



**COUNTY OF AUGUSTA**  
COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF COMMUNITY DEVELOPMENT  
P.O. BOX 590  
COUNTY GOVERNMENT CENTER  
VERONA, VA 24482-0590



**MEMORANDUM**

TO: Augusta County Board of Zoning Appeals

FROM: Sandra K. Bunch, Zoning Administrator

*Sandra*

DATE: August 25, 2016

SUBJECT: Regular Meeting and Viewing

The Regular Meeting of the Augusta County Board of Zoning Appeals will be held on **Thursday, September 1, 2016, at 1:30 P.M.**, in the Board Meeting Room, Augusta County Government Center, 18 Government Center Lane, Verona, Virginia.

Please meet in the Board of Supervisors Conference Room at the Augusta County Government Center in Verona at **9:00 A.M., Thursday**, for the Staff Briefing prior to going out to view the items on the agenda. Lunch will follow at **Country Cookin at noon**.

Enclosed are the minutes of last month's meeting, the agenda for **Thursday's** meeting, staff reports and site plans on each of the requests.

If you cannot attend this meeting, please notify this office as soon as possible.

SKB/bcw

Enclosures

**ADVANCED  
AGENDA**

**Regular Meeting of the Augusta County Board of Zoning Appeals**

**Thursday, September 1, 2016, 1:30 P.M.**

**1. CALL TO ORDER**

**2. DETERMINATION OF A QUORUM**

**3. MINUTES**

Approval of the Called and Regular Meeting of August 4, 2016

**4. PUBLIC HEARINGS**

- A. A request by Carolyn G., Wesley L., or Logan W. Bean, for a Special Use Permit to reconstruct and expand a non-conforming building on property they own, located on the west side of Lee Highway (Route 11) at the intersection of Lee Highway (Route 11) and Mid Valley Lane in the North River District.
- B. A request by Edward L. or Tracy M. Armentrout, for a Special Use Permit to have a trash hauling operation on property they own, located at 151 Jackson Ridge Lane, Greenville in the Riverheads District.
- C. A request by Scott or Dana Mares, for a Special Use Permit to have a bed and breakfast on property owned by Jane M. Swan Jenkins, located at 650 Dry Branch Road, Churchville in the Pastures District.
- D. A request by Stephen or Robin Stover, for a Special Use Permit to have retail sales with outdoor storage and to construct an addition to an existing building on property owned by Huey W. or Mary L. Mullins, located at 4779 Lee Jackson Highway, Greenville in the Riverheads District.
- E. A request by James W. and Teresa C. Howdyshell, for a Special Use Permit to have a mining operation for the extraction of shale and rock on property they own, located on the west side of Old Mountain Road (Route 764) approximately 0.075 miles west of the intersection of Old Mountain Road (Route 764) and Emmanuel Church Road (Route 731) in the North River District.

**5. OLD BUSINESS**

**6. MATTERS TO BE PRESENTED BY THE PUBLIC**

**7. MATTERS TO BE PRESENTED BY THE ZONING ADMINISTRATOR**

- A. A request for Ira Biggs, agent for Country Landmarks, LLC, for a Special Use Permit to have outdoor storage of semi-trailers, office trailer, and materials on property it owns, located on the north side of Skyview Circle adjacent to the railroad tracks and just east of intersection of Lee Highway (Route 11) and Skyview Circle in the Beverley Manor District. – **ONE YEAR EXTENSION OF TIME REQUEST**

- B. A request by Rusty K. and Kari G. Davis, for a Special Use Permit to use an existing barn for weddings and special events on property they own, located at 106 Zion Church Road, Waynesboro, in the Wayne District. – **ONE YEAR EXTENSION OF TIME REQUEST**

**8. STAFF REPORT**

15-36	Bland W. and Rema D. Farrar
15-37	George Anen, Sr. and Denise D. Campbell
15-38	Marco C. Taylor
15-39	Brandon R. and Sarah F. Burkholder
15-40	Rusty K. or Kari G. Davis

**9. ADJOURNMENT**

Date 9/1/16

**PROPERTY OWNER:**

Carolyn G., Wesley L., or Logan W. Bean

**APPLICANT:**

Same

**LOCATION OF PROPERTY:**

On the west side of Lee Highway (Route 11) at the intersection of Lee Highway (Route 11) and Mid Valley Lane in the North River District

**SIZE OF PROPERTY:**

21.065 acres

**VICINITY ZONING:**

Single Family Residential to the north and south, General Business and General Industrial to the east; General Agriculture to the west

**PREVIOUS ZONING OR S.U.P.:**

04/66 Zoned Single Family Residential

**LAND USE MAPS:**

Urban Service Area – Medium Density Residential

**APPLICANT'S JUSTIFICATION:**

To reconstruct and expand a non-conforming building.

**PLANNING COMMISSION'S COMMENTS:**

None

**STAFF RECOMMENDATIONS**

The applicant is requesting to remove a portion of the non-conforming barn and construct a 36' x 40' addition. The property was rezoned to Single Family Residential in 1966 and has been continually used for agricultural purposes.

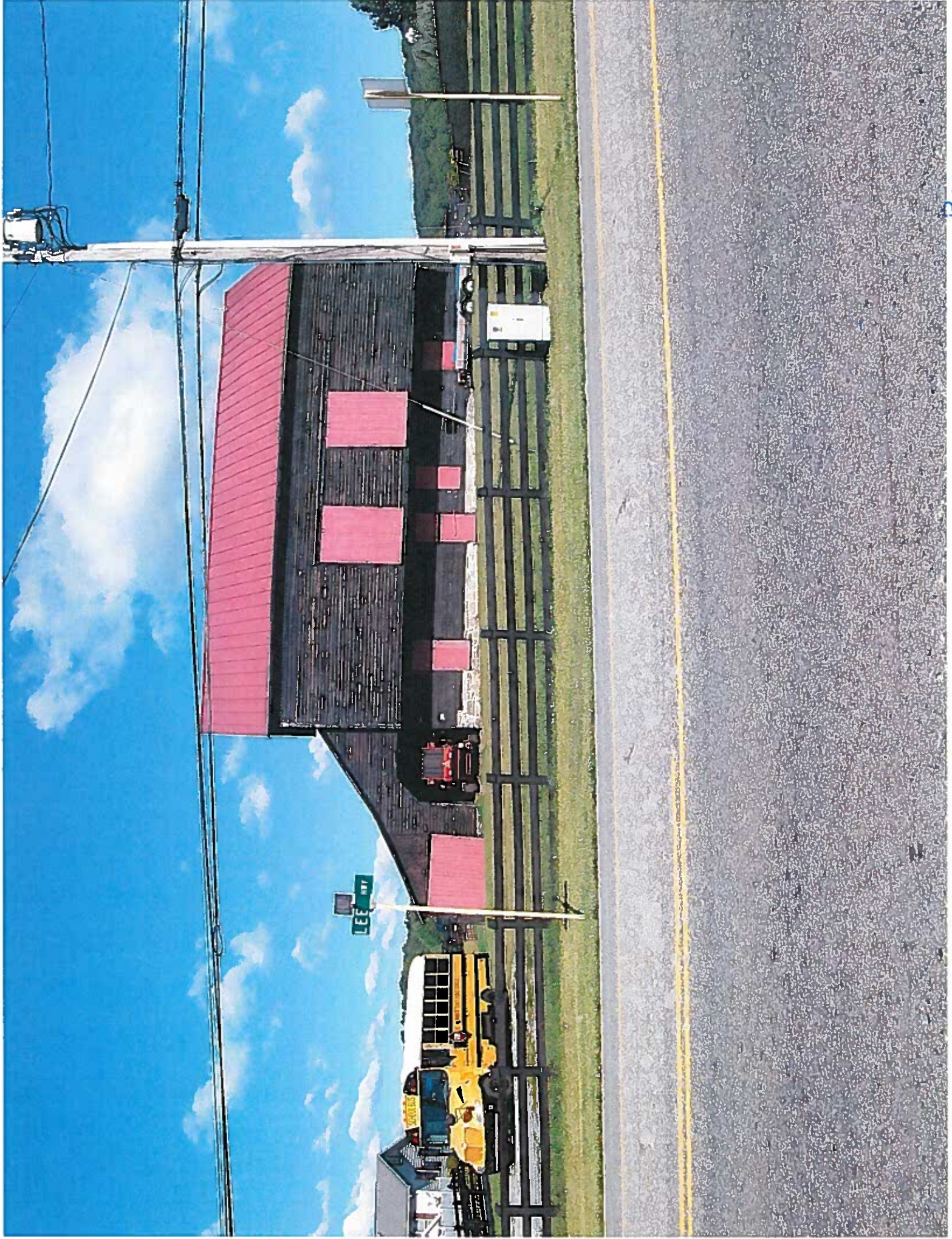
Staff feels that the request would not be out of character with the current use on the property and recommends approval with the following condition:

**Pre-Condition:**

None

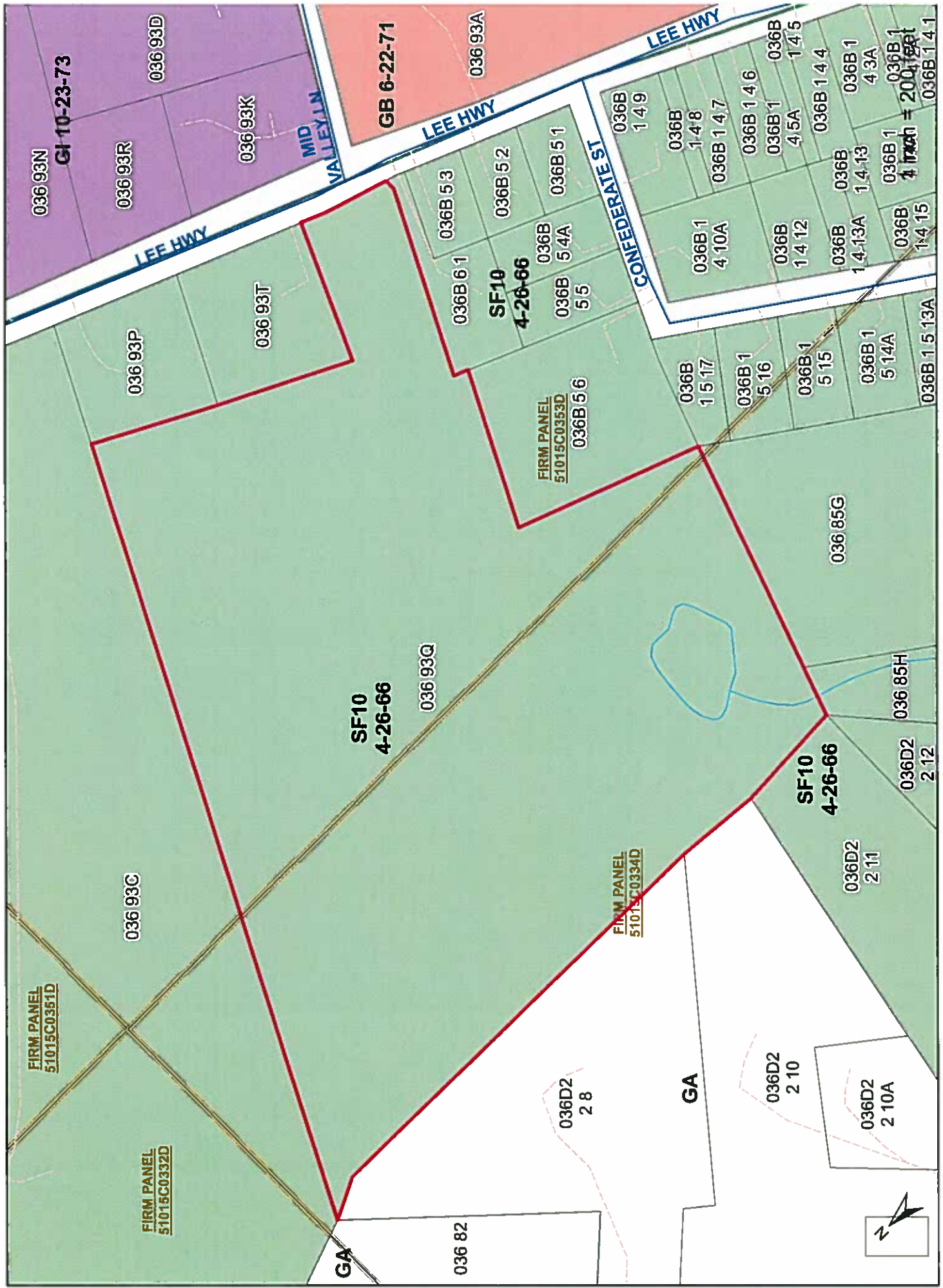
**Operating Condition:**

1. Obtain permit to construct a 36' x 40' addition.



Bern

# Bean



Bean



Bean

036 93P

036 93T

GI  
10-23-73  
096 93K

036 93A

GB 6-22-71

LEWIS

036B 5 3

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SF10  
4-26-66

036 93Q

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CONFEDERATE SA

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080B 1  
4 10A

036B 5 1A

080B 5 16

036 85G

036B 1 5 15



Date 9/1/16

**PROPERTY OWNER:**  
Edward L. or Tracy M. Armentrout

**APPLICANT:**  
Same

**LOCATION OF PROPERTY:**  
151 Jackson Ridge Lane, Greenville in the Riverheads District

**SIZE OF PROPERTY:**  
8.00 acres

**VICINITY ZONING:**  
General Agriculture surrounds the entire parcel

**PREVIOUS ZONING OR S.U.P.:**  
12/95 Zoned General Agriculture

**LAND USE MAPS:**  
Rural Conservation Area

**UTILITIES:**  
Private well and septic

**APPLICANT'S JUSTIFICATION:**  
To have a trash hauling operation.

**PLANNING COMMISSION'S COMMENTS:**  
None

**BUILDING INSPECTOR'S COMMENTS:**  
After review our office has no comments or conditions.

**HEALTH DEPARTMENT'S COMMENTS:**  
Health Department has no comment since there will be no employees, only truck storage.

**HIGHWAY DEPARTMENT'S COMMENTS:**  
An insignificant amount of additional traffic is expected. Jackson Ridge Lane and Fallen Oak Drive are both privately maintained roadways. VDOT considers the use as accessory to the residence since no vehicle trips are added and the owner/driver is a resident with no employees or customers.

**SERVICE AUTHORITY'S COMMENTS:**  
There is no public water or sewer available in the area of the subject parcel.

**ENGINEERING'S COMMENTS:**

None

**SECTION 25-74I - LIMITED BUSINESSES AND INDUSTRIES IN AGRICULTURE ZONES**

**Where outside storage is not prohibited, all outside storage areas will be adequately shielded or screened from view.**

The truck will be parked at the end of their driveway and be screened by the existing tree line. No other outdoor storage is requested.

**The operator will be a resident on the premises unless the board of zoning appeals determines that such residency is not appropriate in the specific case, taking into account the nature of the business and the character of the neighboring properties.**

The owner resides on premise.

**The business and anticipated enlargements thereof will be appropriate for agriculture areas.**

Businesses are more appropriate in Business zoned districts. The applicant is requesting to park two (2) trash hauling trucks.

**The business shall have direct access on to a state maintained road and approval by the Virginia Department of Transportation or the expected traffic on a private road or easement can be accommodated by the access proposed.**

The property has access from Jackson Ridge Lane and Fallen Oak Drive to Lee Jackson Highway (Route 11).

**On-site traffic flow will adequately and safely accommodate all traffic to and from the public highways.**

The eight (8) acre site should adequately and safely handle the traffic from two (2) trash trucks.

**Only pre-existing structures will be utilized unless the board of zoning appeals finds that proposed new construction will be not only compatible with neighboring properties, but will also be a substantial benefit to neighboring properties.**

No new construction of structures are requested.

