



NELSON COUNTY PLANNING COMMISSION

Meeting Agenda

September 25th, 2024

General District Courtroom, 3rd Floor, Nelson County Courthouse, Lovingston

- **7:00 – Meeting Convenes / Call to Order**
- **Review of Meeting Minutes:**
 - **August 28th, 2024 – Joint Worksession**
 - **August 28th, 2024 – Planning Commission**
- **Public Hearings**
 - **SUP 24-0213 – Public Garage – Donna and Jay Hogston**
- **Other Business**
- **Board of Supervisors Report**
- **Next Regularly Scheduled Meeting: October 23rd, 2024**



Nelson County Planning Commission
Meeting Minutes
August 28th, 2024



Present: Chair Mary Kathryn Allen and Commissioners Mike Harman, Robin Hauschner, Chuck Amante and Phil Proulx. Board of Supervisors Representative Ernie Reed

Staff Present: Dylan Bishop, Director and Emily Hjulstrom, Planner/Secretary

Call to Order: Chair Allen called the meeting to order at 7:00 PM in the General District Courtroom, County Courthouse, Lovington.

Review of June 26th, 2024 - Planning Commission Minutes

Mr. Hauschner made a motion to approve the June 26th, 2024 Planning Commission minutes. Mr. Harman seconded the motion.

Yes:

Mike Harman

Robin Hauschner

Ernie Reed

Mary Kathryn Allen

Chuck Amante

Abstain:

Phil Proulx

Review of July 24th, 2024 - Planning Commission Minutes

Ms. Proulx made a motion to approve the July 24th, 2024 Planning Commission minutes. Mr. Hauschner seconded the motion.

Yes:

Mike Harman

Robin Hauschner

Ernie Reed

Phil Proulx

Abstain:

Mary Kathryn Allen

Chuck Amante

Public Hearings:

SUP 24-0157 Permanent Sawmill

Ms. Bishop presented the following information:

DRAFT

**Nelson County
Planning Commission**

To: Planning Commission
From: Dylan M. Bishop, Director of Planning & Zoning *DMB*
Date: August 28, 2024
Re: SUP #240157 – St. Dunstan's Academy – Portable Sawmill

BACKGROUND: This is a request for a Special Use Permit (SUP) on property zoned A-1 Agriculture, to allow a sawmill for processing of timber on-site to be utilized in the construction of their school.

Public Hearings Scheduled: PC – August 28 / Board – September 10

Location / Election District: 452 Modoc Lane, Roseland / West Election District

Tax Map Number / Total acreage: 42-A-55 / 176.2 acres +/- total

Owner/Applicant Contact Information: St. Dunstan's Academy (Thomas Fickley, Headmaster), 452 Modoc Lane, Roseland, VA 22967, 434-466-2060, tfickley@stdunstansacademy.org

Comments: A by-right minor site plan has been submitted for the construction of a non-profit boarding school and is currently in review. The applicant is requesting to operate a portable sawmill on the property, to harvest timber that will be utilized on-site for the construction of the school and associated buildings. According to the application, there is approximately 110 acres of forest on the property that is available to selectively harvest.

DISCUSSION:

Land Use / Floodplain: The subject parcel is zoned A-1 Agriculture and is adjoined by A-1 zoned properties. The area is primarily agricultural in nature, with low density residential uses. There is some floodplain located on the property, however no development is proposed in this area.

Comprehensive Plan: This property is located in a *Rural Area* on the County's Future Land Use Map, which should ensure the protection of the County's rural landscape and economy by maintaining open space, scenic views, and agricultural uses with compatible low density residential uses. Primary land use types include farm, agriculture and forestry, and institutional uses.

Rural Areas



Description

The aspect of Nelson County valued most by the people who live and visit here is its rural character. Rural Areas comprise the majority of the County, aiming to protect rural character by maintaining natural areas and agricultural uses while allowing low density residential development that fits into the landscape. Rural Areas typify the historic and natural landscape of Nelson County that includes prime agricultural areas, forested mountains, and rural homesteads. The area also currently includes some low-density single-family subdivisions. Alterations and retrofits to these developments to enhance resiliency and conform to current health, environmental, zoning and subdivision standards is appropriate and encouraged; however, expanded, or new subdivisions is not the primary intent of this planning area. Any new residential development must be carefully planned for, taking into account slope, soil, and septic suitability, viewshed protection, resource impact, and other factors.

Core Concept

Ensure the protection of the County's rural landscape and economy by maintaining open space, scenic views, and agricultural uses with compatible low density residential uses.

Primary Land Use Types

- Farms, agriculture, forestry
- Agritourism uses
- Institutional uses
- Solar installations (contingent on-site conditions)
- Single-family detached residential
- Single-family attached residential
- Manufactured homes
- Accessory dwelling units
- Parks, recreation, and trails

Planning Guidelines

- Incorporate cluster and/or conservation development principles in areas within or adjacent to this planning area to protect open space, productive land, views, and sensitive resources.
- Setback, screen, or locate development located along primary routes to minimize impact to views from these corridors.
- Improve and mitigate negative environmental impacts with conservation design, alternative wastewater systems, and low impact development for filtration or runoff protection.
- Buffer residences from more intense farming, forestry, or extraction-based uses.
- Discourage development of areas with prime agricultural soils.
- Solar development should be sited to have minimal impact to scenic viewsheds and natural resources.



