Field

Underground Vault for Water Service Equipment

Active Water Well for former School

2.7 Acres

Tower Site Access Road

1.01 Acres

1 inch = 150 feet



Tax ID 07539

Printed 08/26/2015

1 2

PARCEL NUMBER
55 A 26
Parent Parcel Number
Property Address
961 TAN YARD ROAD
Neighborhood
0
Property Class
74 74- local gov

COUNTY OF NELSON
MASSIE MILL SCHOOL
P O BOX 336
LOVINGSTON, VA 22949

11/21/2012 MASSIES MILL RECREATION CENTER Doc #: 120003459
11/23/1999 MASSIES MILL ELEM SCHOOL \$0 Bk/Eg: 452, 310
10/18/1995 MASSIES MILL ELEM SCHOOL \$3500 Bk/Pg: 373, 769
\$0

EXEMPT

TAXING DISTRICT INFORMATION
Jurisdiction 60
Area 001
District 02

01/01/2007 01/14/2008 01/01/2014 01/01/2014 01/01/2015 01/01/2015 06/01/2015

	Split	Reassessment	2014 Reval	C of E	Destroy	Misc	C of E
0	L 38400	93500	87500	121500	121500	121500	71500
	B 123700	77300	77300	187300	110000	110000	110000
	T 162100	170800	164800	308800	231500	231500	181500
VALUATION	L 0	0	0	0	0	0	0
	B 123700	77300	77300	187300	110000	110000	110000
	T 123700	77300	77300	187300	110000	110000	110000

Topography: High
Public Utilities: Electric
Street or Road: Paved
Neighborhood: Static
Zoning: 2 Residential excess acreage
Legal Acres: 3 Woodland
6.2500 4 Utility/Cell tower site

3.2500	1.00	6000.00	6000.00	19500	19500
2.0000	1.00	6000.00	6000.00	12000	12000
1.0000	1.00	40000.00	40000.00	40000	40000

Supplemental Cards

MEASURED ACREAGE 6.2500

Supplemental Cards

TRUE TAX VALUE 71500

ATT: 911# 961 TAN YARD RD
gen: general
general
School closed
CELL TOWER MOVED FROM 55 3 3A
3/24/2007 INST 070003117 PC 5/8D SOLD 3.75 AC
6/2015 AC CHANGE WAS WRONG ACERAGE PC5/8D

9373 X \$55 X .40 X .75 = 77327

01

BUILDING REMOVED

VACANT

(LCM: 100.00)

01	FR. SHED	0.00	1		1	1	F	0.00	N	0.00	0	0	0	NV	100	0
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CELL TOWER

01

(LCH: 100.00)

01	CELLTOWE	0.00	1	C	2013	2013	AV	0.00	N	0.00	110	0	0	SV	100	100	110000
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§ 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](#).

RESOLUTION R2015-78
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR PUBLIC HEARING
DISPOSITION OF PUBLIC PROPERTY IN MASSIES MILL

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 _____, 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 961 Tan Yard Road, Massies Mill, Virginia, Tax Map # 55-A-26.

Adopted: _____, 2015

Attest: _____, Clerk
Nelson County Board of Supervisors

PUBLIC HEARING NOTICE
NELSON COUNTY BOARD OF SUPERVISORS
DISPOSITION OF PUBLIC PROPERTY IN MASSIES MILL

Pursuant to §15.2-1800 and §15.2-1427 of the Code of Virginia 1950 as amended, the Nelson County Board of Supervisors will hold a public hearing on _____, 2015 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 the proposed disposition of County Property located at 961 Tan Yard Road, Massies Mill, Virginia, Tax Map # 55-A-26. Details regarding this property can be found in the Circuit Court Clerk's Office. Please contact 434-263-7000 should additional information be required.

BY AUTHORITY OF NELSON COUNTY BOARD OF SUPERVISORS

2015 Nelson County Board of Supervisors Retreat

October 22 & 23, 2015 - 9:00 a.m. to 4 p.m. (Proposed)

Draft Outline of Areas for Discussion

I. Summary Comment(s):

A. Facilitator - Mr. Chip Boyles, Executive Director, Thomas Jefferson Planning District Commission

B. Location (TBD) – Veritas Winery is a proposed location.

C. Daily Format - To be developed by Mr. Boyles and County staff and endorsed by Board

II. Proposed Areas of Discussion (No Specific Order - TBD by Board)

A. Budget & Finance (Report on Condition)

B. County Infrastructure (Water, Wastewater, Broadband, Communications)

C. County Facilities (Schools, Library, Parks & Recreation, etc.)

D. Economic Development (Strategies, Issues, Policies, Addressing Poverty, Business Recruitment & Retention, Business Park)

E. Comprehensive Planning (Short/Long Term Land Use, Comprehensive Plan, Master Planning – Lovingston, Nellysford, Colleen, Transportation Corridors, Historic Resources)

F. Public Schools

G. Emergency Services (EMS & Fire Services, Paid EMS Program)

H. Transportation

I. Legislative Initiatives for 2016 Gen. Assembly Session

J. Atlantic Coast Pipeline

K. Lovingston Health & Rehab Center

L. Other

III. Organization

A. Review of Input from Departments & Offices (Provided Prior to the Retreat)

B. County Administrator (Evaluation, Goals & Objectives)

DRAFT

September 3, 2015

Nelson County – Department of Planning & Zoning

Tim Padalino – Planning & Zoning Director

ATLANTIC COAST PIPELINE “QUESTIONNAIRE” FOR NELSON COUNTY, VIRGINIA

*Responses to questions submitted by Atlantic Coast Pipeline Project,
Dominion Virginia Power, and Natural Resource Group
regarding future land use, growth, and development in Nelson County.*



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

From: Tim Padalino | Planning & Zoning Director

Date: September 1, 2015

**Subject: First-Draft Responses to Atlantic Coast Pipeline Questionnaire
for BOS Review and Consideration**

Introduction

On February 19th, 2015 I received a request and invitation from Atlantic Coast Pipeline, LLC (ACP) (through Mr. Patrick Robblee of “Natural Resource Group”) to provide formal input on issues identified in a questionnaire regarding future land use policies, Comprehensive Plan content, and similar issues. The Nelson County Board of Supervisors (BOS) initially directed staff not to provide written responses.

On July 16th, 2015, ACP (through Ms. Susan A. King of “Dominion Virginia Power”) resubmitted a request for Nelson County representatives to meet with ACP representatives and/or provide written responses to the same questionnaire. Then, during the August 11th meeting, the BOS directed staff to prepare written responses to the eleven questions that were previously provided.

This report contains draft responses to ACP’s questions for review and consideration by the BOS review and comment. The eleven questions submitted to the Director of Planning & Zoning by “Natural Resource Group” (NRG) on February 19th and re-submitted to Nelson County Administration by Virginia Dominion Power on July 16th are as follows:

1) With respect to the Project's compatibility with the Nelson County Comprehensive Plan, does the County see any conflicts that need to be addressed, or other land use planning issues of which we should be aware?

➤ **Nelson County Comprehensive Plan – Chapter 4: “Land Use Plan” (pp. 16-42)**

The ACP Project represents potentially major conflicts with the following elements of the Land Use Plan, which is, “*the description and rationale for desired new growth in the county.*”

Please note: The following “*excerpts*” are included in this response because they represent an inherent conflict or fundamental incompatibility with the ACP Project; many other elements of the Land Use Plan were not included, as they do not necessarily represent such conflict or incompatibility.

- “*Fundamental Principle #1: New growth should be targeted to designated development areas following the guidelines included for each development model, so that growth takes place in a controlled manner without spreading into a dispersed, sprawling pattern.*”
- “*Fundamental Principle #2: Maintaining the rural character and ensuring the protection of current and future agricultural and forestal land are essential to preserving the heritage and unique character of Nelson County.*”
- “*Land Use Plan: Environmental Constraints – Steep Slopes*”
 - “*As any county resident knows, Nelson County has a high number of steep slopes, defined as slopes greater than 25%. For development purposes, steep slopes present a building challenge and possible environmental consequences. Clearing, grading, building, cropping, and overgrazing of steep slopes can result in extensive erosion and landslides or sloughing of soil and rock, excessive stormwater runoff, increased siltation and sedimentation, and degrading of the aesthetic value. In the event of a septic system failure, the septic effluent has a greater travel distance.*”
 - “*General standards*” that are incompatible with the ACP Project:
 - *Roads should follow the natural topography to minimize grading, cutting, and filling.*
 - *Maintain natural drainage channels in their natural state and/or stabilize natural channels to protect them from the impact of development activity.*
 - *Design public utility corridors to fit the topography.*
 - *Adapt development to the topography and natural setting. Excessive grading, cutting, and filling should be discouraged.*
 - *As land slope increases, the rate of stormwater runoff also increases. Fertilizers, pesticides, herbicides, and other chemicals may be ineffective and can increase probabilities of surface and groundwater pollution.*

- “Land Use Plan: Environmental Constraints – Soil Potential for Agricultural Use”

- *“Maintaining the agricultural (and forestal) land base helps sustain the scenic quality and rural character of the county, which both residents and tourists appreciate. Maintaining agricultural land also promotes the existing agriculture business and retains these lands for future farming.”*

- “Land Use Plan for Rural Areas”

- *The majority of Nelson County is rural, and the unique character and particular identity of the county is due in large measure to this rural character. While “rural character” is fundamentally difficult to define, it is important to describe the desirable features of rural areas so their key attributes are protected. The following attributes begin to describe rural character:*

- *The farms, orchards, and forested land*
- *The mountains and scenic vistas*
- *The river and stream corridors*
- *The barns, outbuildings, and farmhouses*
- *The historic properties and sites*
- *The scenic roadways passing through rural areas*

- *Any development that occurs in rural areas should adhere to the following principles:*

- *Historic sites, including farmhouses, outbuildings and barns should be incorporated into developments*
- *Limit development on critical slopes in order to maintain the balance between slope, soils, geology, and vegetation.*
- *Scenic vistas should be protected by limiting development and through height limits on new buildings*
- *River and stream corridors, especially floodplains and wetlands, should remain undeveloped*

➤ **Nelson Co. Comprehensive Plan – Chapter 3: “Goals and Principles” (pp. 5-15)**

The ACP Project represents potentially major conflicts with the following “Goals” and “Principles,” which *“state the long-term expectations for the county under eight key areas: Economic Development, Transportation, Education, Public and Human Services, Natural, Scenic, and Historic Resources, Recreation, Development Areas, and Rural Conservation.”*

Please note: The following “*excerpts*” are included in this response because they represent an inherent conflict or fundamental incompatibility with the ACP Project; many other elements of the Goals and Principles were not included, as they do not necessarily represent such conflict or incompatibility.

Economic Development:

- *Goal* – Enhance the quality of life for Nelson County residents by maintaining and encouraging a diverse and vibrant local economy in designated development areas and compatible with the county’s size and rural character.
- *Goal* – Support and encourage tourism as a viable means to diversify the local economy.
 - *Principle* – Support local tourism and link it to the region’s many tourism programs.
 - *Principle* – Promote historic sites that are accessible to the public as part of the tourist economy.
 - *Principle* – Promote local greenways and other recreational opportunities to enhance tourism.

Natural, and Scenic, and Historic Resources:

- *Goal* – Recognize that the natural environment is an important facet of our quality of life and efforts should be made to support and enhance that environment.
 - *Principle* – Recognize the importance of ground water and surface water to the county by supporting guidelines for the protection of these resources and conducting additional water studies as needed.
 - *Principle* – Protect natural resources, including prime soils for agricultural use, groundwater, air, wetlands, and forest resources.
 - *Principle* – Recognize the county’s major rivers and waterways as significant environmental resources and provide for their protection and appropriate use for recreation.
 - *Principle* – Limit development on critical slopes in order to maintain the balance between slope, soils, geology, and vegetation.
- *Goal* – Protect the county’s scenic resources as essential to the county’s rural character, economic strength and quality of life.
 - *Principle* – Maintain areas of scenic beauty of the county’s waterways and rivers as natural resources and in support of the county’s tourism program.
 - *Principle* – Promote the preservation of the viewsheds of scenic vistas as an important part of the county’s tourism program.
 - *Principle* – Discourage ridgeline development.
- *Goal* – Preserve and protect the historic character and features of Nelson County.
 - *Principle* – Encourage the establishment of local historic districts in support of the county’s tourism program and to protect their historical, architectural, and cultural significance.

Development Areas:

- ***Goal*** – Channel new development into designated development areas thereby retaining the county’s rural character.
 - ***Principle*** – Direct large scale commercial and industry into development areas designated Mixed Commercial or Light Industrial in the Future Land Use Map or where appropriately zoned.
 - ***Principle*** – Promote orderly expansion in designated development areas that is consistent with the pattern and character of existing development.

Rural Conservation:

- ***Goal*** – Maintain the rural character of Nelson County.
 - ***Principle*** – Protect sensitive rural areas such as steep slopes, river and stream corridors, prime farmland, old growth forests, and historic sites from encroaching development by discouraging rural growth in areas adjacent to these sensitive areas.
 - ***Principle*** – Protect scenic views and vistas by encouraging the siting of new buildings in conformance with the existing topography and into the existing landscape and vegetation.
- ***Goal*** – Protect productive agricultural and forestal land.

2) Are there any planned developments in the path of, or near, the route in Nelson County? If so, what is the status of development plans and the contact information of the developer, if known?

Yes – the following planned developments are proximal to the route(s) in Nelson County:

- ***Monarch Inn & Farm***
 - ***Status:*** Three (3) Special Use Permit applications, with accompanying Minor Site Plan, have been filed with the Department of Planning & Zoning. The review of these application materials is actively in process.
 - ***Developer Contact Info:*** Wendy Summer and Michael Matthews, Applicants mikem@matthewsdevelop.com / (434)-972-7764
- ***Spruce Creek Resort & Market***
 - ***Status:*** Five (5) Special Use Permit applications, with accompanying Minor Site Plan, have been filed with the Department of Planning & Zoning. The review of these application materials is actively in process.
 - ***Developer Contact Info:*** Mr. Richard Averitt IV, Applicant and Property Owner, richard@raveritt.com / (434)-361-0127

- Wintergreen Resort Hotel
 - *Status:* pre-application
 - *Contact Info:* c/o Mr. Hank Theiss, General Manager,
hthiess@Wintergreenresort.com / (434)- 325-8015

3) What are Nelson County’s growth trends, projections, and anticipated direction of growth?

Population:

The population of Nelson County – estimated at 15,020 during the 2010 U.S. Census – is projected by the University of Virginia’s Weldon Cooper Center for Public Service’s “Demographics Research Group” to remain virtually flat over the next two decades, and to begin decreasing slightly by 2040. Although the population is not expected to increase, the number of transient visitors and economic activity is increasing (and is expected to continue to increase).

(<http://www.coopercenter.org/demographics/virginia-population-estimates>)

Anticipated Growth Trends:

Nelson County’s anticipated growth trends include the ongoing development and growth of the tourism industries (and the agritourism industry in particular). Nelson County has successfully established itself as one of the premier tourism destinations, experiences, and “brands” in the Commonwealth of Virginia and the entire Mid-Atlantic region. In addition to tourism industries, Nelson County anticipates diverse economic development investments and activities.

Direction of Growth:

The market forces and direction of growth in Nelson County could be described as “asset-based community development.” Such a model of growth is generally characterized by local entrepreneurial economic activity that is fundamentally associated with the preservation and sustainable utilization of the area’s environmental and cultural features. Nelson County’s local economy is very well-positioned to meet growing consumer demand for authentic tourism experiences involving local food and beverages; outdoor recreation and access to public trails, parks, and waterways; Blue Ridge Mountain scenery and four seasons of natural beauty; and high-quality special events, festivals, and performing arts.

In short, Nelson County has successfully established a genuine synergy between the County’s sense of place, community assets and natural features, private businesses, and local and regional consumers. This synergy continues to grow and strengthen year after year.

Location of Growth:

In spatial terms, the anticipated growth trends are expected to primarily be located along the VA-151 corridor and the US-29 corridor.

The Route 151 corridor is expected to experience continued economic development activity within the following industries:

- traditional agriculture
- agritourism
- resort tourism
- outdoor recreation & ecotourism
- special events & performing arts

Nelson County considers the Route 29 corridor a location of emerging economic development activity. Portions of this corridor include the availability of public utilities, business zoning and industrial zoning, and Comprehensive Plan designation for “Rural Small Town,” “Light Industrial,” and “Mixed Commercial” land uses. Anticipated growth in the Route 29 corridor is expected to include the following sectors of the local and regional economy:

- commercial
- industrial
- agricultural
- special events / performing arts industries

4) Are there any County, municipal or other infrastructure projects planned or projected that might require coordination with the ACP route, or its construction?

The following planned public infrastructure projects are located in the general area of the ACP route and/or alternative routes, and should involve coordination from ACP:

- VDOT “Highway Safety Improvement Project” – intersection of Route 151 and Route 635 (“Rockfish School Lane”)
- VDOT “Highway Safety Improvement Project” – intersection of Route 151 and Route 6 (“Afton Mountain Road”) and Route 638 (“Avon Road”)
- Nelson County Broadband Authority infrastructure projects are in or near ACP route and/or alternative routes

5) Are there any other large projects in the County that might be built within the same time frame as the ACP?

Yes; there are several large projects which may be built within the same time frame as the ACP Project. These include:

- The Monarch Inn & Farm (North District)
- Spruce Creek Resort & Market (Central District)
- Wintergreen Resort hotel project (Central District)

6) Are there any local parks, recreational areas, landfills, or unique features in or near the route or its alternatives? We try and identify these through numerous sources, including discussions with local planners.

Yes; there are numerous examples of such local assets in or near the route or its alternatives; please see the following list.

– *Local Parks and Recreation Areas:*

- Rockfish Valley Foundation trail system
- Wintergreen Resort
- Crawford Knob Natural Area Preserve (Wintergreen Nature Foundation)

– *Unique Local Features:*

- Virginia Scenic Byways
 - Route 664 – Beech Grove Road
 - Route 151 – Rockfish Valley Highway
 - Route 6 – River Road and Afton Mountain Road
 - Route 250 – Rockfish Gap Turnpike
- Crest of the Blue Ridge (critically important bird migration corridor)
- Green Infrastructure “Cores” (designated by Virginia Department of Conservation and Recreation as some of the highest-quality natural landscapes in the entire Commonwealth of Virginia)
- Brew Ridge Trail
- Wingina Historic District
- Greenwood – Afton Rural Historic District
- South Rockfish Rural Historic District (proposed)
- Greenfield Agricultural and Forestal District (AFD)
- Davis Creek AFD
- Dutch Creek AFD
- Findlay Mountain AFD

Please note: In addition to local assets, the area in and near the ACP route (and its alternatives) contains a remarkable concentration of U.S. public lands, trails, and recreation areas, including:

- the Blue Ridge Parkway (the most visited unit of the National Park System);
- the Appalachian Trail (world-famous National Scenic and Recreational Trail);
- U.S. Bicycle Route 76 (cross-country on-road National Bike Route);
- George Washington National Forest (contains the forested headwaters for many streams, creeks, and rivers, which protects the quality and quantity of surface and subsurface water resources; contains high-quality habitat for abundant wildlife; and contains a variety of recreation opportunities and resources)

Please also note: For a more extensive listing of assets – and concerns regarding anticipated impacts to those assets – please reference the attached letter which was submitted to the Federal Energy Regulatory Commission (dated April 28th).

7) What is the County's process for issuing road crossing/encroachment permits?

This is an issue which requires the involvement and participation of the Virginia Department of Transportation (VDOT). Nelson County does not own or maintain public roads.

8) Who else in the community should we be talking to?

