



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 8<sup>th</sup> 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 29<sup>th</sup> 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 29<sup>th</sup> 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.

## **Review Procedures for AFD Applications: “Review Process”**

The review process for all AFD applications requires the following steps (below) as prescribed by Nelson County Code Section 9-201, “Creation of District.” I have provided a brief summary of each step of the review process, with status updates (below). I have also provided an excerpt of the recently-enacted County Code language pertaining to the review process (attached).

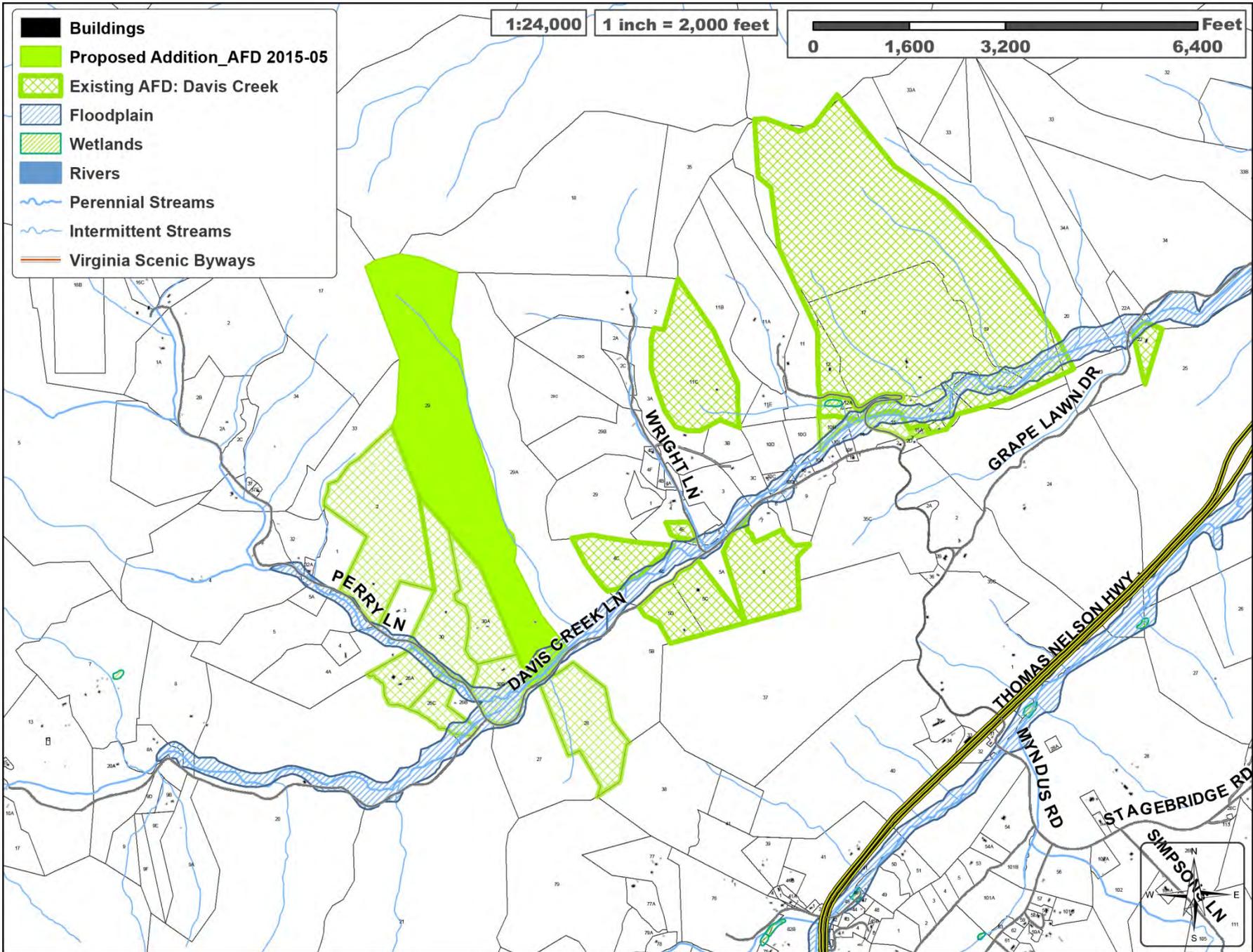
### ***A. [Summary of current review process with status updates]:***

