



To: Chairman and Members, Nelson County Planning Commission
From: Tim Padalino | Director | Department of Planning & Zoning
Date: December 16, 2013

Subject: Class III Tower Permit Application #2013-007 (Ms. Cheryl L. Taylor / AT&T)

Introduction

The Department of Planning & Zoning received a completed application on October 30, 2013 for Class III Communication Tower Permit #2013-007. The applicant is Ms. Cheryl L. Taylor of Velocitel, Inc., acting on behalf of AT&T. This application is made pursuant to Article 20, Section 8 of the Nelson County Zoning Ordinance. The application seeks approval for the following:

- the installation of a new steel monopole tower, with a total height of 130' above ground level (ABL) and with new antennas and associated equipment mounted on low-profile platforms (as detailed on Drawing A-1);
- the installation of a new equipment shelter and associated equipment, to be located on a new 50' x 50' fenced and graveled compound, to be located within a new 60' x 60' leased area (as detailed on Drawings A-0, A-0A, and A-1); and
- the upgrade of an existing soil road to be graveled within the proposed 20' access/utility easement (as detailed on Drawing A-0).

Property Information

The subject property for this application is located in the Afton area on tax map parcel #6-A-124 (Figure 1). There is no street address; the undeveloped parcel is located past the west end of Sunrise Drive. This is an 81.0-acre property which is currently zoned Agricultural (A-1) (Figure 2). It is owned by Ms. Adelea Polastro, who has signed the affidavit on the application.

Notes from Site Plan Review

The Site Plan Review Committee met with applicant on December 11th.

Mr. Jeff Kessler, VDOT representative, posed questions relating to the location of the entrance for the access/utility road off of Sunrise Drive. Specifically, he requested information about the location of the End of State Maintenance, which needs to be verified.

Mr. David Thompson, Nelson County Building Official, was not present at the meeting but provided written comments to Ms. Taylor. Mr. Thompson noted that prior to beginning any

potential construction, the applicant must submit an Erosion & Sediment Control Plan for review and approval; must obtain a Land Disturbing Activity Permit and associated completion bond; and must obtain a Building Permit.

Mrs. Alyson Sappington, Thomas Jefferson Soil & Water Conservation District (TJSWCD), has not conducted any review due to the fact that an Erosion & Sediment Control Plan was not submitted concurrent with the Tower Permit application process.

Notes from Staff

The following items warrant the Commission's attention and review:

1. Section 20-7-2(e): Standards for Location, Viewshed.

The applicant submitted to the Board of Supervisors a Request for Exception to Section 20-7-2(e), which states that, "No Communication Tower site shall be located within the view shed of a designated Scenic By-Way." The viewshed is further defined as, "...one (1) air mile from the right of way of a scenic highway." (*Viewshed (2)*, Section 20-4-21.)

Because the proposed tower site is 0.71 air miles of a designated Virginia Scenic Byway (Figure 3), the applicant seeks an exception to Section 20-7-2(e) for 0.29 air miles of distance between the proposed tower site and Rockfish Valley Highway. This requested exception must be considered by the Board of Supervisors as specified in Article 20, Section 13.

2. Section 20-7-5(k): Standards for Location, Landscaping.

Please note that the requirements found in this section may be waived by Nelson County if doing so would better serve the goals of the Tower Ordinance. This authority should be considered with respect to Section 20-7-5k(1), which requires a landscaping buffer, and Section 20-7-5k(2), which allows Nelson County to waive that landscaping buffer requirement if the, "...Planning Commission finds that the visual impact of the tower would be minimal." The County could potentially grant such a waiver in accordance with Section 20-7-5k(3), which states that, "In some cases, such as towers sited on large, wooded lots, Nelson County may determine the natural growth around the property perimeter maybe [sic] sufficient buffer."

The final "Landscaping" requirement, Section 20-7-5k(4), states that, "Existing trees within 200 feet of the tower shall not be removed except as may be authorized to permit construction of the tower and installation of access for vehicles and utilities." Regarding this requirement, please draw your attention to the Existing Tree Plan (Drawing A-0A), which provides a tree inventory for the proposed tower site. The applicant has stated at the Site Plan Review meeting that a revised Drawing A-0A will be re-submitted, identifying exactly which trees will need to be removed for construction of the tower and installation of the access road, as well as which trees adjacent to the tower compound and access road will attempt to be preserved through protective practices (such as "tree barriers") during the construction process.

The applicant further stated that she anticipates for trees #1, #2, #3, #4, #5, #6, #7, #8, and #22 to be removed; and that trees #23, #24, #30, and #31 may possibly need to be removed, but may possibly receive "tree barriers" or other protective practices in order to attempt to preserve

them. The applicant reiterated that she does not make those determinations, but will provide the revised Existing Tree Plan as soon as those determinations have been made and drawn.