- Nelson County Service Authority
- Nelson County Broadband Authority
- Nelson County Planning Commission
- Nelson County Historical Society
- Nelson County Sheriff's Office
- Nelson County Emergency Services Coordinator
- Rockfish Valley Volunteer Fire & Rescue Department
- Wintergreen Fire and Rescue Squad
- Lovingston Volunteer Fire Department
- Faber Volunteer Fire Department
- Nelson County Rescue Squad
- Roseland Rescue Squad
- Montebello Volunteer Fire and Rescue
- Piney River Volunteer Fire Department
- Gladstone Volunteer Fire and Rescue Service
- Thomas Jefferson Planning District Commission
- Thomas Jefferson Soil & Water Conservation District

9) What local concerns are anticipated to be most significant for the Project?

There is heavy local concern involving a variety of anticipated impacts and issues associated with the proposed ACP Project. For detailed information, please see the attached Board of Supervisors Resolutions, as well as the attached letter which was submitted to the Federal Energy Regulatory Commission (dated April 28th).

10) With respect to local planning questions, who should be the Project's principal point of contact?

- Mr. Timothy M. Padalino: Planning & Zoning Director
 - tpadalino@nelsoncounty.org / (434)-263-7090
- Mr. Stephen A. Carter: County Administrator / Clerk of the Board of Supervisors
 - scarter@nelsoncounty.org / (434)-263-7000
- Mrs. Candy McGarry: Deputy Clerk to the Board of Supervisors
 - cmcgarry@nelsoncounty.org / (434)-263-7000

11) Are there other questions we should be asking or issues we should be aware of?

Dominion Virginia Power and the Atlantic Coast Pipeline, LLC should be keenly aware of the significant concerns and opposition within Nelson County to the proposed ACP Project. The Nelson County Board of Supervisors believes that ACP and FERC need to take these local concerns very seriously – and need to address them in serious, detailed, and meaningful ways.

For specific information regarding local concerns and questions, please carefully review the following attached items:

- Board of Supervisors Resolution R2014-67 (dated September 9th 2014)
- Board of Supervisors Resolution R2015-24 (dated March 10th, 2015)
- Board of Supervisors Resolution R2015-61 (dated July 14th, 2015)
- Scoping period comment letter submitted to FERC (dated April 28th 2015)
- Letter from Senator Tim Kaine to FERC (dated July 28th 2015)
- Letter from Senator Tim Kaine to FERC (dated August 24th 2015)

BOARD OF
SUPERVISORS

THOMAS D. HARVEY
North District

LARRY D. SAUNDERS
South District

ALLEN M. HALE
East District

THOMAS H. BRUGUIERE, JR.
West District

CONSTANCE BRENNAN
Central District



STEPHEN A. CARTER
Administrator

CANDICE W. MCGARRY
Administrative Assistant/
Deputy Clerk

DEBRA K. McCANN
Director of Finance and
Human Resources

RESOLUTION R2014-67
NELSON COUNTY BOARD OF SUPERVISORS
RESOLUTION IN OPPOSITION OF THE ATLANTIC COAST PIPELINE

WHEREAS, a joint venture led by Dominion has proposed a gas pipeline (Atlantic Coast Pipeline formerly Southeast Reliability Project) to run from West Virginia to North Carolina, crossing Nelson County from the Blue Ridge Mountains to the James River; and

WHEREAS, the proposed route through Nelson County traverses much of our most scenic, rugged, and undeveloped terrain; and

WHEREAS, the construction of the pipeline through the watershed of the Rockfish River would disturb and damage surface water resources at or near every stream crossing; and

WHEREAS, the construction and existence of a gas pipeline of the magnitude proposed would have a harmful effect on tourism, a critical component of the economy of Nelson County; and

WHEREAS, real estate along or near the proposed route would be adversely impacted, harming not only those property owners directly in the path of the pipeline, but also neighboring properties; and

WHEREAS, the building and continued presence of a gas pipeline through the county would impose a significant burden on local government resources including but not limited to our largely volunteer fire and rescue services; and

WHEREAS, Nelson County would not derive any perceptible benefit from the project sufficient to compensate us for the harm caused to property owners, tourism, natural resources, and the ongoing disruption of life in the county for a period of years.

NOW, THEREFORE, BE IT RESOLVED, that the Nelson County Board of Supervisors hereby firmly opposes the construction and operation of the Atlantic Coast Pipeline.

Adopted: September 9, 2014

Attest:  Clerk
Nelson County Board of Supervisors



BOARD OF
SUPERVISORS

THOMAS D. HARVEY
North District

LARRY D. SAUNDERS
South District

ALLEN M. HALE
East District

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West District

CONSTANCE BRENNAN
Central District

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Administrative Assistant/
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DEBRA K. McCANN
Director of Finance and
Human Resources

RESOLUTION 2015-24

NELSON COUNTY BOARD OF SUPERVISORS

RESOLUTION PETITIONING ATLANTIC COAST PIPELINE LLC AND THE FEDERAL ENERGY REGULATORY COMMISSION TO CONSIDER A PREFERRED ROUTE THAT MINIMIZES THE USE OF EMINENT DOMAIN TAKINGS OF PERSONAL PROPERTY

WHEREAS, ninety-four percent (94%) of the Atlantic Coast Pipeline is proposed to be constructed on privately owned land potentially requiring the use of eminent domain against private property owners; and

WHEREAS, the proposed Atlantic Coast pipeline would cross the properties of over 200 landowners in Nelson County; and

WHEREAS, a preponderance of these property owners have denied Dominion and their agents permission to survey their land; and

WHEREAS, Dominion is prepared to initiate eminent domain proceedings against Nelson County property owners who oppose the construction of the Atlantic Coast Pipeline across their property; and

WHEREAS, Dominion has taken no action to minimize eminent domain takings in Nelson County by proposing a route using existing rights of way that would minimize or eliminate the need for use of eminent domain against property owners in Nelson County; and

WHEREAS, the majority of Nelson County citizens are opposed to the construction of the Atlantic Coast Pipeline across private properties in Nelson County;

WHEREAS, Federal law requires the consideration of route alternatives to minimize environmental impacts to communities along the path of the ACP; and

WHEREAS, co-location options with other utility easements are possible for the ACP, and

WHEREAS, the Nelson County Board of Supervisors has previously passed Resolution R2014-67 opposing the the construction and operation of the Atlantic Coast Pipeline in Nelson County, and

WHEREAS, nothing in the newly proposed alternative routes through Nelson County has altered the concerns expressed in the previous resolution,

NOW, THEREFORE, BE IT RESOLVED that the Nelson County Board of Supervisors reaffirms its opposition to the construction and operation of the Atlantic Coast Pipeline in Nelson County, and

BE IT FURTHER RESOLVED, that the Board hereby petitions the Atlantic Coast Pipeline LLC to create a preferred route for the ACP that co-locates within existing utility corridors to the maximum extent possible thus minimizing or eliminating the need for eminent domain against private property owners, and

BE IT FINALLY RESOLVED, that the Board hereby petitions the Federal Energy Regulatory Commission to require that Atlantic Coast Pipeline LLC proffer a preferred, responsible route and a corresponding cost analysis that minimizes the use of eminent domain and maximizes the use of existing rights of way and property easements.

Adopted: March 10, 2015

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



BOARD OF
SUPERVISORS

THOMAS D. HARVEY
North District

LARRY D. SAUNDERS
South District

ALLEN M. HALE
East District

THOMAS H. BRUGUIERE, JR.
West District

CONSTANCE BRENNAN
Central District

STEPHEN A. CARTER
County Administrator

CANDICE W. MCGARRY
Administrative Assistant/
Deputy Clerk

DEBRA K. MCANN
Director of Finance and
Human Resources

**RESOLUTION R2015-61
NELSON COUNTY BOARD OF SUPERVISORS
RESOLUTION PETITIONING GOVERNOR TERRY MCAULIFFE AND SECRETARY
OF NATURAL RESOURCES MOLLY WARD TO PROVIDE PUBLIC ACCESS TO
EROSION AND SEDIMENT CONTROL PLANS FOR THE CONSTRUCTION OF THE
ATLANTIC COAST PIPELINE**

WHEREAS, Dominion Resources, Inc., Duke Energy Corporation, Piedmont Natural Gas Co., and AGL Resources, Inc. have formed Atlantic Coast Pipeline, LLC, which has contracted with Dominion Transmission, Inc. to permit, build, and operate a natural gas pipeline which transects portions of three states, including eleven counties and two cities in the Commonwealth of Virginia; and

WHEREAS, the proposed Atlantic Coast Pipeline will require excavation of over twenty-one and six tenths (21.6) miles of highly erodible soils with slopes greater than 8% in Nelson County; and

WHEREAS, the required excavation is unprecedented and will cause severe erosion in vertically steep and inhospitable mountainous terrain, and the amount of runoff from seasonal downpours would cause major soil loss and slides; and

WHEREAS, all private water systems and most business systems in Nelson County rely on groundwater from wells or springs for their water supplies; and

WHEREAS we are deeply concerned that construction of the proposed Atlantic Coast Pipeline will impact the quality and quantity of water supplies due to erosion, sedimentation and impacts on hydrology; and

WHEREAS, Nelson County's agricultural-tourism based economy is highly reliant on abundant, clean water; and

WHEREAS, erosion caused stream sedimentation is a significant contributor to pollution of the surface waters of Virginia and the Chesapeake Bay; and

WHEREAS, the Virginia Department of Environmental Quality has the authority to request site-specific erosion and sediment control and storm water management plans from Dominion Transmission, Inc., as prescribed by the Erosion and Sediment Control Regulations 9VAC25-840-30-B: "The submission of annual standards and specifications to the department does not eliminate the need where applicable for a project specific Erosion and Sediment Control Plan"; and

WHEREAS, Nelson County's unique mountainous terrain with shallow soils and granitic bedrock that are prone to landslides qualifies this project for DEQ authorization under VA Code to require submittal of a "*project specific Erosion and Sediment Control Plan*"; and

WHEREAS, current Erosion and Sediment Control and Stormwater Management regulations include critical post construction runoff requirements; and

WHEREAS, the Freedom of Information Act can be used to obtain public and local government access to such plans, but only if the Virginia DEQ requires the submission of the plans to the agency by the pipeline developer.

NOW, THEREFORE, BE IT RESOLVED by the Nelson County Board of Supervisors that in consideration of the points made above, the Nelson County Board of Supervisors respectfully requests that:

1. DEQ will require project-specific Erosion and Sediment Control and Stormwater Management Plans for the proposed Atlantic Coast Pipeline project that meet all Virginia standards, and that these plans will be made available to the public prior to project approval and construction; and
2. Localities will have the right to review plans, conduct inspections and enforce their local Erosion and Sediment Control Ordinances; and
3. Prior to project approval and construction, Dominion Transmission, Inc. officials and third-party inspectors will be required to meet with local officials to discuss the implementation of the project-specific Erosion and Sediment Control and Stormwater Management Plans and adaptive management plans.

AND BE IT FURTHER RESOLVED that the Nelson County Board of Supervisors directs the Clerk of the Nelson County Board of Supervisors to send a copy of this resolution to: Governor of Virginia Terry McAuliffe, Virginia Secretary of Natural Resources Molly Ward, Virginia Senator Creigh Deeds, Virginia Delegate Richard Bell, Virginia Delegate Matthew Farris, US Senator Mark Warner, US Senator Tim Kaine, US Congressman Robert Hurt, Atlantic Coast Pipeline, LLC, Dominion Transmission, Inc., and the Federal Energy Regulatory Commission (FERC).

Adopted: July 14, 2015

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

DEPARTMENT OF
PLANNING & ZONING



PLANNING COMMISSION
BOARD OF ZONING APPEALS

April 28, 2015

Chairman Bay and Commissioners,
Federal Energy Regulatory Commission,
U.S. Department of Energy

c/o Kimberly D. Bose, Secretary
888 First Street NE, Room 1A
Washington, DC 20426

Dear Chairman Bay,

As Director of Planning & Zoning for Nelson County, Virginia, I thank you for providing me with a copy of the February 27th Notice of Intent to Prepare an Environmental Impact Statement and Request for Public Comments and Agency Input. I appreciate that specific notification, and I accept the invitation to submit comments.

My written input is my own attempt as Planning Director and Zoning Administrator to organize and summarize the numerous issues associated with the proposed "Atlantic Coast Pipeline Project" (ACP) interstate transmission pipeline project that require careful, place-based evaluation within the Environmental Impact Statement (EIS) for the ACP.

This input is the result of my own careful evaluation and quiet observation. Specifically, my written response to FERC's request for comments is largely derived from the following experiences:

- *Attendance at multiple public meetings conducted by Dominion, FERC, or the Nelson County Board of Supervisors:*

These meetings allowed me to listen to, and learn from, people in a wide variety of roles with a wide variety of perspectives. This included listening to the comments and questions of local elected officials, federal regulatory agencies, private representatives of the energy industry, and residents and other members of the public.

In connection with these observations, I respectfully request that FERC, as the federal regulatory agency responsible for interstate natural gas transmission pipeline permit review, undertake the following activities:

- extend the Scoping Period beyond April 28th;
- conduct an additional scoping meeting in Nelson County with standardized, transparent procedures established prior to the meeting and administered during the meeting;

- hold ACP accountable for responding to, and adequately resolving, legitimate issues of public concern raised by Nelson County’s residents, property owners, and elected officials; and
- ensure that the proposed ACP Project does not receive any certificate or other approval until all critically important public issues are properly resolved, with regards to permitting procedures and with regards to routes, designs, specifications, and other ACP Project details.

○ *Spatial analysis of the proposed ACP route(s):*

Using digitized versions of paper maps produced and distributed by ACP, I have attempted to evaluate the specific localized conditions and circumstances associated with the proposed route(s) of the ACP. This includes an evaluation of the proposed route(s)’ spatial configuration and geographical proximity to numerous “community assets” such as:

- green infrastructure (including surface and subsurface water resources, forested mountains, agricultural operations, wildlife habitat, and more)
- historic resources
- scenic resources
- land use patterns

In connection with this evaluation, I respectfully request the following:

- copies of the GIS shapefile from ACP for the proposed ACP route(s), (and updated copies, when applicable), which would enable the County to evaluate specific areas in detail and to develop an accurate geographic understanding of the environmental and community issues associated with the ACP’s proposed route(s);
- detailed responses or other commentary from FERC regarding analysis of all applicable environmental issues; and
- demonstrated actions by FERC to ensure that all applicable environmental resources are properly identified, analyzed, and evaluated – and that those resources are protected from devaluation or destruction in connection with the proposed ACP.

With that background in mind, I respectfully submit to the Federal Energy Regulatory Commission the following specific comments and concerns regarding the proposed ACP.

Specific comments and concerns regarding the proposed ACP:

My commentary focuses on issues related to Nelson County’s sense of place, environment, quality of life, local economy, and current and future land use patterns. More specifically, my comments attempt to identify critically important public issues which require additional analysis and consideration by FERC, and which require additional explanation and information from ACP.

I believe the ACP Project has yet to address a multitude of extremely serious questions, concerns, and issues; and I am concerned about the number, types, and magnitude of negative community impacts that would potentially or likely be caused by the proposed ACP, if approved by FERC.

Specifically, in order to ensure a proper review of critically important public issues, and in order to ensure proper protection of critically important public resources, I believe the following issues must be incorporated into the Environmental Impact Statement and be thoroughly evaluated in specific, place-based detail.

A. Green Infrastructure & Other Environmental Issues:

1) Green Infrastructure Core Landscapes

- a. Where would the proposed route(s) intersect with existing green infrastructure core landscapes as identified by the Virginia Department of Conservation and Recreation's Natural Heritage Program?
- b. What and where are the specific impacts to overall forest ecosystem health, resilience, and biodiversity associated with pipeline construction through existing green infrastructure core landscapes?
- c. What remaining ecological, biological, watershed, or other conservation value(s) would the existing green infrastructure core landscapes have after being impacted and/or bisected by a transmission corridor?

2) Surface and Subsurface Water Resources in a Rural Headwaters Community

- a. Where would the proposed ACP route(s) intersect with headwaters, streams, creeks, rivers, wetlands, and floodplains? What is the number of intersections or crossings, and what specific impacts would be associated with each intersection or crossing?
- b. What are the specific impacts to overall headwater watershed health associated with pipeline construction and resulting riparian disturbances?
- c. What are the specific impacts to quantity and quality of creeks, streams, ponds, lakes, reservoirs, and/or other surface water resources?
- d. What are the specific impacts to quantity and quality of private wells, aquifers, groundwater recharge areas, and other subsurface water resources?
- e. What are the specific impacts to surface water resources during hydrostatic testing of newly constructed pipeline?
- f. What are the specific details regarding the adequacy of surface water resources to supply adequate water for hydrostatic testing without disturbing water quality and quantity, and without otherwise harming the localized hydrological cycle?
- g. What are the specific impacts associated with used hydrostatic testing waste liquids?
- h. What are the protective measures for freshwater resources during clearing of the easement corridor and construction of the pipeline?
- i. How and when will the required conservation practices and facilities be properly monitored, and by whom?
- j. How will environmental regulations be properly enforced?

3) Wildlife Habitat and Ecosystem Health

- a. What and where are the specific impacts to riparian, amphibian, forest, and terrestrial wildlife habitats?
- b. What and where are the specific impacts to forest composition and health in green infrastructure cores containing mature hardwood and mixed forests?
- c. What and where are specific issues involving forest composition and invasive species?



Nelson County, Virginia

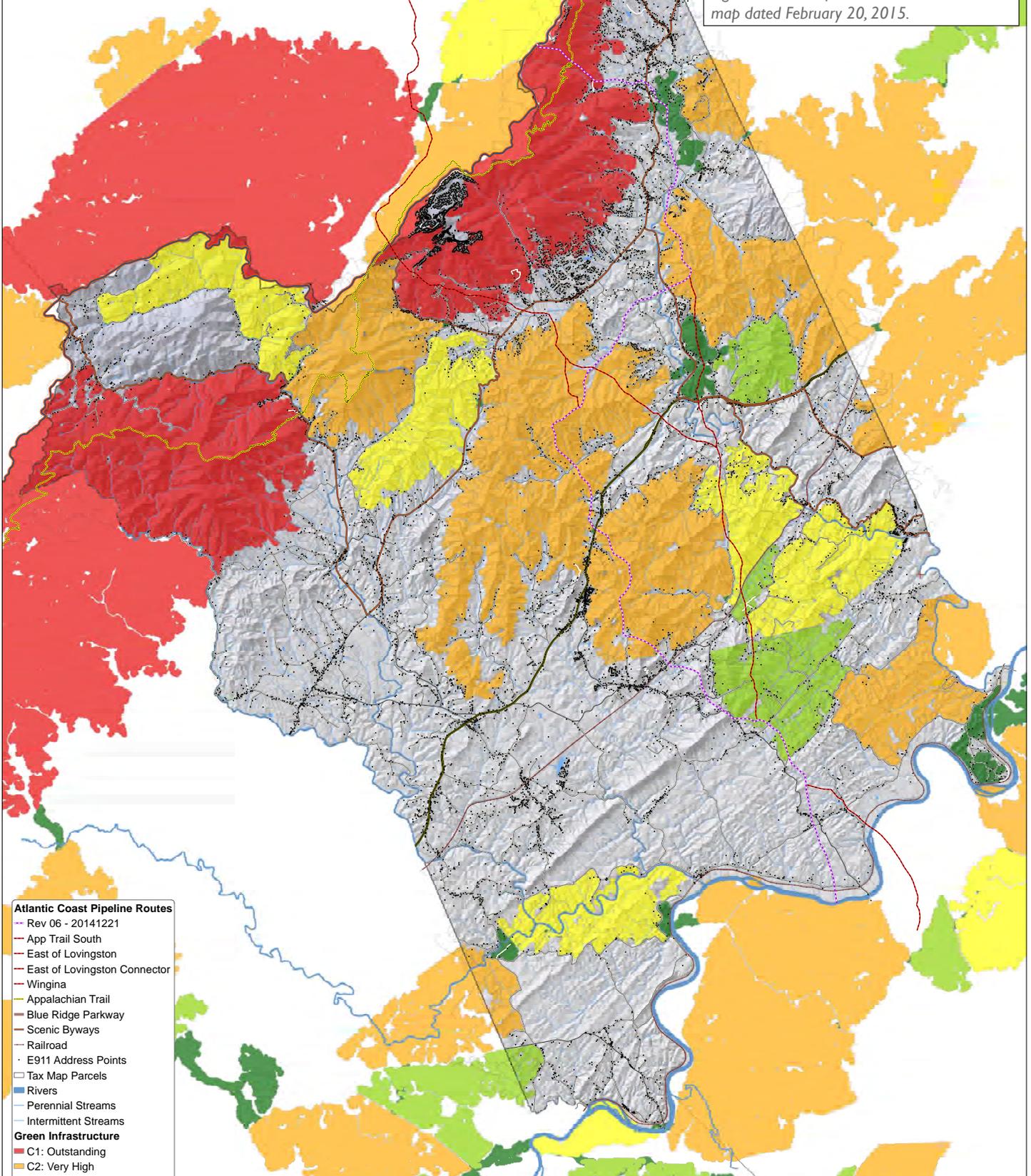
0 1 2 4 6 Miles

1:54,000

1 inch equals 4,500 feet



This map is for informational purposes only. This map was created by the Nelson County Department of Planning & Zoning using data from multiple sources, including the Virginia Department of Conservation and Recreation's Natural Heritage Program, as well as a digitized version of the ACP "Route Alternatives" map dated February 20, 2015.