**Reasonable limitations are imposed on the enlargement or expansion of the business. Business structures larger than four thousand (4,000) square feet or accumulated expansions by more than fifty percent (50%) shall not be permitted unless the board finds that a larger structure or expansion is not only compatible with neighboring properties, but will also be a substantial benefit to neighboring properties.**

No expansions requested.

**Evidence that the business will be connected to public sewer or that an onsite sewage disposal system can be approved for the business use.**

There is an existing well and septic system onsite.

**There are adequate provisions set forth for the protection of fire, environmental and other hazards.**

Fire extinguishers are on the trucks.

**All items displayed for sale or stored on site shall be set back at least twenty-five feet (25') from the edge of the pavement of any adjoining roads, and in no case shall a display or storage area be within the right-of-way of any road.**

The trucks will be setback twenty-five (25') feet from the right-of-way.

#### **STAFF RECOMMENDATIONS**

The applicant is requesting to operate a trash hauling business with storage of two (2) trash trucks onsite. The applicant is proposing to park the trucks at the end of the driveway and use the existing tree line as screening. The applicant plans to only use one (1) truck for hauling and one (1) as a backup if needed. The truck will run once a week and will be emptied before returning to the property. The applicant currently has no employees but would like to have one (1) at a later date if the business grows.

Staff has concerns that the proposed use would not be compatible with the residential character of the area. The trucks will be parked approximately 150 feet from the closest neighboring dwelling, however, several homes are close to the lane leading to the applicant's property. If the Board feels that the request is compatible and desires to approve the request, staff would recommend the following conditions:

#### **Pre-Condition:**

None

#### **Operating Conditions:**

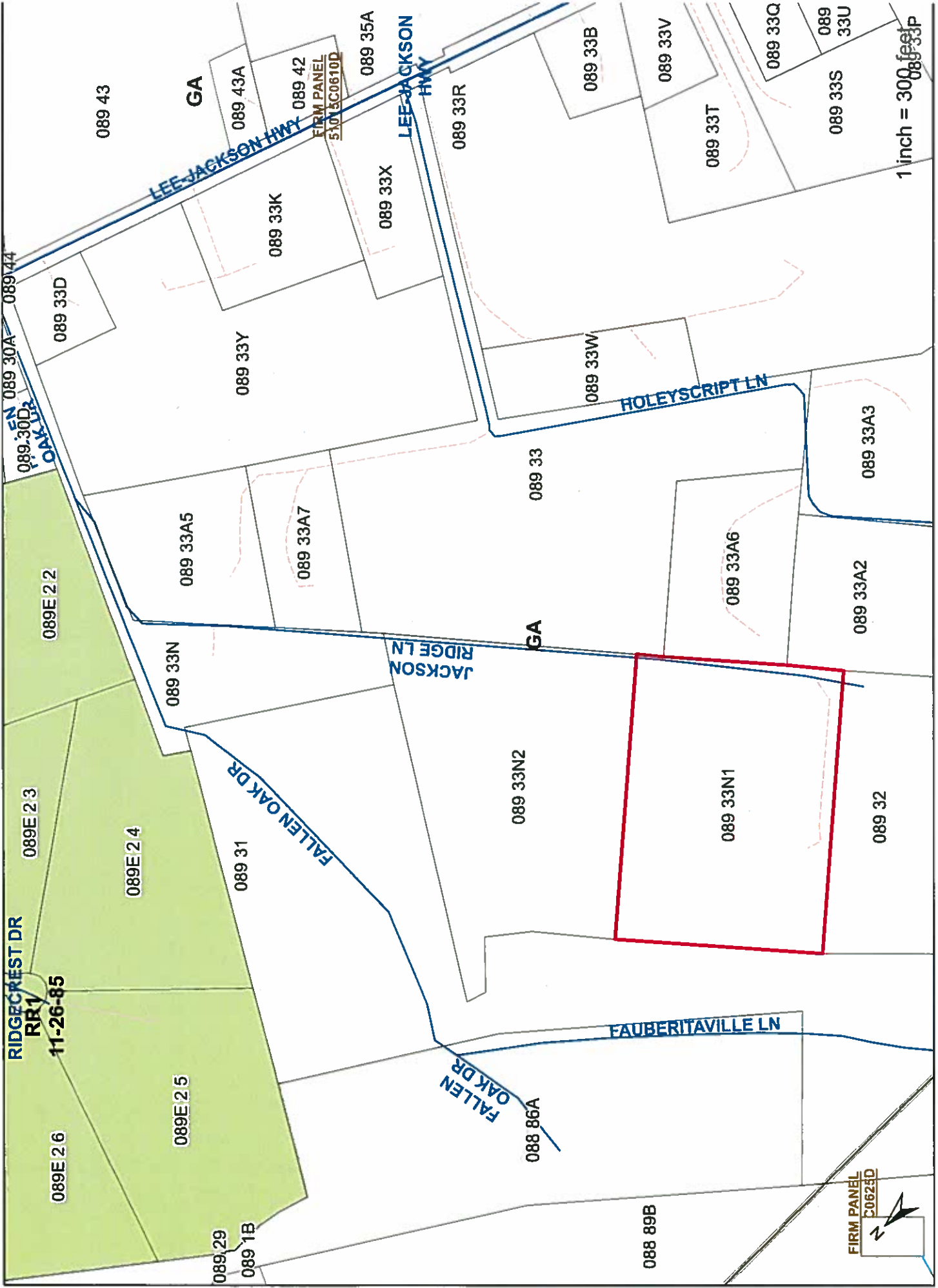
1. Be limited to two (2) empty trash trucks at the site.

2. No debris, materials, or trash can be brought to this site.
3. No junk vehicles or parts of vehicles be kept on the property.
4. Site be kept neat and orderly.
5. No more than one (1) employee.
6. No repairs done at the site.



Amn...: #

# Armentrout



1 inch = 300 feet

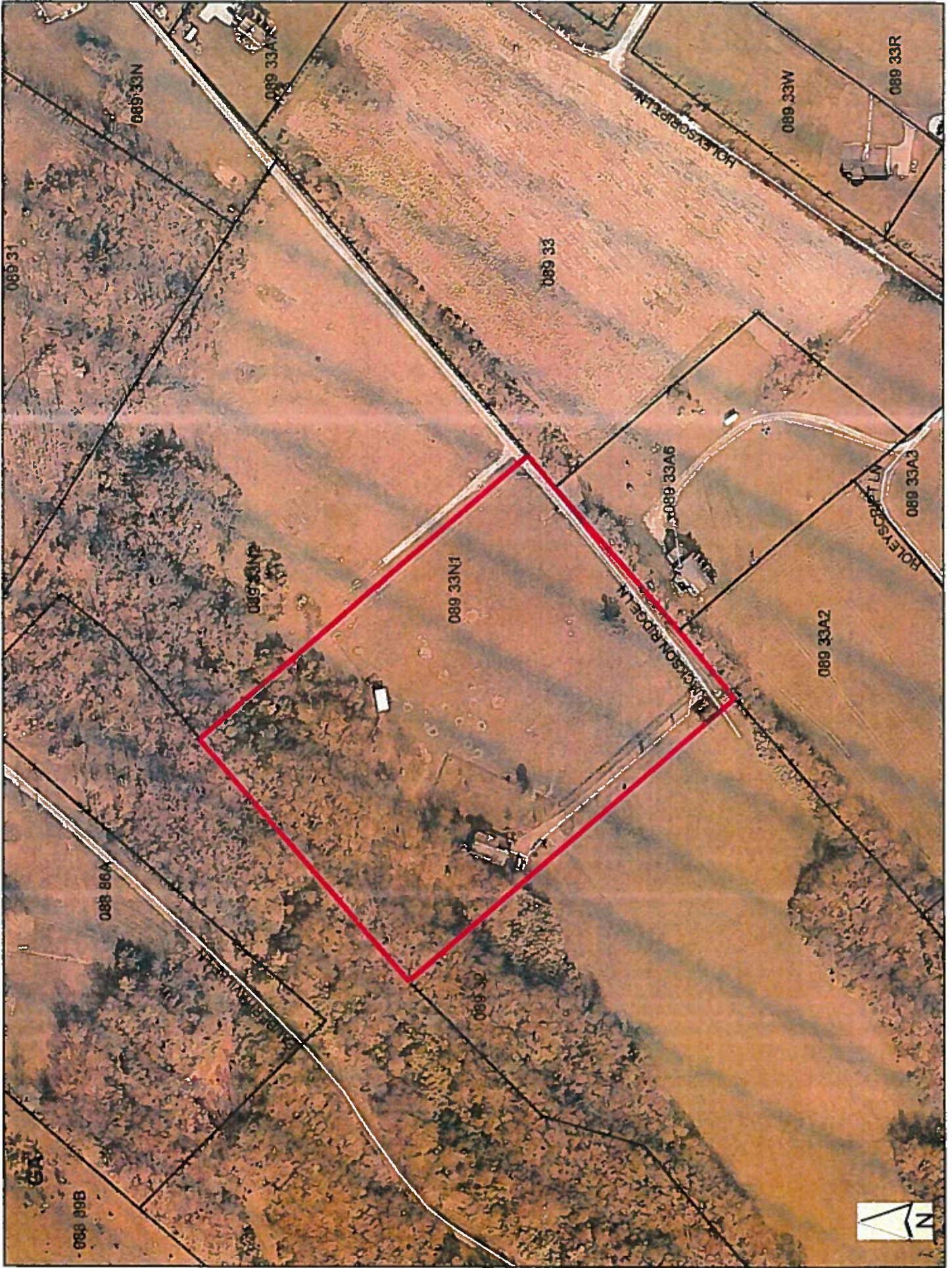
FIRM PANEL  
C0623D



# Armentrout



Armentout



1 inch = 200 feet



AGENDA ITEM # 4C

Date 9/1/16

**PROPERTY OWNER:**  
Jane M. Swan Jenkins

**APPLICANT:**  
Scott or Dana Mares

**LOCATION OF PROPERTY:**  
650 Dry Branch Road, Churchville in the Pastures District

**SIZE OF PROPERTY:**  
12.645 acres

**VICINITY ZONING:**  
General Agriculture to the north, south, and west; General Agriculture and Single Family Residential to the east

**PREVIOUS ZONING OR S.U.P.:**  
12/95 Zoned General Agriculture

**LAND USE MAPS:**  
Community Development Area – Low Density Residential

**UTILITIES:**  
Private Well and Private Septic

**APPLICANT'S JUSTIFICATION:**  
To have a bed and breakfast.

**PLANNING COMMISSION'S COMMENTS:**  
None

**BUILDING INSPECTOR'S COMMENTS:**  
After review our office has no comments or conditions.

**HEALTH DEPARTMENT'S COMMENTS:**  
Septic system is designed for a four bedroom home. Applicant stated they wish to use three of the bedrooms for a bed and breakfast. They have NOT applied for a bed and breakfast permit at the Health Department at this time.

**HIGHWAY DEPARTMENT'S COMMENTS:**

The use is not expected to have a significant impact on adjacent roadways. Since a bed and breakfast type business brings in users unfamiliar with the area, VDOT reviewed the entrance to ensure it meets VDOT low volume commercial entrance standards and minimum stopping sight distance; the existing entrance was found to be sufficient for the proposed use conditioned upon clearing existing brush on the VDOT Right-of-Way on the left of the entrance (when exiting) to establish sight lines. A VDOT land use permit will be required to perform the trimming.

**SERVICE AUTHORITY'S COMMENTS:**

1. Water and sewer capacities are not reserved until system adequacy is determined (supply, treatment, transmission) and payment of the connection fees has been received in accordance with Service Authority Policy. Augusta County Service Authority Policies and Procedures can be found at <http://www.acsawater.com/oppm>.
2. Any engineering evaluations and upgrades or extensions would be the responsibility of the owner/developer and are subject to Service Authority review and approval.
3. Investigation of available fire flow is recommended to ensure that the system is capable of providing the needed fire flow to comply with Chapter 24 of the Augusta County Code requirements for the proposed use of the property. Any upgrades or extensions would be the responsibility of the owner/developer and are subject to Service Authority review and approval.
4. While there are existing public water lines adjacent to the property, due to the location and elevations of the property relative to the water system it may not be possible to provide service. Owner should contact ACSA is interested in water service.
5. There is no public sewer available in the area of the subject parcel.

**ENGINEERING'S COMMENTS:**

None

**SECTION 25-74H - PUBLIC ACCOMMODATION FACILITIES**

**The business and anticipated enlargements thereof will be appropriate for agriculture areas.**

The request to have a bed and breakfast should be compatible with the rural character of the neighborhood.

**The business, taking into account such things as its proposed size, parking facilities, setbacks, and landscaping, will not be out of character with neighboring properties.**

The site contains 12.645 acres and the proposed bed and breakfast should not be out of character with neighboring properties.

**The permitting of the proposed business, when taking into account the presence of similar businesses in the neighborhood, will not result in such concentration or clustering of businesses as to create an institutional setting or business center or otherwise change the area's character and social structure.**

The permitting of this type of business should not result in a clustering of similar businesses or change the character.

**The business shall have direct access on to a state maintained road.**

The business has direct access onto Dry Branch Road (Route 720).

### **STAFF RECOMMENDATIONS**

The applicants are requesting to have a bed and breakfast operation within the existing home. They will be renting three (3) of the four (4) bedrooms in the home primarily on the weekends and will be providing breakfast. The applicants are purchasing the property and will reside on premise. A bed and breakfast operation is a low traffic business that will provide a service to the area. Staff would recommend approval of the request with the following conditions:

#### **Pre-Conditions:**

1. Obtain VDOT Land Use Permit and provide a copy to Community Development.
2. Obtain Health Department approval and provide a copy to Community Development.

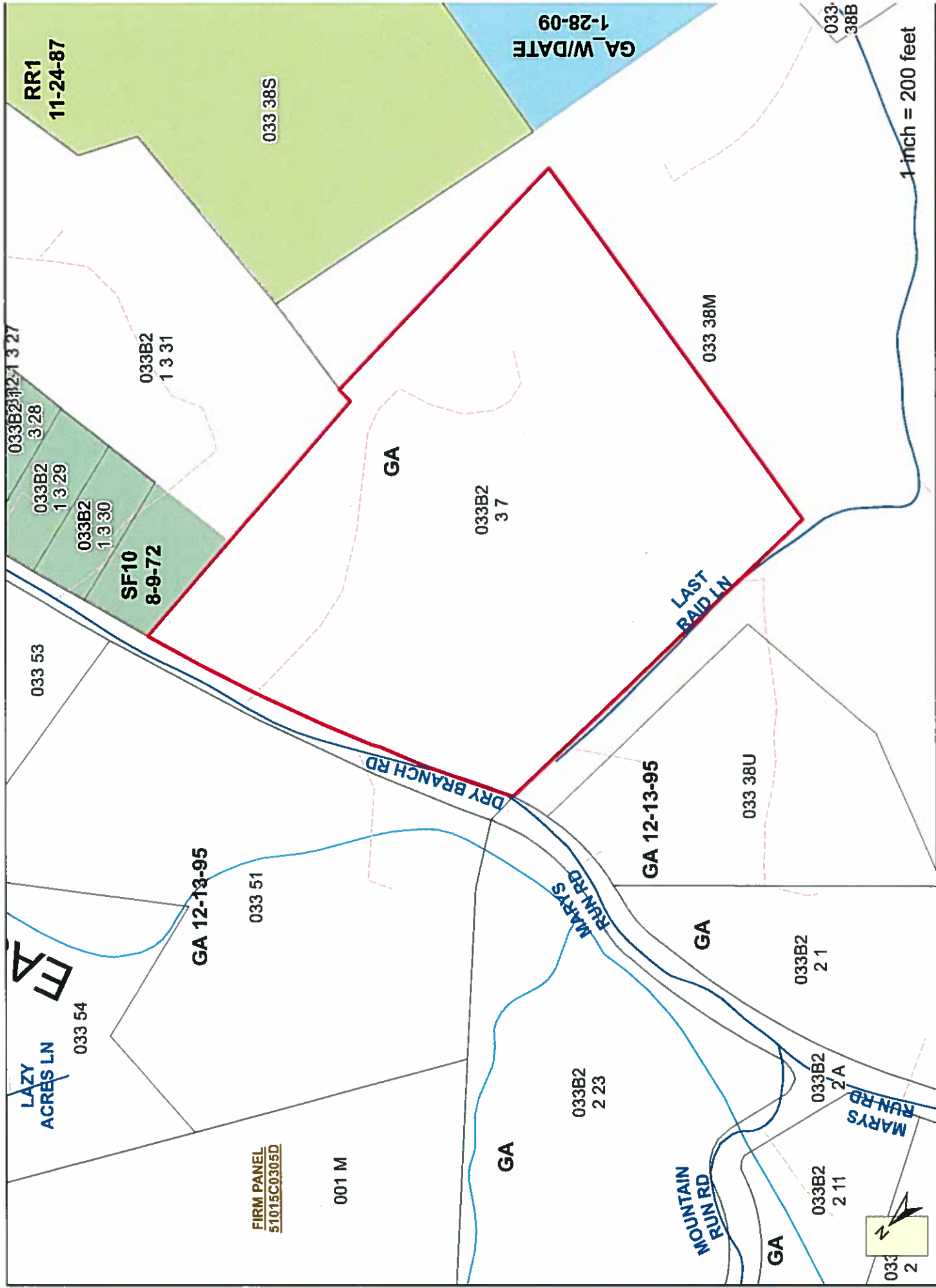
#### **Operating Conditions:**

1. Be permitted to use three (3) bedrooms for the bed and breakfast.
2. No employees other than family members.
3. Site be kept neat and orderly.
4. Applicant must reside on premises.