REVIEW CRITERIA FOR SUP: The approval of special use permits should be based on the following factors:

1. The use shall not tend to change the character and established pattern of development of the area or community in which it proposed to locate.
2. 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.
3. The proposed use shall be adequately served by essential public or private water and sewer facilities.
4. The proposed use shall not result in the destruction, loss or damage or any feature determined to be of significant ecological, scenic or historical importance.

Conditions: Should the Planning Commission recommend approval of SUP #240157 for a sawmill at 452 Modoc Lane, staff would recommend the following conditions:

1. The lumber harvested shall be utilized only for projects located on the subject property and shall not be for commercial use.

Attachments:

Application
Narrative
Letter from T. Fickley
Site Plan
Zoning
Public Comments

Ms. Proulx asked if it would be possible to include a condition limiting the sawmill to onsite use. Ms. Bishop confirmed that it was. Mr. Reed asked if a condition could be added to limit the use of the sawmill until the school is constructed. Ms. Bishop explained that the applicants had initially applied for a temporary sawmill but then thought that the students could utilize the sawmill as part of their curriculum.

Mr. Amante asked if the school itself would need a special use permit. Ms. Bishop explained that public and semi-public uses (such as schools) were by right in A-1 (Agricultural) zoning. Mr. Amante asked what requirements there were for schools. Ms. Bishop explained that the Zoning Ordinance had no use standards or a definition for 'school'. She added that the common language definition was used to make a determination. Ms. Bishop noted that the applicants had submitted a site plan for approval of the great hall structure. She added that they would need to submit additional site plans for future phases of construction.

Mr. Thomas Fickley of 452 Modoc Ln is the headmaster of St. Dunstan's Academy. He explained that the sawmill was a small, portable band sawmill. He noted that it was a 25-horsepower gasoline engine and was half the power of their tractor. They explained that it was about the same volume as a leaf blower

and significantly quieter than a chainsaw. He explained that a benefit of having the sawmill was that they would not have to pay loggers to take the wood on and off the site. He added that they could save about 4 trips on and off-site per milling by doing it all on-site.

Mr. Harman asked if the sawmill would be moved around. Mr. Fickley explained that they had milled two logs to test it so far. He noted that it was about 850 lbs and could be moved with some difficulty. He explained that they currently had it set up next to a stand of trees they would like to harvest from for the first building. He explained that they could move it to another stand of trees when finished with that project.

Chair Allen asked the distance of the closet dwelling to the sawmill. Mr. Fickley pointed out the sawmill location and the closest house. He explained that the closest property boundary is approximately 150 yards away. Mr. Harman noted that he had tried to find the property but could not. Mr. Fickley explained that the property is about 60-65 acres of pasture and the rest of the acreage was wooded.

Mr. Hauschner asked if student labor would be a component of St. Dunstan's Academy. Mr. Fickley explained that they were hoping to give their students an introduction to farm work so that they could grow in character. He noted that they hoped to give the students a formation that made them dependable for their families and communities. He explained that it would be a voluntary private school for families seeking that kind of educational experience. Mr. Hauschner asked if the students would be using the sawmill. Mr. Fickley explained that they would have trained faculty members operate the sawmill due to the danger.

Mr. Reed noted that he visited the site and listened to the sawmill. He questioned how many people rent portable sawmills to run on their property temporarily. Mr. Reed noted that he had run a school somewhat similar and he saw the value in what Mr. Fickley was doing.

Chair Allen opened the public hearing at 7:15 PM

Kate Farley - 9461 Patrick Henry Hwy. Ms. Farley explained that she grew up on an adjacent parcel to the subject property. She noted that her letter was intentionally directed at the property owner. She explained that the quiet enjoyment of her family's property was everything to them and was now threatened by the project. She noted that the vast scale of their plan, with eventually over 20 buildings, had come as a shock to the neighbors. She explained that many neighbors had no idea about the project until a few weeks or days before the meeting. She noted that the recent imagery and claims in the applicants' recent letter about the sawmill downplayed the impact of the project. She added that it was misleading and offensive. She noted that the applicant only showed the next building plan of 1000 sq ft with a photo of the applicant in a field. She explained that they had read an article that described the project as a small city. She noted that the proposed project resembled a small resort with festivals and public events that raised concerns about noise. She added that this could open the door to potential future developments. She worried about the increased traffic on country roads and land being taken from neighbors to widen them. She added that they worried about the peace and true quiet that they had. She noted that, being from Albemarle County, the applicant must be familiar with overdevelopment of Crozet. She explained that as a family of realtors and builders, her family saw the risks of a permanent sawmill that would run with the land. She explained that this type of project was

the type to create a domino effect for other projects. She stated that they oppose the sawmill due to its environmental impact and the threat it could pose to the community. She questioned why planning and zoning laws have not kept pace with development since breweries started changing the Nelson County landscape in 2008. She urged the applicant to reconsider their plans and engage with the community to find a solution that respected their way of life. She explained that nearly all the neighbors had been there for decades or multiple generations. She explained that she now had a 10-month old that was a 3rd generation Roseland resident. She stated that they did not want the fabric of the landscape to change for more businesses, noise, traffic, pollution. She explained that they wanted to keep their piece of heaven in Roseland. She noted that the applicant's website stated that Roseland was God's country. She stated that Roseland would only stay that way if it could be kept rural and beautiful. She wished the applicant all the happiness and success, but not at the expense of others.