Atlantic Coast Pipeline Routes

- Rev 06 - 20141221
- App Trail South
- East of Lovingson
- East of Lovingson Connector
- Wingina
- Appalachian Trail
- Blue Ridge Parkway
- Scenic Byways
- Railroad
- E911 Address Points
- Tax Map Parcels
- Rivers
- Perennial Streams
- Intermittent Streams

Green Infrastructure

- C1: Outstanding
- C2: Very High
- C3: High
- C4: Moderate
- C5: General

Proposed ACP Route(s) & Green Infrastructure Cores

B. Public Lands & Recreation Amenities:

- 1) Where and how would the ACP intersect with federal, state, or local public lands?
- 2) Where would the ACP have proximity of one mile or less to federal, state, or local public lands?
- 3) Where would the ACP impact important scenic views and other scenic resources as seen and enjoyed from designated overlooks and viewing areas on federal, state, or local public lands?
- 4) What and where are the specific impacts to public resources and/or visitor experiences affecting each of the following:
 - a. Blue Ridge Parkway?
 - b. Appalachian Trail?
 - c. George Washington National Forest?

Humpback Rocks on the Appalachian Trail, overlooking the George Washington National Forest and Blue Ridge Parkway. From this scenic viewpoint, a hiker can observe the Shenandoah Valley, Blue Ridge, and Piedmont regions of Central Virginia.

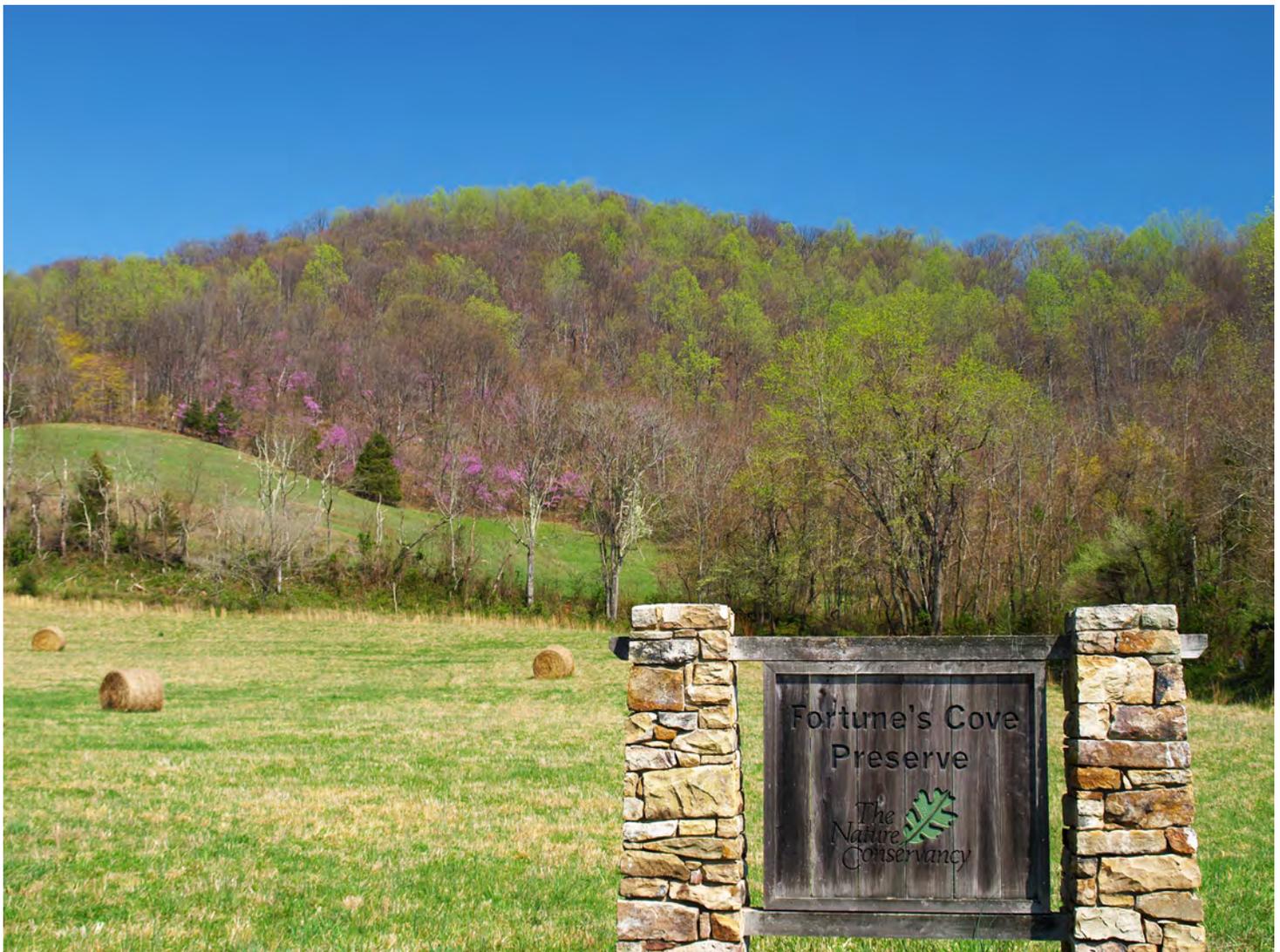


C. Conservation Easements & Other Conservation Lands:

- 1) Where do the proposed ACP route(s) intersect with, or have proximity of one mile or less from, existing designated conservation lands such as:
 - a. conservation easements, which are intended to be legally protected in perpetuity?
 - b. Agricultural and Forestal Districts, which are intended to be protected as productive agricultural landscapes prevented from being developed to more intensive use(s)?
 - c. nature preserves or natural area preserves, which are created and managed for the protection and rehabilitation of habitats, plants, and animals?
 - d. Wilderness Areas, which are designated by the U.S. Congress as special places to be forever protected in their current state, as living monuments of the Created world as it existed prior to human modification?

- 2) What and where are the specific impacts to each type of conservation landscape, at each instance of intersection or proximity of less than one mile?

Fortune's Cove Preserve in Lovington is one of many instances of conservation easements (or other conservation landscapes) in Nelson County.



D. Historic Districts & Other Historic Resources:

- 1A) Where would the proposed ACP route(s) intersect with existing historic districts, such as the Lovingson Historic District and Greenwood-Afton Rural Historic District?
- 1B) Where would the proposed ACP route(s) have proximity of one mile or less to an existing historic district?
- 2A) Where would the proposed ACP route(s) intersect with an eligible and/or proposed historic district, such as the South Rockfish or Wingina Rural Historic Districts?
- 2B) Where would the proposed ACP route(s) have proximity of one mile or less to an eligible and/or proposed historic district?
- 3) What are the specific impacts associated with each instance of such intersection or proximity to an existing or an eligible and/or proposed historic district? Would the pipeline route be visible; and if so, what specific impacts would that create on the historic district?
- 4) What and where are the specific impacts to all known historic resources and archaeological sites?
- 5) What efforts are being done to ensure that the proposed ACP would not disturb historical resources and/or archaeological sites?



Dodd Cabin in Beech Grove is a great example of historical vernacular architecture.



Front Street is the main thoroughfare in Lovingson, which is the County Seat of Nelson County and a designated Historic District.

E. Scenic Byways & Other Scenic Resources:

- 1) Where would the proposed ACP route(s) intersect designated Virginia Scenic Byways and/or National Scenic Byways?
- 2) Where would the proposed ACP route(s) be visible from designated Virginia Scenic Byways and/or National Scenic Byways?
- 3) What and where are the specific impacts to other important scenic resources as identified by members of the public, governmental agencies, or the Nelson County Comprehensive Plan?
- 4A) What efforts have been made to identify and secure alternate routes for the ACP that would utilize existing utility crossing(s) or other linear rights-of-way to traverse the crest of the Blue Ridge Mountains?
- 4B) What is FERC's analysis of potential opportunities to utilize existing utility crossing(s) or other linear rights-of-way across the Blue Ridge, and to avoid unnecessary negative impacts to scenic byways and other scenic resources?

The Rockfish Valley, which has three designated Virginia Scenic Byways (Routes 6, 151, and 250) as seen from the Blue Ridge Parkway, a National Scenic Byway.



Nelson County's Scenic Byways provide opportunities to experience and enjoy rural landscapes characterized by agricultural operations and mountain views.



F. Land Use Patterns, Economic Development Issues & Quality of Life Questions:

- 1) What is FERC's analysis of the compatibility of the proposed ACP route(s) with the specific local context of Nelson County, Virginia?
- 2) What and where are the specific impacts, conflicts, or other issues associated with the proposed ACP route(s) relative to traditional rural land uses existing in Nelson County, such as farms, working forests, orchards, and vineyards?
- 3) What is FERC's analysis of the compatibility of the proposed ACP route(s) relative to Nelson County's rural economy, with an emphasis on the local tourism industry which is fundamentally reliant upon an intact, authentic rural landscape, unspoiled Blue Ridge Mountains scenery, and high-quality public lands managed for outdoor recreation, scenic value, and environmental health?
- 4) Will the pipeline intersect or otherwise affect any public (or semi-public) facilities, such as schools, community centers, parks, ball fields, or other amenities?
- 5) Where will the transmission corridor intersect with the public road system? How many crossings will there be, and at what locations? What type of construction methods will be used -- and what type of safety measures will be utilized to ensure that the roads remain safe with respect to pipeline location and operation?
- 6) How will the pipeline project affect local roads and highways? Will the project require lane closures, road closures, and/or detours? If so: how many, at what location(s), and for how long?



Nelson County's local economy and local sense of place are currently very complimentary and well-balanced. Traditional rural landscapes and new commercial enterprises combine to create a successful foundation for the local tourism industry.

Top: Devils Backbone Brewing Co. in Beech Grove.

Bottom: Veritas Vineyard & Winery in Afton.

Specific comments and concerns regarding the proposed ACP:

(continued)

Please note that, as best I can in my capacity as Director of Planning & Zoning for Nelson County, I offer my assistance and support in the careful evaluation of all ACP-related environmental issues and community impacts specific to Nelson County.

Please also note that I have attached supplemental informational materials to this written response, including the following:

- an excerpt of a report prepared September 4, 2014; that material identifies many of the same issues contained in this list of comments (above), and also contains a consolidated list of public comments, questions, and concerns raised at the August 12th public meeting conducted by the Nelson County Board of Supervisors with participation from representatives of the proposed ACP Project.

Summary remarks and conclusion:

I respectfully offer the following summary analysis of the proposed ACP Project's overall compatibility with Nelson County's landscape, land use patterns, and local economy:

Nelson County, in one of the most rugged, rural, and scenic portions of the Blue Ridge Mountains in Virginia, seems to be the least desirable and most disruptive location for the construction and operation of a forty-two (42) inch diameter transmission pipeline. The proposed ACP Project's construction and ongoing operations would effectively industrialize Nelson County's rural mountain landscape, and would result in substantial harm to the thriving local tourism industry.

Presently, Nelson County's local economy and local sense of place are very complimentary. The local economy has strengthened in recent years with the exciting and extremely successful tourism industry. The local sense of place is defined by the awesome scenery of the Blue Ridge Mountains, abundant natural heritage, and agricultural landscapes. The special sense of place sustains the local economy, as visitors are attracted to Nelson County's beautiful landscapes, outdoor adventures, and local businesses.

However, the ACP Project's implementation, and resulting impacts to the scenic viewsheds and green infrastructure systems, represent an incompatible land use relative to Nelson County's beautiful, biodiverse landscapes and burgeoning local economy.

The unique topographical, geological, hydrological, and geographical characteristics of Nelson County altogether produce serious questions, concerns, and doubts about the viability of the ACP Project being implemented safely and properly, without substantial harm to the public interest. As proposed, the ACP Project would require countywide implementation operations on a massive industrial scale, including land clearing, grading, and blasting, pipeline delivery, pipeline installation and construction, and pipeline testing. These and other implementation activities would necessarily take place in some of Virginia's most sensitive landscapes, such as:

- across very steep mountain slopes,
- in biodiverse blocks of forested landscapes (or “green infrastructure core landscapes”),
- across dozens of floodplains and through miles of riparian corridors,
- along fragile bedrock-and-boulder ridgelines, and
- upon landslide-prone soils that have shallow depth to bedrock and which have experienced previous catastrophic disturbances.

In addition, the resulting clear-cut linear corridor would be a severely unattractive blemish on an otherwise world-class landscape of natural scenery and rural beauty. Given the inseparable connection between Nelson County’s special sense of place and Nelson County’s local economy and tourism industry, the proposed ACP cannot be implemented without compromising the slow, steady, and successful growth of one of Virginia’s most celebrated tourism areas.

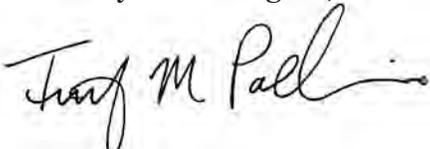
In total, the ACP Project represents a fundamental threat that would materially diminish some of the most deeply valued features and characteristics of Nelson County, Virginia; and would unnecessarily diminish and hinder an emergent tourism industry hotspot.

As a result of these issues, I respectfully offer the following requests and suggestions for your consideration:

- I respectfully request that FERC require ACP to submit additional documentation which properly identifies all critically important public issues identified by members of the public and interested agencies during the FERC Scoping Period; and which explains how the ACP will properly address and eliminate, minimize, or otherwise mitigate the associated negative community impacts.
- I respectfully request that FERC not issue the proposed ACP Project any certificate or other approval until all critically important public issues are properly resolved.
- I respectfully suggest that the proposed ACP cannot be successfully constructed and operated utilizing the currently-proposed route(s); and I respectfully request that FERC require ACP to select alternate route(s) which maximize co-location with existing utilities and/or other linear rights-of-way, and which do not involve new industrial-scale utility corridors to be implemented through the extreme terrain, intact green infrastructure cores, iconic scenery, and local tourism industry of Nelson County.

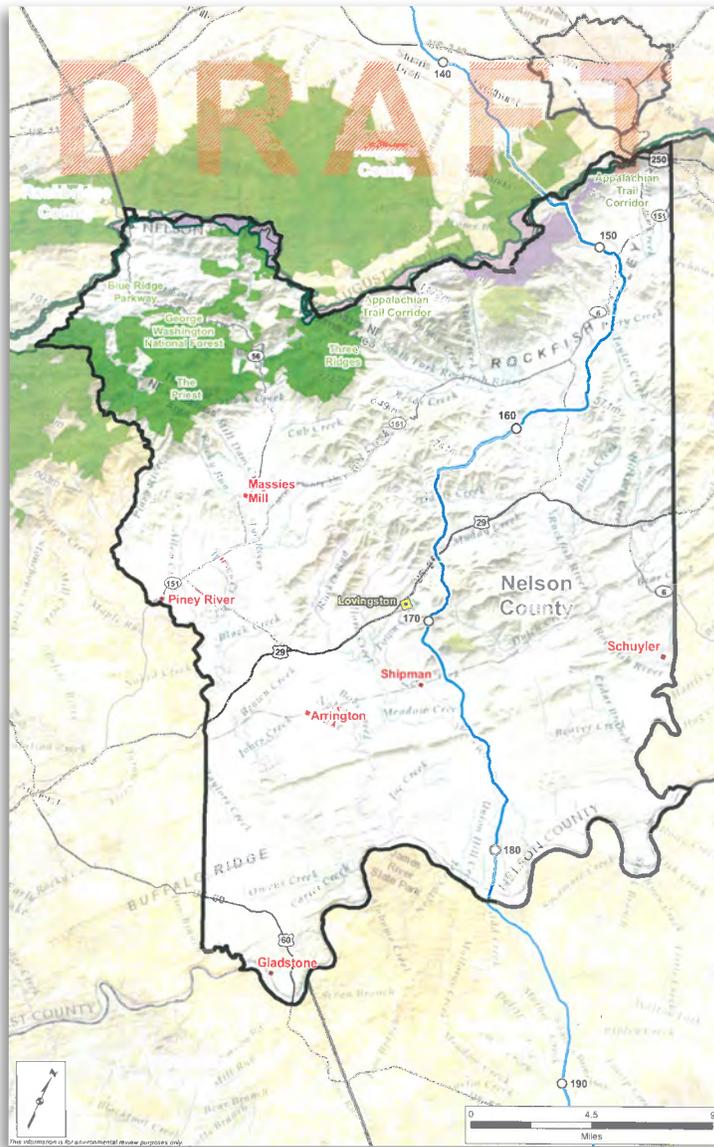
Thank you sincerely for the notification, and for the request for specific written comments in connection with the proposed Atlantic Coast Pipeline Project. I respectfully offer this input in an attempt to ensure that Nelson County’s sense of place, environmental resources, quality of life, local economy, and current and future land use patterns are thoroughly taken into consideration during the preparation of the Environmental Impact Statement. Please note again that, as best I can in my capacity as Director of Planning & Zoning for Nelson County, I offer my assistance and support in the careful evaluation of all ACP-related environmental issues and community impacts specific to Nelson County.

Thank you once again; sincerely,



Timothy M. Padalino
 Director of Planning and Zoning
 Nelson County, Virginia

Preliminary Report on Proposed Transmission Pipeline: *Thoughts, Questions, and Issues of Concern*



Map: Dominion Transmission, Inc.



Prepared September 4, 2014 and updated April 28, 2015 by
Nelson County Dept. of Planning & Zoning

This report is a response to the informational session at the August 12th Board of Supervisors meeting, with a focus on the presentation by the Dominion Transmission, Inc. representatives and the subsequent question and answer session between the Nelson County Board of Supervisors and Dominion's Southeast Reliability Project team (now the "Atlantic Coast Pipeline" team).

The Dominion representatives indicated that they believe this project is good for Nelson County, good for the Commonwealth of Virginia, and an important opportunity for being a good corporate citizen. Dominion highlighted their recent accomplishment of being ranked #71 on the "100 Best Corporate Citizens" list, noting that this was the fifth straight year of being a top-100 corporate citizen in the U.S.A.

As Dominion Transmission, Inc. begins their attempt to successfully deliver this complex, high-profile pipeline project through the rugged, rural, and wild landscapes of Nelson County, Virginia, they face a very challenging situation with regards to successfully demonstrating their commitment to good corporate citizenry.