3. Section 20-8-3: Proximity to an Existing Tower.

This section states that, “A Class III Communication Tower cannot be located closer than two (2) miles to another Class III or Class II Communication Tower. This distance may be reduced by the Board of Supervisors upon finding that the distance reduction will not be a substantial detriment to adjacent property and that the character of the district will not be changed.”

Please draw your attention to the map provided by the applicant (Figure 4), which identifies the proposed tower location as being 1.68 miles from existing Communication Tower #2011-006, which is a 144’ tall Class III Communication Tower at the “Rockfish” site (CV421), and which is a part of the Nelson County Broadband Project. The application’s non-compliance with the requirements regarding the proximity of the proposed tower site to an existing Class III Communication Tower must be considered by the Planning Commission, and ultimately must be addressed by the Board of Supervisors.

4. Section 20-7-2c: Standards for Location, “Mountain Ridge.”

This requirement imposes limitations on the permissible height of a tower relative to the “Existing Vegetative Canopy,” if a proposed tower site is located on a “Mountain Ridge.”

Specifically, this requirement states that, “Any Class II Communication Tower located on any mountain ridge or mountain peak within Nelson County shall not have a Tower Height greater than thirty (30) feet over the Existing Vegetative Canopy located on that site-specific location. If no vegetation exists on the proposed mountain ridge or peak, then the maximum Tower Height shall be thirty-five (35) feet. Landscape measures shall be taken to ensure total and complete visual concealment of the security fence and auxiliary buildings.”

The proposed tower site clearly meets the definition of a “Mountain Ridge,” defined as, “A ridge with an elevation of six hundred (600) feet or higher above mean sea level and an elevation two hundred (200) feet or more above the elevation of an adjacent valley floor.” (*Mountain Ridge*, Section 20-4-14.) Please draw your attention to Figure 5, which identifies the elevation of the proposed tower site as 1,361’ (as specified in the application) and the approximate elevation of Glass Hollow as 850’ (as estimated at Glass Hollow Road at the foot of the unnamed mountain ridge), or at least 500’ below the proposed tower site.

As such, Section 20-7-2c applies to this application and must be a factor when considering if the proposed 130’ tower is permissible. This “Mountain Ridge” provision was designed and adopted to protect the interests of the public, as articulated in adopted County policies. More specifically, approval of the proposed tower at the proposed location would harm the public interest by being in conflict with the following adopted policies:

- *Zoning Ordinance Section 20-2: “Purpose”*
 - 20-2-6: Restrict the location of Communication Towers that adversely detract from the natural beauty of the mountains in Nelson County.
 - 20-2-7: Minimize the negative economic impact on tourism.

- 20-2-9: Protect the view from the Blue Ridge Parkway and along designated scenic highways in Nelson County.
- *Comprehensive Plan Chapter Three: “Goals and Objectives – Telecommunications”*
 - 5th Principle: Ensure that careful consideration is given to preserving Nelson County’s invaluable scenic resources and recreational resources such as the Blue Ridge Parkway, Appalachian Trail, George Washington National Forest, and designated Virginia Scenic Byways.

In order to determine the maximum permissible tower height as specified by Section 20-7-2c, the Existing Tree Plan (Drawing A-0A) can be utilized to accurately determine the height of the Existing Vegetative Canopy. That term is defined as, “The existing vegetative plants, trees, or shrubs at the site-specific location of the proposed Communication Tower site, that will provide natural camouflage, concealment, or otherwise “hide” the Communication Tower after its construction. This vegetative canopy shall also be used to determine the allowable Tower Height as defined herein.” (*Existing Vegetative Canopy*, Section 20-4-8.)

The Existing Tree Plan (Drawing A-0A) identifies the location and height of 19 trees which are located at approximately the same elevation on the unnamed mountain ridge as the elevation of the proposed tower site (1,361’). Specifically, the following inventoried trees are located within 5’ of elevation relative to the tower’s proposed elevation of 1,361’ above mean sea level; which altogether provide an accurate average Existing Vegetative Canopy height:

| Tree Tag # | Species | Height (feet) | Elevation Relative to Tower Site (feet) |
|--|--------------|---------------|---|
| 1 | Tulip Poplar | 87 | -4 |
| 2 | Tulip Poplar | 104 | 0 (same elevation) |
| 3 | Tulip Poplar | 79.5 | 0 (same elevation) |
| 4 | Tulip Poplar | 112.5 | 0 (same elevation) |
| 5 | Tulip Poplar | 77.5 | +3 |
| 6 | Tulip Poplar | 111 | +4 |
| 7 | Tulip Poplar | 97 | +4 |
| 8 | Tulip Poplar | 115.5 | +1 |
| 14 | Red Maple | 62 | +5 |
| 15 | Tulip Poplar | 112.5 | +3 |
| 16 | Tulip Poplar | 93 | +3 |
| 17 | Tulip Poplar | 96.5 | +2 |
| 18 | Ash | 93 | +1 |
| 19 | Tulip Poplar | 104 | +1 |
| 20 | Tulip Poplar | 99 | +2 |
| 21 | Tulip Poplar | 112 | +1 |
| 22 | Tulip Poplar | 91.5 | -1 |
| 23 | Tulip Poplar | 81.5 | -5 |
| 24 | Tulip Poplar | 50 | -5 |
| Average Height (1,779’ / 19 trees): | | 93’ | |

This average Existing Vegetative Canopy height of 93' would limit the maximum tower height to 123' due to its proposed location on a "Mountain Ridge," per Section 20-7-2c.