Thomas Nelson - 304 Deerwood Ct. Mr. Nelson explained that there was a sawmill on Route 56 slightly buffered by a hill and about the same distance from him as the proposed sawmill. He explained that it was within hearing distance and a commercial sight but that he did not hear much noise coming from it. He mentioned that he was very excited about the school and had been donating monthly to it. He explained that he was proud that there would be 30-60 boys learning all aspects of agriculture. He added that he went to the erection of the first building and saw about 30 kids participating. He noted that the children were the most politely raised kids. Mr. Nelson explained that his tractor had a higher noise factor than the sawmill. He noted that he knew some people with a sawmill in their backyard. He noted that he thought the property was being misrepresented. He explained that Pigeon Hill Rd would be the main road going up to Modoc Ln and that there would not be a congestion issue. He noted that some people used Route 151 as their ingress/egress, which was dangerous. He stated that people should go on the website to see the project concept. He added that it was a Christian non-profit and it was blessed. He explained that he lived on a 115-acre farm where a developer had put in over 100 houses behind them. He explained that this would lock the property into non-development other than the school. He added that they should recommend approval to the Board of Supervisors and be proud of approving the sawmill that would help the applicants construct their buildings.

Julie Bendle - 9699 Patrick Henry Highway. Ms. Bendle explained that they had lived next door to the subject property for 40 years. She noted that Pigeon Hill Rd went through their property. She stated the road was only about 1.5 lanes and was paved from Jonesboro Rd to Modoc Ln with the rest being dirt. She added that they would see an incredible increase in traffic and noise. She noted that they were blindsided by the school when they saw the Special Use Permit application for the sawmill. She explained that they would never have known about the school if not for the sawmill. She noted that she was originally told that a church had bought the property to utilize as a summer camp for kids. She stated that the renderings of the project were beautiful. Ms. Bendle noted that she received information from Ms. Bishop stating that the applicants could have events up to 10000 people. She explained that she loved where she lived and had raised her children there. She questioned what kind of limitations were on the school. She added that it was very concerning to them due to it being a very tight and rural area. She explained that they would not mind a temporary sawmill as much but that a permanent sawmill would be frightening if the property was sold. She questioned what would happen if they sold the property to someone who wanted to do a permanent sawmill operation. She noted that her daughter and husband were building a house right next to them and they wanted to be able to pass the land down to their family.

Robert Harvey Dodd Jr. - 501 College View Dr in Bridgewater, VA. Mr. Dodd explained that his family had owned land in the area and possibly had owned the subject parcel at one point. He noted that his family had been great stewards of the property for years. He explained that a lot of people visit Nelson County to appreciate the views and Appalachian Trail. He noted that the Wilderness Act was enacted years ago to prevent towers from being built on mountaintops. He noted that there was once 100 acres that had been whittled down to the 8 acres that he retained. He challenged the Planning Commission to consider the future of Nelson County. He cautioned the Planning Commission to consider things differently as far as revenue and quick fixes. He explained that as his family sold the land over the years they sought out people that would represent the property well. He noted that he plans on being a neighbor when he moves back to county. He questioned how it could be a permanent sawmill if it was not a fixed structure.

Wendy Nelson - 304 Deerwood Ct. Ms. Nelson explained that she did not live far from the subject property. When she heard it was coming she felt blessed because she knew the Lord had given the applicants the property. She explained that she had lived in places where she was surrounded on three sides due to development. She noted that she went to Crozet where they were razing the land to put in another development. She questioned calling a boy's school a city. She explained that it would not be a city, small village or habitat, it was going to be a school. She noted that the boys would learn more than kids in Nelson County schools. She added that the boys would learn how to go out into the world knowing their patriotism and faith while being respectful and upright citizens. She quoted Jerimiah 29:11: "For I know the plans I have for you," says the Lord. "They are plans for good and not for disaster, to give you a future and a hope."

Dick Whitehead - 307 Willowbrook Ln. Mr. Whitehead noted that he was located about one mile east of the property. He explained that he was confused about the concept of a permanent permit for a mobile sawmill. He questioned why there was a need for a permit. He noted that there were many sawmills around the county and questioned if any of them had permits. He asked what locations were proposed for the sawmill and where he could find that information.

Ms. Bishop explained that both "temporary sawmill" and "permanent sawmill" were Special Uses in the A-1 (Agriculture) zoning district. She explained that they had to apply for a permanent sawmill use to keep the sawmill on the property. She added that if the sawmill was not used for a period of two years or more then the Special Use Permit would expire. The applicant had indicated that he planned to leave it in one place while he timbers the first portion but that he did not have other specific locations laid out yet. She added that the Planning Commission could limit the distance from the property line as a condition.

Hillary Whitehead - 25 Willowbrook Ln. Ms. Whitehead noted that she was there to advocate for her neighbors. She noted that she believed in the quietness of Roseland being very sacred. She explained that she was nervous about their intentions and questioned why the school was exclusively for boys. She added that she was a woman and a farmer with building skills.

Alvin Stratton - 35 Meadow Court. Mr. Stratton explained that he lived across the hill from the subject property. He noted that he could already hear the sawmill from his porch. He was worried about road safety on Pigeon Hill Rd where he had already had close encounters with other vehicles. He noted that

the application would bring a lot of traffic. He explained that he thinks the project could be a great thing but was worried about noise and peace.