Many -- if not all -- of the elements of the Atlantic Coast Pipeline would create externalities that negatively affect community members (either in the short term, the long term, or both). (*see page 6 for additional info)

County officials and members of the public have openly questioned how this project can possibly be of any value or benefit to Nelson County. That question may remain unanswered for now; but there are other questions created by this proposed project which should be addressed as soon as possible. The reality is that a better understanding of this proposed project, and its potential consequences, must be reached as soon as possible.

Therefore, now is the time for focused attention and proactive efforts to identify how and where this project would negatively affect Nelson County -- and also identify what measures would mitigate those negative impacts, and what actions (if any) could be taken to possibly even make this project good for the community.

As such, this report contains the following information:

Pages 2-5 contain a list of the "issues of concern" that must be better understood, with respect to how the pipeline project would result in changes to existing conditions in the county. A brief listing of important, but unanswered, questions is provided for each issue of concern. Those questions (and more) should be further studied, in order for the County to better understand this project and its impacts on our community, our high quality of life, and the special places that make Nelson County so great.

All of these concerns and issues are reflective of the hope that the Atlantic Coast Pipeline, if permitted by FERC, accomplishes both of the following two things:

- (#1) creates minimal negative impact(s) on the public interest and public health, safety, and welfare of Nelson County and all Nelsonians; and
- (#2) creates demonstrable positive impact(s) on the public interest(s) of Nelson County on a scale that is comparable to (or in excess of) the amount of negative impacts the County is exposed to by this \$5B mega-project.

Issue of Concern:

Historic Districts & Historic Resources



Will the pipeline intersect any existing historic districts?

Will the pipeline intersect any eligible or proposed historic districts?

Will the pipeline be close to any existing historic districts and/or other historic sites or resources? If so, how close -- and will the pipeline route be visible from historic districts and/or historic sites or resources?

Issue of Concern:

Scenic Byways



Will the pipeline intersect any designated Virginia Scenic Byways and/or National Scenic Byways?

If so, how many Scenic Byways, what number of intersections/crossings, and at what location(s)?

Will the pipeline be visible from any designated Virginia Scenic Byways and/or National Scenic Byways?

If so, at what location(s) will the transmission corridor be visible from?

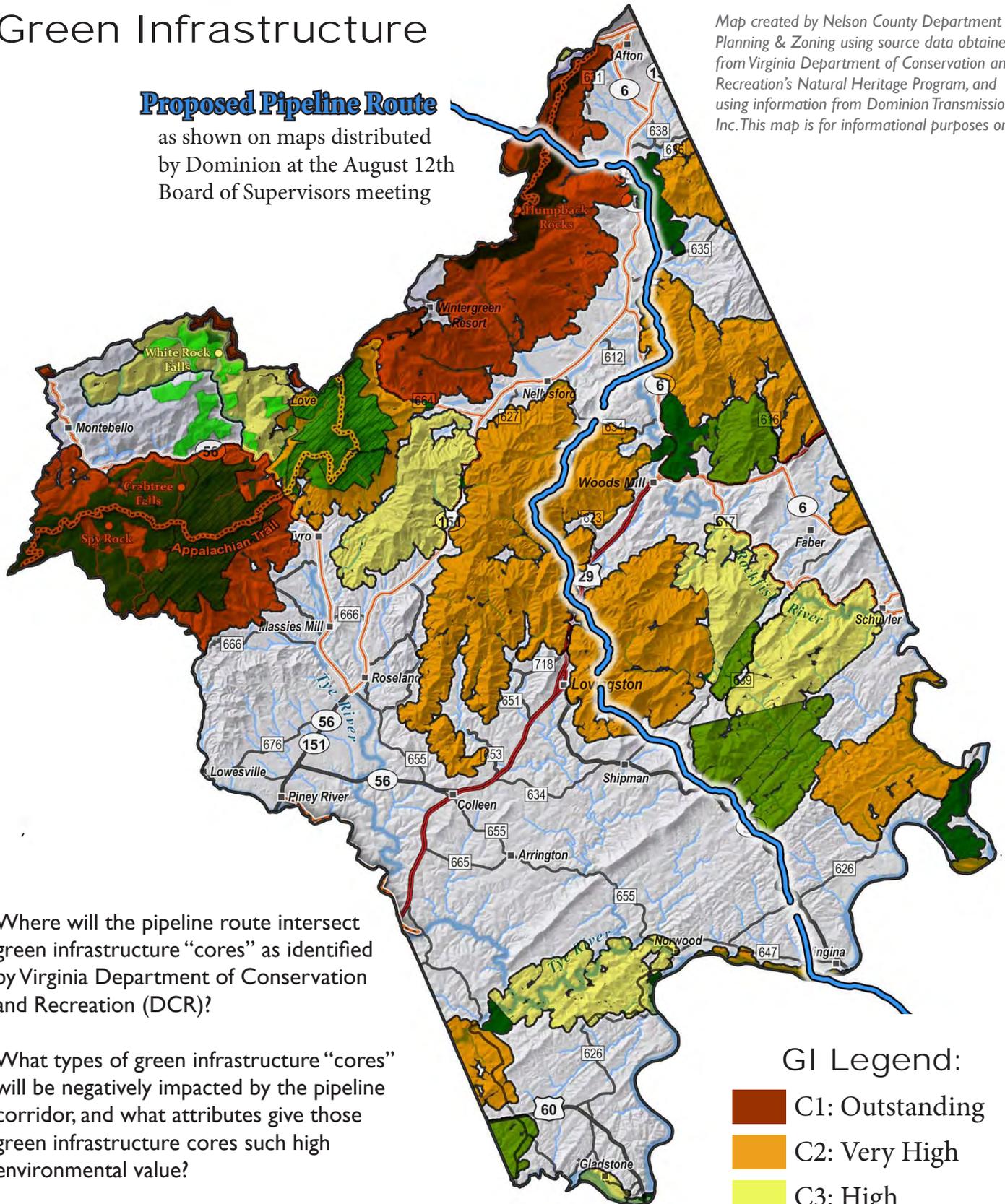
Will any sensitive or high-profile scenic resources visible from Scenic Byways be negatively impacted?

Green Infrastructure

Proposed Pipeline Route

as shown on maps distributed by Dominion at the August 12th Board of Supervisors meeting

Map created by Nelson County Department of Planning & Zoning using source data obtained from Virginia Department of Conservation and Recreation's Natural Heritage Program, and using information from Dominion Transmission, Inc. This map is for informational purposes only.



Where will the pipeline route intersect green infrastructure “cores” as identified by Virginia Department of Conservation and Recreation (DCR)?

What types of green infrastructure “cores” will be negatively impacted by the pipeline corridor, and what attributes give those green infrastructure cores such high environmental value?

In what ways will the impacted “cores” be negatively affected? What remaining ecological, biological, watershed, or other conservation value(s) will these landscapes have after being impacted and/or bisected by a transmission corridor?

GI Legend:

- C1: Outstanding
- C2: Very High
- C3: High
- C4: Moderate
- C5: General
- Not GI Core

Issue of Concern:

Conservation Easements



Will the pipeline intersect any existing private conservation easements?

If so, how will the transmission corridor negatively impact sensitive resources that are meant to be protected forever by the established conservation easement(s)?

Will the pipeline intersect any proposed or eligible conservation easements?

If so, will the transmission corridor negatively impact the landscapes and/or diminish the conservation value(s)?

Issue of Concern:

Public Lands & Recreation Amenities



Will the pipeline intersect local, state, or federal public lands -- including the Blue Ridge Parkway and Appalachian Trail (National Park Service) or the George Washington National Forest (US Forest Service)?

If so, where will the transmission corridor cross these (or other) public lands and/or trails?

Will the pipeline create negative physical or visual impacts on other recreational trails and/or amenities?

Issue of Concern:

Water Resources



What will be the amount and type of impacts on Nelson County's surface waters and watersheds?

Where will the pipeline route cross headwaters, streams, creeks, rivers, and wetlands, and what are the number of crossings?

What are the protective measures for freshwater resources during clearing of the easement corridor and construction of the pipeline? How will required conservation practices and facilities be monitored, and how will environmental regulations actually be enforced?

How will pipeline construction, operation, and/or maintenance affect groundwater supply and quality?

How and where will water be obtained for hydrostatic testing of the constructed pipeline, prior to operation?
How and where will the waste test water be disposed of?

Issue of Concern:

Public Facilities & Public Infrastructure

Will the pipeline intersect or otherwise affect any public (or semi-public) facilities, such as schools, community centers, parks, ball fields, or other amenities?

How will the pipeline project affect local roads and highways? Will the project require lane closures, road closures, and/or detours? If so, how many, at what location(s), and for how long?

Where will the transmission corridor intersect with the public road system? How many crossings will there be, and at what locations? What type of construction methods will be used -- and what type of safety measures will be utilized to ensure that the roads remain safe with respect to pipeline location and operation?

*Additional Info Regarding County Concerns over Transmission Pipeline Impacts:

At the August 12th meeting, County Supervisors identified many anticipated impacts on the quality of life for residents and broader impacts to the public health, safety, and welfare; impacts on local businesses, with particular harm to agritourism and ecotourism industries; and impacts on the local government's ability to provide the public services required for project implementation and operation.

Specifically, the following concerns were raised by the County Supervisors and by members of the public:

• Overall project proposal and pipeline route:

- industrial transformation of one of Virginia's most beautiful and beloved landscapes
- transformation from pristine mountain watersheds and undeveloped mountain scenery to just another view spoiled by a clear-cut utility corridor
- incompatible with Blue Ridge Parkway and Appalachian Trail (world famous units of the National Park Service)
- incompatible with local tourism and agritourism industry (and with other more traditional land uses) in the very popular, very special, and irreplaceable Rockfish Valley
- proposed route does not seem efficient or practical, with regards to the geology and extreme topography of Nelson County

• Clearing, grading, and blasting of the landscape:

- physical safety (flyrock damage to property, livestock, family?)
- the effect of rock blasting on wells and water tables (now and in the future)
- erosion (loss of soil) and sedimentation (stream pollution)
- permanent destruction of some of the highest-quality wildlife habitat in Virginia
- fragmentation of forest, watershed deforestation, and altered terrain

• Other environmental, public health, and safety issues:

- hydrostatic testing of constructed pipeline is a major concern
- there is no water source available to supply the "enormous amount of water" required to test the pipeline
- concerns over pollution related to disposal of spent test water
- concerns over the source of test water, and the environmental safety of re-used test water
- concerns over proximity to residences
- concerns about potential risks / threats to safety (leaks, explosions, etc.)
- concerns about potential risks / threats to groundwater supply and groundwater quality in rural areas where public water is unavailable

• Ethics, fairness, and Constitutionality:

- should not compromise rights of local property owners for a "public interest project" that creates comparatively little (or no) local public good, and which produces local public harm
- localized negative impacts are forced upon the community as an "unavoidable inconvenience" or "necessary externality" in the process of transmitting energy resources for use by other people and other economies in other (distant) communities
- the use of Eminent Domain cannot be justified for advancing the public good or serving the public interest, if the project results in numerous and specific harm(s) to the public interest of local communities
- what protections and/or advancements of the public interest could this project establish or support, and what mechanisms could there be to ensure those community protections or advancements are sustained?

COMMITTEE ON
ARMED SERVICES

COMMITTEE ON
FOREIGN RELATIONS

COMMITTEE ON
THE BUDGET

SPECIAL COMMITTEE
ON AGING

United States Senate

WASHINGTON, DC 20510-4607

July 28, 2015

The Honorable Norman C. Bay and Commissioners
Federal Energy Regulatory Commission
888 1st Street NE
Washington, D.C. 20426

Dear Chairman Bay and Commissioners Clark, Honorable, Moeller, and LaFleur:

I would like to submit my views on Docket #PF15-3-000, the Mountain Valley Pipeline (MVP), proposed by EQT and NextEra Energy. I take no position on the underlying question of whether this project should be approved, as that is a choice that requires consideration of a number of technical issues that are best addressed by FERC, not by Members of Congress. I have listened carefully to many Virginians along the proposed MVP corridor who have shared concerns with me about this project. These concerns pertain not just to the substance of the project but to the quality and thoroughness of the public input process on the parts both of FERC and of the applicant companies. In response to what I have heard, I feel it necessary to highlight several of the issues that these Virginians – and I – believe are important for FERC to consider.

No one disputes that energy infrastructure is necessary for the economy and daily life. However, such infrastructure must be built in as minimally disruptive a way as possible. Since all infrastructure has some degree of impact, federal law charges your agency with managing a complex process 1.) to require project builders to make the utmost effort to minimize project impacts, and 2.) to empower the public to verify these efforts by ensuring that all relevant information is made available and that there is ample opportunity for public input and comment. Citizens rightly expect that process to be followed to the letter.

In my travels throughout the Roanoke area, Shenandoah Valley, and the MVP's footprint, I have listened carefully to the views of affected property owners, local elected officials, local businesses, farmers, organizations dedicated to preserving our natural resources, and numerous other concerned citizens. I have also heard from constituents and business groups that support the project. The comments below reflect some of the key issues raised multiple times by multiple stakeholders that I believe are particularly important to underscore as you analyze this project.

Project concerns

Cumulative impacts: As you know, the Mountain Valley Pipeline is one of four natural gas pipeline projects proposed in roughly the same region of Virginia. While all are at different phases of the regulatory process, two – the MVP and the Appalachian Connector (Williams Co.) – appear to travel along a nearly identical route. A third and a fourth – the Atlantic Coast Pipeline (Dominion/Duke Energy) and the WB Xpress (Columbia) – are located some 90 miles to the north.

I believe FERC should analyze whether the MVP and the Appalachian Connector are both necessary if they are traveling along a nearly identical route – or alternatively, whether other projects are necessary if these two are being located in close proximity to minimize the need for new right-of-way.

Given gas production trends in the Marcellus Shale and the benefits this has incurred in terms of energy prices and lower air pollution, new pipeline capacity may be necessary. The question is how much.

One of the most frequent concerns Virginians have shared with me is the degree to which FERC analyzes individual projects within the larger regional context. The cumulative importance of this new natural gas supply must be measured side-by-side with the cumulative impact of multiple new pipeline rights-of-way in this rural, largely agricultural and forested region. In other words, FERC's analysis must consider the following: If the new capacity of the MVP necessitates a certain level of impact, does four times that new capacity also necessitate four times the impact? I would also be interested to see FERC's analysis of several related issues:

- The extent to which natural gas demand and capacity projections justify the need for all four of these projects.
- The percentage of natural gas capacity through the MVP – and through the other pipelines – that is currently under contract and how much is for future demand growth.
- The extent to which projected demand is dependent on variable factors – current levels of Marcellus gas production at current prices under current regulatory conditions.
- How the environmental impact statement (EIS) for the MVP will consider the cumulative environmental impact from all four pipeline projects, especially given the four different project application timelines.
- Whether a programmatic EIS for all four projects would capture the environmental impact throughout the region better than four separate ones. While I understand that FERC has rarely done this in the past, I would be interested in whether the agency does or does not believe it would be worthwhile in this case, and why.

Community benefits: Municipalities along the proposed MVP route wish to better understand the potential benefits of the project in terms of opportunities to tap into this new gas supply. The publicly cited data indicate that the volume demand for tapping into the MVP is on a scale of magnitude large enough that only an entity the size of a city – not an individual business or neighborhood – could potentially benefit from this resource. For that reason, some communities feel that the region's ability to tap into the pipeline for local use has been overstated. Below are several items that would be helpful to clarify:

- The level of gas demand needed to justify building a distribution branch of the MVP.
- The steps needed to make this possible – for instance, approximately how much it would cost to build a transfer station to bring supply via a new MVP distribution branch.
- The extent to which the gas traveling through the pipeline likely to be exported. There seems to be inconsistent information in the public sphere on this question. To be clear, I believe LNG export can make sense on a strategic, case-by-case basis to reduce the world's dependence on hostile energy states like Iran and Russia. But whatever views one has on this issue, the people in this area of Virginia bear the potential risks of this infrastructure and deserve to know where the gas is going.

Environmental impacts: This area of Southwest Virginia and the Shenandoah Valley is a mountainous, forested, and largely rural area in which agriculture and outdoor tourism are predominant economic sectors. As such, any impacts on natural resources are also impacts on the regional economy – from residential property values, to drinking water quality, to tourism revenue. Many people feel that this region is bearing all the environmental risks and potential economic impacts from carving a new right-of-way through unspoiled rural green-field area, while the pipeline companies and demand recipients elsewhere are receiving all the benefits. Below are several issues that Virginians have raised on the environmental impacts of the MVP:

- Whether FERC requires or encourages reroutes of the pipeline to avoid land tracts under conservation easement, which property owners understood would be protected in perpetuity.
- What measures are being taken to prevent impacts to water resources in areas with no water access other than groundwater.
- How the pipeline will be built to safely cross rivers along this route.
- Where and how technology to build safely on karst topography has been demonstrated.
- The degree of information-sharing and consultation that has taken place among FERC, the interested companies, and the National Park Service, given that the route would have to cross the Blue Ridge Parkway and the Appalachian Trail.

Process concerns

As you know, there have been several requests by municipalities for extensions of public comment periods and additional scoping meetings, due to a perception that this process is being fast-tracked without appropriate time for input by affected stakeholders.

I believe these calls have arisen because the FERC process has a built-in imbalance. A company wishing to build a pipeline has personnel with deep experience in this complex regulatory process and for whom this is a full-time job. By contrast, citizens with questions about this project are not experts in the energy industry but rather are learning about this project on their nights and weekends. Many live in rural areas and commute great distances to public meetings after a full day's work. Some do not have high-speed internet access. Some are older citizens for whom the FERC eComment online portal is not straightforward to navigate.

In sum, it is crucial that no effort be spared to disseminate project information as widely as possible, to make sure that citizen questions are answered quickly and substantively, and to allow ample opportunity for comment – in particular, sufficient time to analyze new information such as new alternative proposed routes. Constituents have raised concerns with me that indicate that this process has not been as thorough as possible. Among the issues I have heard:

- In some cases, companies, contractors, or subcontractors seeking to gain survey access to private property, have not been following proper notification requirements before suing to gain access to land.
- There have not been enough public meetings, and that those that have taken place were overcrowded and not conducive to gathering detailed information or getting substantive responses

to questions. Multiple reports told of people having to arrive at least 90 minutes early to speak, or being turned away.

- There has been insufficient notice and inadequate response time for residents to understand and analyze proposed route changes and to submit public comment on time. This- as well as comments from FERC staff on site – has contributed to a perception that the project is a “done deal” and that FERC and the companies view the public comment process as a pro forma, box-checking exercise.

Conclusion

I recognize FERC’s challenging responsibility of ensuring that America’s energy system has the transmission capacity to run reliably, while permitting that infrastructure in accordance with the safety of natural resources and the rights of Americans not to have their property taken without overwhelming public interest. These are complex considerations in which there is not always a clear line. For that reason, as stated before, I do not have a position on this project, as I strongly believe that infrastructure decisions should be determined through expert analysis of all the relevant technical and economic factors, and not on a political or partisan basis.

What I do strongly encourage is that FERC painstakingly follow the system we have in place for evaluating infrastructure. Permitting a pipeline should involve an exhaustive process of eliminating all but the least disruptive construction options. The people whose livelihoods may be affected by a project should have ample opportunity to gather information, get their questions answered, and analyze alternatives – on a timeline conducive to participation by people for whom energy pipeline permitting is not a professional occupation. In short, simply having a public comment process is insufficient if that process is not easily accessible to the public.

Thank you for your attention to the issues raised in this letter. I appreciate your attention to this matter.