- **COMPLETED (6/29)**: AFD Advisory Committee receives applications via Program Administrator:
  - Advisory Committee conducts review of applications
  - Advisory Committee provides Planning Commission with recommendations
  
- **COMPLETED (7/22)**: Planning Commission (PC) receives applications from committee:
  - PC directs staff to provide legal notice of the applications to adjoining property owners
  
- **COMPLETED (8/26)**: PC conducts review of applications:
  - PC conducts public hearing on the applications and Advisory Committee recommendations
  - PC provides the Board of Supervisors (BOS) with recommendations
  
- **[SCHEDULED for 9/8]**: Board of Supervisors (BOS) receives applications from PC:
  - Within one hundred eighty (180) days from the date the application was received, the BOS shall:
    - Conduct a properly-advertised public hearing
    - Vote to create / expand a district (as applied for); or create / expand a district with any modifications it deems appropriate; or reject the application

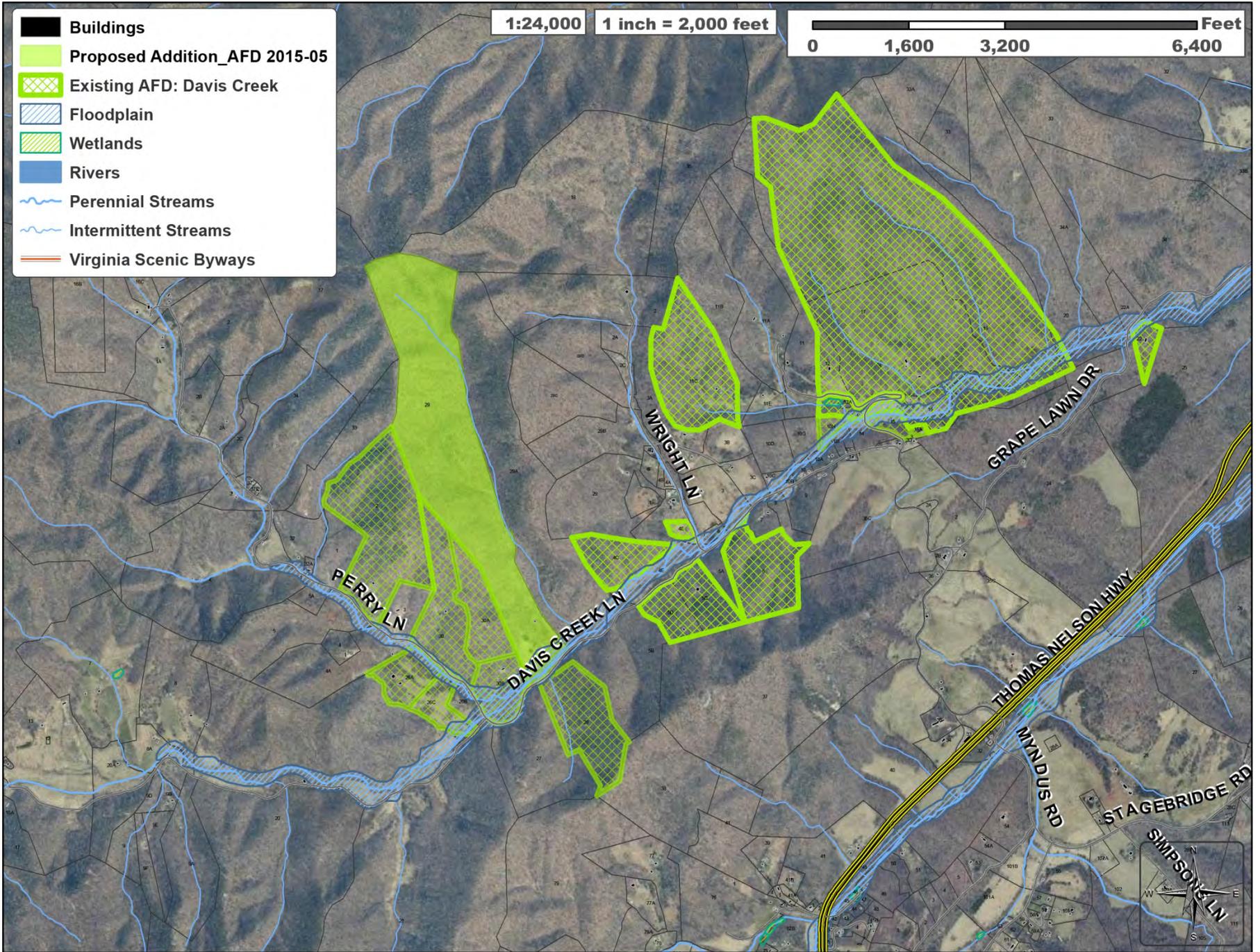
## **Conclusion**

Thank you for your attention to these two (2) AFD applications. Please reference the attached maps and applications for more details.

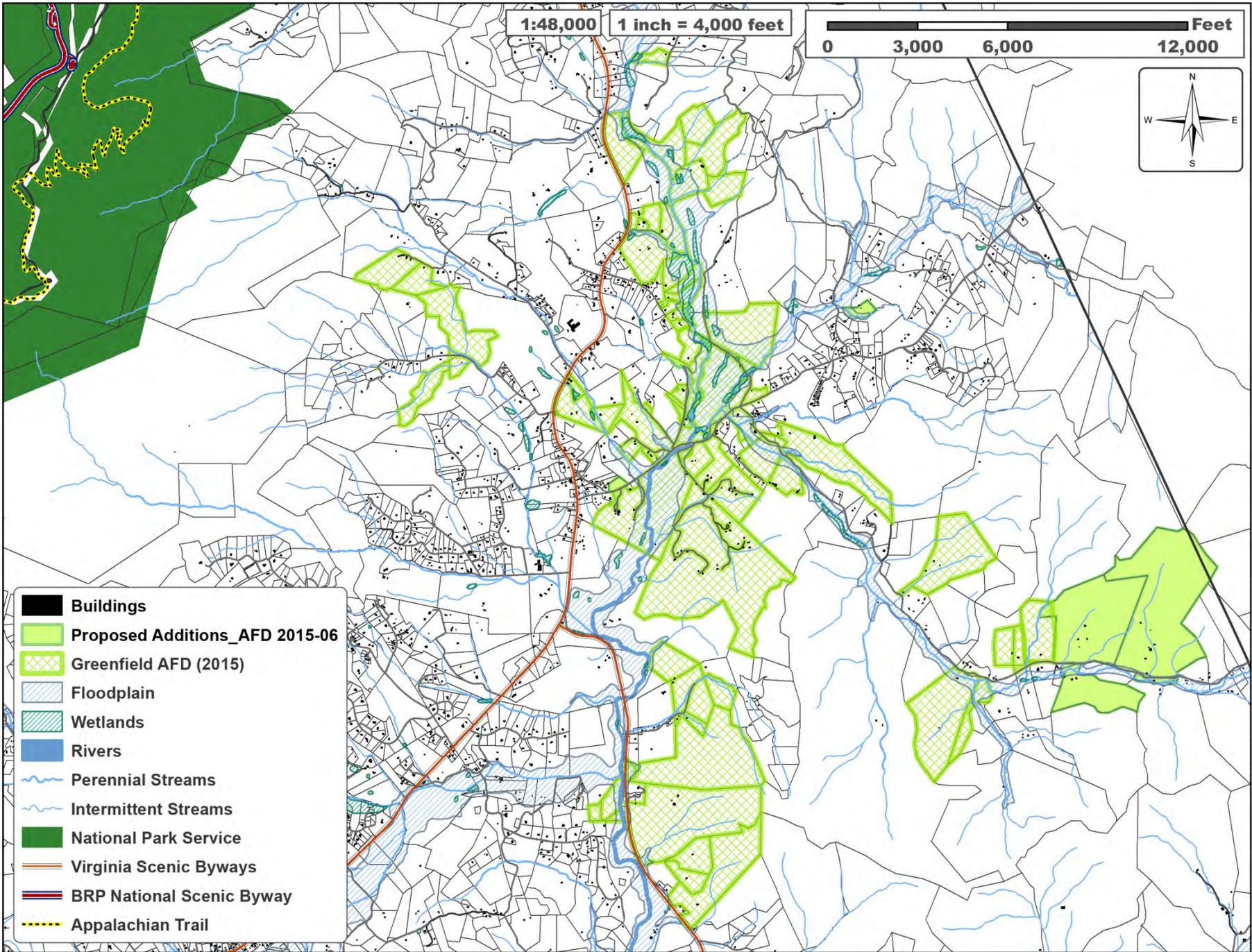
Please feel free to contact me prior to the BOS review on the 8<sup>th</sup> with any questions you may have regarding the information contained in this report or in the applications.