Chair Allen closed the public hearing at 7:37 PM

Mr. Hauschner asked if he would need to get a permit to put a rail on his chainsaw, converting it into a small mill. Ms. Bishop noted that they did not have 'temporary sawmill' or 'permanent sawmill' defined in the Zoning Ordinance and they were both listed as Special Use Permits in A-1. Ms. Proulx noted that there were probably a lot of people that should have gone for a permit but did not. Ms. Proulx explained that the Zoning Ordinance needed to be followed when someone applied for a use. Mr. Harman noted that many of the speakers in the public hearing were concerned about the school. Ms. Bishop explained that the school was byright. Chair Allen added that they were there specifically for the Special Use Permit for a permanent sawmill. Ms. Bishop added that a lot of the Zoning Ordinance is very old and she did not know when portable sawmills were invented. She noted that at the time the uses were included in the ordinance, sawmills may have been larger and louder than what was possible now. Mr. Reed noted that the first form of temporary sawmill he had seen came out in the 1960's. Ms. Bishop noted that a quick online search showed that the first portable band sawmill was commercialized in 1982.

Ms. Proulx recommended that they add the condition that the milled lumber only be used for projects located on the subject property. Mr. Amante noted that they could condition that it not be for commercial use. Ms. Proulx questioned if they should include a condition limiting the size of the sawmill to 25 horsepower. She added that they could also limit the hours of operation and include a setback from property lines. She noted that she did not have an objection to the sawmill as intended by the applicants. She explained that it was reasonable to add conditions in case the land changed ownership.

Mr. Amante noted that there was a C. S. Lewis quote where he spoke of the incremental involvement of local government in his life where he observed that if things continued in that fashion, that a man would need a permit to cut down his own tree on his own land with his own saw. Ms. Proulx noted that they could cut down any tree they wanted but not mill it without the permit. Mr. Amante noted that the only reason he could imagine for requiring a Special Use Permit for a sawmill would be if it was for commercial use. Ms. Proulx noted that they were still required to use the existing ordinance but that the ordinance might change in about 22 months. Mr. Amante agreed that they did have to treat it as a Special Use Permit but that he considered the project to be utterly inane. He added that if they could include a setback from the property lines. He noted that he could run a chainsaw 24 hours a day if he wanted to. Mr. Hauschner noted that the Special Use Permit would change the byright use of the land and conditions would need to be considered.

Mr. Hauschner asked how logs were being transported to the mill. He also asked if a setback would limit them. Mr. Fickley noted that they would be able to make it work but it might be an impediment. He explained that they used a tractor to drag the logs to the mill. Mr. Hauschner asked if there was a size limitation on the mill. He asked if they would need a larger mill at any point. Mr. Fickly explained that the mill had a 17' long bed and could mill a log up to 16 ft 8 inches in length and 28 inches in diameter. He noted that they could add tracks to the mill to be able to do longer logs. He noted that a 25-horsepower engine would be plenty for them. Ms. Proulx questioned when they planned to use the sawmill. Mr. Fickle noted that they planned to run it during the work day and never on Sunday. He noted

that Fridays and Saturdays are typically when volunteers could help out. He added that he and his wife were sitting on the porch a few nights before while one of his neighbors was haying his field at 10:30 pm with the headlights on. He noted that the tractor was larger than their mill and they were chuckling to themselves about having to get the permit for the sawmill. He explained that it was loud but that they were aware they lived in an agricultural area where it was not a big deal.

Mr. Hauschner asked if they could make the condition that the mill be screened from adjoining properties rather than having a setback. Mr. Fickley noted that he would like to invite any of the Planning Commission, Board of Supervisors, and neighbors to the property before the Board of Supervisors hearing. He explained that they want to be good neighbors that are open about what they are doing.

Mr. Reed questioned how large of a setback they should include as a condition. Ms. Bishop noted that the closest building on their site plan was at least 500 ft from the nearest property line. She noted that their solar setback was 100 ft. Chair Allen noted that they should not enforce more than what they require for a solar farm. Mr. Harman stated that having so many conditions was ridiculous. Mr. Hauschner noted that it was more about protecting the property from misuse by another owner in the future.

Ms. Proulx made a motion to recommend approval of SUP #24-0157 with the following conditions:

- 1. The lumber harvested shall be utilized only for projects located on the subject property and shall not be utilized for commercial use.**
- 2. Hours of operation shall be limited to 8:00 am to 5:00 pm and shall not be operated on Sunday.**
- 3. The sawmill motor shall not exceed 25 horsepower.**
- 4. The sawmill shall not be located or utilized within 100' of any adjoining property line.**

Mr. Hauschner seconded the motion.

Yes:

Phil Proulx

Mike Harman

Robin Hauschner

Ernie Reed

Mary Kathryn Allen

Chuck Amante

AFD 24-0134 Fork Mountain/Montebello

Ms. Hjulstrom presented the following:

DRAFT

Memo

To: Planning Commission
From: Emily Hjulstrom, Planner
Date: August 28th, 2024
Re: Public Hearing for Agricultural and Forestal District #24-0134 – Fork Mountain

The Planning & Zoning Department has received an application from Mr. Wade Lanning to create a new 2290.254 acre Agricultural and Forestal District to be known as the *Fork Mountain Agricultural and Forestal District*. The proposed District is located along Fork Mountain Ln, North Fork Rd, Fish Hatchery Ln, and the surrounding area.