SWINKINS



Jenkins

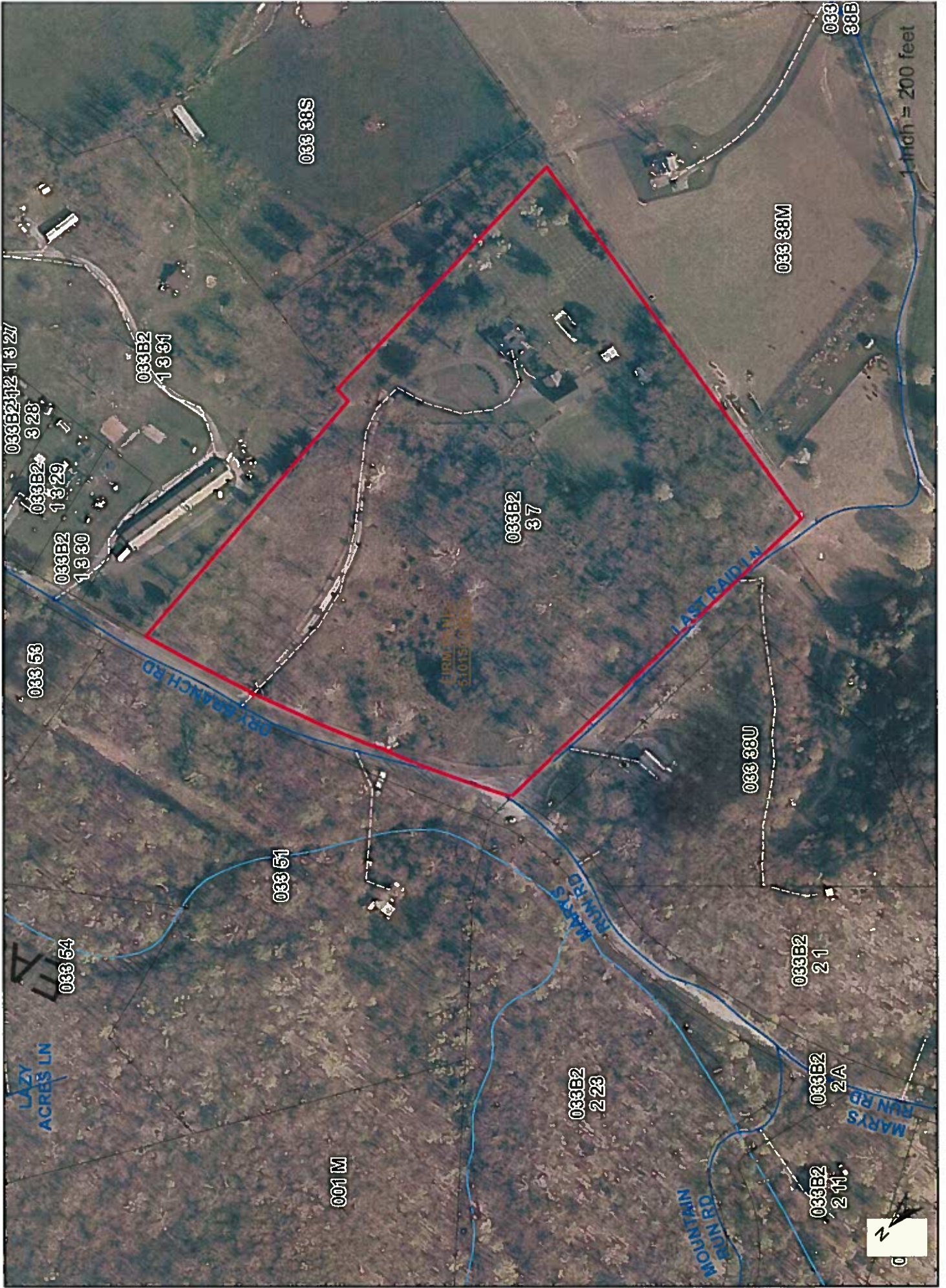


1 inch = 200 feet

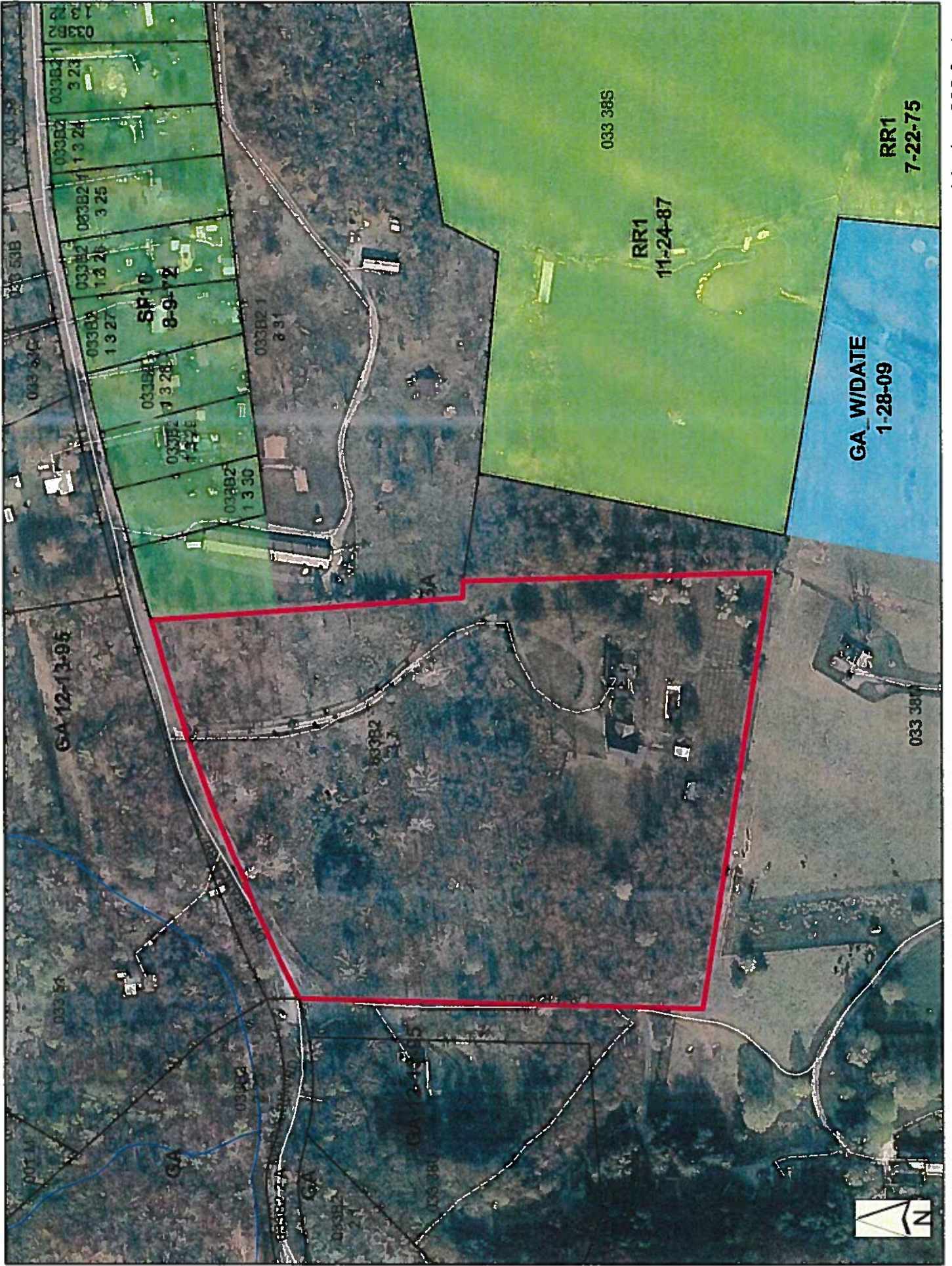


033  
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Jenkins



Jenkins



1 inch = 200 feet

## Sandy Bunch

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**From:** Joseph Orlick <jborlick@yahoo.com>  
**Sent:** Thursday, August 25, 2016 10:50 AM  
**To:** Sandy Bunch  
**Subject:** from Joe Orlick and Robert Powell re: special use permit for 650 Dry Branch Road

August 25, 2016

County of Augusta  
Department of Community Development  
P.O. Box 590  
Verona, VA 24482-0590

Re: 650 Dry Branch Road Special Use Permit

Dear Ms. Bunch and County of Augusta Department of Community Development,

We have received a notice regarding the application for a Special Use Permit to have a bed and breakfast on the property located at 650 Dry Branch Road, Churchville, VA

We own the property directly adjacent to 650 Dry Branch Road. We have direct views of the back of the home, the swimming pool located behind the home and of the out buildings.

The grounds of the property are currently not well maintained by the current owner (who we assume is absent from the property). We would welcome new neighbors and would support their request for a Special Use Permit to have a bed and breakfast on the property.

We can be reached by email with any questions or if our additional input would be helpful.

Thank you.

Sincerely,

Joseph B. Orlick and  
Robert K. Powell.

Last Raid Farm  
320 Last Raid Lane  
Swoope, VA



AGENDA ITEM # 4D  
Date 9/11/16

**PROPERTY OWNER:**  
Huey W. or Mary L. Mullins

**APPLICANT:**  
Stephen or Robin Stover

**LOCATION OF PROPERTY:**  
4779 Lee Jackson Highway, Greenville in the Riverheads District

**SIZE OF PROPERTY:**  
1.27 acres

**VICINITY ZONING:**  
General Agriculture surrounds the entire parcel

**PREVIOUS ZONING OR S.U.P.:**  
10/47 Zoned General Agriculture  
(Old Creekside Lunch)  
09/89 SUP approved for metal fabrication  
05/13 SUP approved to have auto parts store  
06/15 SUP approved to have a landscape supply store

**LAND USE MAPS:**  
Rural Conservation Area

**UTILITIES:**  
Private well and septic

**APPLICANT'S JUSTIFICATION:**  
To have retail sales with outdoor storage and to construct an addition to an existing building.

**PLANNING COMMISSION'S COMMENTS:**  
None

**BUILDING INSPECTOR'S COMMENTS:**  
Obtain all necessary permits and inspections.

**HEALTH DEPARTMENT'S COMMENTS:**  
This proposal falls in line with previous use in that no more than one – two employees will be using the system. Should the system malfunction a repair permit will need to be applied for with the Health Department. No public restrooms to be provided.

**HIGHWAY DEPARTMENT'S COMMENTS:**  
This site was previously commented on for SUP#15-27.

The existing paved portion of the entrance is adequate for a proposed use that does not exceed 200 vehicle trips per day. However, the type and nature of retail was not included in the application packet. The fence previously separating parking from Rt. 11 needs to be reconstructed out of the right-of-way and clear zone (other means of physical separation would be considered at Site Plan Stage). Customers must be able to maneuver on-site to prevent backing from or onto Rt. 11.

**SERVICE AUTHORITY'S COMMENTS:**

There is no public water or sewer available in the area of the subject parcel.

**ENGINEERING'S COMMENTS:**

None

**SECTION 25-74I - LIMITED BUSINESSES AND INDUSTRIES IN AGRICULTURE ZONES**

**Where outside storage is not prohibited, all outside storage areas will be adequately shielded or screened from view.**

The applicant will be covering the storage areas after business hours.

**The operator will be a resident on the premises unless the board of zoning appeals determines that such residency is not appropriate in the specific case, taking into account the nature of the business and the character of the neighboring properties.**

The applicant resides on premise.

**The business and anticipated enlargements thereof will be appropriate for agriculture areas.**

This building has been utilized over the years for numerous business uses.

**The business shall have direct access on to a state maintained road and approval by the Virginia Department of Transportation or the expected traffic on a private road or easement can be accommodated by the access proposed.**

The property is served by an approved existing entrance and has direct access to Lee Jackson Highway.

**On-site traffic flow will adequately and safely accommodate all traffic to and from the public highways.**

The site sketch submitted by the applicant shows parking to the side of the building with twenty-four (24') feet aisleways.

**Only pre-existing structures will be utilized unless the board of zoning appeals finds that proposed new construction will be not only compatible with neighboring properties, but will also be a substantial benefit to neighboring properties.**

The applicant will be utilizing the existing building.

**Reasonable limitations are imposed on the enlargement or expansion of the business. Business structures larger than four thousand (4,000) square feet or accumulated expansions by more than fifty percent (50%) shall not be permitted unless the board finds that a larger structure or expansion is not only compatible with neighboring properties, but will also be a substantial benefit to neighboring properties.**

The applicant is requesting to add a 15' x 52' addition to the back for storage.

**Evidence that the business will be connected to public sewer or that an onsite sewage disposal system can be approved for the business use.**

The property has an existing septic system. The Health Department comments limit the maximum number of employees to one (1) or two (2) onsite.

**There are adequate provisions set forth for the protection of fire, environmental and other hazards.**

There are fire extinguishers onsite.

**All items displayed for sale or stored on site shall be set back at least twenty-five feet (25') from the edge of the pavement of any adjoining roads, and in no case shall a display or storage area be within the right-of-way of any road.**

Site sketch shows all display areas setback at least twenty-five (25') feet from the edge of pavement.

### **STAFF RECOMMENDATIONS**

The applicant is requesting to have retail sales of miscellaneous items such as furniture, antiques, etc. with outdoor display and to construct an addition (15' x 52') to the existing building for storage. The applicant is requesting to have tables installed in front of the building along the porch for display and a 20' x 35' covered area to the side of the building for tables and display of merchandise. The display areas are setback approximately forty (40') feet from the edge of pavement.

This building has been used for business for many years including Creekside Lunch, a metal fabrication shop, auto parts store, and was recently approved for a landscaping supply with outdoor storage of rock and stone.

