



To: Chairman and Members, Nelson County Planning Commission

From: Tim Padalino | Director | Department of Planning & Zoning

Date: January 15, 2014

Subject: Class III Tower Permit Application #2013-007 (Ms. Cheryl L. Taylor / AT&T)
(postponed and continued from December meeting at applicant's request)

Introduction:

This staff report provides an update on Class III Communication Tower Permit #2013-007, which was the subject of a Public Hearing conducted by the Commission on December 18th, 2013. At that hearing, the applicant team (led by Ms. Cheryl L. Taylor of Velocitel, Inc., acting on behalf of AT&T), requested that the Commission's consideration of the application be postponed and continued at the January meeting. The Commission unanimously granted that request.

Summary of Updates and Outstanding Issues:

The following is a list of factors that the, "Nelson County Planning Commission shall consider ... in determining whether to issue a Communication Tower permit" as specified in §20-7-7 of the Zoning Ordinance, "*Factors considered in granting a Class II Communication Tower Permit.*" This list includes a summary of pertinent information relating to each factor (as applicable), based on submitted application materials, the Jan. 14th balloon test, and ongoing communication with the applicant team:

A. Height of the proposed tower or pole:

1. Please recall the "Mountain Ridge" requirements contained in §20-7-2c, "*Standards for Location, Mountain Ridge.*" This requirement restricts the permissible height of a tower relative to the "Existing Vegetative Canopy," if a proposed tower site is located on a "Mountain Ridge." Specifically, any tower proposed for such a location, "shall not have a Tower Height greater than thirty (30) feet over the Existing Vegetative Canopy located on that site-specific location," and "Landscape measures shall be taken to ensure total and complete visual concealment of the security fence and auxiliary buildings."
2. Please recall that, based on my analysis of the Existing Tree Plan (Site Plan Drawing A-0A), I calculated the average height of the Existing Vegetative Canopy at this site to be 93'

which would limit the maximum tower height of 123' at this site. Please also recall that the applicant team, using a different method, calculated the average height of the Existing Vegetative Canopy to be 100' which would provide a maximum tower height of 130' (which is the same height as the proposed tower, as specified in Site Plan Drawing A-1).

3. The discrepant conclusions of County staff (93') and the applicant team (100') remains unresolved, and the Zoning Ordinance prescribes no methodology for calculating the average height of the Existing Vegetative Canopy.
4. Please also note that the last requirement of the Mountain Ridge provision (relating to "complete visual concealment of the security fence and auxiliary buildings") has not been addressed in the drawings. The Compound Plan (Drawing A-1) does not provide for any landscaping measures; and the Existing Tree Plan does not explicitly specify which existing trees will be removed and which will remain (although the applicant has previously provided anecdotal information in that regard; please see Other Issue 3 on page 6).

B. Proximity of the tower or pole to residential structures and residential district boundaries:

1. The proposed tower site appears to be more than one air mile from the nearest Residential District (R-1) boundary, which is located on Sunrise Drive. The proposed site would not pose physical risk or harm to any adjacent residential dwellings.
2. However, the proposed tower site is situated at a physically prominent, highly-visible location, which would result in an adverse visual impact on the viewsheds from numerous rural residential areas throughout Afton, including Glass Hollow, Fox Hollow, Tanbark Road, Avon Road, and Afton Mountain Road.

C. Nature of the uses on adjacent and nearby properties:

1. Almost all of the nearby area is in the Agricultural (A-1) District. Much of the land use in that district is residential; and there are also numerous farms, pastures, and vineyards.
2. The upper Rockfish Valley is among Nelson County's premier agritourism areas, which is a critically important and growing component of the local and regional economy. High-profile agritourism properties nearby include Blue Mountain Brewery, Veritas Vineyard and Winery, and Afton Mountain Vineyards.
3. Two world-famous Units of the National Park System are situated above the proposed tower site: the Blue Ridge Parkway and the Appalachian Trail (and Humpback Rocks).
 - i. During the balloon test on January 14th, the balloon was visible from the Rockfish Valley overlook at Blue Ridge Parkway Milepost 1.4, despite the heavy fog and intermittent rain. Concerning this, I spoke with Mr. J. David Anderson, Blue Ridge Parkway Landscape Architect, on January 15th and his analysis confirms that, "the tower is visible from two parkway overlooks and at least one roadside vista location." He further stated that, "visual mitigations should be considered...to reduce its visibility and protect the view shed of the Blue Ridge Parkway and Appalachian Trail," including one suggestion to consider "relocat[ing] the tower to a location that is in a valley location."
 - ii. Mr. Anderson also indicated that, "the proposed tower may be potentially visible from approximately 4 miles of the Appalachian National Scenic Trail. My analysis of my own photographs provides a very strong indication that the proposed site would be visible when looking east-southeast from the pinnacle of Humpback Rocks.
 - iii. Mr. Anderson's analysis and viewshed study map are attached in this report.