“The Agricultural and Forest Conservation District Program is a voluntary program in which farmers, foresters and landowners form an Agricultural and/or Forest Conservation District for the purposes of conserving areas that are rural and agricultural. The property owner continues to hold fee simple title to the land, but the easement restrictions run with the land, for a set term of years. The agreements usually include exceptions that permit the landowner to withdraw from the program under certain circumstances.

Agricultural-Forestal Districts (AFDs) were established by the State of Virginia as a means for counties to offer incentives to landowners to maintain their property in agriculture and forestry. These benefits include

- (1) eligibility for Land Use taxation,
- (2) protection from eminent domain and municipal annexation, and
- (3) protection from frivolous nuisance complaints.

These protections are in effect for the duration of the contract period. As a result, the County is able to more accurately plan land use in the region, since the owner agrees not to convert the property to a more intensive use for the duration of the contract. The rural nature of the landscape is maintained and the tax rates remain low since residential development is slowed and county resources are not overburdened.”

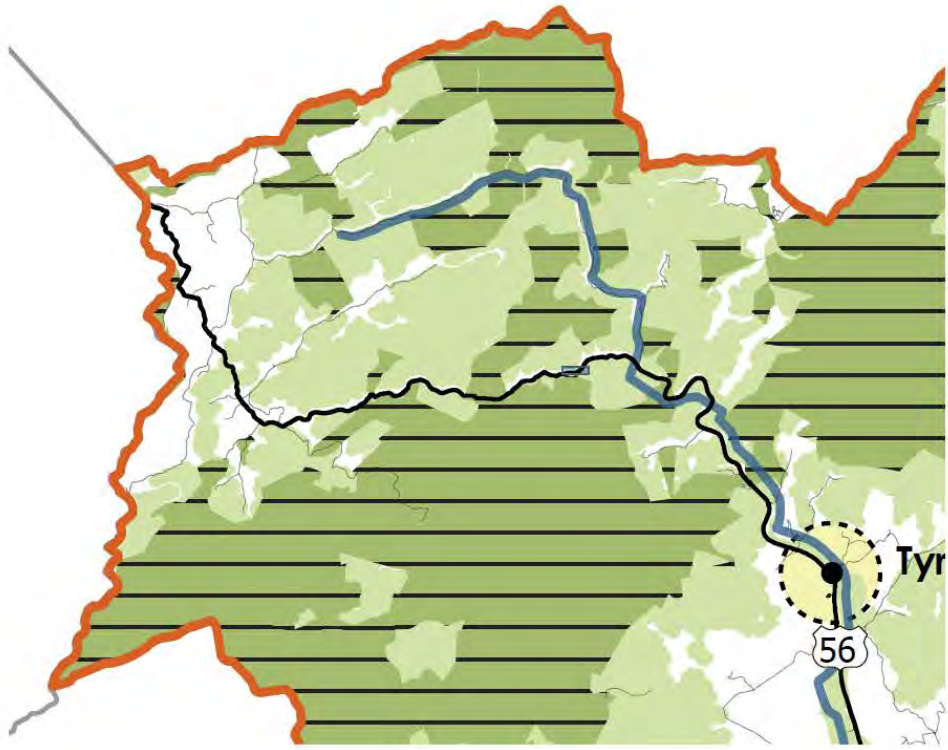
Review Criteria for AFDs:

Please reference Section 9-201 "Evaluation Criteria" for a list of factors to be considered by the Advisory Committee, Planning Commission, and the Board of Supervisors when reviewing the application for AFD #24-0134, as follows:

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

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

Comprehensive Plan:



The properties are located in both "High Conservation Value Areas & Natural Corridors" and "Rural Areas" on the County's Future Land Use Map.

Conservation Areas



Description

Conservation Areas are those areas with significant environmental sensitivity and/or areas that are currently protected from development through permanent conservation or recreation use. They are established to minimize detrimental impacts to the environment, maximize groundwater recharge capacity, and protect key natural resources. Examples include steep slopes, flood inundation zones, sensitive environmental corridors, and federal and state lands.

Core Concept

Protect natural areas to maximize environmental services, economic potential, and recreation opportunities for the community.

Primary Land Use Types

- Conservation
- Parks, recreation, and trails
- Low-impact agriculture and other resource-based uses

Planning Guidelines

- Incorporate cluster and/or conservation development principles in areas adjacent to this planning area to protect open space, productive land, views, and sensitive resources.
- Improve and mitigate negative environmental impacts with conservation design, alternative wastewater systems, and low impact development for filtration or runoff protection.



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Adjoining property owners were notified of the proposed AFD via letter on August 6th, 2024. This letter included the option for property owners to join the AFD within 30 days of the date of the letter (September 5th). We have one landowner, Treva Massie, who has stated that she would like to include her parcel (TM# 17-A-3 – 31.71 acres) to the AFD. There is the potential for more properties to join before the September 5th deadline.

There are three parcels (17-A-35, 17-A-35B, and 17-A-35C) that are more than a mile and a half from the core. The Board is able to allow the inclusion of parcels further than a mile away if they find that the parcels contain agriculturally and forestally significant land. There is a large National Forest parcel of approximately 377 acres that sits between the core and the three parcels. Mr. Lanning reached out to Lauren Stull, a District Ranger, who stated that they would not be able to include the parcel in the AFD, but that the county could consider the “Forest Plan” that the property is under for connectivity purposes. Please see the attached email from Ms. Stull.

AFD Ordinance Sec. 9-200:

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 (1) 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 Code of Virginia, § 15.2-4305 for such districts are satisfied. All included tracts shall be shown as separate parcels in the county real estate records.