Sincerely,



COMMITTEE ON
ARMED SERVICES

COMMITTEE ON
FOREIGN RELATIONS

COMMITTEE ON
THE BUDGET

SPECIAL COMMITTEE
ON AGING

United States Senate

WASHINGTON, DC 20510-4607

August 24, 2015

The Honorable Norman C. Bay and Commissioners
Federal Energy Regulatory Commission
888 1st Street NE
Washington, D.C. 20426

Dear Chairman Bay and Commissioners Clark, Honorable, Moeller, and LaFleur:

This letter is a compilation of observations regarding Docket #PF15-6-000 – the Atlantic Coast Pipeline (ACP), proposed by Dominion, Duke Energy, Piedmont Natural Gas, and AGL Resources.

I take no position on the underlying question of whether this project should be approved, as that is a choice that requires consideration of a number of technical issues that are best addressed by FERC, not by Congress. However, I have listened carefully to many Virginians along the proposed ACP corridor who have shared concerns with me about this project. These concerns pertain not just to the substance of the project but also to the quality and thoroughness of the public input process by FERC and the applicant companies. In response to what I have heard, I highlight several of the issues that I believe are important for FERC to consider. It is also my hope that the applicants will consider these points as they prepare to file their formal application.

No one disputes that energy infrastructure is necessary for the economy and daily life. However, such infrastructure must be built in as minimally disruptive a way as possible. Since all infrastructure has some degree of impact, federal law charges your agency with managing a complex process 1) to require project builders to make the utmost effort to minimize project impacts, and 2) to empower the public to verify these efforts by ensuring that all relevant information is made available and that there is ample opportunity for public input and comment. Citizens rightly expect that process to be followed to the letter.

In my travels throughout the Shenandoah Valley and elsewhere along the ACP's footprint, I have heard the views of affected property owners, local elected officials, businesses, farmers, organizations dedicated to preserving our natural resources, and numerous other concerned citizens. I have also heard from the applicants and constituents, local governments, and business groups that support the project. The comments below reflect some of the key issues raised multiple times by stakeholders that I believe are particularly important to underscore as you analyze this project.

Process concerns

Several municipalities and citizens groups pressed for extensions of public comment periods and additional scoping meetings, due to a perception that this process is being fast-tracked without appropriate time for input by affected stakeholders.

I believe these calls have arisen because the FERC process has a built-in imbalance. A company wishing to build a pipeline has personnel with deep experience in this complex regulatory process and for whom this is a full-time job. By contrast, citizens with questions about this project are not experts in the energy industry but rather are learning about this project on their nights and weekends. Many live in rural areas and commute great distances to public meetings after a full day's work. Some do not have high-speed internet access. Some are older citizens for whom the FERC eComment online portal is not straightforward to navigate.

It is crucial that no effort be spared to disseminate project information as widely as possible, to make sure that citizen questions are answered quickly and substantively, and to allow ample opportunity for comment – in particular, sufficient time to analyze new information such as new alternative proposed routes.

When these steps are not taken, it contributes to a local perception that the project is a done deal and that FERC and the applicants view the public comment process as a pro-forma, box-checking exercise. I would like to share with you several specific incidents that may be contributing to this impression:

- Constituents brought to my attention a list of errors in the transcripts of the FERC scoping meetings. These were not stray typos but rather hundreds of erroneous words that made large portions of testimony read as nonsensical (for instance, “karst” was transcribed as “cars.”) To the citizens who took time out of an evening to offer public comment – in many cases after waiting a long time to speak – the discovery of these errors suggested that FERC was not taking public testimony seriously.
- As I have outlined in previous correspondence with FERC, scoping meetings in Nelson and Augusta Counties did not provide fair opportunity for people of different views to testify. According to press and eyewitness reports, a number of organized ACP supporters arrived several hours early and occupied the bulk of the speaking slots, leaving those who showed up at the advertised start time to wait for hours. While public meetings cannot be of unlimited duration, it is unfair to allow advocates of any position to “pack” meetings. There are effective protocols that can be used to alternate between factions to ensure a balance of views in a limited amount of time.
- Members of the Augusta County Board of Supervisors and Augusta County Service Authority met with the applicants and provided the company with a list of questions, which these members say have not been answered to date.
- *The Recorder*, the local newspaper of Bath and Highland Counties, submitted questions to the applicants on August 5, 2014, and indicates that it has yet to receive a response.

- The Buckingham County advocacy group Friends of Buckingham alleges FERC informed them there would be a presentation by the applicants on the size and impacts of the proposed Buckingham compressor station before the scoping meeting, and that no such presentation was held.
- In some cases, companies, contractors, or subcontractors seeking to gain survey access to private property have not been following proper notification requirements before suing to gain access to land.

Project concerns

Environmental impacts: This area of Virginia is a mountainous, forested, and largely rural area in which agriculture and outdoor tourism are predominant economic sectors. The ACP's corridor crosses karst geologic formations and water resources, which many Virginians in this region find to be of deep concern.

- Questions have arisen as to whether technology to build safely on karst topography has been demonstrated (and if so, where and how).
- Some believe there are insufficient measures in place to minimize the risk of local well contamination and impacts to drinking water.
- In mountainous areas of the route, citizens are asking about erosion mitigation and evacuation routes near schools. One citizen pointed out that the Commonwealth's hazardous materials evacuation plan recommends avoiding karst areas.
- Citizens are asking how the ACP will be built to safely cross rivers.

Any impacts on natural resources are also impacts on the regional economy, including on property values and tourism revenue. For instance, I have received concerns from Wintergreen Resort – the largest employer in Nelson County, with some 1,000 seasonal employees and up to 400,000 annual visitors – about how the ACP will affect visitation numbers, property value, and planned future developments. Through the potential impacts on both businesses and individuals, many residents feel that this region is bearing all the environmental risks and potential economic impacts from carving a new right-of-way through unspoiled rural green-field area, while the applicants and the recipients of this gas demand elsewhere are receiving all the benefits. Accordingly, questions have been raised as to the following:

- Whether FERC requires or encourages reroutes of the pipeline to avoid land tracts under conservation easement, which property owners understood would be protected in perpetuity, and for “century” farms, which have been in family ownership for more than 100 years.

- The degree of information-sharing and consultation that has taken place among FERC, the interested companies, and the National Park Service, given that the route would have to cross the Appalachian Trail.
- Whether protections are in place for endangered species, such as the cow knob salamander, and for caves, which could be impacted during construction blasting.

Community benefits: Municipalities along the proposed ACP route wish to better understand the potential benefits of the project in terms of opportunities to tap into this new gas supply. The publicly cited data indicate that the volume demand for tapping into the ACP is on a scale of magnitude large enough that only an entity the size of a city – not a business or neighborhood – could potentially benefit from this resource.

For that reason, some communities feel that their ability to tap into the pipeline for local use has been overstated. They would like to know what level of gas demand is needed to justify building a distribution branch of the ACP, what steps would need to be taken to make this happen, and approximately how much it would cost to build the transfer station.

In addition, there is confusion about whether or what portion of the gas traveling through the pipeline is likely to be exported. Citizens have reported conflicting information being given from industry and FERC representatives during public meetings. To be clear, I believe LNG export can make sense on a strategic, case-by-case basis to reduce the world's dependence on hostile energy states like Iran and Russia. But whatever views one has on this issue, the people in this area of Virginia bear the potential risks of this infrastructure and deserve to have accurate information on this point.

Cumulative impacts: The Atlantic Coast Pipeline is one of four natural gas pipeline projects proposed in roughly the same region of Virginia. While all are at different phases of the regulatory process, two – the Mountain Valley Pipeline (NextEra/EQT Energy) and the Appalachian Connector (Williams Co.) – appear to travel along a nearly identical route. A third – the WB Xpress (Columbia) – is an expansion of a current line, located not far from the ACP route and some 90 miles north of the other projects.

One of the most frequent concerns Virginians have shared with me is the degree to which FERC analyzes individual projects within the larger regional context – in other words, if the new capacity brought online by the ACP necessitates a certain level of impact, whether four new projects necessitates four times the impact. It is important that the ACP be measured side-by-side with the impact of multiple new pipeline rights-of-way in this rural, largely agricultural and forested region.

I have encouraged the applicants for the ACP and for other pipeline projects to explore co-location of right-of-way to the greatest extent possible. In analyzing other pipelines approved in recent years across the country, it appears at this stage that the ACP's degree of co-location with existing rights-of-way – in the range of 5-10% of its mileage – is substantially lower than for other similar pipelines. Understanding that co-location is driven by geography and development patterns that vary by region, it is important that FERC analyze whether the applicants have taken

every reasonable measure to minimize the need for heavy construction on previously undeveloped land.

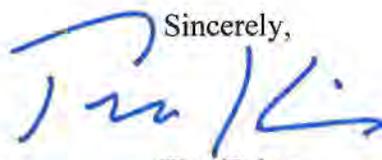
To better assess whether such efforts have been adequately taken, citizens are asking whether a programmatic environmental impact statement (EIS) for all four projects would better capture the environmental impacts throughout the region than four separate ones. While I understand that FERC has rarely done this in the past, I would be interested in whether the agency does or does not believe it would be worthwhile in this case, and why.

Conclusion

I recognize FERC's challenging responsibility of ensuring that America's energy system has the transmission capacity to run reliably, while permitting that infrastructure in accordance with the safety of natural resources and the rights of Americans not to have their property taken without overwhelming public interest. These are complex considerations in which there is not always a clear line. For that reason, as stated before, I do not have a position on this project, as I strongly believe that infrastructure decisions should be determined through expert analysis of all the relevant technical and economic factors, and not on a political or partisan basis.

What I do strongly encourage is that FERC painstakingly follow the system we have in place for evaluating infrastructure. Permitting a pipeline should involve an exhaustive process of eliminating all but the least disruptive construction options. The people whose livelihoods may be affected by a project should have ample opportunity to gather information, get their questions answered, and analyze alternatives – on a timeline conducive to participation by people for whom energy pipeline permitting is not a professional occupation. In short, simply having a public comment process is insufficient if that process is not easily accessible to the public.

Thank you for your attention to the issues raised in this letter. I appreciate your attention to this matter.

Sincerely,

Tim Kaine

4 September, 2015

To: Board of Supervisors
From: S. Carter, County Administrator
Re: County Administrator's Report (September 8, 2015 Meeting)

1. Courthouse Project Phase II: Sealed bids were received on September 2nd at 2 p.m. in the former Board Room. Two bid proposals were received (Jamerson-Lewis Construction, Inc. and MB Contractor, Inc.) by the 2 p.m. A third from Mathers Construction was late and is being returned unopened to the company. The low bid proposal of \$4,598,000 was submitted by Jamerson-Lewis. MB Contractors bid proposal was \$4,959,000. There were five bid alternatives included in the bid solicitation and Jamerson-Lewis's total cost proposal for the five alternatives is \$292,300. Total estimated project costs, subject to being finalized is \$5,826,492 (inclusive of Jamerson-Lewis's base and add alternate bid proposal, A&E fees, a 5% contingency, legal and special inspection costs). In a meeting on 9-3 with the Board's Project Committee (Supervisors Saunders and Hale) the Committee decided, subject to Board approval to accept all 5 bid alternatives. Staff have conferred with VRA and the County's bond counsel (Sands Anderson/P. Jacobson) to provide for financing the project through VRA. At present, the financing with VRA would provide \$4.5 million in bond funding, repayable for 20 years at an interest rate not higher than 4.5% (the bond resolution documents which the Board will formally consider approval of on 9-8 currently provide an amount higher than the \$4.5 million but this is to provide a maximum funding ceiling that, as necessary, will encompass all in closing costs from VRA, inclusive of bond counsel). Collateral (security) for the financing will be the four connected structures that comprised the Courthouse (1809 to 1970s) until the new addition was completed in 2011 (the new addition is not a part of the collateral for the project's financing). Based on VRA's analysis, the final all in financing will not be higher than \$4.456 million based upon an insured valued of \$3,342,400 (of the overall renovation areas). The Board's agenda for 9-8 includes resolutions to authorize acceptance of the low bid proposal and to authorize the financing with VRA. The proposal from Jamerson-Lewis projects a start date of October 1st with project completion in January-February, 2017.

2. Broadband: A) Local Innovation Grant Project: Phase 1 construction (from Rtes. 151&6 to Rtes. 151 & 664) is projected to begin this month (September), as staff and the project's installation contractor (CCTS – D. Beam) have been working closely with VDOT to secure the required permits for the project from the Department. Phase 2 and 3 will follow Phase 1. **B) Broadband Strategic Plan:** Development of the scope of work for the project is pending. **C) NCBA Planning Session:** The Authority Board requested the scheduling of a planning session at their July 2015 meeting. This session will likely be conducted in October, as (County) staff is continuing to focus on the CDBG construction project, providing coordination/information for potential service connections to the network for an approximate 50 +/- (possibly more) new customers. Staff is also very focused on negotiations with current and potential new service providers. This is a very critical time for the broadband network. **D) CDBG Planning Grant:** An application for \$30,000 in planning grant funding has been submitted to DHCD. Input from DHCD is pending.

3. BR Tunnel: Development of the revised Phase 2 of the project (full Tunnel rehab & restoration, trail construction within the Tunnel) is projected to begin in the ensuing 30 – 45 days approximate. A favorable grant decision from VA-DCR for \$250,000 in RTP funding will

enable the Phase 2 Project, based on current cost estimates, to be completed, leaving Phase 3 (estimated between \$900,000 - \$1.0 million) as the last project element to be completed, which grant funding from VDOT will be sought by County staff with Woolpert's assistance in November 2015. With regard to the project's completed Phase 1, photos of the trail area from cameras placed by County staff denote the trail is being actively used (despite No Trespassing Signs) and the cameras have captured persons cutting the trail fencing near the Tunnel's eastern entrance (investigation by the Sheriff's Department is in process).

4. Lovington Health Care Center: The Citizen's Committee is continuing to meet. There are currently three prospective owners/operators of the Center following MFA's (Medical Facilities of America) relocation to its new Albemarle location, currently project for February 2016. Two of the prospective owners/operators are Region Ten CSB and, secondly, a possible consortium (LLC/LP) between Piedmont Housing Alliance and JABA. The third prospect is a private company in Harrisonburg. A meeting with PHA & JABA will be scheduled for later in September. The Harrisonburg company is currently completing various financial and architectural/engineering studies to determine the feasibility of owning and operating the Center. Region Ten has previously submitted a purchase proposal but nothing has advanced, to date, towards further discussions with the regional CSB.

5. Radio Project: The Department of Information Services is continuing to work with Motorola and Clear Communications towards solutions to improve system coverage, resolving pager malfunctions, etc.

6. CDBG Grant Application for Sewer Line Extension: An application to VA-DHCD for funding of the project is in process with additional guidance from DHCD pending receipt.

7. Maintenance: Roof replacement for the new Maintenance Building is in process but pending completion.

8. FY 14-15 Budget & Audit: The FY 15 Audit Report (CAFR) is in process but will not be completed until early in the fourth quarter of 2015 (November- December). The estimated FY 14-15 Budget balance (revenues vs expenditures), subject to audit, is \$1,164,621 (which was not included in the FY 15-16 Budget).

9. Personnel: Staff is actively recruiting for the Building Inspection position authorized in the FY 15-16 Budget and for the vacant part-time position in the Department of Finance and HR.

10. Board Retreat: The Retreat Committee (Supervisors Saunders and Brennan and staff members Carter and McGarry) decided on October 22-23 as the proposed dates for the Board's retreat. Mr. Chip Boyles, Exec. Director of TJPDC has agreed to facilitate the retreat. The proposed meeting location is Veritas Winery (which is pending confirmation with the winery). An outline of items for the Board's consideration at the retreat was forwarded to the Board on 8-26.

11. Department Reports: Included with the 9-8-15 BOS agenda.

Nelson Junior FFA



Mr. Steve Carter
 County Administrator-Nelson County
 P.O. Box 336
 Lovingston, VA 22949

RECEIVED

AUG 18 2015

COUNTY ADMINISTRATOR'S
 OFFICE

Nelson Middle School
 6925 Thomas Nelson Highway
 Lovingston, VA 22949
 (434) 263-4801

August 16, 2015

Dear Mr. Carter,

It is with a great deal of pride and satisfaction that I write to you and the Nelson County Board of Supervisors. This summer the Nelson County Middle School FFA did an outstanding job competing against the best teams from across the state.

At the Virginia State FFA Convention the Junior Crops Judging Team competed and not only won the junior division but the senior division as well. The students that will be competing in Louisville, Kentucky in the National Agronomy Contest are Kelsy Fitzgerald, Cody Adams, Danielle Saunders, and Angel Wright. While at the national FFA Convention, Nelson Junior FFA will be recognized in front of over 60,000 FFA members as being a multiple star chapter, one of the top programs in the nation. This is the highest degree of recognition our FFA chapter can receive.

These children have spent most of the summer preparing to go to the National FFA Convention and compete in Louisville, Kentucky October 26-31, 2015. The months of preparation has paid off for these young citizens of our county. These students will be representing Nelson County and Virginia in the National contests.

The chapter has been working hard to raise the funds necessary to send the students to Louisville. The anticipated cost for the trips is over \$17,000. We recently started planning the 9th Annual Bluegrass Benefit. However, I believe that this may not be enough to fund this trip.

My request is to ask the Board if they would once again assist with the transportation cost of my students to the National Contest and the convention for these state winning teams that are competing in the national finals. In past years, when needed, the Nelson County Board of Supervisors has provided up to \$2,000.00 to assist the teams in their travel expenses to competitions that they had earned the right to compete in by becoming the state champions. On behalf of the chapter members, I would like to ask you to consider assisting the Middle School FFA chapter with their travel expenses in the amount of \$2,000.

I appreciate any assistance that you and the Board members can provide the chapter. The Board's tradition, of rewarding students that distinguish themselves and the County of Nelson above all other localities in the State, is a key motivating factor for these students. I appreciate the Board's generosity in the past and look forward to working with you in the future.

Sincerely,

Lauren P. Goff
 FFA Advisor, NMS

<u>Directives</u>	<u>Member</u>	<u>Status</u>	<u>Progress/Comments</u>
<u>Directives from November 13, 2014</u>			
<i>Continue to CC Mr. Hale on E-mails with Woolpert</i>	A. Hale	Ongoing	
<i>Check Into Getting a Boat Ramp at Nelson Wayside</i>	C. Brennan	In Process	Emily Harper Working On With Rob Campbell
<u>Directives from January 13, 2015</u>			
<i>Proceed With Historic Marker Replacement at Nelson Wayside and Colleen</i>	Consensus	Complete	
<i>Follow Up on Collection Options For The EMS Revenue Recovery Program</i>	C. Brennan	In Process -90%	Staff Reviewing Summary Report
<u>Directives from August 11, 2015</u>			
<i>Discuss Water and Sewer Connection Fees at BOS Retreat</i>	Consensus		On Proposed Retreat Agenda

Evening III A

Draft Minutes, July 14, 2015 Board of Supervisors meeting – Evening Session 7:00 PM

I. Public Hearings and Presentations

- A. **Public Hearing: Special Use Permit #2015-03 – “Dance Hall” / Jose & Elpidia Gaona** Consideration of a Special Use Permit application to operate a “dance hall” pursuant to §8-1-3a of the Zoning Ordinance. Specifically, the applicant wishes to operate a dance hall on Friday nights and Saturday nights, remaining in operation until 2:00AM the following morning(s). The requested dance hall would be co-located with “La Michoacana Authentic Mexican Taqueria & Restaurant” (which is a permissible by-right use, and which received County zoning approval via Minor Site Plan #2015-03 on May 27, 2015). The subject property is owned by Mr. Joe Lee McClellan and is located in Lovington at 37 Tanbark Place; it is further identified as Tax Map Parcels #58B-A-36 and #58B-A-37 which are zoned Business (B-1).