D. Surrounding topography:

1. As depicted in Figure 1, the proposed tower site is on a foothill of the Blue Ridge (known as Johnson's Mountain), which is prominent above the surrounding Rockfish Valley. Specifically, the site is approximately 500' above the surrounding landscape, making it visible from numerous locations in the immediate area and also from more distant viewpoints. This prominence makes the proposed site subject to the "Mountain Ridge" height limitations found in §20-7-2c; please see Factor A, Note 1 for further details.
2. The site's prominence over the surrounding landscape also translates into a higher-profile impact on the vista as seen from the Rockfish Valley Overlook on the Blue Ridge Parkway and from Humpback Rocks on the Appalachian Trail. This proposed tower would have a different visual impact than other towers located on the "floor" of the Rockfish Valley.
3. The proposed site – and specifically the proposed lease area – is characteristic of any "Mountain Ridge" location: it is steeply sloping. Such sloping terrain results grading issues relating to the "cut and fill" of the natural topography, in order to create a buildable, flat site. The extent of such cutting and/or filling is unclear, which creates uncertainty about the negative affect such grading activities will have on the surrounding canopy trees. Such information (including the "limits of disturbance") is typically contained on an Erosion & Sediment Control Plan, which has not been submitted to date.

E. Surrounding tree coverage and foliage:

1. The site is in located in an interior forest of mixed hardwoods. Please refer to Factor A, Notes 2 and 3 for additional details.
2. The site is located in an area of highest level of (statewide) environmental importance, as defined by the Virginia Dept. of Conservation and Recreation (DCR), and as shown in the attached Green Infrastructure Map. Specifically, DCR has classified this location as a "core habitat" of "Outstanding Ecological Integrity," which is DCR's highest possible ranking.
 - i. DCR's "Natural Heritage Program" created the statewide Virginia Natural Landscape Assessment (VaNLA) tool, which is a landscape-scale GIS analysis that has identified, prioritized, and linked important landscapes and habitat throughout Virginia. VaNLA identified large, unfragmented cores, which are patches of natural land with at least 100 acres of interior cover. To assess their unique values, each core has been assigned an "Ecological Integrity" score that rates the relative contribution of that area to the ecosystem service values, such as cleaning our air, filtering our water, providing habitat for animals and plants, and providing wild sources of foods, materials, and medicinal compounds.
 - *(Information from Virginia DCR's "Natural Heritage Program" website at http://www.dcr.virginia.gov/natural_heritage/lcde_pages/maplayers.htm)*

F. Design of the tower or pole, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness:

1. This tower design would not have flush-mounted antennas or equipment. Rather, the tower design includes platform mounting structures, which are approximately 14' in width as depicted in Site Plan Drawing A-1.
2. The proposed tower would protrude a distance of somewhere between 30' and 37' above the surrounding forest canopy.

3. The applicant stated at the Public Hearing that the tower is designed to accommodate co-location site(s), meaning this tower would potentially have multiple platform-mounted arrays (as opposed to the one platform-mounted array, as shown on Site Plan Drawing A-1 “Elevation”). Any such (future) co-located equipment would be mounted to additional platform arrays added to the tower at a height somewhere below the AT&T equipment platform (which is specified to be located at 121’ above ground level). While County policies typically encourage co-locations, such policies are not justification for designing towers that would have a high-profile visual impact, and which could otherwise be designed with lower-profile or smaller-scale specifications.

G. Proposed ingress and egress:

1. The proposed site would be accessed from an existing soil road. The project includes a proposal to upgrade the road to accommodate construction vehicles and maintenance vehicles.

H. Applicants collocation policy:

1. No policy (as such) has been provided, other than the applicant noting at the Public Hearing that the tower size and design was engineered to accommodate additional arrays to provide for co-location opportunities.

I. Language of the lease agreement dealing with collocation:

1. Again, no policy or lease agreement has been provided. See Factor H, Note 1.

J. Consistency with the comprehensive plan and the purpose set for in §20-2:

1. This proposed tower would be in direct and substantial conflict with the following Communication Tower Ordinance Purposes:
 - i. §20-2-6: “Restrict the location of Communication Towers that adversely detract from the natural beauty of the mountains in Nelson County.”
 - ii. §20-2-7: “Minimize the negative economic impact on tourism.”
 - iii. §20-2-9: “Protect the view from the Blue Ridge Parkway and along designated scenic highways in Nelson County.”
2. This proposed tower would be in conflict with the Nelson County Comprehensive Plan, Chapter Three: “Goals and Objectives – Telecommunications”
 - i. 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.”

K. Availability of suitable public property, existing towers and other structures as discussed in §20-7-2b:

1. The applicant provided supplemental materials on January 15th, which included a statement that the “site acquisition agent ... has determined to its reasonable satisfaction that no other public lands are available within the geographic area for construction of the proposed facility.”