Even if the proposed tower were altered to comply with this "Mountain Ridge" requirement, the visual impact of the resulting tower would still be high on Afton residents, Nelson County visitors, and critically important public resources such as the Blue Ridge Parkway, the Route 151 Scenic Byway, and the scenic vistas on U.S. Route 250 and Interstate 64, due to the unnamed ridge's location and vertical prominence over the surrounding Rockfish Valley.

For example, even at a reduced height of 123' the tower would still protrude 30' beyond the surrounding tree canopy, and it would still have platform-mounted antennas and associated equipment (as opposed to flush-mounted antennas and associated equipment).

The applicant's photo simulations depict the proposed tower (at a height of 130' with platform-mounted equipment). The balloon test is scheduled for Tuesday December 17th at 10:00am, and as such the balloon test photographs are not available for this report (but will be made available for visual review at the Planning Commission public hearing on December 18th).

5. Section 20-7-2d: Standards for Location, Blue Ridge Parkway.

This requirement states that, "No Site Plan review application for a Communication Tower to be located within the Viewshed of the Blue Ridge Parkway (BRP) shall be submitted without first notifying the BRP Community Planner in writing... ."

The applicant's required coordination with the Blue Ridge Parkway has not been accomplished, despite the proposed tower site being located within the viewshed of the Parkway, defined as, "An unobstructed sight or the range of one's sight while traveling, visiting, driving or otherwise using, the natural or man-made resources of the Blue Ridge Parkway" (*Viewshed (1)*, Section 20-4-21).

6. Section 20-7-5g: Site Plan Requirements, "Photo-sims."

Numerous photo simulations have been produced and submitted with the application, but it is difficult to understand where each photograph was taken from (and as a result it is difficult to understand the correct perspective for each photo simulation). The map does currently provide the locations of where the nine (9) photo-sims were taken, but the actual photo simulations do not have a number that corresponds with that reference map. The applicant has stated that each photo-sim will be labeled in order for the County to understand how the numerous photo simulation perspectives correspond with the reference map.

Staff Recommendation

With the above factors in mind, County staff does not recommend approval for this application.

The natural beauty of Nelson County is of paramount importance. The views of the Rockfish Valley from the overlooks on the Blue Ridge Parkway, U.S. Route 250, and Interstate 64 are some of the best vistas in the Commonwealth of Virginia. While staff recognizes that other towers exist in the northern portion of the Rockfish Valley, this proposed tower is unique in that it would be located

on a “Mountain Ridge” -- and would thus create a much higher disturbance to the natural beauty and scenic resources of the community.

In addition to this application being in conflict with the County’s adopted policies regarding the protection of viewsheds, scenic resources, and natural beauty, the application does not comply with the Zoning Ordinance requirements contained in Section 20-7-2d, “Standards for Location, Blue Ridge Parkway,” or Section 20-7-2c, “Standards for Location, ‘Mountain Ridge,’” or Section 20-8-3, “Proximity to an Existing Tower,” or Section 20-7-2(e), “Standards for Location, Viewshed” (for which an Exception has been formally requested from the Board of Supervisors).

With the intent of protecting the County’s scenic resources and natural beauty, and with a commitment to protecting the public interest as articulated in the purposes and principles of the Zoning Ordinance and Comprehensive Plan, respectively, County staff can not recommend this application for approval as it currently exists. This proposed tower at this proposed site would result in too much of a negative visual impact for Nelson County residents and for visitors entering the County from Route 6 (Afton Mountain Road) and Route 151 (Critzler Shop Road / Rockfish Valley Highway), both of which are designated Virginia Scenic Byways and both of which serve as gateways into Nelson County.

Conclusion

The County has fulfilled the requirements to publicly advertise this process and to notify the adjacent landowners.

Please contact me with any questions or concerns you may have regarding this staff report or the applicant’s proposal(s). Thank you for your time and attention to this matter.