Mr. Padalino noted the location of the subject property is in Lovington at 37 Tanbark Place; it is further identified as Tax Map Parcels #58B-A-36 and #58B-A-37 which are zoned Business (B-1) and owned by Mr. Joe Lee McClellan. He noted on a map that the property was surrounded by the same types of zoning (Business B-1). He further noted that the property was located at the intersection of Main Street and Thomas Nelson Highway and also fronts along a small private road (Tanbark Plaza). He added the property was a total of 1.26 acres and the existing building was formerly a grocery store and is currently vacant.

Mr. Padalino showed an aerial view of the property and noted it was not in the floodplain .

Mr. Padalino then noted that the request for the Special Use Permit for a “dance hall” was made pursuant to §8-1-3a of the Zoning Ordinance. He added that the request was made in connection with the minor site plan submitted and approved to operate a restaurant as a by right use; and the Special Use Permit would be in addition to that previous approval.

He then advised that Massie Saunders had prepared the site plan for the restaurant and a new one was not required. He then showed some pictures of the site and noted the process of the permit review was that the Planning Commission held a public hearing on June 24th and voted 3-0-1 to recommend approval of the Special Use Permit without conditions. He added that members spoke in favor of the application with some concerns regarding the dance hall operating late at night.

Mr. Padalino then listed the criteria for the review of Special Use Permits as follows:

- A. The use shall not tend to change the character and established pattern of development of the area or community in which it proposes to locate;
- B. The use shall be in harmony with the uses permitted by right in the zoning district and shall not affect adversely the use of neighboring property;

C. The proposed use shall be adequately served by essential public or private services such as streets, drainage facilities, fire protection and public or private water and sewer facilities; and

D. The proposed use shall not result in the destruction, loss or damage of any feature determined to be of significant ecological, scenic or historic importance.

He noted that the opinion of Staff was that the proposed “Dance Hall” use, as proposed in the application seemed to be satisfactory relative to evaluation criteria C and D. However, the proposed use appears to be questionable with respect to evaluation criteria A (“shall not change the community character”) and evaluation criteria B (“shall be in harmony with by-right uses and shall not affect adversely the use of neighboring property”). He added that operating until 2 am could alter the character, be unharmonious, or could adversely affect use of neighboring properties. He noted that he recommended the Board consider the potential noise from amplified music, traffic etc. and that the Planning Commission forwarded the application with a recommendation of approval.

Ms. Brennan inquired if a house in a business district could be transferred over to a business and Mr. Padalino noted this was determined by the Zoning. He noted that there were people living in residences along Front Street; however there were no residents on Tanbark Plaza. He advised that on the east side of Front Street the residences are zoned R-2 and the residences on the other side are zoned B-1.

Mr. Padalino then confirmed that the subject property was not in the floodplain; although there is some property on the other side of the road that is in the floodplain.

Mr. Padalino also advised that the Village of Lovington was exempt from parking requirements; however there were forty-eight (48) spaces with at least 2 designated handicapped spaces.

Ms. Brennan then inquired if there was anything to prohibit people from parking along Tanbark Road and Mr. Padalino advised that there was not and Mr. Carter added that the concentration of parking was near Region Ten and Rite Aid.

There being no further questions for Mr. Padalino, Mr. Saunders opened the public hearing and the following persons were recognized:

1. Patty Avalon, Lovington

Ms. Avalon noted she was curious about the nuisances brought up and noted that they were also her concerns. She then read aloud the following statement:

To the Nelson County Board of Supervisors,

“I am a 13 year resident of the Village of Lovington, and am I writing to ask that you NOT approve the request for the Mexican restaurant dance/hall, as it is currently proposed, for these reasons...

Lovingston is working hard to keep good residents and businesses, as are many rural small towns around the country. We have created a safe, family friendly environment through the efforts of many individuals by developing programs such as a Neighborhood Watch, the Adopt-a-Bed Flower barrel plantings, Holiday Decorating of the Village etc. We even paint our town curbs safety yellow ourselves as we have no government funds for this. We want our community to flourish and remain inviting and safe to live in and visit. A Mexican Restaurant would be fantastic here in Lovingston! I whole heartedly support that.

The three serious problems with the current proposal are:

Serving alcohol. When you allow alcohol into the equation, suddenly there are too many opportunities for violence, noise, and late night lingerers after closing hours. Drugs will most likely find their way in and around the dance hall as well as dark corners of our neighborhood, (and there are many).

Noise. We already have noise problems with the local Firehouse dances...the music can be heard throughout the Village. Fortunately these are held only occasionally. If the music can be guaranteed to NOT BE HEARD 25 ft from the establishment (as the local ordinance states) that could work. Can you imagine in YOUR OWN NEIGHBORHOOD having loud music filtering into your homes all night long? Unacceptable of course. Please put yourself in our place.

The 2 a.m. closing time. There will be drunk drivers driving in and out of the Village into the wee hours, perhaps motorcycles as well. The "boom box" car stereos come through this village enough as it is, and with a nightly dance hall, we'll be inundated with loud traffic. Would you and your children want to live with this? And what would happen to YOUR property values if this were in YOUR neighborhood?

I know that you listen to us and that you will make every effort to help grow Lovingston to its greater potential to be a safe, fun and inviting town in which to raise families, work and visit."

She then read aloud the Board of Supervisors Mission Statement as follows:

"It is the mission of the Board of Supervisors to maintain Nelson County as a beautiful, safe, healthy, and prosperous rural county; where public services are effective, efficient, adequate and responsive to the needs of its citizens; where education is a life-long process; where citizens are involved in all aspects of their governance; and where the community is well planned to assure respect for and dedication to its traditions and resources, while continuing to improve its economic viability."

2. Mike Crabill, Lovingston

Mr. Crabill noted he lives across the creek from the proposed site and his morning alarm goes off at 4 am and he noted if the noise was going on until 2 am, he would be personally upset. He noted he was not in favor of the dance hall unless the Board limited the hours or the noise. He

then asked what the decibel limit was in the Noise Ordinance. Supervisors noted they could get him a copy of the Ordinance.

3. Joe Lee McClellan, Lovington

Mr. McClellan noted that the Planning Commission held a public hearing and passed the Special Use Permit with no reservations because they wanted to give people the leeway to operate a profitable business and to not restrict it. He added he felt that the Sheriff's Department could take care of any disruptions. He added that he thought that if the business owners could not maximize their potential, they would not be successful and that they should be given the opportunity to operate and if there was a problem, then it could be addressed. He added that he thought citizens were getting the wrong idea about a dance hall and noted that there used to be one in Lovington.

4. Mary Elnidge, Lovington

Ms. Elnidge noted that 2 am was too late to operate, it was too late and would be too loud. She added that she knew there was a noise ordinance; however the Sheriff's Office did not know what it says. She added that the Village was not patrolled by Deputies and this was a problem. She added that they come in the Village and go out to other areas of the County and she questioned who would take care of monitoring the noise. She added that the County did not have the resources for that. She then noted that she thought patrons would be parking out on Main Street regardless of the number of existing parking spaces; and with no traffic control, they would park wherever they wanted. She added that if they were serving alcohol, there was no mention of a cutoff time and she questioned who would patrol this for drunk driving. Ms. Elnidge then noted that she lived in a house zoned R-2 and could be a business; however she was not and she was very concerned about the associated alcohol use.

5. Joe Lee McClellan, Lovington

Mr. McClellan disputed Ms. Elnidge's comment that the Sheriff's Department did not patrol Lovington. He added that once a week, they would leave a business card in the door of the grocery store building to show they'd been there. He added that the dance hall was meant for the fifteen (15) going out party and was a community affair and it was his understanding that this was the primary reason for the request. He added that State law required no sale of alcohol after midnight.

6. Ed Hicks, Lovington

Mr. Hicks noted he was in favor of the restaurant, but was not in favor of the 2 am dance hall hours. He noted that the Board would be tying their hands if they set the times. He advised that he had spoken with Devil's Backbone and Wild Wolf Brewing Company to see when they closed. He noted that WWB closed at 10pm Monday through Thursday and were open until 11pm on weekends. He noted Devil's Backbone was open until 9pm during the week and until 10pm on weekends. Mr. Hick's then stated that he did not think fifteen (15) year olds needed to be out until 2am. He added that he did hear everything that went on at the Firehouse; has called and

complained and nothing was done. He then questioned whether or not Mr. Hale had polled the Lovington residents personally on the matter and noted that he did not think he had.

7. Celine Thelen, Lovington

Ms. Thelen noted she thought the restaurant was fine; however she was seriously opposed to the dance hall. She noted that serving alcohol and being open until 2am was asking for disaster. She noted that she hears the Lovington Firehouse and other businesses that are noisy all hours of the night. She noted that she purchased a home in Lovington because it was a nice, quiet, safe place to live and it would not be if the Board allowed things like this in and she did not want it in her backyard.

8. David Boor, Lovington

Mr. Boor spoke to the Village being patrolled by deputies and noted that there had recently been a break in at Front Street Garage and at American National Bank that were unsolved. He noted that the Sheriff's Department was undermanned and did not need to be taxed anymore. He noted he was not opposed to the restaurant; however he did not think a beer joint was needed. He then referenced an email from Mr. Hale noting that he, Mr. Hale was in favor of the dance hall with conditions. He added that the Planning Commission had referred this to the Board with stipulations and he requested that Mr. Hale abstain from voting because he had made his mind up before hearing any public comments.

There being no other persons wishing to be recognized, the public hearing was closed.

Mr. Saunders then asked for the Applicants to address the Board.

Mr. Massie Saunders addressed the Board representing the Applicant. He noted that Mr. Gaona understood good English and could answer; however he would work with him and the Board to answer questions.

He noted that Mr. Gaona had a security team that worked within the restaurant and alcohol serving shut down at midnight.

Supervisors then asked what was the anticipated maximum capacity and Mr. Saunders noted that the Building Official would determine this at some point. Supervisors then asked what would be a typical crowd for this type of activity and Mr. Saunders noted that this was hypothetical because they did not know how many people would come. He added that there was an architect involved with the layout, the Fire Marshall was involved and there would be a large amount of renovation involved.

Mr. Harvey then asked about the building, noting one side was 2,260 square feet and the other was 3,150 square feet and he inquired as to which part was open to the public. Mr. Saunders noted that the space designated as restaurant was where the food was prepared and was a 1,080 square foot area. He added that these were round figures from measures pulled between existing walls.

Mr. Harvey then noted he would like to hear from Mr. Gaona.

Mr. Harvey asked Mr. Gaona if these types of events were going on in the County now and he answered that they had these in Albemarle County, was from there and had a restaurant in Charlottesville.

Mr. Harvey asked how many people usually attended the dances and Mr. Gaona replied 65-75 people in the Charlottesville restaurant along with five (5) employees who were mostly family members.

Mr. Harvey asked how many seats were in the proposed restaurant and Mr. Gaona noted 40-45.

Ms. Brennan then inquired if this number was determined by the size of the restaurant by the Department of Health and Mr. Saunders noted that this had been based on the Architect's recommendation based on the building plans. He noted that the overall layout was dictated by what was a part of the operations.

Mr. Harvey asked what square footage the restrooms would take up and Mr. Saunders noted they would have to be large for ADA compliance.

Ms. Brennan noted it sounded like the applicant had experience with this and Mr. Saunders noted that they have been successful in Charlottesville and wanted to expand.

Mr. Carter then asked if the City had imposed any restrictions on the Charlottesville business and they noted that they had an abc permit in Charlottesville, the hours were 11am to 9pm with no dance hall.

Mr. Carter asked if the dance were not approved, would they still open the business and Mr. Saunders related that they would need to relook at the financials of this since the building was so big it would be hard to fill.

Mr. Saunders then noted that a small dance hall could be had within the restaurant by right; however if the SUP application were not approved, it would have to be discussed. Mr. Saunders advised that they had done a business plan because they had a financing plan in place.

Mr. Harvey then asked if the dances were special events or if they would be held every weekend. Mr. Saunders noted that this had been discussed a lot and they were not sure which night they would be held or if it would be both nights; they wanted to leave it open. He noted that there had been discussion at the Planning Commission of limiting the number held per month etc. and then they just rolled back to the original plan. He added that there was discussion about 1 night or 2 nights per month and then if it went well, they could get other nights approved. He added that no one spoke against this at the Planning Commission public hearing and it was properly advertised.

Mr. Harvey then supposed that if these dances were done as a private party then it was not really a dance hall. Mr. Padalino noted this was correct and that they had included a private dining area

that would be used for private functions, in connection with the restaurant operation. He added that if the dance hall were not approved, they would still be able to rent this area out for quinceaneras and private events, but only during the normal operating hours of the restaurant use.

Ms. Brennan then asked for clarification on this, noting that she understood that they could do what they wanted without the SUP. Mr. Padalino noted this was not the case; but that they could rent out the space for private events during business hours with 1/8 of the restaurant being able to be used for dancing per the Ordinance definition of restaurant.

Mr. Saunders then noted that Mr. Gaona was in a band and has not had a problem with alcohol. He added that Mr. Gaona would be willing to operate the dance hall one night a week on Saturday night to see how it went and would be willing to stop at 1am. He added that most people come out late after dinner and stay out. He noted he was used to that timeframe and wanted to stay open past midnight. He noted that they typically started playing music around 10pm that alcohol was only served at the bar and none was allowed in the dance hall, and there would be security on site.

Ms. Brennan then asked if they were requesting the Special Use Permit for one night or both nights and Mr. Saunders noted that it was for just Saturday night and if all were content with it, they may come back to ask for a second night.

It was noted that the Board could restrict the Special Use Permit to this particular business.

Mr. Carter then asked if the music was acoustic or amplified and Mr. Saunders noted some of it was amplified.

Ms. Brennan noted that she appreciated the applicant's concession of one night per week; however she would like it to stop at midnight. She added she was appreciative of them having security on site and was confident that the noise ordinance could be met and that she was in favor of a trial period. She noted that she knew quinceaneras were important to Mexican families and there was a need for a safe place for these to occur and added she had no problem with this.

Mr. Hale noted he thought that it was important for Lovington to have commercial viability and he noted that businesses had been lost one after the other; he reiterated he was in favor of commercial opportunities being available. He added that when he reviewed the material the previous day and responded to an email about his thoughts, he said he was not in favor of a 2:00 am closing time. He noted that nothing much good happened between Midnight and 4:00 am so he was not in favor of the proposed hours. He noted that it had been stated in the email that the Planner had recommended that these things be addressed through possible condition; one of which was to permit it until a certain time. He then noted that the Board could apply conditions to Special Use Permits. He noted that it was also suggested by the Planner that the Special Use Permit have a condition that after 18 months of their certificate of occupancy that it be subject to review with an additional public hearing. He added that he thought that the applicant should limited this to a few nights each month rather than having it open every weekend; and he would

like to see these conditions. He added that this would be a compromise to some extent that would enable the operators to have as many opportunities to succeed as possible.

Mr. Harvey stated that he thought the dance hall was a terrible idea; however he supported the restaurant. He noted that at the Rockfish Volunteer Fire Department, these events were held and there had been a minimum of 500 people and they were open to anyone. He added that he knew what happened and the required that security be there. He noted that they have had a lot of damage and they had gotten a call that week to rent the building for 1,000 attendees. Mr. Harvey then noted that the proposed location did not have the capability to handle this type of event. He added that there being only one way in and out of the property was a problem because if something happened, the whole place would be bottle necked. He noted he would love to see the restaurant and if they wanted to have a private party then that would be okay; however if it were open to the general public, the tendencies were known. Mr. Harvey then noted that it was the wrong place for this and there were only 48 parking places; meaning cars were going to line up the whole area.

Mr. Harvey then recommended that a decision be tabled so the Board could hear more and give the applicant an opportunity to see if it needed to go to the extent proposed. He added that eighteen months was a long time and the noise ordinance changed at 10:00 pm. He noted that the only enforcers of this was the Sheriff's Department and he noted that the noise ordinance says the sound cannot be over 65 decibels at the property line and was an average taken over a 15 minute period; so it was hard to violate the noise ordinance. He then noted that he felt for the people of Lovingson, as sound carried over the creek there. He again suggested that this be deferred until they had a full Board and could give it more thought.

Mr. Harvey then moved to defer consideration of the Special Use Permit until next month's Board of Supervisors meeting on August 11, 2015 with the understanding that it's a public meeting; however the public hearing was over. He noted this would give the Board time to learn more and He thought there was something wrong for nobody to show up at the Planning Commission's public hearing.

Mr. Hale seconded the motion and then the Board had the following discussion:

Mr. Saunders noted at the Planning Commission meeting he was quiet and did not vote because he has adjacent property across from the subject property and did not want to influence the outcome either way. He added that he would not comment or vote now.

Ms. Brennan reiterated that at the next meeting there would be no public hearing; however the public could speak under public comments. She added that she thought it was a good idea to study it better and the applicant could have more time to consider concessions. She noted that she thought that economic development was important and she cared about those living in Lovingson; however she did not think it would be like Mr. Harvey suggested.

Mr. Saunders asked what the applicant should use as a gauge of how many people would attend these things and Mr. Harvey noted that the Fire Department had hosted three or four per year and they had all been the same and this was hard to judge.

Mr. Hale noted that these had been held at the Faber Rescue Squad building and he would find out what their experience has been.

There being no further discussion, Supervisors voted (3-0-1) by roll call vote to approve the motion with Mr. Saunders abstaining.



To: Chair and Members, Nelson County Board of Supervisors
 From: Tim Padalino | Director | Department of Planning & Zoning
 Date: July 10, 2015
 Subject: Public Hearing for SUP #2015-03 (“Dance Hall”) – Mr. Jose & Mrs. Elpidia Gaona

Application Summary

<u>Site Address / Location:</u>	37 Tanbark Plaza / Lovingson / East District
<u>Tax Parcel(s):</u>	#58-A-36 and #58-A-37 ... (see maps on pages 4-6)
<u>Parcel Size:</u>	1.26 acres (total)
<u>Zoning:</u>	Business (B-1)
<u>Applicant:</u>	Mr. Jose Gaona and Mrs. Elpidia Gaona
<u>Request:</u>	Approval of Special Use Permit #2015-03 / application made pursuant to §8-1-3A in connection with recently-approved Minor Site Plan #2015-03
<u>Planning Commission:</u>	Recommendation for <u>approval</u> of SUP #2015-03 (with recommended conditions; see page 3)
<ul style="list-style-type: none"> • <i>Completed Application Received On:</i> April 24th, 2015 • Mr. Edgar Gaona, representative for (and son of) the applicants, has noted that the SUP application is seeking County approval to operate a “dance hall” on Friday nights and Saturday nights, remaining in operation until 2:00AM the following morning(s). • The requested dance hall would be co-located with “La Michoacana Authentic Mexican Taqueria & Restaurant” (which is a permissible by-right use, and which received County zoning approval via Minor Site Plan #2015-03 on May 27th, 2015) • The application includes documented permission from the property owners: Mr. Joe Lee McLellan signed the affidavit on the application. 	

Subject Property Location, Characteristics, and Other Information:

The subject property is located at the intersection of Main Street and Thomas Nelson Highway. The subject property(s) also fronts along a small private road (Tanbark Plaza). The subject property(s), comprising a total of 1.26-acres, are located in the Business (B-1) zoning district. The existing building was formerly a grocery store and is currently vacant. *Please see maps on pages 4-6.*

Site Plan Review Committee Meeting and Comments:

Please note that the Planning Commission approved Minor Site Plan #2015-03 for the proposed redevelopment of the existing vacant structure, for use as a restaurant. Minor Site Plan #2015-03 was also re-submitted with this Special Use Permit application, in order to satisfy the application requirement contained in §12-3-4-c-1. Since this proposed dance hall would be located within the same structure depicted on the approved Major Site Plan #2015-03, and since the dance hall would simply utilize the space currently designated as a “private dining area,” the approved site plan was determined to be acceptable for this application and did not go through the Site Plan Review Committee process a second time.