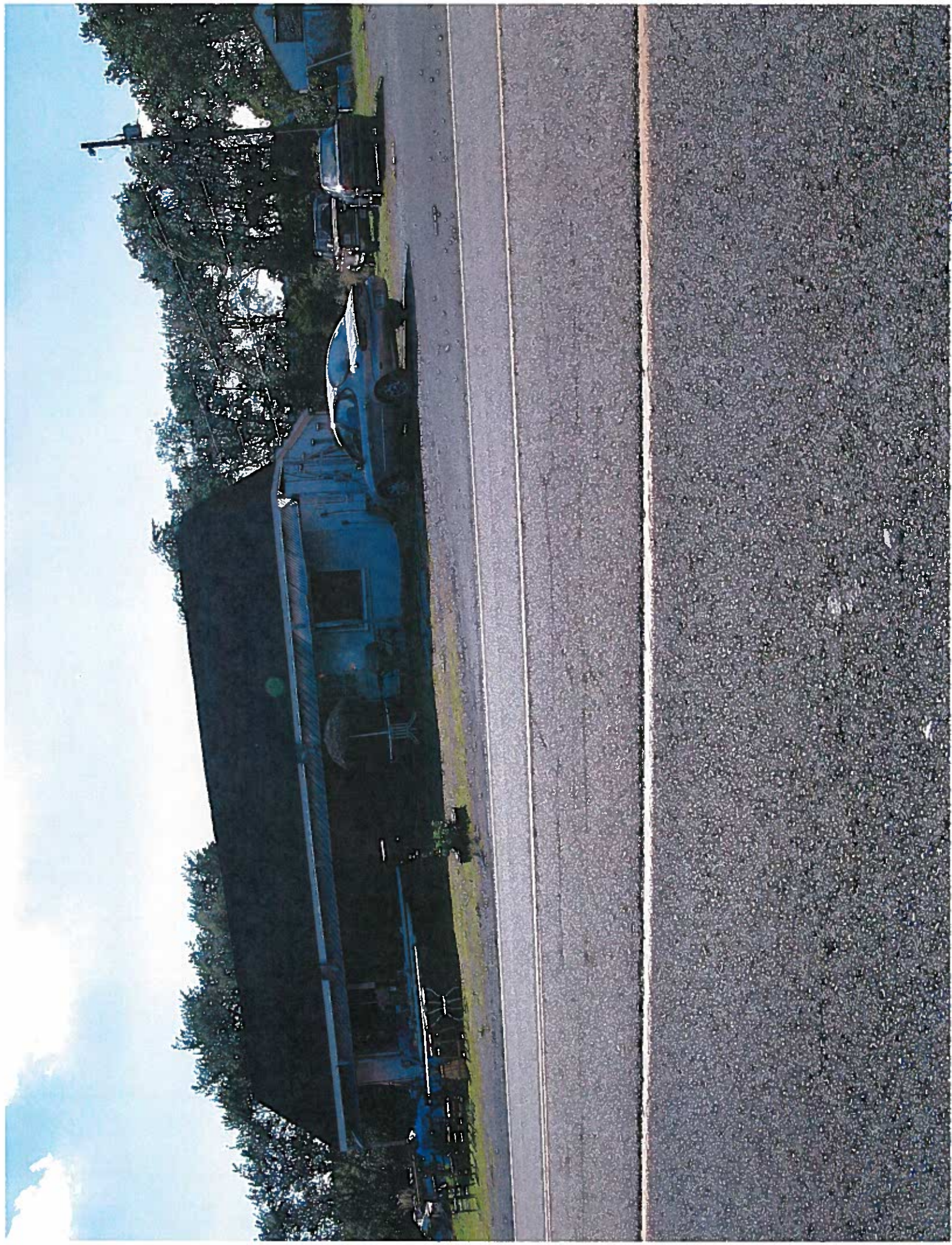
Staff feels that a small retail operation with limited outdoor display would be compatible with the area and the previous uses of the building. Staff would recommend approval with the following conditions:

**Pre-Conditions:**

None

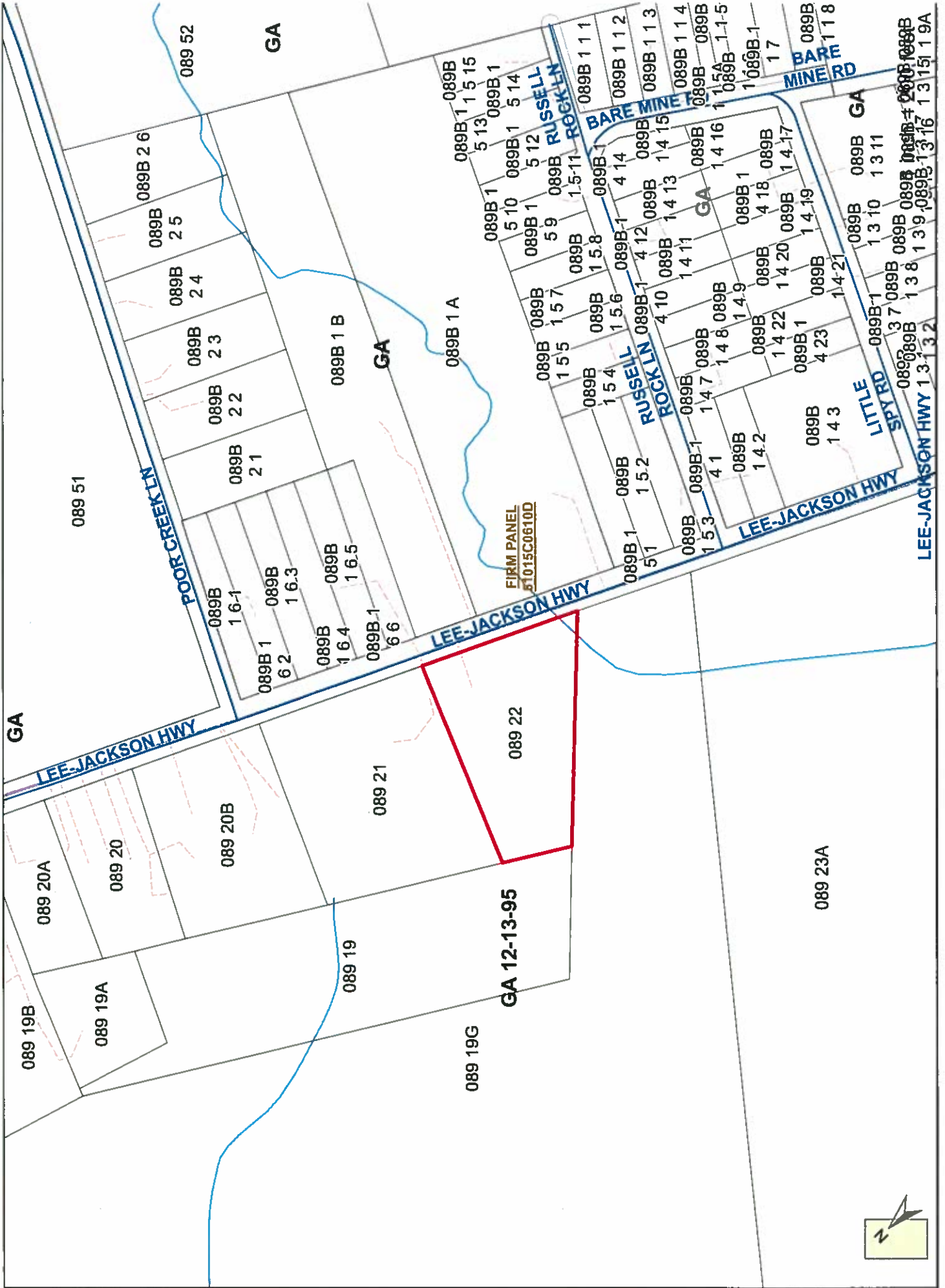
**Operating Conditions:**

1. All items for sale will be kept in the designated areas shown on the BZA site plan.
2. The display areas on the porch and the 20' x 35' display area on the side will be screened after hours.
3. All display areas will be kept forty (40') feet from Route 11 as shown on the BZA site plan.
4. No more than two (2) employees in addition to the applicant be on the site at any one time.
5. Hours of operation be Monday – Saturday 8:00 a.m. – 8:00 p.m.
6. No Sunday work.
7. Site be kept neat and orderly.
8. No junk or inoperable vehicles, or parts of vehicles or equipment be stored onsite.

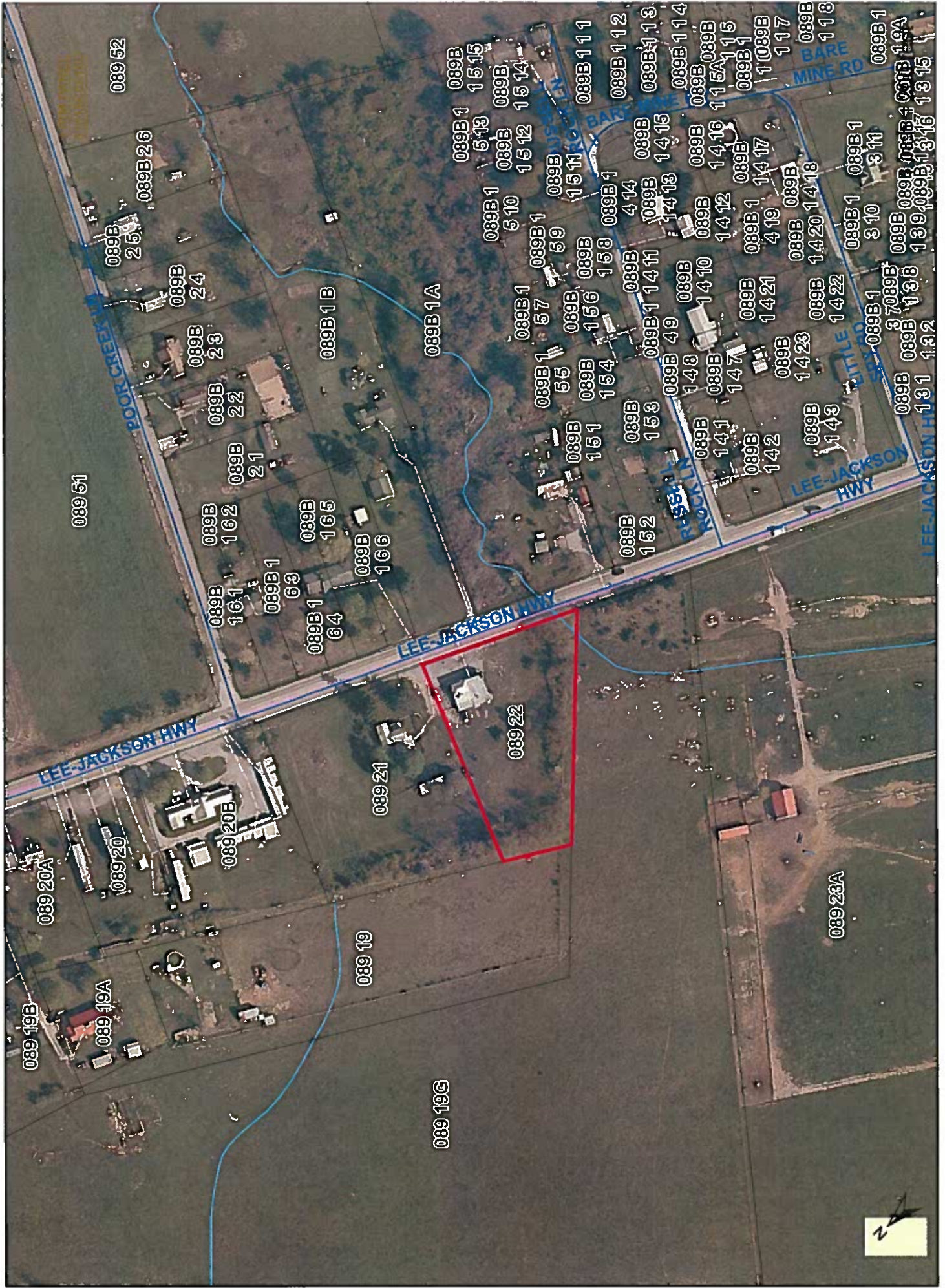


© 2012

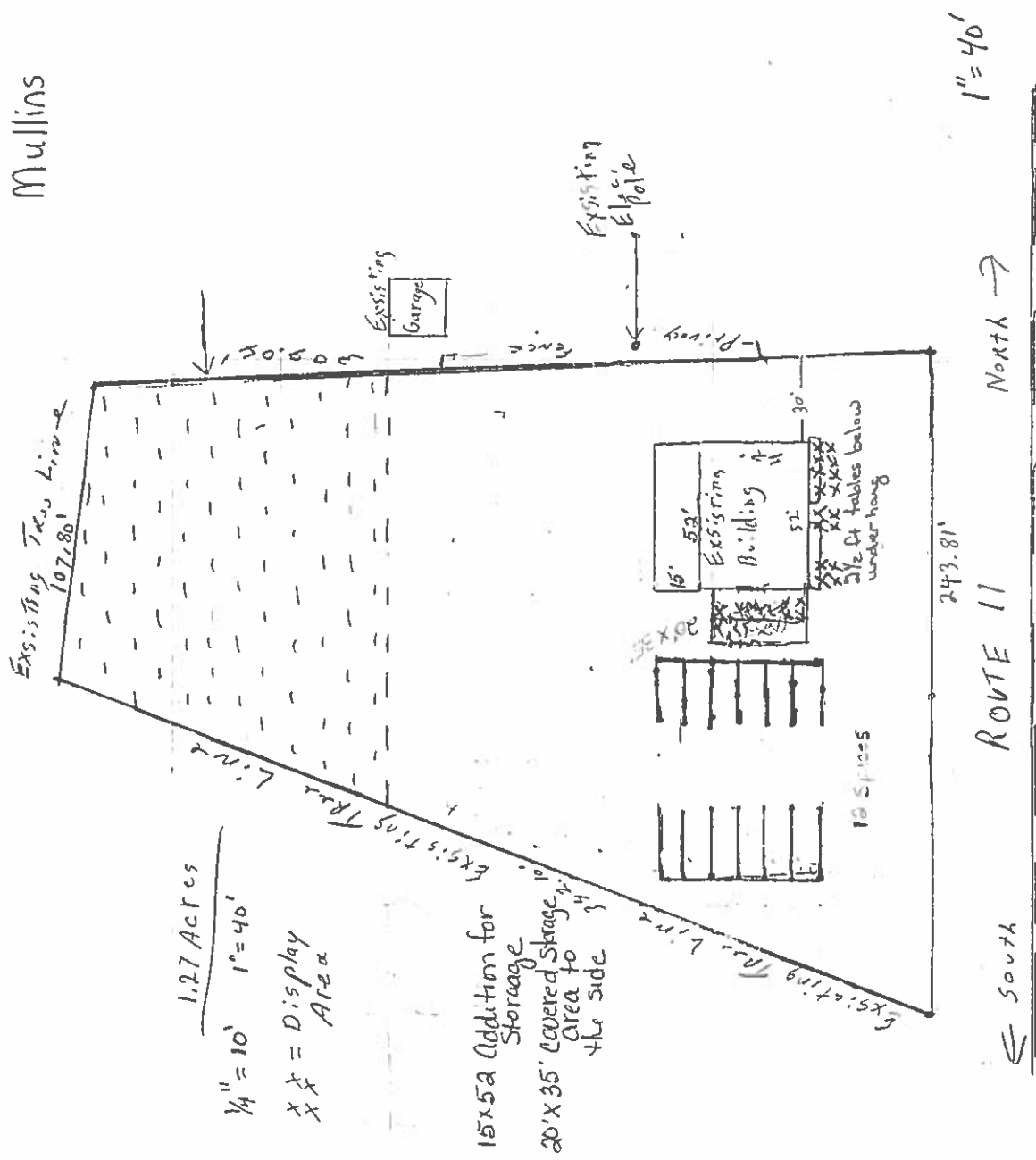
Mullins



Mulins



Mullins



1.27 Acres

1/4" = 10' 1" = 40'

X X = Display Area

15x52 Addition for Storage

20x35 Covered Storage Area to the side

10 Spaces

1" = 40'

North →

ROUTE 11

← South



Date 9/1/16

**PROPERTY OWNER:**

James W. and Teresa C. Howdyshell

**APPLICANT:**

Same

**LOCATION OF PROPERTY:**

On the west side of Old Mountain Road (Route 764) approximately 0.075 miles west of the intersection of Old Mountain Road (Route 764) and Emmanuel Church Road (Route 731) in the North River District

**SIZE OF PROPERTY:**

91.099 acres

**VICINITY ZONING:**

General Agriculture surrounds the entire parcel

**PREVIOUS ZONING OR S.U.P.:**

12/95 – Zoned General Agriculture

**LAND USE MAPS:**

Agricultural Conservation Area

**UTILITIES:**

None

**APPLICANT'S JUSTIFICATION:**

To have a mining operation for the extraction of shale and rock.