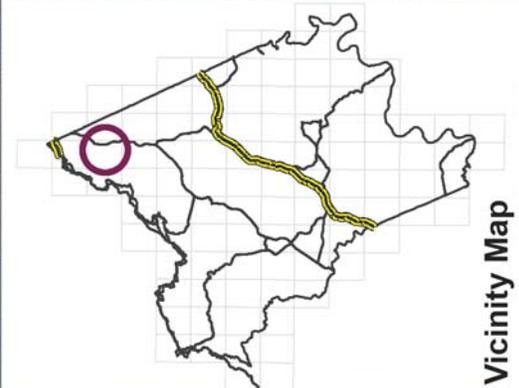
Nelson County Planning Map



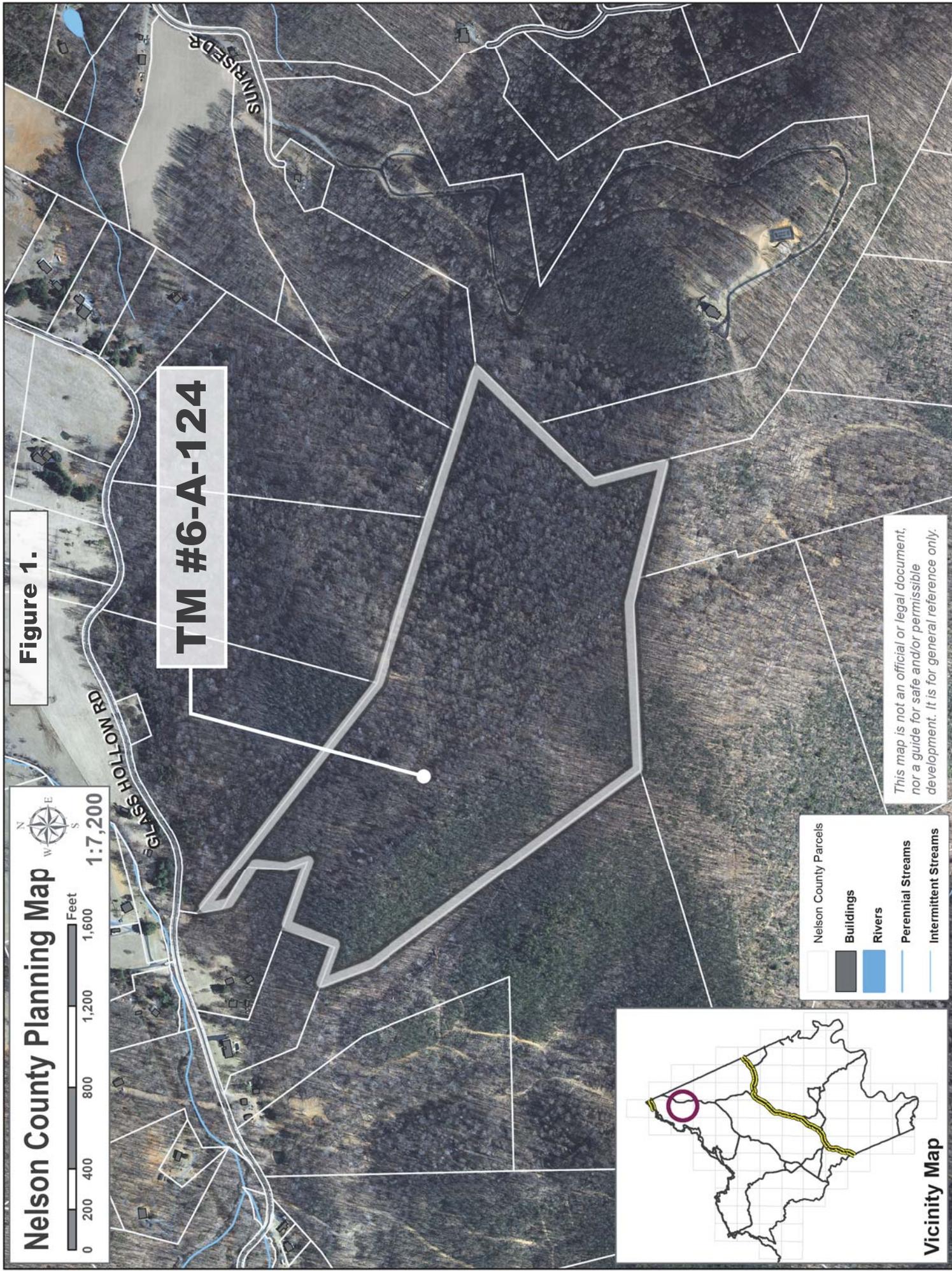
Figure 1.

TM #6-A-124

- Nelson County Parcels
- Buildings
- Rivers
- Perennial Streams
- Intermittent Streams



This map is not an official or legal document, nor a guide for safe and/or permissible development. It is for general reference only.