However, a summary of the original review comments from the May 13th Site Plan Review Committee meeting are included for your reference, in Appendix A. Full-size copies of the (approved) Minor Site Plan are available for review in the Planning & Zoning office.

Remarks from Staff:

The following are the review comments and recommendations of the Planning & Zoning Director, as presented to the Planning Commission at their public hearing for this application.

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

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

The opinion of Staff is that the proposed “Dance Hall” use, as proposed in the application materials for SUP #2015-03 and as depicted on Minor Site Plan #2015-03, seems to be satisfactory relative to evaluation criteria C and D. However, the proposed use appears to be questionable with respect to evaluation criteria A (“shall not change the community character”) and evaluation criteria B (“shall be in harmony with by-right uses and shall not affect adversely the use of neighboring property”).

Specifically, the applicant has requested County approval to operate the proposed “dance hall” on Friday nights and Saturday nights, remaining in operation until 2:00AM the following morning(s). This particular proposed “dance hall” use, combined with the proposed pattern of operations, could:

- Potentially alter the character of the village of Lovington; and/or
- Potentially be unharmonious with proximal by-right uses (including the multi-family dwelling units in the Residential (R-2) zoning district); and/or
- Potentially affect adversely the use of neighboring properties, including residential district properties.

Because downtown Lovington – which is officially designated as a Historic District – is relatively quiet in the evenings and at night, and because the village of Lovington is substantially residential in nature, the County must give careful attention to operational issues (and potential public nuisances) related to project details such as the noise from amplified music, increased vehicular traffic, and increased social / recreational activities during late night hours (and/or early morning hours) within the village of Lovington.

With respect to those concerns associated with the evaluation criteria, and with respect to the details of the “dance hall” proposal as provided by the applicant, Staff cannot recommend a straight approval of SUP #2015-03. Instead, staff recommends approval for the “dance hall” special use with some combination of the following conditions, subject to the Board of Supervisors’ review and determination:

- Approval is conditional upon the applicant documenting a strategy for ensuring that the Nelson County Noise Control Ordinance is complied with, that the Nelson County Sheriff’s Office reviews and endorses said strategy, and that such strategy for compliance is implemented and maintained;
- Approval is conditional upon Dance Hall operations being permitted no later than 11:00PM on any night of operation;
- Approval is conditional for 18 months from the issuance of a Certificate of Occupancy, at which time the SUP will be reviewed at public hearing in order for the Board of Supervisors to determine if the SUP will continue or be revoked (pursuant to §12-3-8).

Planning Commission Review and Public Hearing:

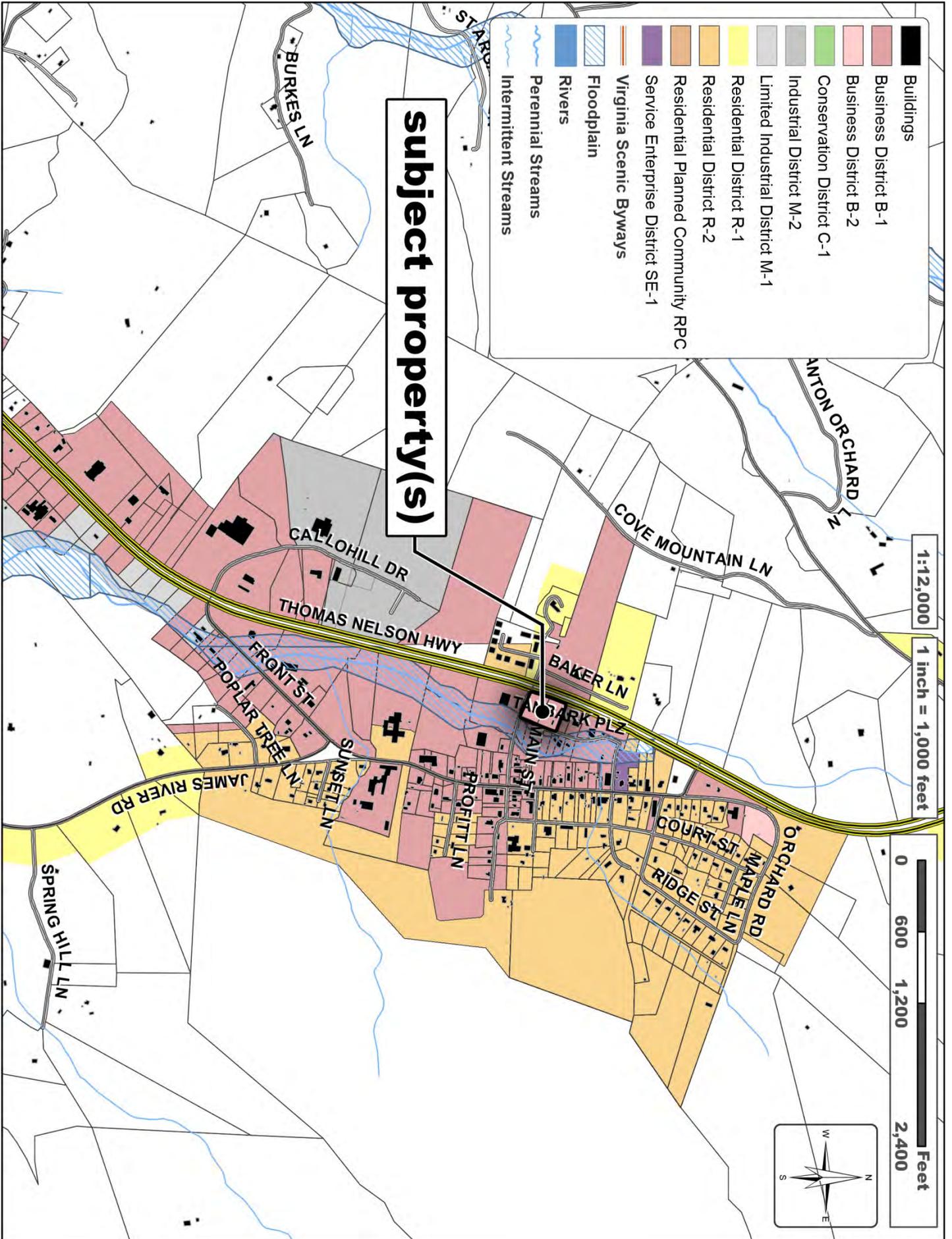
On June 24th, the Planning Commission conducted a review and public hearing for this SUP application. Members of the public spoke in favor of the application, while also acknowledging and discussing the potential concerns associated with a dance hall. Please reference the meeting minutes for detailed information regarding public comments made at the public hearing.

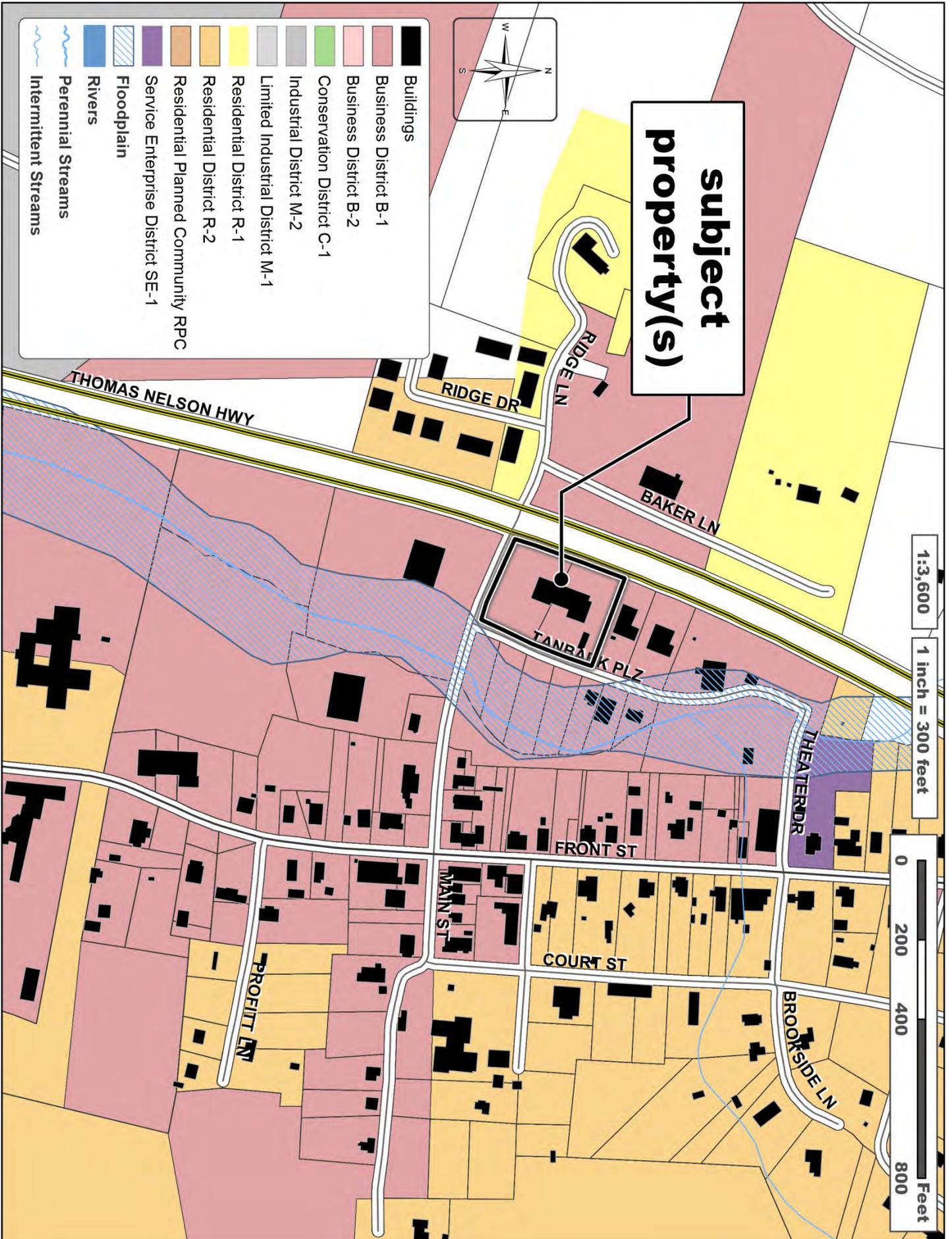
After closing the public hearing, the Planning Commission spent time deliberating whether or not to recommend conditions, such as limiting the dance hall to only one night per weekend instead of two, or limiting the hours of operation to 11:00 PM or 12:00 midnight (instead of 2:00 AM as proposed). After not reaching any consensus on those issues of discussion, the PC passed the following motion:

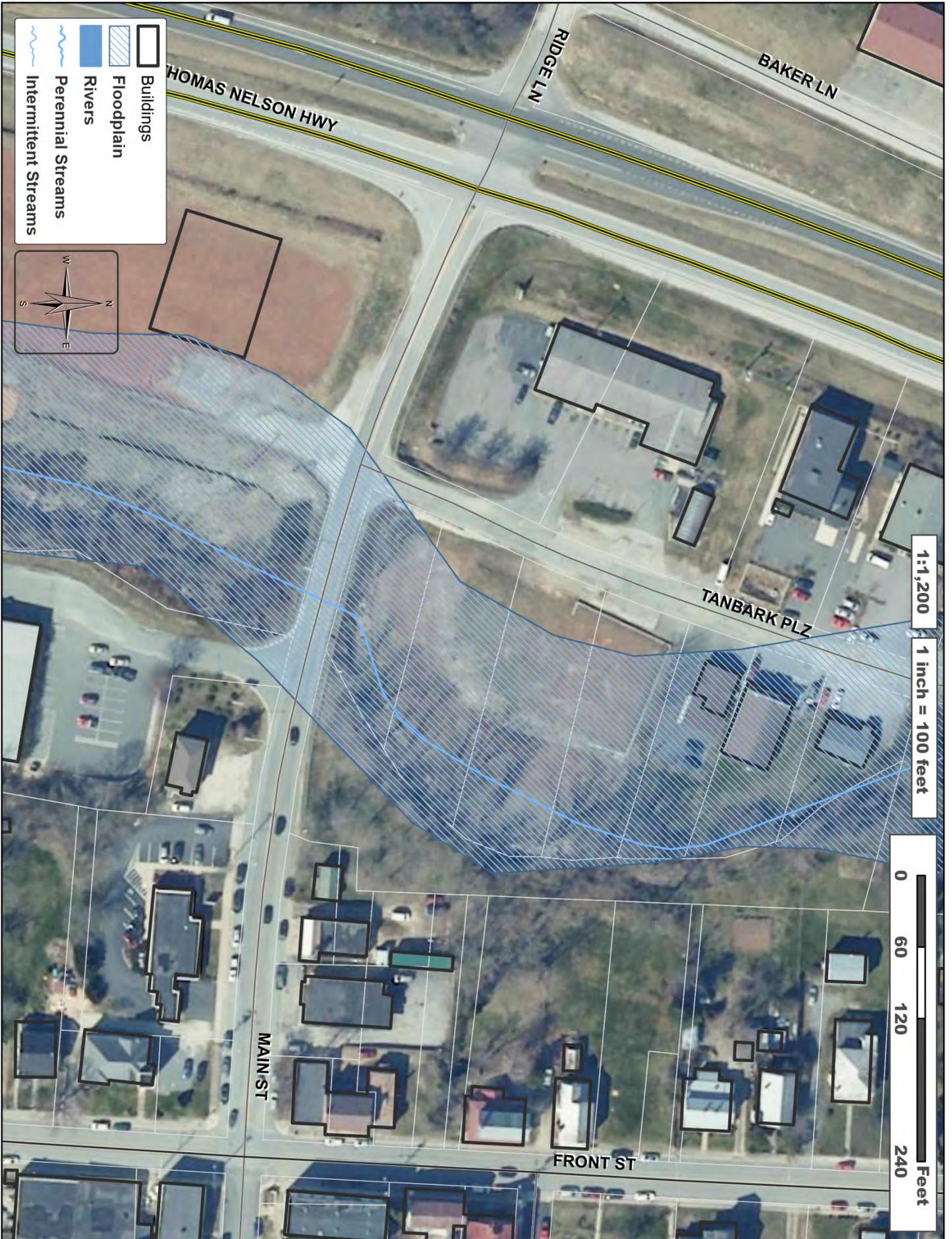
Commissioner Goad moves that the Planning Commission recommend approval to Special Use application #2015-03 “Dance Hall” by Mr. Jose and Mrs. Elpidia Gaona, and impose the conditions that were included in the application, along with the condition that the Special Use Permit be specific to the Gaona’s lease at the business. Commissioner Harman provided a second; the vote 3-0 with Mr. Saunders abstaining.

Please note: The language in the motion about “conditions that were included in the application” refers to the operational details provided in Note 8 on the Minor Site Plan, which state that the dance hall would be in operation on Friday and Saturday nights, remaining in operation until 2:00 AM the following mornings.

In conclusion, please contact me with any questions, concerns, or requests for assistance leading up to the July 14th Board of Supervisors public hearing for Special Use Permit #2015-03 for “Dance Hall.” Thank you very much for your time and attention to this application.







Appendix A:

Summary of review comments from the May 13th Site Plan Review Committee meeting

- **Director of Planning & Zoning:**

- The Minor Site Plan is being reviewed for a proposed restaurant, which is a permissible by-right use. However, an approved site plan is required for a by-right land use in the Business District per §8-5 and §13-1-1.
- The proposed renovation and reuse would include 3,150 SF of restaurant area; 1,080 SF of food prep area; and 2,260 SF of private dining area as an accessory to the restaurant use.
 - **Note:** The 2,260 SF private dining area would eventually be utilized as a dance hall, pending County review of Special Use Permit #2015-03.
- 48 parking spaces, including dedicated handicap parking spaces, would be available. There are no minimum parking requirements per §12-7-3.
- There is “minimal land disturbance” proposed for the installation of a dumpster and solid fence beside the existing greenhouse. *Please see Notes 9, 10, and 11 on the site plan.*
- Details for exterior lighting and signage include the following:
 - The existing sign structure in the western corner of the property will be reused for a new “La Michoacana” sign.
 - The existing “SUPERMARKET” sign on the end of the building (facing Main Street) will be removed and eventually replaced by lettering for “La Michoacana.”
 - An additional 24 SF sign is proposed over the entrance to the restaurant near the northern end of the building.
 - The existing light poles will be reused and outfitted with LED light fixtures. One existing pole will be moved slightly to avoid conflict with an existing canopy tree; it will also be outfitted with an LED light fixture.
 - Two new light poles with LED lighting fixtures are proposed in the parking lot along the frontage of Main Street.
 - Several LED light fixtures are proposed for the existing building, some of which would replace existing lights that are inefficient and which currently cast glare out from the building.

- **VDOT:** Mr. Jeff Kessler had extremely brief review comments, and did not have any requirements or requests regarding the proposed use.

- **TJSWCD:** Mrs. Alyson Sappington of the Thomas Jefferson Soil & Water Conservation District did not attend the meeting and did not provide review comments, as no new development or surface disturbance was being proposed at the time of her original review.

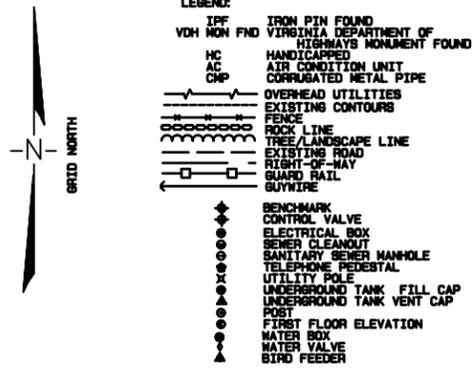
- **Update:** The installation of a dumpster and solid fence beside the existing greenhouse would require “minimal land disturbance.” *Please see Note 11 on the site plan.*

- **VDH:** Mr. Tom Eick of the Nelson County Health Department noted that a food license permit would need to be obtained, and the pertinent applications were provided to Mr. Edgar Gaona during the meeting. Mr. Eick noted that VDH has no required minimum number of commodes, but hand sink requirements will need to be met.

- **Nelson County Service Authority:** Mr. George Miller noted the following:

- The existing 4” gravity sewer line would be adequate.

- The existing 1” water meter for this business would probably not be a problem, either – but it ultimately depends on the floor plan and building uses, regarding the “fixture count” of total number of sinks, commodes, etc.
 - A cross-connection and back-flow prevention device would need to be installed on the water line.
 - A grease arrester (trap) would need to be installed on the sewer line. He recommended the installation of a 40-gallon grease trap under the sink, but noted that an underground tank might potentially be required depending on the performance of the smaller grease trap under the sink(s).
- Nelson County Building Code Official: Mr. David Thompson provided written review comments:
 - “Asbestos certification for any permit application is required from the owner of the building for any renovations.”
 - “A permit application is required for a change of use group (M) to a use group (A-2) with plans drawn by a registered design professional licensed by the Commonwealth of Virginia. The application must be submitted to the Building Inspections Department for the required permits prior to any alterations / renovations / changes, etc. for the A-2 use group.”
 - “Final inspections and a certificate of occupancy for a restaurant / dance hall must be obtained from the Nelson County Inspections Department for the existing building prior to opening or operations for private or public use of the occupancy classification.”
 - Planning Commission Representative: Commissioner Russell inquired about the location of the dumpster and the method by which it would be screened. The approved site plan includes a dumpster located beside the existing greenhouse, which would be fully screened by a solid fence. The installation of the dumpster pad and fence would require “minimal land disturbance.” *Please see Note 11 on the site plan.*



APPROVAL:

FOR NELSON COUNTY _____ DATE _____

RECOMMENDED APPROVAL:

FOR VIRGINIA DEPARTMENT OF TRANSPORTATION _____ DATE _____

VDOT'S REVIEW IS NOT INTENDED TO BE EITHER COMPLETE OR COMPREHENSIVE AS IT IS THE RESPONSIBILITY OF THE SUBMITTING ENGINEER/SURVEYOR TO SIGN AND SEAL THESE PLANS TO ENSURE THE COMPLETENESS AND ACCURACY OF THEIR PLANS IN ACCORDANCE WITH GOVERNING LAWS, REGULATIONS, SPECIFICATIONS AND STANDARDS. PLAN ERRORS AND/OR OMISSIONS THAT ARE DISCOVERED DURING CONSTRUCTION REMAINS THE RESPONSIBILITY OF THE SUBMITTING ENGINEER/SURVEYOR.