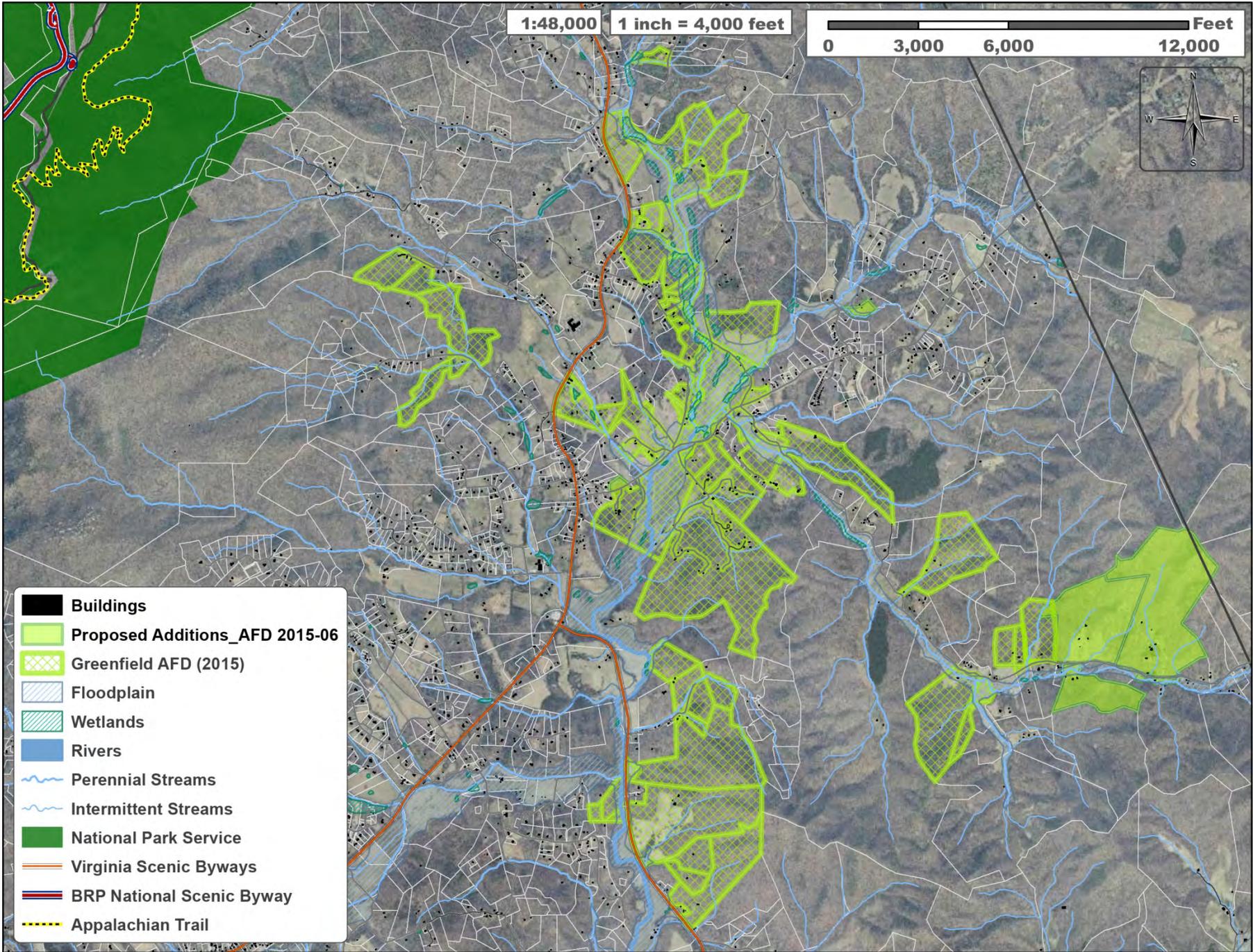
Map 1. Existing Davis Creek AFD with proposed addition (zoning map).