Nelson County Zoning Map

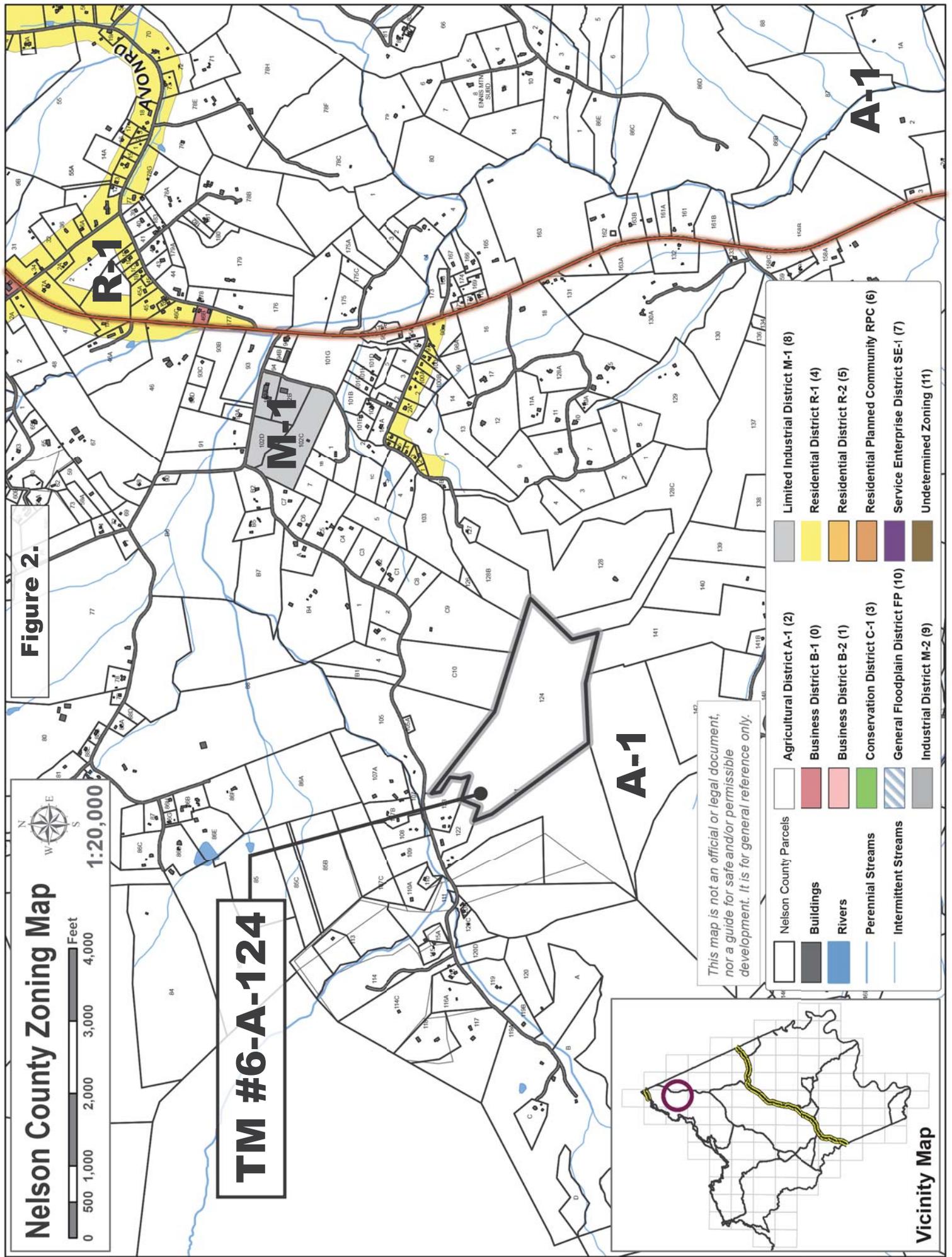


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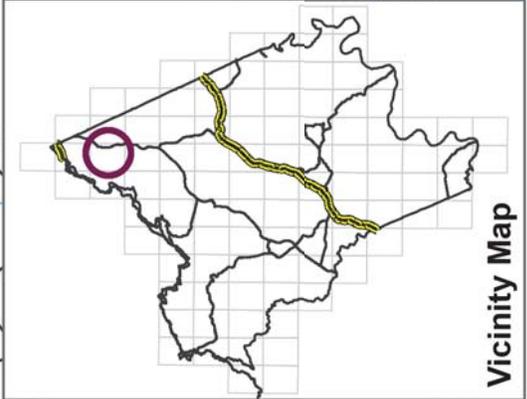
Figure 2.

TM #6-A-124



This map is not an official or legal document, nor a guide for safe and/or permissible development. It is for general reference only.

| | | | |
|--|-------------------------------------|--|---------------------------------------|
| | Nelson County Parcels | | Limited Industrial District M-1 (8) |
| | Buildings | | Residential District R-1 (4) |
| | Rivers | | Residential District R-2 (5) |
| | Perennial Streams | | Residential Planned Community RPC (6) |
| | Intermittent Streams | | Service Enterprise District SE-1 (7) |
| | General Floodplain District FP (10) | | Undetermined Zoning (11) |
| | Industrial District M-2 (9) | | |
| | Agricultural District A-1 (2) | | |
| | Business District B-1 (0) | | |
| | Business District B-2 (1) | | |
| | Conservation District C-1 (3) | | |