**PLANNING COMMISSION'S COMMENTS:**

None

**BUILDING INSPECTOR'S COMMENTS:**

After review our office has no comments or conditions.

**HEALTH DEPARTMENT'S COMMENTS:**

No structures on the property, no office, nothing that would require a septic permit. Just using to remove rock. Health Department has no objections to operation.

**HIGHWAY DEPARTMENT'S COMMENTS:**

The property has an easement for access to Rt. 764 (Old Mountain Road). The proposed use could have a significant impact on the roadway depending on the amount of material being hauled and the frequency/rate of hauling. This property was approved by VDOT for a division for residential use on July 1, 2014, and a Land Use permit for a private entrance was issued on August 9, 2016. The existing entrance is adequate to serve as a low volume commercial entrance, which is only good for up to 50 vehicle trips (entering or

exiting) per day; there is not adequate site distance to allow improving the entrance to a moderate volume standard. The operating speed resulting from a VDOT speed study is 26 mph for southbound traffic.

Rt. 764 is designated as a rural rustic roadway. It should be noted that the Board designates rural rustic roads based on the anticipation that there will not be a significant amount of traffic growth; it may be appropriate to condition the permit to further limit the vehicle trips to less than the 50 trips per day limit dictated by the low volume entrance in order to preserve the existing nature of the traffic, and pavement condition, as much as possible.

**SERVICE AUTHORITY'S COMMENTS:**

There is no public water or sewer available in the area of the subject parcel.

**ENGINEERING'S COMMENTS:**

None

**VIRGINIA DEPARTMENT OF FORESTRY'S COMMENTS:**

The office was contacted in May prior to the logging operation. The property was inspected in June and there were no water quality impacts. No permit is required in this case for logging of private property.

**DEPARTMENT OF MINES, MINERALS & ENERGY'S COMMENTS:**

My department has not received any documents concerning the establishment of a mineral mining operation in the area in question.

**SECTION 25-74D - USES AWAY FROM DEVELOPED AREAS**

**The neighboring area is not characterized by residential, commercial, or industrial development which would be adversely impacted by the proposed use.**  
There are residential houses within close proximity.

**Traffic generated by the proposed project will be compatible with the roads serving the site and other traffic utilizing said roads**

The applicant is proposing to haul approximately thirty (30) loads at a time as needed for jobs.

**On-site traffic flow will adequately and safely accommodate all traffic to and from the public highways.**

The property has an existing approved private entrance and the 91.099 acres will accommodate all traffic adequately.

**The business shall have direct access to a state maintained road.**

The applicant has a deeded easement for access to Old Mountain Road (Rt. 764).

**The business and anticipated enlargements thereof will be appropriate for agriculture areas and is not more properly placed in an available industrial zone. Mining operations are appropriate in agriculture areas.**

**All buildings, structures, and operations will be set back at least two hundred feet (200') from all property lines and at least one thousand feet (1000') from any residentially zoned property unless the board of zoning appeals determines that greater setbacks are necessary to adequately protect neighboring properties.**

A portion of the original shale mining operation is within the two hundred foot (200') setback. All other proposed areas are well over the two hundred foot (200').

### **STAFF RECOMMENDATIONS**

The applicant is requesting to reopen an old mining site for the extraction of shale and rock on his property. He is currently clearing the site to bring cattle to the property in the winter and to level an area for a bank barn for hay storage. He plans to use approximately ten (10) acres of the 91.099 acres for the mining operation and will be digging down twenty feet (20'). The applicant has an excavating business and would like to use the shale and rock for jobs as the need arises. The applicant does not plan to operate on a daily basis and estimates about thirty (30) loads at a time using two (2) dump trucks.

Staff shares VDOT's concerns regarding the use of Old Mountain Road (Rt. 764) for commercial truck traffic. Old Mountain Road (Rt. 764) was improved under the Rural Rustic Road Program and was not designed to handle heavy commercial vehicles. Staff also has concerns that the proposed use could have a significant impact on the neighboring residential properties within close proximity due to increased noise, dust, fumes, vibration and increased truck traffic and feels it would not be compatible with the residential character of this rural area. If the Board feels that the request is compatible and desires to approve the request, staff would recommend the following conditions:

#### **Pre-Conditions:**

1. Obtain DMME permit and provide a copy to Community Development.
2. Submit bond as required by VDOT for necessary road repairs.

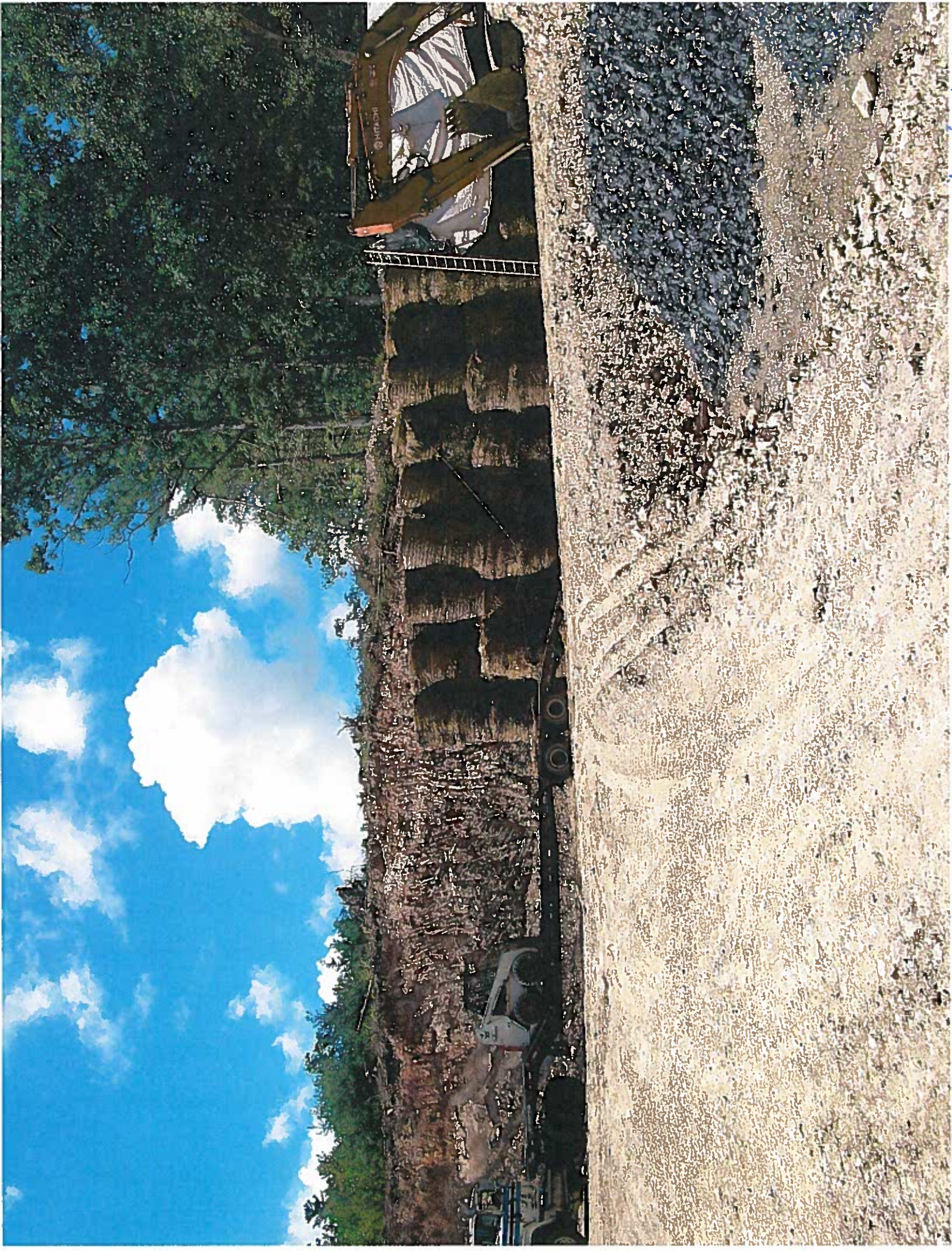
#### **Operating Conditions:**

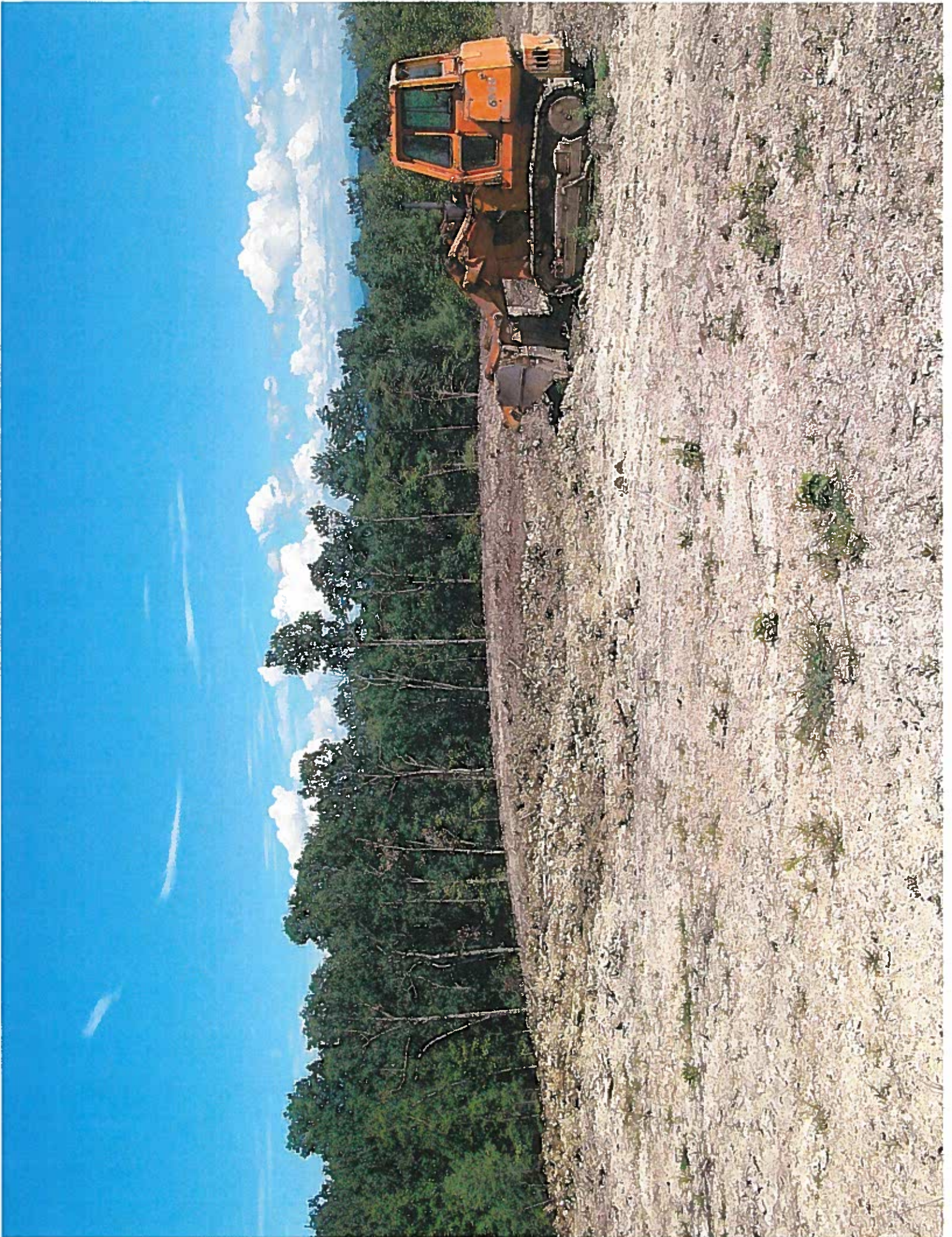
1. Be limited to a maximum of thirty (30) commercial vehicle trips per day.
2. Be limited to two (2) commercial dump trucks.
3. Site be kept neat and orderly
4. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
5. All equipment, machinery, and materials for the mining operation be kept on site.

6. No Sunday operation.

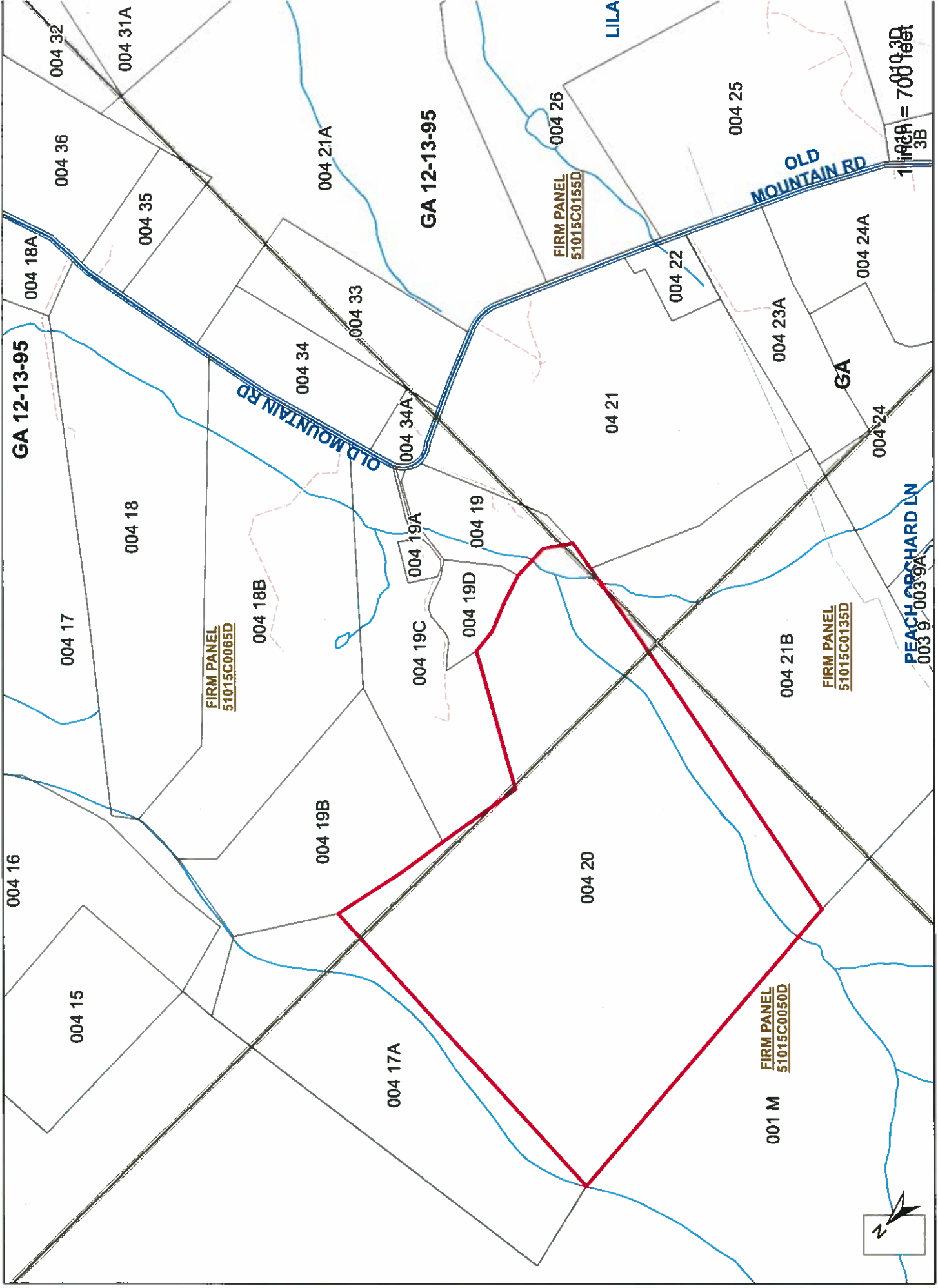
7. Permit be reviewed in a year and renewed if all of the conditions are met.