The advisory committee met on July 24th, 2024 to review and discuss the application and unanimously recommended approval of the application to the Planning Commission with the stipulation that parcels 17-A-35, 17-A-35B, and 17-A-35C not be included. (Minutes attached).

Motions:

1. I make a motion to recommend **approval/denial** of proposed AFD #24-0134, Fork Mountain Agricultural and Forestal District to the Board of Supervisors, with the condition that parcels 17-A-35/35B/35C not be included.
2. I make a motion to recommend **approval/denial** of proposed AFD #24-0134, Fork Mountain Agricultural and Forestal District to the Board of Supervisors.

Attachments:

AFD Committee Meeting Minutes
Application
AFD Maps
AFD List
National Forest Email

Chair Allen asked what determined whether or not a parcel was of agricultural and forestal significance. Ms. Hjulstrom explained that it would be a determination made by the Board of Supervisors with the advisement of the Planning Commission and Agricultural and Forestal District Advisory Committee. Ms. Hjulstrom explained that the applicants did not provide anything to claim agricultural and forestal significance for the three eastern parcels. She added that the Advisory Committee recommended to not include those three parcels (17-A-35, 17-A-35B and 17-A-35C) in the AFD. Ms. Proulx asked if the advisory committee had considered using the National Forest parcel for connectivity purposes. Ms. Hjulstrom noted that the Advisory Committee did not seem to be in support of using a National Forest parcel to justify the inclusion of parcels that were too far from the core. Mr. Amante noted that there were several small parcels surrounding the three eastern parcels but that they were all forested.

Ms. Hjulstrom quoted the following from the Advisory Committee meeting minutes:

“Ms. McSwain said that she did not think that parcels 17 A 35 (1.13 acres), 17 A 35B (3.87 acres), and 17 A 35C (3.48 acres) met the requirements set forth in the County Ordinance with respect to parcels farther than one mile from the core. All three of these parcels are more than a mile and-a-half from the core, and none of them are adjacent to other parcels that are part of the application. The County Ordinance (Article 5, Sec. 9-200) states that parcels farther than one mile from the core must be of significant agricultural or forestal value in order to be included in an AFD. She said that the small size of these parcels did not contribute value to the AFD, and she did not think they should be included in the AFD. She said that the owners of the parcels should be thanked for their willingness and desire to be part of the AFD. She also pointed out that the owners can be reminded that if there are future additions that expand the AFD in their direction, they can re-apply at that time.”

Mr. Wade Lanning of 5297 North Fork Rd. Mr. Lanning thanked staff, the Planning Commission, Board, and Advisory Committee for their help on the project. Mr. Lanning clarified that the acreage would now be 2321 acres with the most recent addition of Treva Massie’s property. He added that this acreage also included the three eastern parcels that totaled approximately 8 acres.

Chair Allen opened the public hearing at 8:14 PM

Susan Mcswain - 3254 Dutch Creek Ln

Susan McSwain
3254 Dutch Creek Lane, Shipman
Secretary, AFD Advisory Committee

The Code of Virginia authorizes localities to adopt districts designed to protect working farms and forestland. There are at least 30 counties in Virginia that have adopted ordinances to allow the creation of Ag/Forestal Districts, and Nelson passed its ordinance in 2002.

Since then, five AFDs have been created in the county.
In the south district, Findlay Mountain AFD.
In the east district, Dutch Creek AFD.
In the central district, Davis Creek AFD.
The north district has two AFDs – Greenfield and Glass Hollow.

There are 119 families who have placed their land in these five districts, and there are now 8,361 acres in AFDs.

The proposed Fork Mountain AFD will be the first one in the west district, which means that if it is approved, all five supervisor districts will have an AFD.

The AFD Advisory Committee is very appreciative of the amount of legwork and information that Wade Lanning has provided to bring the community in Montebello together to create an AFD. You have a copy of the minutes from the Advisory Committee meeting, and if you have any questions about the Advisory Committee or any of the AFDs, I will try and answer them.

Thank you.



Ms. McSwain added that state code is very firm that property permitted in an AFD had to have a signed application. She noted that she did not believe a letter from a National Forest employee qualified as an application. She explained that there were 29 other counties in Virginia that had AFDs and she had never heard of one that included National Forest. She noted that this could go to the County Attorney's office. She added that the three parcels in question being included in the AFD could affect the land use of that area and make it difficult for staff to make determinations.

Chair Allen closed the public hearing at 8:18 PM

Mr. Reed noted that he was directly involved in the last two Forest Plans for the George Washington National Forest. He noted that he agreed with the Advisory Committee's decision and what Ms. McSwain had presented. He added that it was interesting to note that the approval of AFD in that area could incentivize the Forest Service to continue the level of protection the land already had. He noted that it would strengthen anyone's hand to include the three parcels in the AFD.

Mr. Harman made a motion to recommend approval of AFD #24-0134 to the Board of Supervisors with the condition that parcels 17-A-35/35B/35C not be included. Mr. Amante seconded the motion.

Yes:

Phil Proulx

Mike Harman

Robin Hauschner

Ernie Reed

Mary Kathryn Allen

Chuck Amante

Board of Supervisors Report:

Mr. Reed noted that on August 20th the county had a public event in conjunction with CHA Consulting and USDA Rural Development to honor the anniversary of Hurricane Camille and to recognize the development of the rural development terms that the Board had recently passed for the Lovington Sewer Project. He explained that the project was able to go forward due to money and grants available through the county, CHA Consulting, and the Service Authority.