Map 2. Existing Dutch Creek AFD with proposed addition (aerial image).



**Map 3. Existing Greenfield AFD with proposed additions (zoning map).**



**Map 4.** Existing Greenfield AFD with proposed additions (aerial image).

- AFD # 2015-05
- Received: 5-26-2015

## APPLICATION FOR ADDITION TO AN EXISTING AGRICULTURAL AND FORESTAL DISTRICT

This completed form and required maps shall be submitted by applicant landowners to the Nelson County Planning Department on or before June first of the calendar year in which additions to an existing District are to be effective. This form shall be accompanied by a United States Geological Survey 7.5 minute topographic map that clearly shows the boundaries of the District and the boundaries of each individual parcel that is to be added to the District. A Department of Transportation highway map that shows the general location of the District and addition(s) shall also accompany this form.

### TO BE COMPLETED BY APPLICANT

1. *Name of the District:*

Davis Creek Agricultural and Forestal District

2. *General Location of the District:*

Along Grape Lawn Drive, Huffman Way, Davis Creek Lane and onto Perry Lane

3. *Total Acreage of the Addition(s):* 165.08 acres

4. *Landowners applying for the District:* See attached list with signatures

5. *Designated Landowner Contact:*

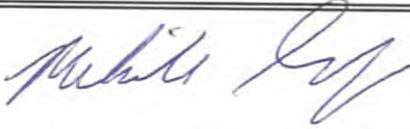
2642 Davis Creek Lane, LLC  
Michael Scelzi  
11219 Nuckols Road, Suite D  
Glen Allen, Va 23059  
804 647 1371  
Michaelscelzi@gmail.com

6. *Conditions for Addition to the District Pursuant to §15.2-4309 of the Code of Virginia:*

As a condition for the addition of parcels to the Davis Creek Agricultural and Forestal District, the requirements stated in Chapter 9, Article V, Section 202 of the Code of Nelson County will apply. Any additional conditions currently in effect for the District will also apply. The date of review for additional parcels will be the same as for the already established District.