11/24/2014  
Hutchinson

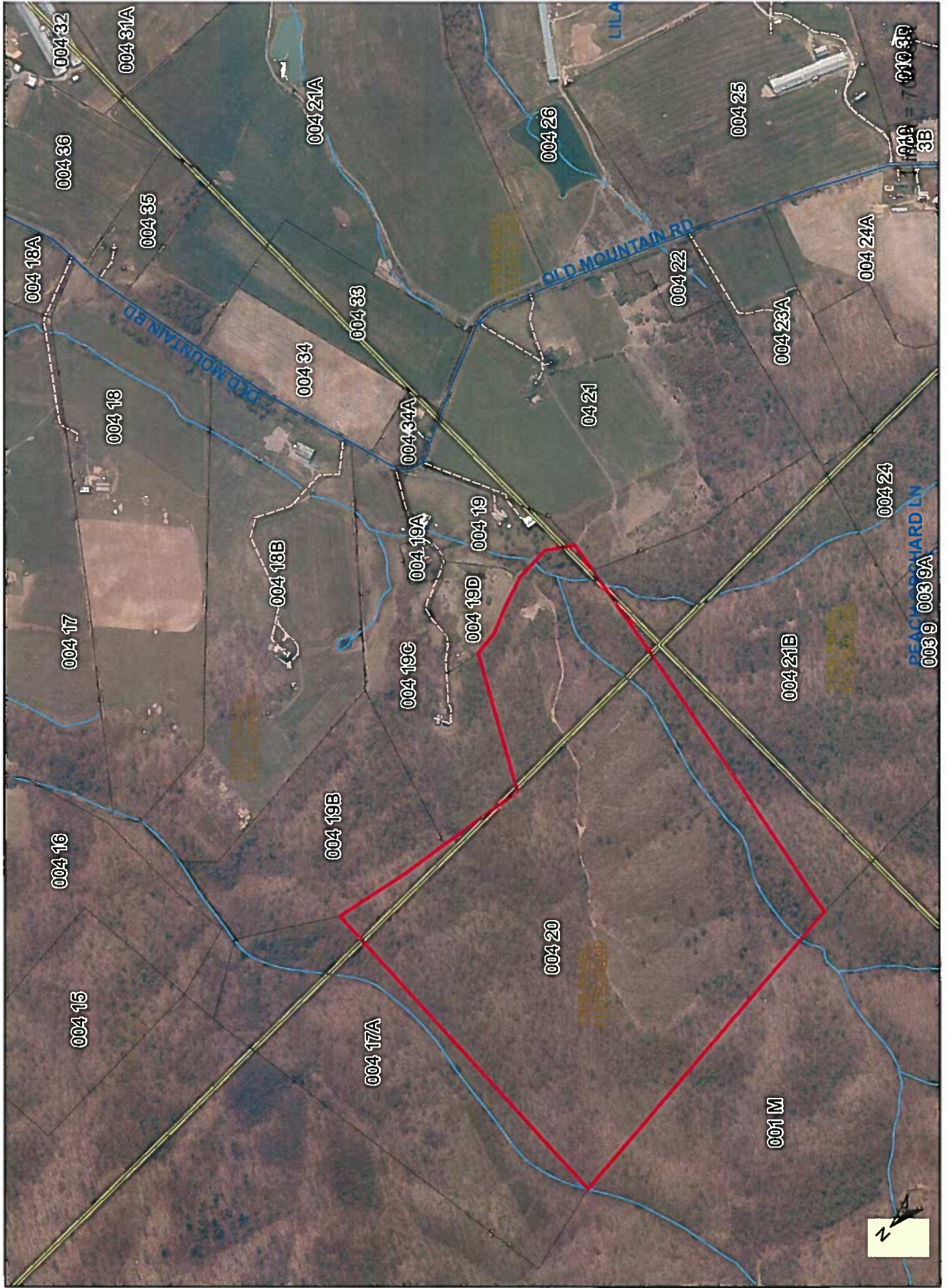




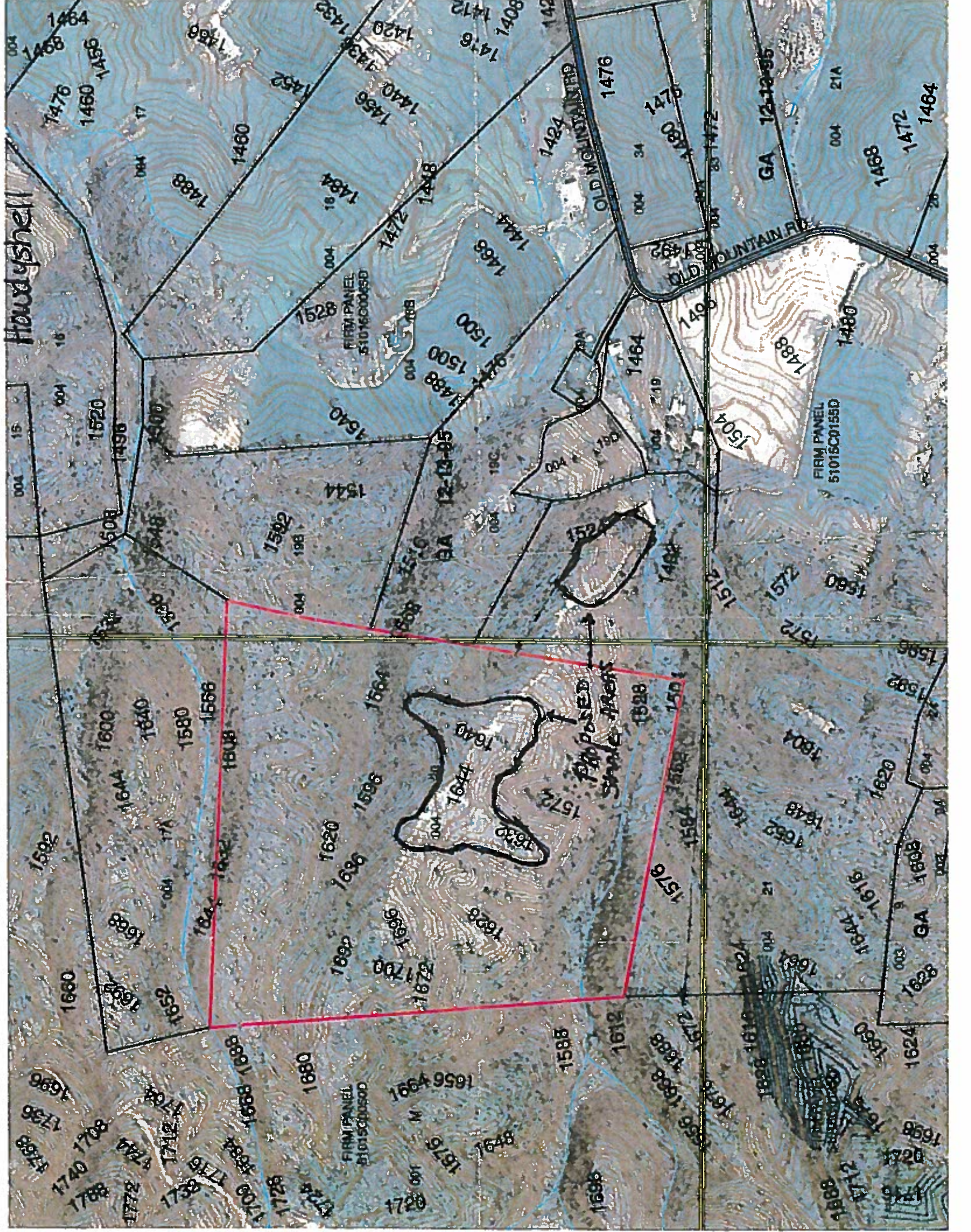
# Howdysshell

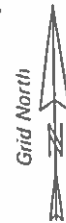


# Howdysshell









Notes:  
Tax Map: 4 - 21  
Address: 333 Old Mountain Road  
Present Owners: Joseph N. Zimmerman  
Phyllis A. Zimmerman  
See Instruments #000002063 &  
#070005265 for Title Reference.  
Zoned: GA (General Agriculture)

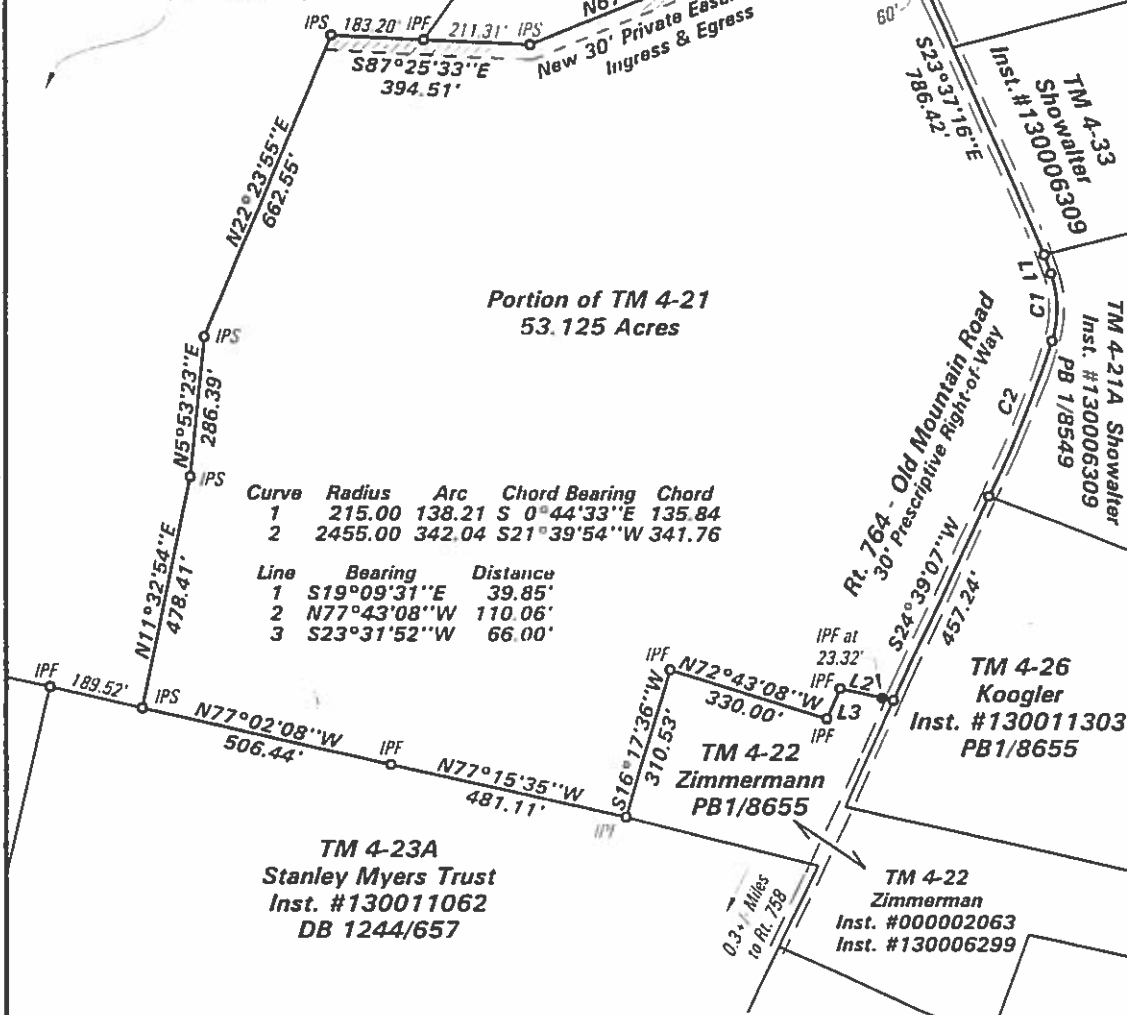
IPF - Iron Pin Found  
IPS - Iron Pin Set

TM 4-19D  
Lukashuk  
Inst. #  
060010655  
PB 1/6685

TM 4-19  
Lukashuk  
DB 1110/129  
PB 1/6949

TM 4-34A  
Howdyshell  
Inst. #  
030007327

Residue of TM 4-21  
Approx. 80.178 Acres  
133.303 Acres per County less  
53.125 Acres per this survey



Portion of TM 4-21  
53.125 Acres

Curve	Radius	Arc	Chord	Bearing	Chord
1	215.00	138.21	S 0°44'33"E	135.84	
2	2455.00	342.04	S 21°39'54"W	341.76	

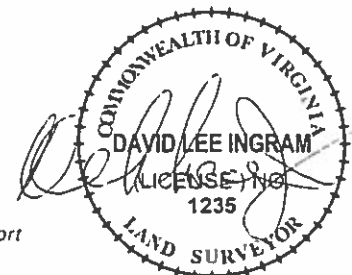
Line	Bearing	Distance
1	S 19°09'31"E	39.85'
2	N 77°43'08"W	110.06'
3	S 23°31'52"W	66.00'

**Division and Boundary Survey of a 53.125 Acre Tract**  
**Being a portion of the Joseph N. & Phyllis A. Zimmerman Lands**  
(Based on a current Field Survey)  
**North River District, Augusta County, Virginia.**

**INGRAM - HAGEN & CO., P.L.C.**  
Surveyors - Engineers - Planners  
140 OLD BRIDGEWATER ROAD  
MOUNT CRAWFORD, VIRGINIA 22841  
Telephone (540) 828-2778

Note  
A current title report  
was not furnished  
for this survey.

Job # 22910C



This is not a true, certified copy unless the  
signature hereon is an original signing

Board of Zoning Appeals  
PO Box 590  
Verona, Virginia 24482

August 17, 2016

To Whom it May Concern,

This letter is in reference to a request for a Special Use Permit to have a mining operation for the extraction of shale and rock on property adjacent to the property of Lynn and Douglas Early, 333 Old Mountain Road (Rt. 764), Mt. Solon, Virginia 22843. This request is to be presented in the meeting of the Augusta County Board of Zoning Appeals on September 1, 2016.

As frequent visitors to the Early property, we have witnessed the negative and potentially negative impact to the Early property and surrounding properties created by this type of business which has already been initiated without the appropriate permits. Specifically, the negative/ potentially negative impact on the home at 333 Old Mountain Road and surrounding properties includes excessive noise which continues to extend past business hours on any given day and into the weekend, a drop in value of the properties that may be for sale, safety issues due to narrow roads, proximity to an already dangerous curve in the road, and weight concerns for the roads over time. Additionally, there are environmental concerns such as erosion and negative impact on wildlife as well as water sources. For those like the Early family who sought property in an agricultural area to escape commercial business disruption of family and wildlife and the destruction of land, this situation has already caused severe emotional distress and limitations on recreational activities.

Therefore, for the reasons expressed above, we request that you support Mr. and Mrs. Early in their request for this permit to be denied. Thank you for your interest in and assistance in addressing this matter.

Respectfully submitted,

  
Jeffrey S. Smith and Suzette M. Smith

**AUG 22 2016**

25 AUG 2016

County of Augusta  
Department of Community Development  
P.O. Box 590  
County Government Center  
Verona, VA 24482-0590

Attention: Board of Zoning Appeals

Dear Mr. Wilkinson and Ms. Bunch,

Enclosed you will find letters and documents from the following parties in reference to the Special Use Permit requested by James Howdyshell to be presented on 01 SEP 2016:

- Doug and Lynn Early (includes DMME complaint form as attachment)
- Colette Semerad and Jerry Winn
- Vladimir and Lyudmila Lukashuk
- Andrey and Larisa Lukashuk
- Drew N. Early
- Dan and Anita Early
- Ceci Weaver

We ask that these be filed in the packets for the individual BZA committee members for their review.