However, §20-7-2b has a broader application than just availability of public lands – it also includes a demonstration (via submitted evidence) that no other existing towers or structures can accommodate the proposed equipment. Further, §20-7-3 states that the applicant must submit documentation...detailing the service area of the Communication Tower Site, and all other sites considered.

Despite those requirements, the applicant team has not submitted any documentation of other sites considered (other than the statement referenced above) – and by extension has not provided any analysis of the amount of coverage that would be provided by other possible sites. As such, the requirements of §20-7-2b and §20-7-3 remain incomplete.

2. With consideration of the requirement to demonstrate the possible coverage afforded by existing towers within the geographic area, please recall that the County granted the applicant approval for a “Tower Permit Amendment” on October 30, 2013 pursuant to §20-11. “Tower Collocation / Alteration Permit #2013-008” specifically grants AT&T permission to co-locate equipment on a 144’ tall Class III Communication Tower at the “Rockfish” site (CV421). This existing tower is 1.68 miles from the proposed Sunrise Drive site (CV422). The existing tower also seems to have significant “line of sight” into the Glass Hollow Area.

However, the applicant has not provided adequate documentation to demonstrate the various coverage scenarios relating to the previously approved (but currently uninstalled) co-location equipment at the Rockfish site. Because of that unknown variable, this Class III Tower Permit #2013-007 application involves a more nuanced evaluation than the typical “existing coverage (before)” and “proposed coverage (after)” evaluation. As such, additional evidence needs to be submitted to accurately demonstrate the potential benefits of the expanded coverage that would be provided, if this proposed new tower were approved.

Specifically, the following coverage maps are necessary in order for the County to make an informed determination about the potential coverage benefits of the proposed new tower:

1. current coverage (without any AT&T equipment in the vicinity);
2. coverage with the as-yet-uninstalled (but permitted) co-location equipment at Rockfish site (CV 421);
3. coverage with the proposed CV 422 tower (without co-location at CV 421 / Rockfish)
4. coverage with the proposed CV 422 tower (with co-location equipment at CV 421 / Rockfish)

L. Proximity to commercial or private airports and heliports

1. This factor does not seem to be applicable.

Current Status of Other Issues:

The following additional items warrant the Commission’s continued attention and further review:

1. §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.”

As described in Factor K, Note 2 (above), the proposed tower is 1.68 miles from existing Communication Tower #2011-006, which is a 144’ tall Class III Communication Tower at the “Rockfish” site (CV421), and for which the applicant has County approvals to co-locate AT&T equipment on (but has yet to install that equipment, at this time). The application’s non-compliance with §20-8-3, “*Proximity to an Existing Tower*,” must be considered by the Planning Commission, and ultimately must be addressed by the Board of Supervisors.

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

The applicant submitted to the Board of Supervisors a Request for Exception to §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)*, §20-4-21.)

Because the proposed tower site is 0.71 air miles of a designated Virginia Scenic Byway (Figure 3), the applicant formally seeks an exception to §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.

3. §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 §20-7-5k(1), which requires a landscaping buffer, and §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 §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, §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 has previously 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. However, the County has not received any revised “Existing Tree Plan.”

Staff Recommendation

With the above factors in mind, County staff suggest that this application for Communication Tower Permit #2013-007 be recommended for denial.

The natural beauty of Nelson County is of central importance to our residents’ quality of life, to our thriving agritourism economy, and to the visitors who come here from around the country and around the world. While staff recognize that other towers exist in the northern portion of the Rockfish Valley, this proposed tower is different: it would be located on a “Mountain Ridge” – resulting in a much higher negative impact to the area’s natural beauty and scenic resources.

The proposed tower would adversely impact views of the Rockfish Valley from the overlooks on the Blue Ridge Parkway, U.S. Route 250, and Interstate 64, which are some of the best vistas in the Commonwealth of Virginia. It would also negatively affect the views from numerous rural residential areas throughout Afton. The adverse impact on the scenic resources of the Afton area would also be to the detriment of the community’s numerous agritourism operators. In short, this proposed tower in this proposed location would cause harm to the public interest of the County.

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 §20-8-3, “*Proximity to an Existing Tower*,” or §20-7-2(e), “*Standards for Location, Viewshed*” (for which an Exception has been formally requested from the Board of Supervisors). Further, it appears that the application also does not comply with requirements contained in §20-7-2c, “*Standards for Location, Mountain Ridge*.”

The application also does not satisfy the requirements in §20-7-2b, which require that the applicant submit documented evidence that no other existing towers or structures can accommodate the proposed equipment; nor does it satisfy §20-7-3, which requires that the applicant must submit documentation detailing the service area of the Communication Tower Site, and all other sites considered. These deficiencies are of extra significance due to AT&T’s approved co-location at the Rockfish site just 1.68 miles away.