6. *Date of Application:* 5/26/2015

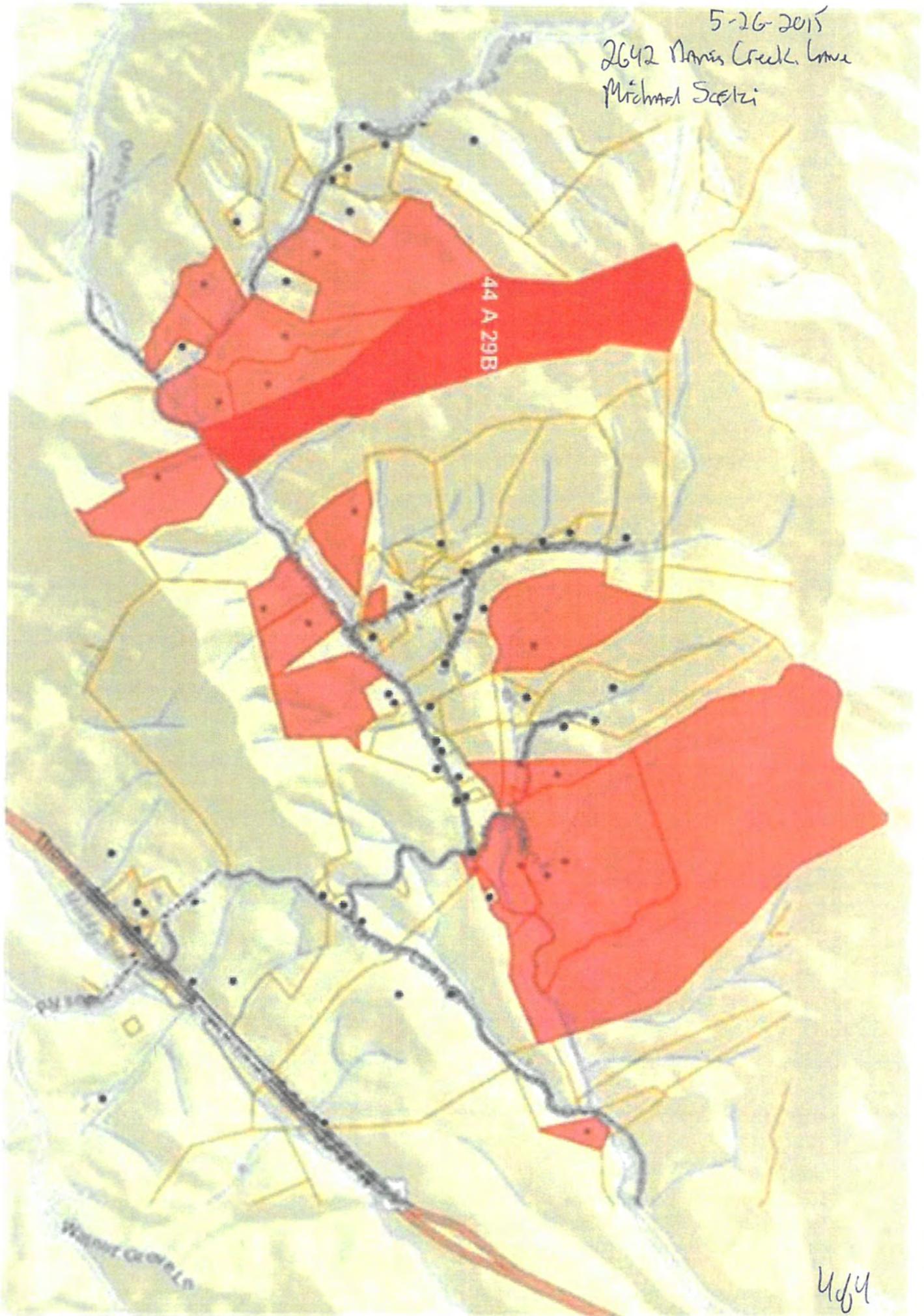
7. 4 Year Term requested

<u>NAME</u>	<u>ADDRESS</u>	<u>SIGNATURE</u>	<u>WITNESS</u>	<u>TOTAL ACREAGE</u>	<u>TAX MAP &amp; PARCEL NUMBERS</u>
Michael Scott 2642 Davis Creek Lane LLC	11219 Nucleus Rd Suite D Glen Allen, Va 23059		Valeri Beane	165.08	44-A-29B

hpe



5-26-2015  
2642 Morris Creek Lane  
Michael Scelzi



484

- AFD # 2015-06
- Received: 6-1-2015

## APPLICATION FOR CREATION OF AN AGRICULTURAL AND FORESTAL DISTRICT

This completed form and required maps shall be submitted by applicant landowners to the Nelson County Planning Department on or before June first of the calendar year in which the District is to be created. Included with the submission shall be a map or aerial photograph that clearly shows the boundaries of the District and the boundaries of each individual parcel that is to be included in the District.