Vicinity Map

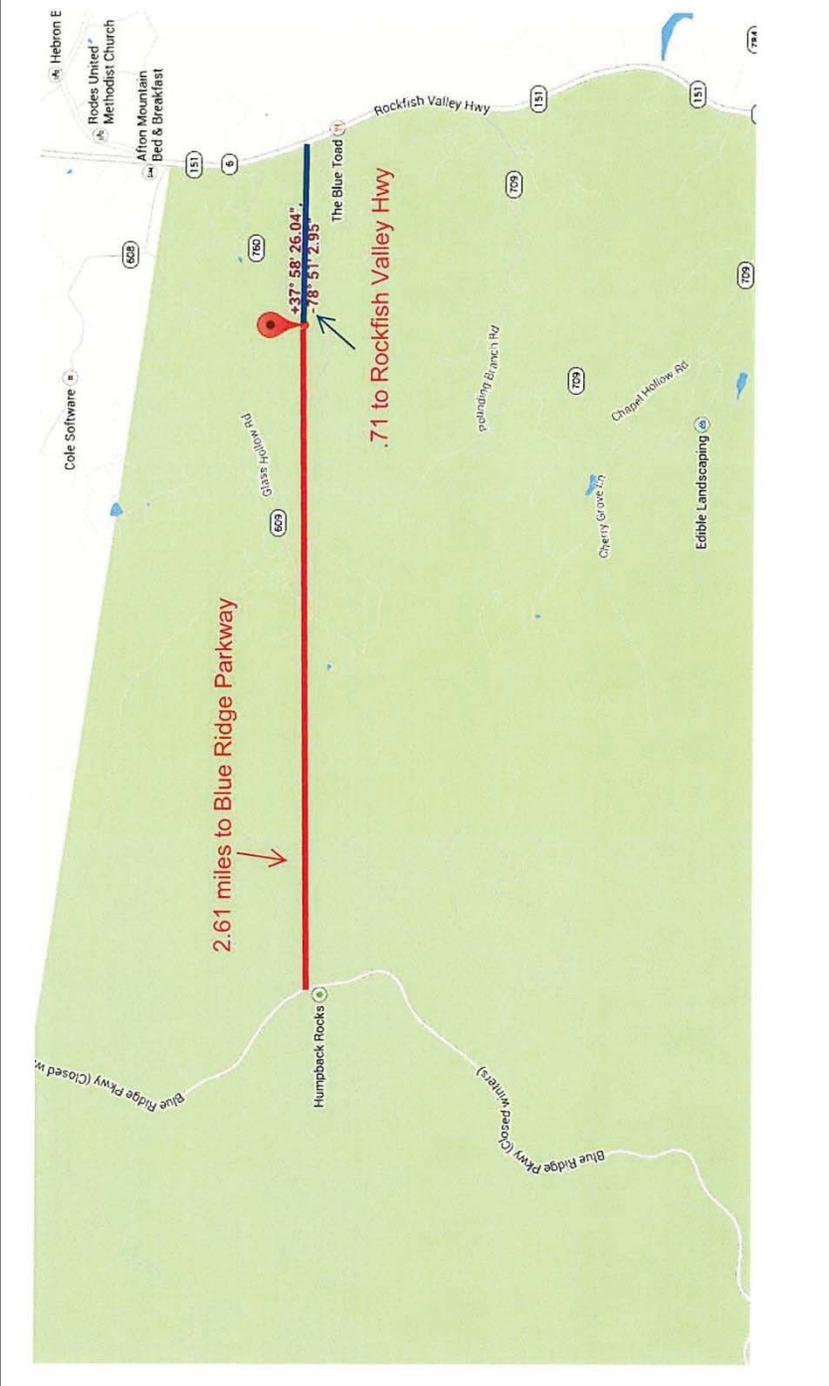