Ms. Bishop noted that the legislation changed on advertising requirements. She explained that staff now needed to advertise three weeks before a public hearing.

Ms. Bishop noted that the applicants for MSP #24-0169 Renaissance Ridge requested a deferral on their application. She added that it might be coming back to the Planning Commission in October.

Ms. Proulx motioned to adjourn the meeting at 8:25 PM. Mr. Harman seconded the motion.

Yes:

Phil Proulx

Mike Harman

Robin Hauschner

Ernie Reed

Mary Kathryn Allen

Chuck Amante

Respectfully submitted,



Emily Hjulstrom

Planner/Secretary, Planning & Zoning

DRAFT

Nelson County Planning Commission

To: Planning Commission

From: Dylan M. Bishop, Director of Planning & Zoning *DMB*

Date: September 25, 2024

Re: SUP #2400213 – Public Garage – 4365 Tye River Road

BACKGROUND: This is a request for a special use permit for a public garage use on property zoned A-1 Agriculture.

Public Hearings Scheduled: PC – September 25; BOS – October 8 (tentative)

Location / Election District: 4365 Tye River Road / South District

Tax Map Number(s) / Total Acreage: 92-2-6 / 5.37 acre +/- total

Applicant/Owner Contact Information: Donna & Jay Hogston, 4365 Tye River Road, Amherst, VA 24521, (540) 448-8005 / (434) 907-9440, dgogston@gmail.com / cobrajh69yahoo.com

Comments: The owners are proposing to construct a 1,200 sf garage to utilize for automotive repair of 2-3 vehicles a year. The owners reside on the subject property and all vehicles will be screened from adjacent properties and roadways. A public garage is defined as “a building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling, or storing motor-driven vehicles.” Private garages are accessory to dwellings and utilized for storage only.

DISCUSSION:

Land Use / Floodplain: This area is primarily agricultural and low density residential in nature. Zoning in the vicinity is A-1 Agriculture, and the adjacent lots are currently undeveloped. There are no floodplains or streams located on this property.

Access / Traffic / Parking: The property is accessed by an existing entrance from Tye River Road and requires no improvements.

Utilities: There are no utilities proposed or required for the requested use.

Comprehensive Plan: This property is located in a Rural Area as designated by the Nelson 2042 Future Land Use Map. The core concept is to ensure the protection of the County's rural landscape and economy by maintaining open space, scenic views, and agricultural uses with compatible low density residential uses.

Recommendation: Should the Planning Commission recommend approval of SUP #240213 for a public garage, staff would recommend the following conditions:

1. There shall be no more than 5 project vehicles located on the property at one time.
2. All vehicles and equipment shall be screened from view by adjacent properties and roadways.

All applications for Special Use Permits shall be reviewed using the following criteria:

- 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.

Attachments:

Application
Site Plan
Zoning



PERMIT APPLICATION:

Nelson County Department of Planning & Zoning

TO THE ZONING ADMINISTRATOR: Special Use Permit # 24-0213
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):

- Special Use Permit
- Rezoning from _____ to _____
- Conditional Rezoning from _____ to _____
- Other: _____
- Subdivision
- Site Plan – Minor
- Site Plan – Major

Reason(s) for request: Please See Attachment

(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: Donna M. Hogston
 Mailing Address: 4365 Tye River Rd Amherst, VA 24521
 Telephone #: 540.448.8005 Email Address: dghogston@gmail.com
 Relationship (if applicable): N/A

Applicant Property Owner Name: Jay F. Hogston
 Mailing Address: 4365 Tye River Rd
 Telephone #: 434.907.9440 Email Address: cobrajh69@yahoo.com
 Relationship (if applicable): _____

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

3. Location and Characteristics of Subject Property:

a. Address of Property (specific location, route numbers, street names, voting district, etc.):

4365 Tye River Rd, Amherst VA 24521

b. Official tax map number:

92.2.6

c. Acreage of property:

5.365

d. Present use:

Residential / Agricultural

e. Present zoning classification:

Agriculture 1

f. Zoning classification of surrounding properties:

Agriculture 1

4. 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:

Donna M. Hogston

Printed Name:

Donna M. Hogston

Signature:

Jay F. Hogston

Printed Name:

Jay F. Hogston

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

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

6. 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-----

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

- Completed application and fee (\$ _____) received on _____
- Hearing Notice published on _____
- Planning Commission action: Date of Meeting / Hearing: _____
Recommendation: _____
- Board of Supervisors action: Date of Hearing: _____ Date of Decision: _____
Action: _____

Nelson County Planning & Zoning Department

(Mailing Address) P.O. Box 558, Lovingston, Virginia 22949 | (Physical Address) 80 Front Street, Lovingston, Virginia 22949

(Telephone Number) 434 263-7090 or Toll Free 888 662-9400, selections 4 & 1 | (Fax Number) 434 263-7086

<http://www.nelsoncounty-va.gov/departments/planning-zoning/>

I Donna Hogston respectfully request for a special use permit to be able to operate an automotive rebuilding business to be known as the J & J Group.

I plan to rebuild 2-3 cars annually to supplement my income.

It will be a very low-profile endeavor with little land disturbance and no visibility from the local road (RT. 657/Tye River Road) or to my neighbors adjacent to the north or south. Nor, to the public.