RECOMMENDED APPROVAL:

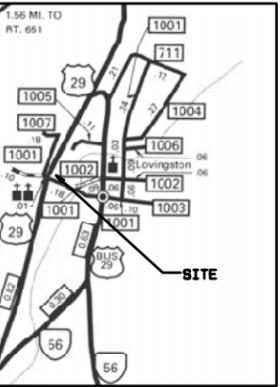
NELSON COUNTY SERVICE AUTHORITY _____ DATE _____

RECOMMENDED APPROVAL:

NELSON COUNTY HEALTH DEPARTMENT _____ DATE _____

NOTES:

- THIS DRAWING HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT THEREFORE, NECESSARILY, INDICATE ALL ENCUMBRANCES ON THE PROPERTY.
- THIS DRAWING HAS BEEN PREPARED FROM AN ACTUAL FIELD SURVEY MADE AS PER DATE OF THIS DRAWING. MONUMENTATION AS INDICATED.
- THIS DRAWING WAS PREPARED AT THE REQUEST OF EDGAR SAGNA, 3008 MONAHAN TRAIL ROAD, NORTH GARDEN, VA 22959.
- PROPERTY SHOWN IS TAX MAP #58-A-36 AND TAX MAP #58-A-37 AND IS ZONED BUSINESS DISTRICT, B-1. THE PROPERTY IS CURRENTLY IN THE NAME OF JOE LEE MCCLELLLEN, INC., 400 FRONT STREET, LOVINGSTON, VA. 22949.
- THE PARCELS SHOWN ARE SERVED BY THE EXISTING UTILITIES ON THE PROPERTY.
- THE PURPOSE OF THIS DRAWING IS TO SHOW DETAILS ABOUT THE PROPOSED RESTAURANT AND POTENTIAL FUTURE DANCE HALL TO UTILIZE THE EXISTING SITE AND BUILDING.
- THE AREA SHOWN FALLS IN FLOOD ZONE "X" AND DOES NOT FALL WITHIN FLOOD HAZARD ZONE "A" FOR A 100 YEAR FLOOD AS DETERMINED BY THE U. S. DEPARTMENT OF HOMELAND SECURITY, FEDERAL EMERGENCY MANAGEMENT AGENCY, AND AS SHOWN ON THEIR MAP DATED JUNE 18, 2010, MAP NUMBER #51125C02655.
- THESE ADDITIONAL LIGHTS SHALL BE ON A TIME CLOCK WITH DARKNESS SENSORS SET UP TO GO OFF 1 HOUR AFTER CLOSING.
- HOURS OF OPERATION: RESTAURANT - 11 AM TO 10 PM MONDAY THRU SATURDAY. FUTURE DANCE HALL (SEPARATE PERMIT), ONLY OPEN ON FRIDAY AND SATURDAY WITH EXTENDED HOURS TO 2 AM.
- FIVE ADDITIONAL POLE LIGHTS ARE TO BE INSTALLED AS A PART OF THIS PROJECT. 2 ON THE SOUTH END OF THE PARKING LOT, 1 IN THE ISLAND ON THE SOUTH SIDE OF THE SOUTHERN ENTRANCE AND 2 ON EXISTING POLES BETWEEN THE SOUTH ENTRANCE AND THE NORTH ENTRANCE ON THE EDGE OF THE PARKING LOT.
- THERE ARE 4 EXISTING LIGHTS SHINING INTO THE PARKING LOT FROM THE BUILDING THAT WILL BE CHANGED OUT FOR MORE EFFICIENT LIGHTING OF THE PARKING AREA. ALSO, THERE ARE LIGHTS UNDER THE COVERED PORCH AREA DIRECTED DOWNWARD. ALL THE EXTERIOR BUILDING LIGHTS SHALL BE ON A TIME CLOCK WITH DARKNESS SENSORS SET UP TO GO OFF 1 HOUR AFTER CLOSING.
- THERE IS MINIMAL LAND DISTURBANCE AS A PART OF THIS SITE DEVELOPMENT. THE ONLY LAND DISTURBANCE IS FOR THE DUMPSTER SITE NEAR THE NORTHEAST CORNER OF THE PROPERTY.
- ALL OLD SIGNAGE ON SITE SHALL BE TAKEN DOWN. 3 ADVERTISEMENT SIGNS ARE PROPOSED FOR THE RESTAURANT. THE FIRST SIGN SHALL BE INTERNALLY LIGHTED AND MOUNTED ON THE EXISTING POLE STRUCTURE, REPLACING THE "HOMETOWN GROCERY" SIGN ALONG THE RT. #29 R/W. THE SECOND SIGN WILL POTENTIALLY BE ON THE SOUTH END OF THE BUILDING AND REPLACE THE "SUPERMARKET" SIGN WITH THE NAME OF THE RESTAURANT. THE THIRD SIGN WILL BE LOCATED ON THE EAST SIDE OF THE BUILDING, ABOVE THE CONCRETE PAD, IN THE "A" OF THE ROAD LINE. THIS SIGN SHALL BE APPROXIMATELY 4'X8" IN SIZE AND BE INTERNALLY LIGHTED.



THE DEVELOPMENT, AS IT APPEARS ON THIS SITE PLAN, IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNER.

FOR JOE LEE MCCLELLLEN, INC. _____ DATE _____

TITLE _____

COMMONWEALTH AT LARGE TO WIT: STATE OF VIRGINIA

COUNTY/CITY OF: _____ A NOTARY PUBLIC IN AND FOR THE STATE AFORESAID, DO HEREBY CERTIFY THAT THE PERSON WHOSE NAME IS SIGNED HEREON HAS ACKNOWLEDGED THE SAME BEFORE ME THIS _____ DAY OF _____ 20____ MY COMMISSION EXPIRES: _____ NOTARY.

NOTARY REGISTRATION NUMBER _____

SOURCE OF TITLE, TAX MAP #58-A-36:
SEE INSTRUMENT #060000132 OF THE CIRCUIT COURT CLERKS OFFICE OF NELSON COUNTY, VIRGINIA.

PLAT OF REFERENCE:
SEE INSTRUMENT #080002052

SOURCE OF TITLE, TAX MAP #58-A-37:
SEE INSTRUMENT #050001996 OF THE CIRCUIT COURT CLERKS OFFICE OF NELSON COUNTY, VIRGINIA.

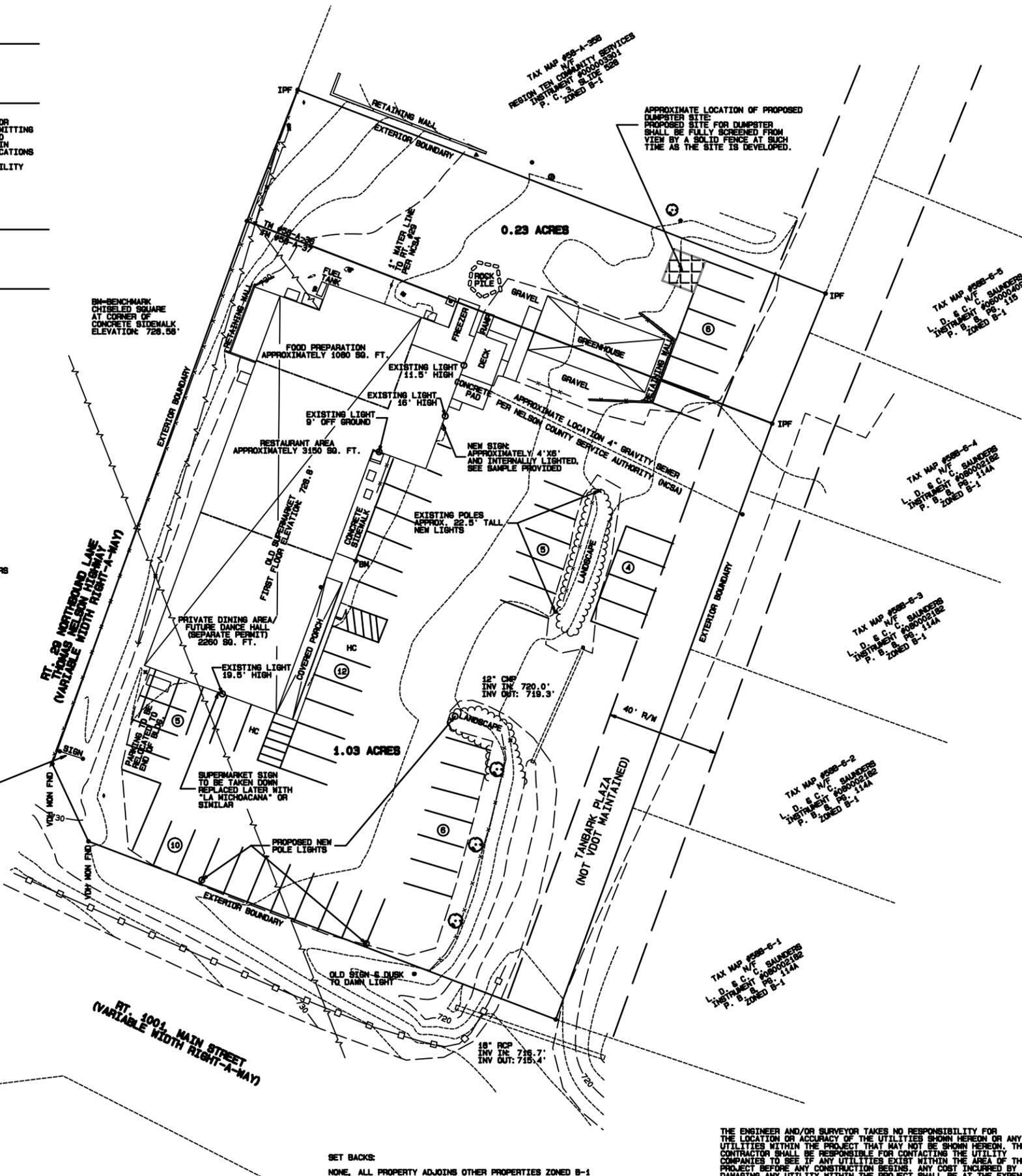
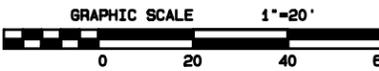
PLAT OF REFERENCE:
PMS #1522

DANCING:
SEE DEFINITION OF RESTAURANT IN NELSON COUNTY ZONING ORDINANCE: "DANCING BY PATRONS SHALL BE CONSIDERED AS ENTERTAINMENT ACCESSORY TO A RESTAURANT, PROVIDED THE SPACE MADE AVAILABLE FOR SUCH DANCING SHALL NOT BE MORE THAN ONE-EIGHTH OF THAT PART OF THE FLOOR AREA AVAILABLE FOR DINING".

DINING FLOOR AREA:
3150 SQ. FT. + 2260 SQ. FT. = 5410 SQ. FT.
5410 SQ. FT. x 1/8 = 676 SQ. FT. DANCE AREA AVAILABLE WITH RESTAURANT

PARKING REQUIREMENTS:
RESTAURANT:
1 SPACE FOR EACH 100 SQ. FT. OF PUBLIC FLOOR AREA
DANCE HALL:
1 SPACE FOR EACH 200 SQ. FT. OF PUBLIC FLOOR AREA
PARKING SPACES REQUIRED:

THIS AREA IS EXEMPT FROM THE MINIMUM OFF-STREET PARKING REQUIREMENTS UNDER ARTICLE 12-7-3 OF THE NELSON COUNTY ZONING ORDINANCE.
PARKING SPACES PROVIDED: 48 SPACES, HANDICAPPED SPACES AS SHOWN FROM PREVIOUS BUSINESS



SITE PLAN FOR
LA MICHOACANA
 AUTHENTIC MEXICAN TAQUERIA & RESTAURANT
WITHIN THE PROPERTIES OF
JOE LEE MCCLELLLEN, INC.
 LOVINGSTON DISTRICT, COUNTY OF NELSON, VIRGINIA

PRELIMINARY

REVISIONS:
REVISED 5/14/15 FOR COMMENTS FROM NELSON COUNTY PLANNING MEETING

FILE #2675-0
CON. #215025
PRO. #215025
CRD. #215025
DATE MARCH 31, 2015
SCALE: 1" = 20'

SAUNDERS' SURVEYS, INC.
 329 CRABTREE FALLS HIGHWAY
 ROSELAND, VIRGINIA 22967
 434-277-8574
 www.saunderssurveys.com

THE ENGINEER AND/OR SURVEYOR TAKES NO RESPONSIBILITY FOR THE LOCATION OR ACCURACY OF THE UTILITIES SHOWN HEREON OR ANY UTILITIES WITHIN THE PROJECT THAT MAY NOT BE SHOWN HEREON. THE CONTRACTOR SHALL BE RESPONSIBLE FOR CONTACTING THE UTILITY COMPANIES TO SEE IF ANY UTILITIES EXIST WITHIN THE AREA OF THE PROJECT BEFORE ANY CONSTRUCTION BEGINS. ANY COST INCURRED BY DAMAGING ANY UTILITY WITHIN THE PROJECT SHALL BE AT THE EXPENSE OF THE CONTRACTOR.

SET BACKS:
 NONE. ALL PROPERTY ADJOINS OTHER PROPERTIES ZONED B-1 OR RT. #29, THOMAS NELSON HIGHWAY



PERMIT APPLICATION:

Nelson County Department of Planning & Zoning

TO THE ZONING ADMINISTRATOR: Special Use Permit # 2015-03
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 1-3-2 of the Nelson County Zoning Ordinance.
 Pursuant to Section _____, Subsection _____ of the Nelson County Subdivision Ordinance.

Reason(s) for request: Plan to open a Restaurant with
dance Hall

(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: Jose + Elpidia Gaona
Mailing Address: 3808 Monacan trail Rd North Garden VA, 22959
Telephone # (434) 825-0104 E-mail Address: ajgona89@ymail.com
Relationship (if applicable): _____

Applicant Property Owner Name: Joe Lee McEllon
Mailing Address: 380 Front St, PO Box 395 Lovingson
Telephone # (434) 263-4411 E-mail Address: Joe.lee.m@att.net
Relationship (if applicable): None

(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.):

37 Tanbark Plaza, Lovingson VA. 22949

b. Official tax map number: 58B-A-36 ; 58B-A-37

c. Acreage of property: _____

d. Present use: _____

e. Present zoning classification: Business (B-1)

f. Zoning classification of surrounding properties: Business (B-1)

4. Names of Adjacent Property Owners: Region ten, family dollar

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: [Handwritten Signature] Printed Name: Jose Ganna / Elpidia Ganna

Signature: [Handwritten Signature] Printed Name: Joe Lee McEllen

(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 4-24-2015
- o Hearing Notice published on May 14th + 21st, 2015
- o Planning Commission action: Date of Meeting / Hearing: May 27th, 2015
- Recommendation: _____
- o Board of Supervisors action: Date of Hearing: _____ Date of Decision: _____
- Action: _____



Parcel ID	Parcel Address	Owner Name
**58B-A-37; 58B-A-36		MCCLELLAN, JOE LEE
ADJACENT PROPERTY OWNERS:		
58B-A-35B	71 TANBARK DRIVE	REGION TEN COMMUNITY SERVICES
58B-6-5	64 TANBARK DRIVE	SAUNDERS LARRY D & CAROLE C
58B-6-4; 58B-6-3; 58B-6-2; 58B-6-1		SAUNDERS LARRY D & CAROLE C
58-A-39E	THOMAS NELSON	PC PARWAY INVEST HOLDINGS LLC
58-A-34	53 BAKER LANE	NELSON CO VOLUNTEER FIREMAN ASSOC
58-A-39B	9 RIDGE DRIVE	LOVINGSTON RIDGE VA LLC

Confirmed with Jean Payne - Parcel ID is #58-A-37; #58-A-36



FILE COPY

DEPARTMENT OF
PLANNING & ZONING

PLANNING COMMISSION
BOARD OF ZONING APPEALS

June 11, 2015

Dear Property Owner:

The following petition has been made to the Planning Commission (PC) regarding a tract of land adjacent to or near property you own in Nelson County:

Special Use Permit #2015-03 – “Dance Hall” / Jose & Elpidia Gaona

Consideration of a Special Use Permit application seeking approval to operate a “dance hall” pursuant to §8-1-3a of the Zoning Ordinance. Specifically, the applicant wishes to operate a dance hall on Friday nights and Saturday nights, remaining in operation until 2:00AM the following morning(s). The requested dance hall would be co-located with “La Michoacana Authentic Mexican Taqueria & Restaurant” (which is a permissible by-right use, and which received County zoning approval via Planning Commission approval of Minor Site Plan #2015-03 on May 27, 2015). The subject property is owned by Mr. Joe Lee McClellan and is located in Lovingson at 37 Tanbark Place; it is further identified as Tax Map Parcels #58B-A-36 and #58B-A-37 which are zoned Business (B-1).

This application will be considered at a public hearing conducted by the PC on Wednesday, June 24, 2015 at 7:00 P.M. in the General District Courtroom on the third floor of the County Courthouse, Lovingson. After the PC conducts a public hearing, they will vote to refer the application, with recommendations, to the BOS.

As required by law, this notice is being sent to inform adjoining property owners of this request. If you wish to learn more about this request and/or to comment on it, you may contact and/or visit the Department of Planning & Zoning, and/or attend the meeting(s). Please contact staff with any questions and/or requests for assistance.

Sincerely,

Timothy M. Padalino
Nelson County Planning & Zoning Director

TMP/svh

Copy to: Jose & Elpidia Gaona
Joe Lee McClellan

July 31, 2015

Nelson County Board of Supervisors
84 Courthouse Square
Lovington, VA 22949

Dear Members of the Board of Supervisors:

The residents of Lovington, Virginia and the surrounding area are petitioning to prevent the approval of a bar/dance hall in the old IGA building in Lovington. This is a petition still in progress. The final petition will be submitted to you by August 11, 2015.

Thank you for your consideration of wishes and your attention to this matter.

Petition to "VOTE NO" on opening a dance hall/bar in the former IGA building in the historic district of Lovington, VA. (continued)

	Mary Ellen Lynch	Mary Ellen Lynch	559 Front St Lovington Va 22949
	Brian West	Brian M. West	667 Front St. Lovington, VA 22949
	Candice Boor	Candice Boor	833 Front Street Lovington VA 22949
	Toni's Boor	Toni's Boor	833 Front Street Lovington, VA 22949
	Sandra Wilkins	Sandra Wilkins	788 Front St Lovington Va 22949
	Julius E Vno	Julian Vian	906 Front Street
18.	Linda D Vair	Linda D. Vair	906 Front Street Lovington Va 22949
	Edward Hicks	Edward Hicks	711 Front Str Lovington VA 22949
	Camille Hicks	Camille Hicks	711 Front St. Lovington, VA
	Celene Thelen	Celene Thelen	770 Short St. Lovington, Va.
	T. DAVID Thelen	David Thelen	770 Front St, Lovington, Va
	MARGARET S. Floyd	Margaret S. Floyd	19 Court St, Lovington, Va
	Ann Campbell	Ann Campbell	36 Maple Ln Lovington, Va.
	Vicki Vestal	Vicki Vestal	46 Court St. Lovington Va.
	BARBARA Allen	Barbara Allen	49 Court St Lovington, Va
17.	Anni & Giles	Annie Miles	64 Maple Lane