Sincerely,



Lynn Early

Received by Jean Marshall  
Community Development Office  
8/25/2016

23 AUG 2016

County of Augusta  
Department of Community Development  
P.O. Box 590  
County Government Center  
Verona, VA 24482-0590

AUG 23 2016

Attention: Board of Zoning Appeals

Dear Mr. Wilkinson and Ms. Bunch,

We are writing to express our strong opposition to the Special Use Permit application submitted by James Howdyshell regarding a mining operation for the extraction of shale and rock on land west of Rt. 764, Old Mountain Road, Mount Solon, VA. Approval of this permit, and potentially a DMME permit, will forever negatively impact our property values, quality of life, and the agricultural, forestal, and recreational intent of this area. We searched many years to find the perfect farm and finally bought our home and 53 acres at 333 Old Mountain Road in July 2014, essentially spending our life savings to do so. We were conscientious about fitting in with community, establishing respectful relationships with our neighbors, and maintaining the integrity of the land according to the intended uses mentioned above. Our family and friends have enjoyed visiting us and the tranquil rural surroundings and recreational opportunities they experience while they are here.

A major concern is that the mining activity will definitely decrease our property values. Relocation would not be a viable option for us. Since we just bought our farm 2 years ago, we would most likely not be able to recoup what we paid for it, if it were to sell at all.

Our history with Mr. Howdyshell began in October or November 2015 when he informed us he would begin construction of a right of way through our property in order to access his own. The closing of his property was not complete until mid-December 2015. We asked him if he and his family planned to build their home on the property he purchased. He stated that he was planning to "graze cattle and maybe do a little hunting". He said he would have to log in order to clear the land. We hoped this would be the beginning of a symbiotic relationship with Mr. Howdyshell whereby we were even willing to check on his cattle for him as he was not planning to live there.

Beginning in late October or November, ROW construction started, although proper permits were not obtained. We began to notice activity in a shale pit on his property with multiple dump trucks hauling shale, as well as top soil from our property, to an offsite location, which we determined to be the Todd Lake project. The right of way

through our property to Mr. Howdyshell's property is designated for private ingress and regress, yet we have been subjected to commercial dump truck, logging, and heavy equipment activity, creating noise and dust on a near daily basis since last November. The noise level from dozers, excavators, graders, logging equipment has been unbearable and will only get worse, especially with two extraction sites, if the permit is granted. The loggers started at 6 AM M-F including holidays. Mr. Howdyshell and / or his employees have been in the shale pit or clearing land until after dark most days including Saturdays and Sundays. Mr. Howdyshell actually constructed the right of way and operated the shale pit illegally since November (before he even owned the property) until he was shut down by the DMME this past June, being sited with numerous violations. Proper VDOT permits were also not obtained by the logging operation.

Until very recently, Mr. Howdyshell continued to grade the property, often until after dark, for what appears to be preparation for future extraction / excavation. If the permit is approved, we would be subject to constant noise, dust, view of construction equipment and mining activity, as well as commercial traffic behind our homes, through our property, and on our rural roads. Most of us are retired or work from home, and there is little reprieve from the noise. We were (until recently) unable to open our windows because of the excessive noise, and often keep blinds closed because of the direct line of sight by the dump trucks and other vehicles into our house. We have been prisoners in our own homes. Personally, our privacy and our security have been / will be more compromised by allowing a commercial operation on private land. Starting on, or about 18 AUG 2016 we have been pleasantly spared the constant noise coming from Mr. Howdyshell's property. Whatever the reason, we have been greatly appreciative of being able to enjoy life outside our homes again, yet we are concerned this is only a temporary respite.

Below is a summary of the negative impact that approving this special use permit for mining will have on the property owners as well as the community as a whole:

- Property values will drop, and for those who would feel the need to relocate if the permit is approved, selling a home or property would be difficult to say the least. It will financially devastate us by devaluing what we have all worked so hard for and deserve.
- This has already taken a physical and emotional toll on many of us. Being exposed to such activity will continue to subject us to constant stress.
- The noise level will be unbearable, and not just for those who are adjacent to the shale extraction sites. According to the plans, there will be two shale and rock extraction sites – the original, and one which will be larger and higher on the property. This will not only exacerbate the noise level due to echoing off the mountains, but it will be highly visible.
- Increased commercial dump truck and heavy equipment traffic will be running through our property and on Old Mountain Road as well as surrounding roads.

The road is obviously narrow, so safety, in addition to the noise, will be a major concern, especially for horses / buggies, tractors, bicyclists, horseback riders, and walkers / joggers.

- The state roads in this area, particularly Old Mountain Road, are not safe or conducive to constant heavy truck and equipment traffic.
- Mr. Howdysshell had not abided by local or state regulations or requirements from November 2015 (one month prior to owning the property) through June when he was shut down by the Department of Mines, Minerals and Energy (DMME). The Complaint Report is attached for reference. It is our belief that anyone who has been in the excavation business as long as Mr. Howdysshell would be aware of the regulations and permits required for this line of work. Given his disrespect for the neighbors and total disregard for regulations, it is doubtful that he will be compliant in the future if he is granted a permit.
- There could be negative environmental effects due to the extraction of shale and rock and general land disturbance (for instance: erosion, disruption to wildlife, contaminated stream and well water).
- For those who have land next to this tax map parcel, it will be difficult to ensure privacy and security as there is now an uncontrolled access to the properties.
- The shared right of way is not solely for Mr. Howdysshell's access and use.
- Commercial traffic and noise from the mining operation will diminish the quality of the recreational, tourism, and agri-tourism potential of this area, aesthetically and from a safety aspect. We enjoy horseback riding in the woods on our property and the potential for physical injury due to horses being spooked by the construction equipment will be of concern. We are located 3 miles due west of Natural Chimneys, less than a mile from the George Washington National Forest, and within 3.5 miles of Shenandoah Mountain Touring, all of which bring in tourists and vacationers wishing to escape to an area without commercial construction intrusion.

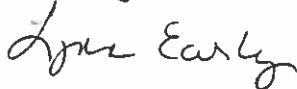
Approving this permit provides no viable benefit for anybody except Mr. Howdysshell. Given that he has been successful with his business for approximately 30 years without this source of shale and rock, we fail to see where he, or his business, will be adversely affected by denying his request for this special use permit.

We are searching for validation that the system works, that illegal activity is not condoned or rewarded, and that there are advocates looking out for the best interest of the community and existing homeowners. In light of the permanent, negative impact this mining operation will have on those who live nearby as well as others in the community, we respectfully ask that you deny the special use permit for a mining operation for extraction of shale and rock. In doing so, you will help to ensure that the land in our area will continue to be used in a manner for which it is intended and in accordance with the comprehensive county plan, providing a pleasurable, peaceful, and beautiful environment for residents and visitors alike. It will also preserve the rights of

us as permanent residents to enjoy the tranquility, security, and privacy of our homes and properties without nuisance interference and intrusion from an industrial operation.

Together with our neighbors, we invite you to come visit us any time before the meeting on 01 SEP 2016 so that you may view the situation from our perspective. Please feel free to contact us at 540-421-2568 (Lynn) or 540-246-5003 (Doug). We look forward to meeting you.

Sincerely,



Doug and Lynn Early  
333 Old Mountain Road  
Mt. Solon, VA 22843

cc: George A Coyner, II  
Thomas H. Byerly  
Steven F. Schreckhise  
Daisy A. Brown  
Justine D. Tilghman





DIVISION OF MINERAL MINING  
 900 NATURAL RESOURCES DRIVE, STE.400  
 CHARLOTTESVILLE, VIRGINIA 22903  
 (434) 951-6310

MMK0005267

**COMPLAINT INVESTIGATION**

INVESTIGATION NO.	COMPLAINT NO.	DATE/TIME RECEIVED	PERMIT NO.	REPORT DATE
MMK0005267	MMK0005224	6/13/16 6:15 PM	99999AA	7/6/16

COMPLAINANT'S NAME, ADDRESS, PHONE	INVESTIGATED PARTY'S NAME, ADDRESS, PHONE
	JAMES HOWDYSHELL 682 NORTH RIVER RD. MT. SOLON, VA 22843

**DESCRIPTION**  
 ON AN ADJOINING PROPERTY, HEAVY-DUTY MOBILE EQUIPMENT IS BEING UTILIZED TO EXTRACT AND THEN HAUL AWAY FROM THE PROPERTY A SHALEY MATERIAL WITHOUT A VALID MINERAL MINING LICENSE AND PERMIT.

**LOCATION**  
 NORTHWEST OF MT. SOLON OFF OLD MOUNTAIN RD.

COMPLAINT STATUS/DATE	COMPLAINT TYPE(S)	COUNTY
RESOLVED 6/28/16	ILLEGAL OPERATION NOISE	AUGUSTA

**COMMENTS**  
**COMPLAINANT'S COMMENTS** 06/28/16 10:30 AM

SEE "DESCRIPTION" SECTION

**INVESTIGATED PARTY'S COMMENTS** JAMES HOWDYSHELL 06/28/16 10:47 AM

Mr. Howdysshell indicated that the excavation area located within the confines of his personal property has been used to provide income from shale haulage to local construction/road maintenance projects. Moreover, his plans were to continue to develop the shale pit to produce additional shaley material for use at ongoing and upcoming off-site projects.

He was unaware of Virginia's mineral mining laws and regulations that require a mining license and permit to conduct these type of operations. He has requested assistance with obtaining a mineral mining license and permit to allow him to continue these activities.

**INVESTIGATOR'S COMMENTS/RECOMMENDATIONS** MATTHEW M. KRETSCH

DMM Supervisor Smith and I met with the complainant. Following this meeting, we proceeded to the excavation area where the landowner, Mr. Howdysshell, arrived shortly thereafter. Based on the conversations with the complainant and Mr. Howdysshell along with an inspection of the excavation area we determined that this disturbance does constitute a "mine" as defined in the *Mineral Mine Safety Laws of Virginia*.

In Virginia, "No person shall engage in the operation of any mineral mine within this Commonwealth without first obtaining a license from the Department." (45.1-161.292:30.) Mr. Howdysshell has been



DIVISION OF MINERAL MINING  
 900 NATURAL RESOURCES DRIVE, STE.400  
 CHARLOTTESVILLE, VIRGINIA 22903  
 (434) 951-6310

MMK0005267

**COMPLAINT INVESTIGATION**

issued a Closure Order that states, "No additional mining related activities shall be performed at the site of the shale pit until which time that a mineral mining license has been issued by the Department."

In accordance with the *Mineral Mine Reclamation Regulations*, "It is unlawful for any operator to engage in any mining operation in Virginia without having first obtained from the Department a permit to engage in such operation..." (45.1-181.) Mr. Howdyshell has been issued a Special Order that states, "No additional disturbance shall be created at the site of the shale pit until an application for a mineral mining permit has been submitted and approved. Prior to August 31, 2016 either an application should be submitted for review or reclamation shall commence."

A mineral mine license/permit application and a copy of the *Mineral Mine Safety Laws of Virginia* have been provided to Mr. Howdyshell.

ENFORCEMENT			
COMPLAINANT NOTIFIED	7/8/16 5:00 PM	REG/STATUTE	45.1-161.292:30.A. 45.1-181.

SIGNATURE *Matt Husted*

OFFICE USE ONLY  
 REPORT COPIED TO:  
 Complainant  Company  Other (specify)

August 24, 2016

AUG 25 2016

County of Augusta  
Commonwealth of Virginia  
Department of Community Development  
P.O. Box 590  
County Government Center  
Verona, VA 24482-0590

Attention: Board of Zoning Appeals

Dear Ms. Sandra K. Bunch and Mr. John Wilkinson:

As long time residents on Old Mountain Road in Mt. Solon, we are writing to express our opposition to a request by a neighbor for a Special Use Permit to operate a commercial shale pit within close proximity to our home. The location for the request is west of Rt.764 Old Mountain Rd. in Mt. Solon by James Howdysshell Account number 004 20 according to the GIS map.

If this quarry is allowed to operate, everyone living in our area will be affected. I believe this motion will set a precedence for future requests. If this request is granted, other people along the George Washington National Forest, Narrow Back Mountain and other places might also be granted permits that may have a negative impact on our agricultural community and forestal surroundings. Our property values will be negatively affected if the Special use Permit for the Quarry is approved. Our falling property values and future precedence for quarry sites in Augusta County are two good reasons to deny this permit request. There are more reasons, also very serious.

We understand that there are two locations on James Howdysshell's property that he wants to quarry, one low and one higher up. We do not want either of the sited quarries to operate. Our concern is that he would continue to expand or open additional extraction sites. Will this force people around here to make hard decisions about leaving? We don't have that option. We expect to live here until we are old. Operating a commercial quarry strays too far from the agricultural, forestal and recreational culture of our community that many of us moved here to enjoy. We put our life savings into our property.

Mr. Howdysshell's methods feel deceptive and manipulative and he has deprived the community of due process up until now. We feel angered by Mr. Howdysshell's total disregard for procedure and the regulations of Augusta County, the DMME, the VDOT and quite possibly the DEQ. We all have wells and are concerned about the effect that extracting shale will have on our well water and streams. In spite of permit violations it appears that he is continuing to excavate and prepare his land for future shale extraction. Aren't Soil and Erosion permits important? It is the opinion of many that Mr. Howdysshell bought the land for the express purpose of running a quarry and not farming. He has been in the excavation

business for many years and we find it hard to believe that he is not aware of the rules and regulations regarding his industry. We have been made to put up with the noise of logging and illegal quarry activity since November 2015 (before he closed on the property in December 2015) until June 2016 when DMME shut him down for operating an illegal shale pit, and VDOT found the loggers operating without proper road permits. We had all but forgotten what peace and quiet was. Speaking to the noise we still hear everything he does over there, for whatever purpose, clearing stumps or grading. Reclamation of the land, which the DMME required of him, looks minimal. The land is not so restored that he couldn't reopen the quarry.

We live in a quiet valley surrounded by beautiful farmland and are near the George Washington National Forest which we enjoy. The nearby North River Recreation District is an attraction for us, campers, tourists, horse enthusiasts, fisherman, hunters, hikers, birders and bicyclists to name a few. Also Natural Chimneys is so near us that we often see bicyclists and out of state cars driving our road taking in the scenery. The Natural Chimneys is home to the famous Jousting tournaments and the Red Wing Festival that bring in additional tourists each year that travel our roads. Besides the residents, Old Mountain Road is normally used by the farmers and occasional large trucks. Often I see runners, sport bicyclists, Mennonite bicyclists (some are children,) horseback riders (some are children), Mennonite horses pulling wagons and buggies, walkers, farm tractors, school buses, and mail carriers navigating our country road, which only a few years ago was paved with some kind of light paving and frequently gets potholes. Walkers and bikers have no shoulders for dodging vehicles in many places. Traffic on the road is so light though, that sharing the right away has never been a problem until now. There is no room for passing dump truck traffic. Also there is a blind 90 degree curve near the entrance of the private right of way into my neighbor's farm which is the right of way into the quarry (not direct access) which is dangerous for drivers not familiar with the area, especially in winter. The Howdyshell's new entrance suddenly created four instead of three private driveways near or on this 90 degree turn. My point is that the road is not safe or fit for continuous use by heavy equipment trucks like we have been seeing on a regular basis since November 2015. Mr. Howdyshell's right of way is highly visible and audible from our house, and it is scary to think that it would be used for a stream of big loud quarry trucks running shale in and out in plain sight. Giving him the permit would only make it many times worse than he has already demonstrated to us.