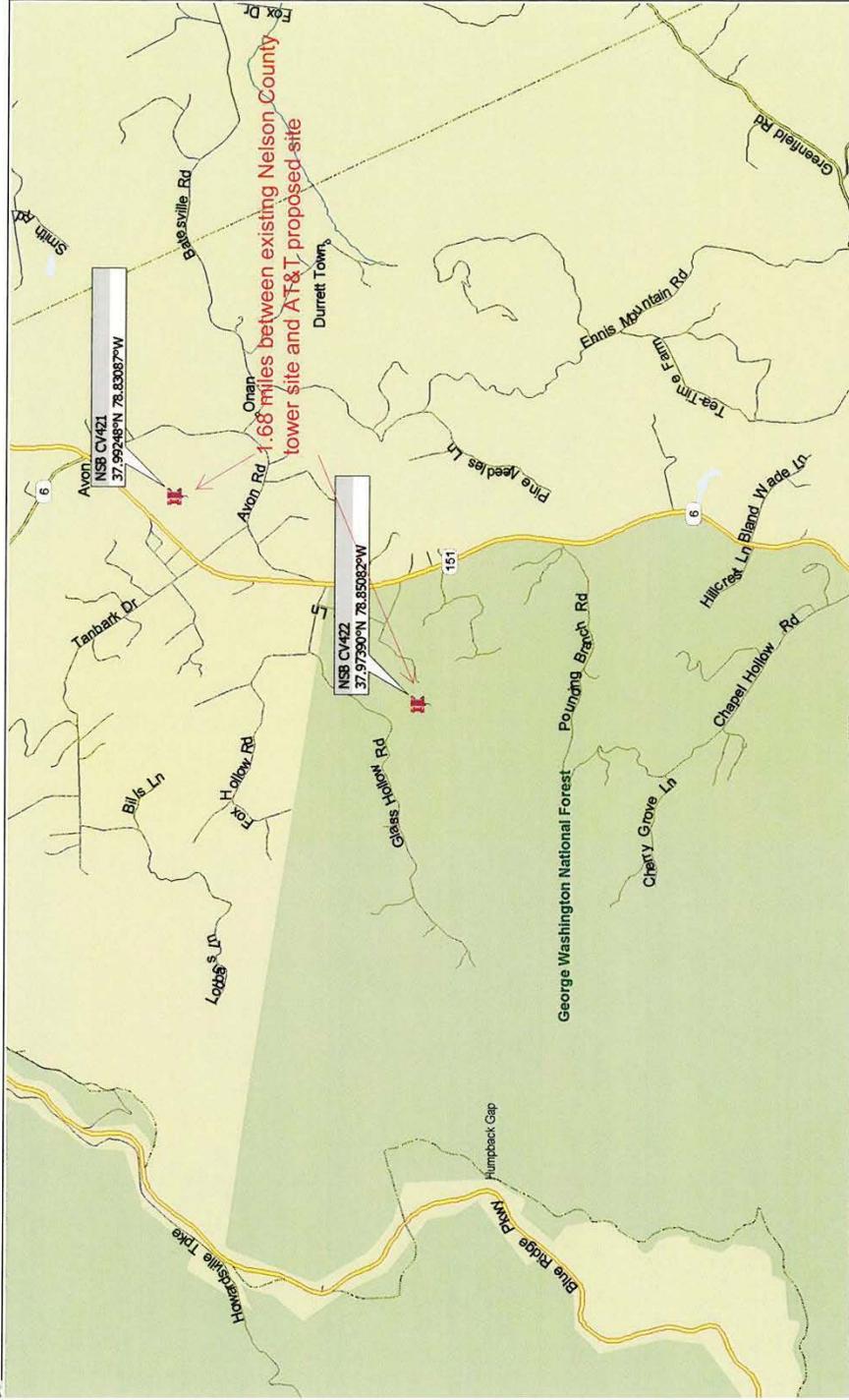