### TO BE COMPLETED BY APPLICANT

1. *Name of the District:* Greenfield Agricultural and Forestal District
2. *General Location of the District:* Oentered along Greenfield Road (Rte 635) near Shannon Farm Lane (Rte 843), the original Greenfield Ag/Forestal District roughly follows the route of the North Fork of the Rockfish River starting near the intersection of Rte 151 and Pounding Branch Road (Rte 709), extending due south in a nearly continuous swath for approximately 5.1 miles, and ending just south of the river's North/South Fork confluence (near the intersection of Rte 6 and Hill Hollow Road/Rte 810). Additionally the District extends NW and SE to include properties flanking Rte 633 (Blundell Hollow and Taylor Creek Roads).

Current proposed additions to the Greenfield Ag/Forestal District are in three locations:

- 1) on both sides of Taylor Creek Road approx. 0.5 miles west of the County line.
- 2) on the east side of Ennis Mountain Road, approx. 0.3 miles north of Rte. 635
- 3) on the north side of Rte 635, approx 0.2 miles east of Rte. 151

3. *Total Acreage in the District Addition:* 258.43 acres

4. *Landowners applying for the District:* See attached list with signatures.

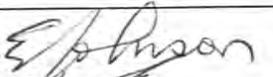
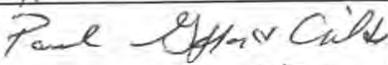
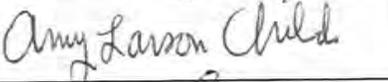
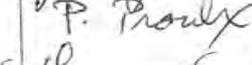
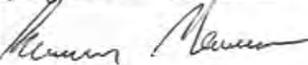
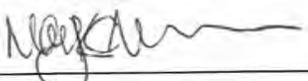
5. *Designated Landowner Contact:* Joyce Burton, 82 Wild Orchid Lane, Afton VA 22920  
(434-361-2328)