With the intent of protecting Nelson 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, staff can not recommend this application for approval. This proposed tower at this proposed site would result in too much of a negative visual impact for nearby residents and for visitors entering Nelson 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.

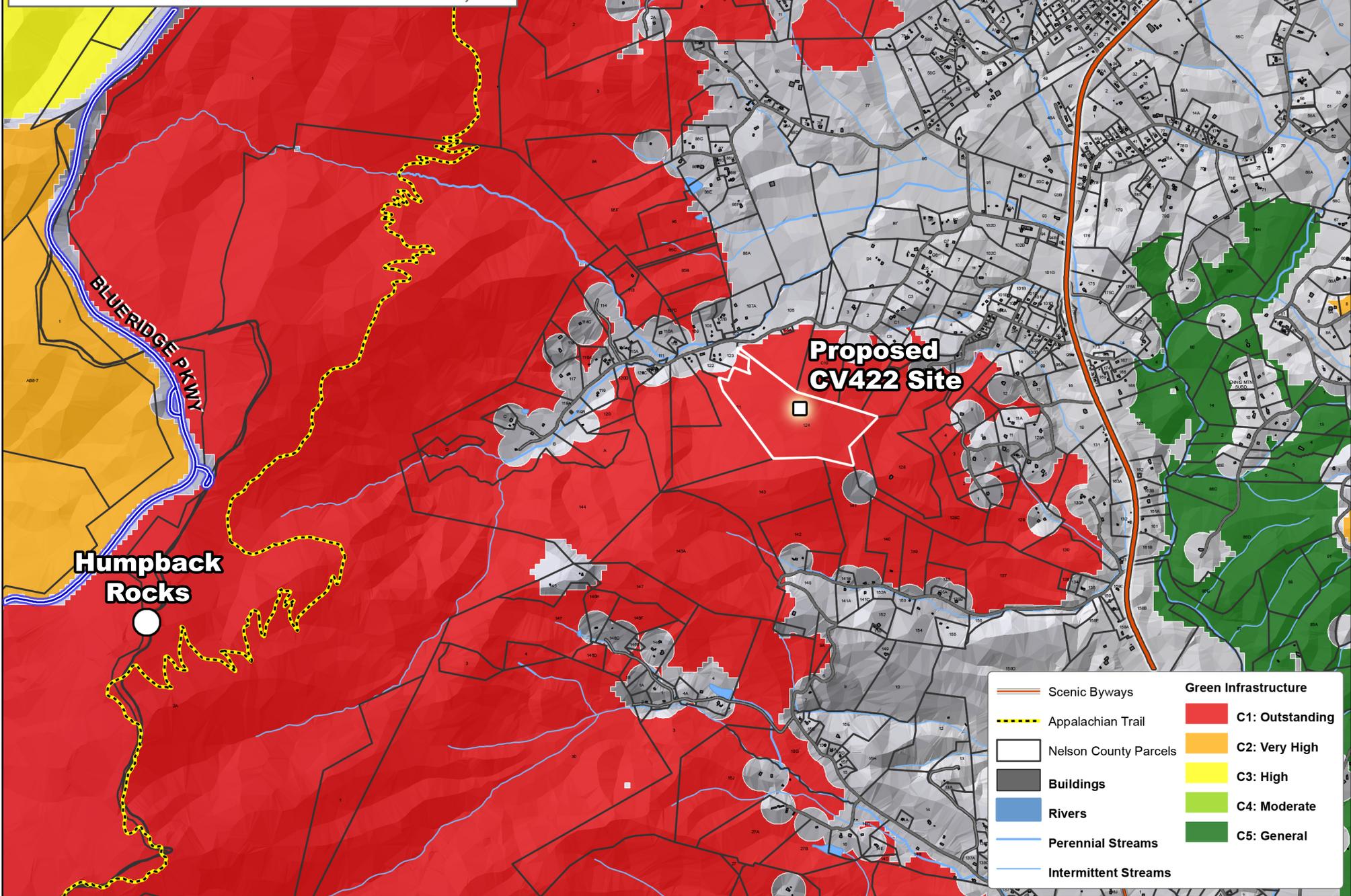
Green Infrastructure Map

0 800 1,600 3,200 4,800 6,400 Feet



1:30,000

This map was created using data from the statewide Virginia Natural Landscape Assessment (VaNLA) created by Virginia Dept. of Conservation & Recreation.



Proposed CV422 Site

Humpback Rocks

- | | |
|-----------------------|-----------------------------|
| Scenic Byways | Green Infrastructure |
| Appalachian Trail | C1: Outstanding |
| Nelson County Parcels | C2: Very High |
| Buildings | C3: High |
| Rivers | C4: Moderate |
| Perennial Streams | C5: General |
| Intermittent Streams | |