Figure 3. This map (provided by the applicant) identifies the proximity of Rockfish Valley Highway, a designated Virginia Scenic Byway, to proposed Class III Communication Tower #2013-007 (proposed site CV422B, "Sunrise Drive").

The applicant has identified this distance as 0.71 miles, which does not meet the required 1.0 mile distance as required by Ordinance.

CV422 Distance between Proposed Tower Site and Existing Towers

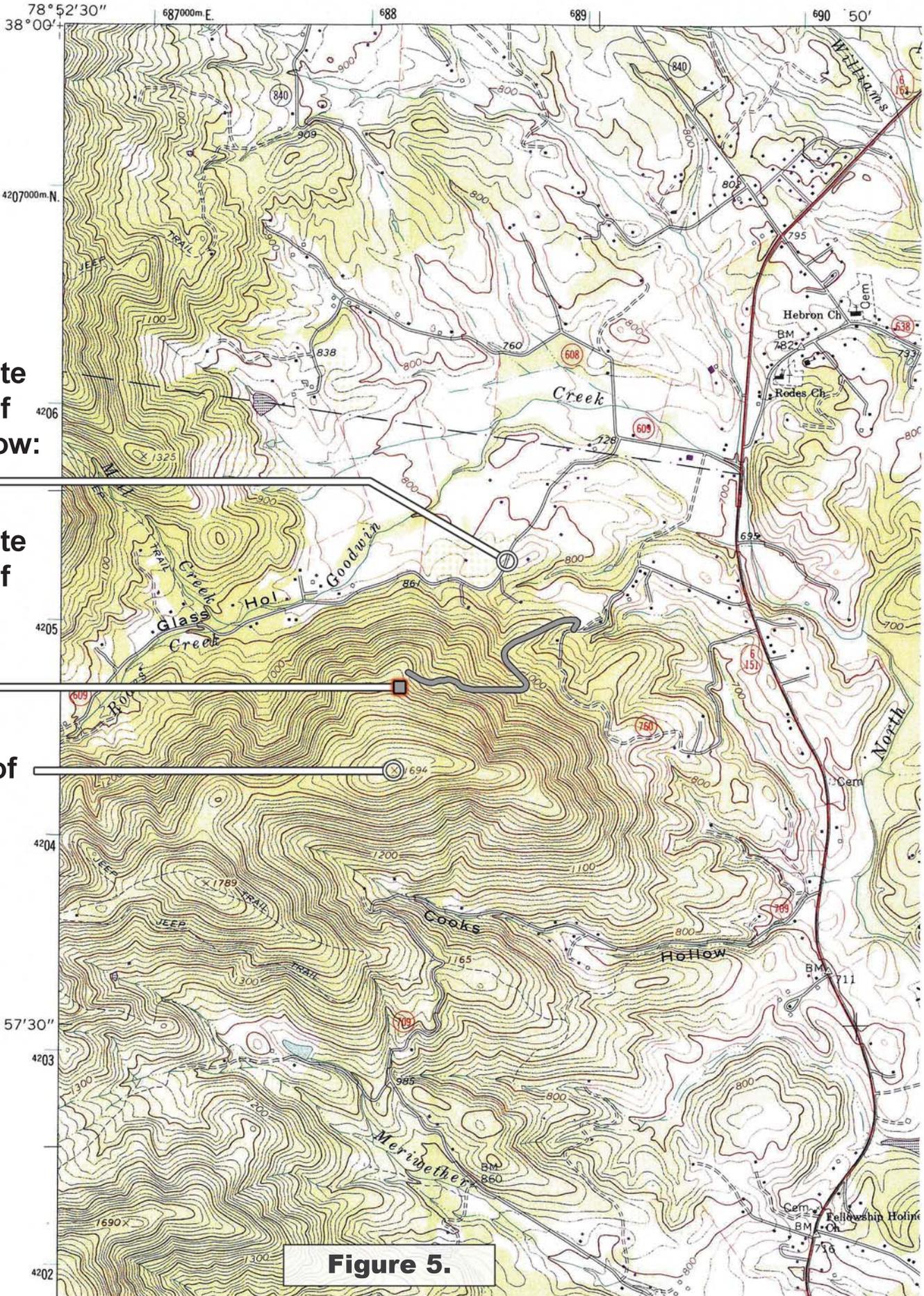


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Figure 4. This map (provided by the applicant) identifies the proximity of proposed Class III Communication Tower #2013-007 (proposed site CV422B, "Sunrise Drive") to the existing Class III Communication Tower #2011-006 (site CV421, "Rockfish").

The applicant has identified this distance as 1.68 miles, which does not meet the minimum 2.0 mile distance as required by Ordinance.

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY



Approximate
elevation of
Glass Hollow:
(850')

Approximate
elevation of
proposed
tower site:
(1,361')

Elevation of
unnamed
summit:
(1,694')

Figure 5.

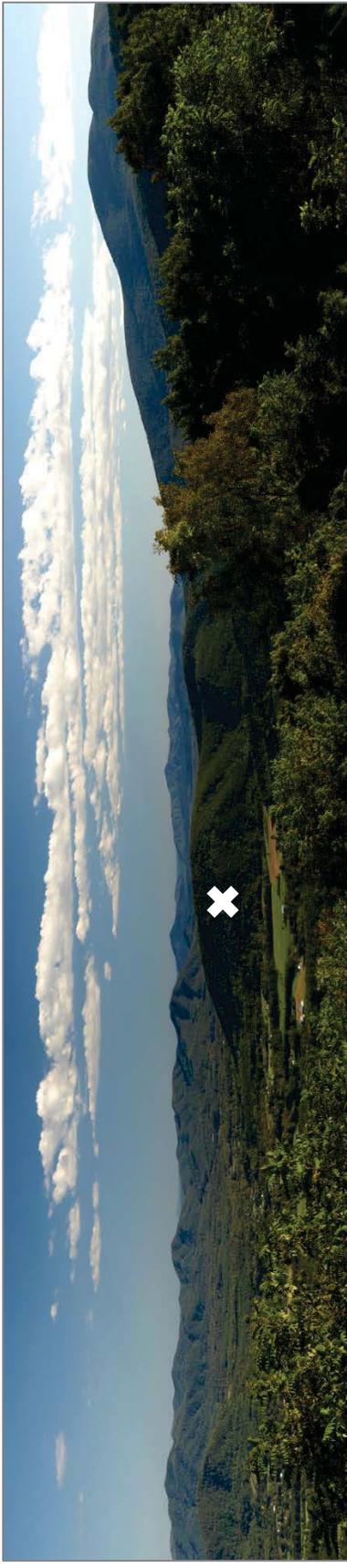


Figure 6. This photograph (top) was taken in September 2012 from an overlook near Milepost 1 on the Blue Ridge Parkway. The image shows the Rockfish Valley, which is among the greatest scenes of natural beauty in all of Virginia. The proposed tower site (bottom) would be located more than halfway up the foothill mountain in the central foreground (denoted by white X).