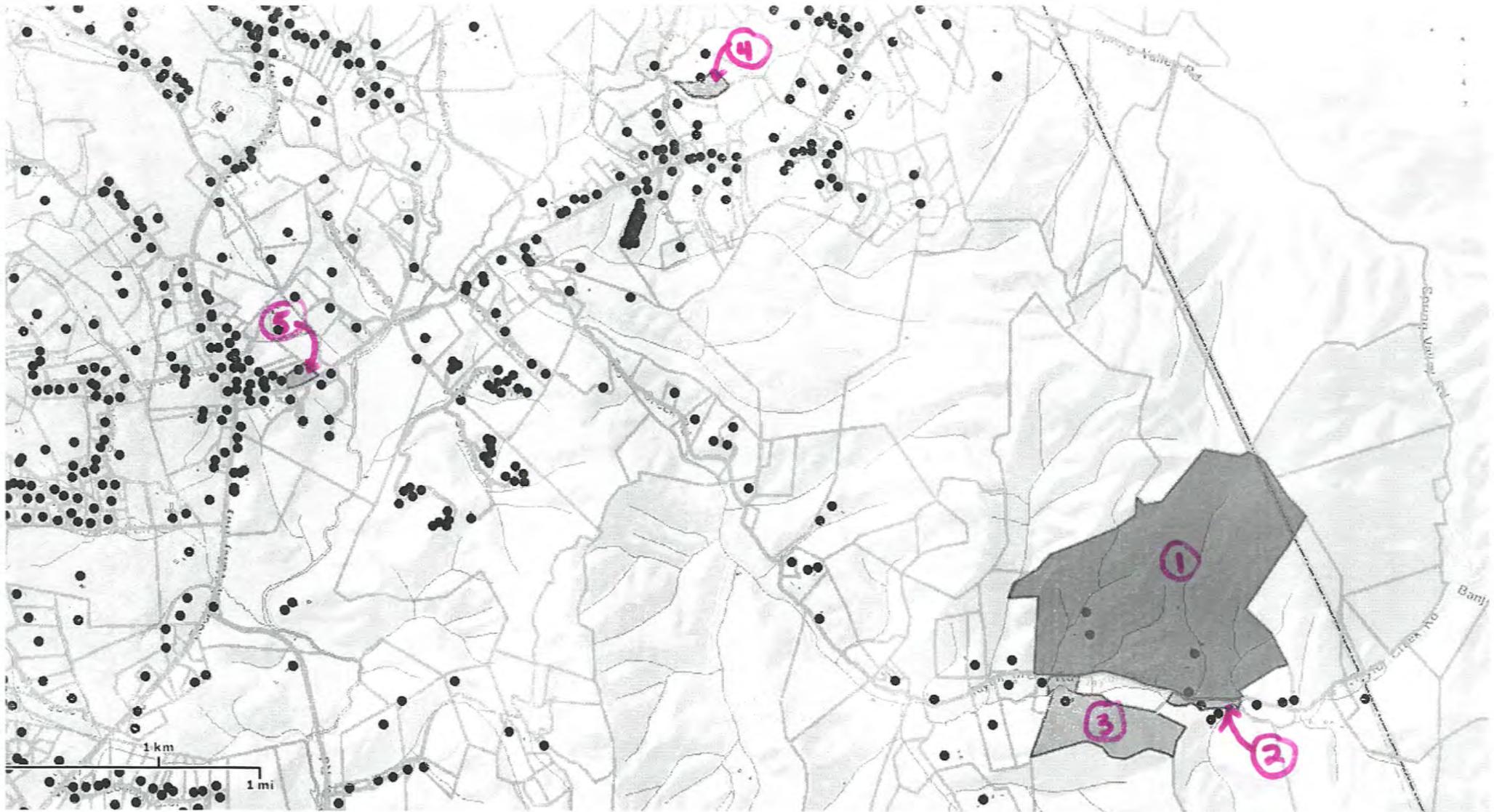
6. *The Proposed Conditions to Creation of the District Pursuant to §15.2-4309 of the Code of Virginia:*

As a condition to creation of the district, the requirements stated in Section 9-202 of the Code of Nelson County will apply; in addition, the following conditions will also apply:

- a. No parcel within the District shall be developed to a use more intensive than that existing on the date of creation of the district, other than uses resulting in more intensive agricultural or forestal production;

# Greenfield Agricultural/Forestal District Participants

NAME	LEGAL ADDRESS	SIGNATURE	WITNESS	TOTAL ACREAGE	PARCEL NUMBERS
Erin Johnson Kim Grosner	265 Greenfield Road Afton, VA 22920	 	 5/18/15	3.83	12 A 113A
Paul Gifford Childs Amy Larson Childs	5596 Taylor Creek Road Afton, VA 22920	 	 5/14/15	162.07	24 4 B
Thomas E. Proulx Phillipa Proulx Maya Proulx	5145 Taylor Creek Rd Afton, VA 22920	  	 5/19/15	5.43	24 3 Y
Freeman Mowrer Mary Connolly Mowrer	324 Ennis Mtn Rd Afton VA 22920	 	 5/30/15	12.6	13 A 35C
Aristedes Augeris Despina Augeris	5725 Taylor Creek Rd Afton VA 22920		 6/1/15	74.5	24 A 8



- 1) Childs
- 2) Proulx
- 3) Augeris
- 4) Nowrer / Connolly
- 5) Johnson / Grosner



- 1) Childs
- 2) Proulx
- 3) Avgeris
- 4) Mowrer/Connolly
- 5) Johnson/Grosner

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