My hours will be minimum due to fact that I will not be open to the public and the average time to rebuild a damaged automobile is less than 100-man hours.

Additionally, for the rebuilding business, I would not have more than two unlicensed vehicles parked on property at any time and it will be parked in a parking area that will not be visible to the public. (Please see site plan provided).

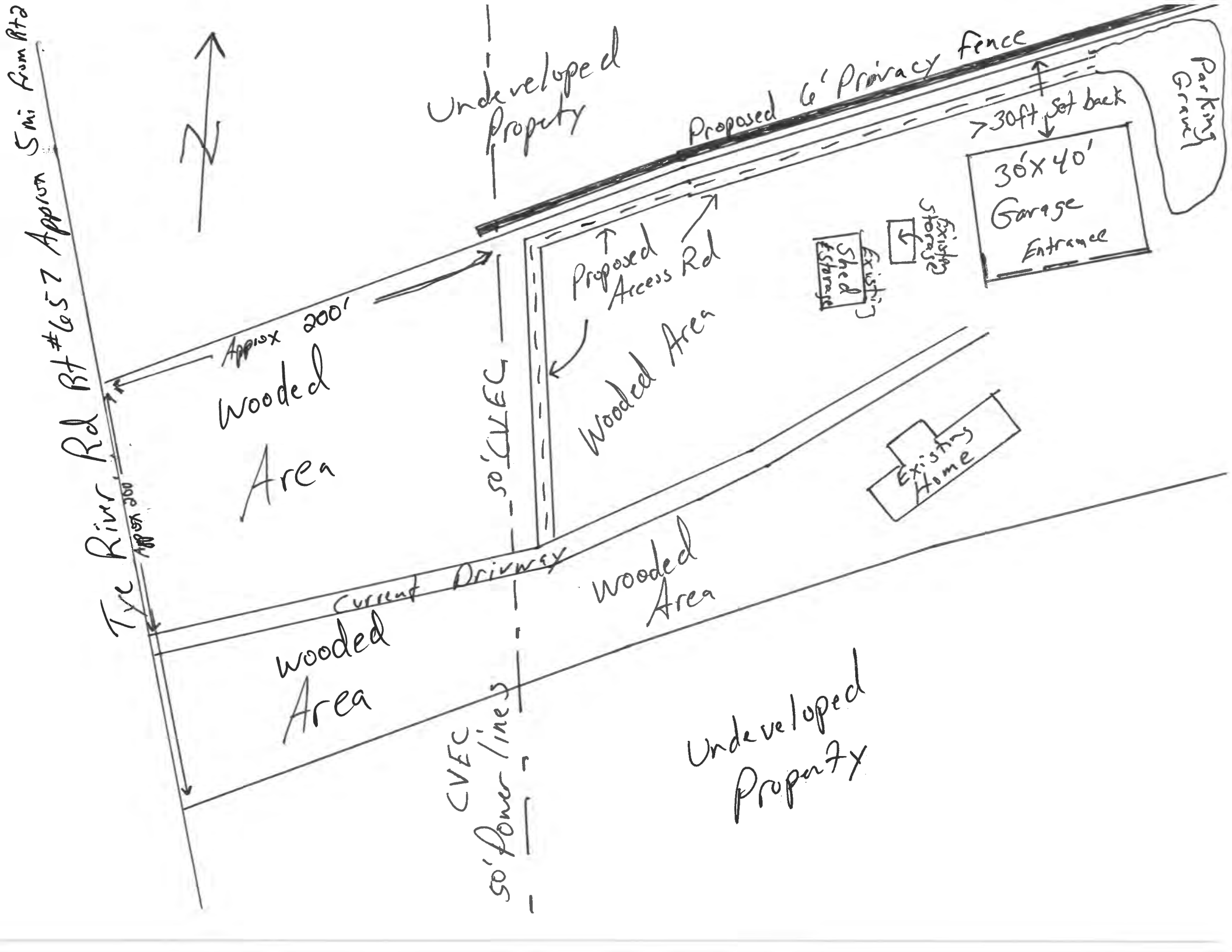
I will be selling sed vehicles to dealer and persons at their locations as to prevent any traffic to this location.

I would also like to help the county beatification by removing vehicles from the landscape, which would immediately be delivered to a scrap metal processor for disposal and would not be stored on property.

Small deliveries will be delivered to the proposed site/property. Large deliveries will be scheduled off site as it is restricted width and height at proposed site/property.

Respectfully,

Donna Hogston



Tye River Rd Rt #657 Approx 5 mi from Rta



Undeveloped Property

Proposed 6' Privacy Fence

30ft Set back

Parking Gravel

36' x 40' Garage Entrance

Existing Storage

Existing Shed Storage

Proposed Access Rd

Wooded Area

Approx 200' Wooded Area

50' C/VEC

Existing Home

Current Driveway

Wooded Area

Wooded Area

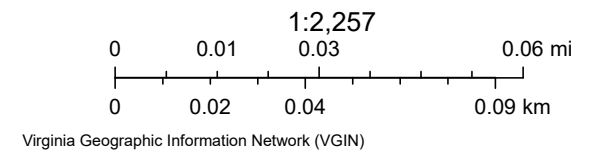
50' Power Lines

Undeveloped Property

4365 Tye River Rd / GIS lot lines are shifted



September 18, 2024



4365 Tye River Rd / GIS lot lines are shifted



September 18, 2024