I am a homemaker and Jerry has been home recuperating from surgery for the past year. We are unable to escape hearing all the loud noises resulting from the quarry operation. Some of the quarry work and logging started at 6 AM and would go on until after dark. The loggers would leave sometime in the afternoon, but other grinding and clearing would continue well after dark. What we have been hearing since last November has been daily constant distracting intrusive offensive and life disrupting. If the tables were turned would he think differently? He does not live here. We have noticed that the noise has dissipated lately for whatever reason, but fear it is only temporary. We should be able to enjoy our life on our property without the permanent added disruptions and increased stress levels caused by this quarry operation.

Please deny the quarry permit to Mr. Howdyshell. We welcome him as a neighbor but not his quarry.

August 24, 2016

We would like to invite members of the Board of Zoning Appeals to call me 540-350-4976, and arrange to visit my home. Other neighbors Lynn and Doug Early and the Lukashuks would also welcome visits any time before the meeting on Sept. 1 so you will see our side of the quarry problem.

Sincerely,

*Colette Semerad Jerry Winn*

Colette Semerad and Jerry Winn  
229 Old Mountain Rd.  
Mt. Solon, VA 22843

phone: 540-350-4976

email: [magicman@shentel.net](mailto:magicman@shentel.net)

cc: George A. Conyer II - Chairman  
Thomas H. Byerly - Vice Chairman  
Steven F. Schreckhise  
Daisy A. Brown  
Justine D. Tilghman

August 24, 2016

Augusta County  
Board of Zoning Appeals

AUG 25 2016

*Re: Howdyshell Application for Special Use Permit*

Dear Chairman and Members of the Board:

We are writing in opposition to a request by James W. And Teresa C. Howdyshell for a Special Use Permit to have a mining operation for the extraction of shale and rock on property on the west side of Old Mountain Road (Route 764). The site of the proposed mine is adjacent to our property at 243 Old Mountain Road. We have lived on this property for almost 25 years. We built our dream home on this property, having invested our lifetime savings and own labor and time. We have just recently retired and hoped to continue to enjoy our property in our previously tranquil neighborhood.

Our peaceful life and plans for the future were disrupted in November 2015 when Mr Howdyshell commenced a mining operation on the adjacent property, which, as we learnt later, was conducted without proper county and state permits until it was shut down by the Virginia Department of Mines, Minerals and Energy in late June 2016. We got to experience firsthand the negative impacts of the mining operation on our lives and the entire neighborhood, and our opposition to the proposed mine is based on the period of over 6 months of living in those conditions. The proposed mine is located mere 80 feet from our property line. And the right of way used by 20-ton dump trucks to transport extracted shale and rock is located less than 80 feet from our house.

The mining operation produced very loud noise that can be heard in the house even with closed windows and running A/C. It was not unusual for the industrial noise to begin as early as 6:30 am in the morning and to end after dark at 9:30-10:00 pm. The continuous flow of 20-ton dump trucks by our bedroom window usually began at 7:00 am and continued until 8:00 pm. The mining operations and truck flow usually went on for 6-7 days per week. In addition to the industrial noise, dust from the mining pit and constant smell of diesel exhaust interfered with our enjoyment of outside and made us keep the windows closed at all times. We could no longer enjoy the view from our house, as all we could see were trucks going by. After having lived on this property for 25 years we have found ourselves living in the middle of a heavy industrial project with no reprieve from noise, dust and harmful fumes it produced.

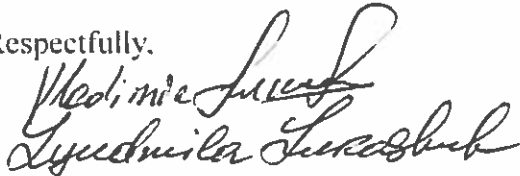
We urge the Board to consider the following:

1. The proposed mining operation is incompatible with environmental, scenic, agricultural, and historic character of the neighborhood. This part of the county is predominantly agricultural with many properties used exclusively as residences. It is also known for its scenic views – rolling hills, historic barns, lots of green, well maintained homes, and the spectacular views of the mountains.

2. The proposed mining operation will have a tremendous negative impact on quality of life of the residents in the neighborhood. We personally fear that considering our age, living in constant stress caused by industrial noise, dust and fumes will negatively impact our health and exacerbate the existing health problems. Not only the neighboring residents will be subjected to constant noise of heavy machinery and trucks, dust, fumes of diesel exhaust and other chemicals, as well as occasional storm water runoffs coming from the mining site, but the surrounding area will be negatively impacted as well. The noise echoes in this part of the county and is heard far and wide. The proximity of the mining operation will have a devastating impact on the value of the neighboring properties and the ripple effects of this real estate collapse will be felt in the entire neighborhood.
3. The traffic generated by the proposed mining operation will be incompatible with the roads in the neighborhood and will create unsafe conditions for residents and visitors. The additional concern over the traffic safety is that the roads in the surrounding area are heavily used by buggies.
4. The location of the proposed mining operation is too close to neighboring properties and houses to satisfy the setback requirements. As stated above, the proposed mine is located mere 80 feet from our property line. And the right of way used by 20-ton dump trucks to transport extracted shale and rock is located less than 80 feet from our house. We have a direct of view from our windows of the flow of trucks transporting shale and rock along the right of way on the adjacent property.
5. The proposed mining operation does not have direct access to a state maintained road. The trucks hauling extracted shale and rock have to use the right of way that is mere 80 feet from our house and only 14 feet from our property line.

Based on the above reasons, we respectfully request the Board of Zoning Appeals deny Mr. Howdyshell's application for the Special Use Permit to conduct a mining operation.

Respectfully,

The image shows two handwritten signatures in cursive. The top signature is 'Vladimir Lukashuk' and the bottom signature is 'Lyudmila Lukashuk'. Both signatures are written in black ink.

Vladimir and Lyudmila Lukashuk  
243 Old Mountain Road  
Mount Solon, VA 22843

August 24, 2016

Augusta County  
Board of Zoning Appeals

AUG 25 2016

*Re: Howdyshell Application for Special Use Permit*

Dear Chairman and Members of the Board:

We are writing in opposition to a request by James W. And Teresa C. Howdyshell for a Special Use Permit to have a mining operation for the extraction of shale and rock on property on the west side of Old Mountain Road (Route 764). The site of the proposed mine is adjacent to our property, a 4.2 acre parcel of land on the northwest side of Route 764, tax map # 4-19. We acquired this property in 2006 when it was subdivided from the larger parcel at 243 Old Mountain Road, which is also adjacent to the proposed mining site. Until April 15, 2016 we resided at 243 Old Mountain Road, sharing the house with Vladimir and Lyudmila Lukashuk, and planned to build a home on our parcel of land next door.

Because Mr. Howdyshell commenced an unauthorized mining operation on the adjacent property in November 2015, we got to experience firsthand the negative impacts of the mining operation on our lives and the entire neighborhood, and our opposition to the proposed mine is based on the period of several months of living in those conditions. The mining operation produced very loud noise that can be heard in the house even with closed windows and running A/C. It was not unusual for the industrial noise to begin as early as 6:30 am in the morning and to end after dark at 9:30-10:00 pm. The continuous flow of 20-ton dump trucks usually began at 7:00 am and continued until 8:00 pm. The mining operations and truck flow usually went on for 6-7 days per week. In addition to the industrial noise, dust from the mining pit and constant smell of diesel exhaust interfered with our enjoyment of outside and made us keep the windows closed at all times.

We have four small children that we homeschool, and the conditions created by these mining operations were unhealthy and detrimental to their well-being. We were constantly concerned that exposure to dust and chemical fumes may lead to asthma. The children were often awakened by the industrial noise and the constant noise interfered with their homeschooling. If the Special Use Permit is granted, we are not sure that we would be bringing our kids to visit the grandparents' house because of the traffic safety concerns and potential risks to the children's health. In addition, the mining operation would interfere with our plans to build a house on our property to be closer to our aging parents(-in-law). This proposed mining operation is a threat to our entire family.

We urge the Board to consider the following:

1. The proposed mining operation is incompatible with environmental, scenic, agricultural, and historic character of the neighborhood. This part of the county is predominantly agricultural with a number of properties used exclusively as residences. The neighborhood is also known for its scenic views – rolling hills, historic barns, lots of green, well maintained homes, and the spectacular views of the mountains.



2. The proposed mining operation will have a tremendous negative impact on quality of life of the residents in the neighborhood. The proposed mining operation will create an unhealthy environment for the neighboring residents. The dust and chemical fumes may trigger various health conditions, such as asthma. The stress of living in the industrial zone may lead to a myriad of health and mental problems.

Not only the neighboring residents will be subjected to constant noise of heavy machinery and trucks, dust, fumes of diesel exhaust and other chemicals, as well as occasional storm water runoff's coming from the mining site, but the surrounding area will be negatively impacted as well. The noise echoes in this part of the county and is heard far and wide. The proximity of the mining operation will have a devastating impact on the value of the neighboring properties and the ripple effects of this real estate collapse will be felt in the entire neighborhood.

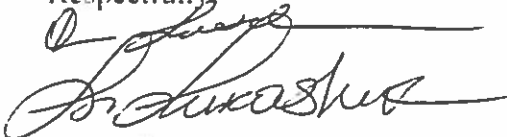
3. The traffic generated by the proposed mining operation will be incompatible with the roads in the neighborhood and will create unsafe traffic conditions for residents and visitors. The additional concern over the traffic safety is that the roads in the surrounding area are heavily used by buggies.

4. The location of the proposed mining operation is too close to neighboring properties and houses to satisfy the setback requirements.

5. The proposed mining operation does not have direct access to a state maintained road. The trucks hauling extracted shale and rock have to use the right of way on the adjacent property.

Based on the above reasons, we respectfully request the Board of Zoning Appeals deny Mr. Howdyshell's application for the Special Use Permit to conduct a mining operation.

Respectfully,



Andrey and Larisa Lukashuk  
4701 Spring Hill Road  
Mount Solon, VA 22843

AUG 25 2016

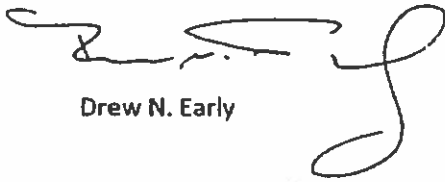
Dear Mr. Wilkinson, Ms. Bunch, and Committee Members,

I write on behalf of myself and my wife Nancy to express our strong concern and opposition to the Special Use Permit application submitted by James Howdyshell regarding a mining operation for the extraction of shale and rock on land west of Rt. 764, Old Mountain Road, Mount Solon, VA. Any approval of this permit, and a concurrent necessary DMME permit is, in my view, disturbing. It is the very nature of the current tranquil and natural setting of this area immediately adjacent to National Forest that causes us to frequently visit. Such a proposed operation clearly poses a express threat to the quiet use and enjoyment of adjacent homeowners' properties.

Further, the consequence of such an operation raises significant issues in practical, not theoretical, terms concerning resultant environmental impacts and infrastructure. Particular issues of sediment control and waste water runoff fundamentally matter in this agricultural area. In addition, the highway infrastructure in the area is simply inadequate for any long-term, continual mining effort, as it pertains to heavy equipment operation and transportation over light, limited duty, narrow roadways with reduced radius curves. I also observe that the access to the property is governed by an easement to existing deed providing for a private entrance, not a commercial or business entrance.

We note that Mr. Howdyshell's previous effort at this operation was terminated after intervention and on-site inspection by VA DMME. Nothing, as presented, differs from that previous unlicensed operation. He, as a property owner, is entitled to utilize his property, but said use must be in conjunction and in consideration of an overall and effective land use plan for the entire community—hence, the very need for zoning. In this limited instance, it would appear that his suggested use of the property is so at variance with the immediate area and offers such negative consequences as to environmental and transportation concerns as to clearly make a case for denial. Accordingly, we ask that the Board act appropriately. Thank you for all considerations.

Sincerely,

A handwritten signature in black ink, appearing to read 'Drew N. Early', with a large, stylized flourish at the end.

Drew N. Early

To: Augusta Co Board of Zoning Appeals

Re: Sept 1 2016 Appeals Hearing

Hello-

I am writing this letter to note our opposition to the special use permit for a mining operation business located on property next to Douglas & Lynn Early at 333 Old Mountain Rd, Mt. Solon VA. I would strongly urge all board members to reject the permit for this shale mining operation.

The agricultural setting is no place for any business of this type, as this strictly land area zoned for farming and residential homeowners. Any shale mining operation would be a detriment to the property values of all adjacent land owners, and would take away from the pastoral rural setting that family members and others purchased their home(s) to be located. We have visited Doug and Lynn Early numerous times, enjoying family events, hiking etc enjoying the quiet and the beauty of their farmland and surrounding landscape. This is not an area where a loud, noisy mining operation should be allowed to operate.

The narrow roads are not constructed for heavy equipment and truck traffic such as from a mining operation. This would be a significant safety concern as I have seen numerous cyclists, horse drawn buggies, pedestrian traffic using the roads in the area. The noise factor from any mining operation would take away from the scenic and quiet location of this part of the county, being a major nuisance factor to all neighboring residences and farms. Also there could be a major negative impact to the environment, concerns would be dust and run off that may cause pollution to the watershed, and generally despoiling the scenic panoramas of the area.

We would urge the board to reject the special use permit based on all of the above considerations, thank you for your attention to this most serious matter.

Sincerely,

Handwritten signature of Dan and Anita Early in cursive script.

Dan and Anita Early  
Mt Crawford, VA 22841

8/23/16

Dear Augusta County Board of Zoning Appeals:

I am writing in opposition to a special use permit requested by James Howdyshell to run a shale pit operation on Old Mountain Rd, Mt. Solon.

I frequently visit Doug and Lynn Early on their adjoining property. This property is a beautiful, quiet, agricultural treasure against the national forest. They purchased this property in 2014 anticipating a lifelong residence in this tranquil setting. And then came the logging trucks and the shale digging next door.

Mr. Howdyshell has shown a blatant disregard for the law. He has been running an unpermitted, illegal shale operation. The noise from shale removal equipment and the trucks running in and out of Mr. Howdyshell's property, via a right of way through the Early's property, ruins the peaceful calm of their home. They cannot sit outside at any time of day to enjoy the view due to trucks and noise. Big trucks on this small county road are a hazard to the neighbors who walk and the bicyclists who use these twisty lanes.

I ask the board to deny his request for the special use permit and instead fine him for his illegal business.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ceci D. Weaver', with a long, sweeping flourish extending to the right.

Ceci D. Weaver  
519 Oakwood Drive  
Rockingham, Va 22801

EXTENSION OF TIME REQUEST

Date 9/1/16

**PROPERTY OWNER:**

Country Landmarks, LLC

**APPLICANT:**

Ira Biggs, agent for Country Landmarks, LLC

**LOCATION OF PROPERTY:**

On the north side of Skyview Circle adjacent to the railroad tracks and just east of intersection of Lee Highway (Route 11) and Skyview Circle in the Beverley Manor District

**SIZE OF PROPERTY:**

2.48 acres

**VICINITY ZONING:**

General Business to the north and west; Single Family Residential to the east; General Business and Single Family Residential to the south

**PREVIOUS ZONING OR S.U.P.:**

04/55 Zoned General Business

**LAND USE MAPS:**

Urban Service Area – Business

**UTILITIES:**

Public water and sewer available

**APPLICANT'S JUSTIFICATION:**

To have outdoor storage of semi-trailers, office trailer, and materials.

**The applicant is requesting a one (1) year Extension of Time.**

**STAFF COMMENTS**

The applicant has been working with VDOT and Balzer and Associates to complete the pre-conditions. Staff would recommend approval of the request.

EXTENSION OF TIME REQUEST

Date 9/11/16

**PROPERTY OWNER:**  
Rusty K. and Kari G. Davis

**APPLICANT:**  
Same

**LOCATION OF PROPERTY:**  
106 Zion Church Road, Waynesboro, in the Wayne District

**SIZE OF PROPERTY:**  
50.799 acres

**VICINITY ZONING:**  
General Agriculture and Rural Residential to the north; General Agriculture to the south, east, and west

**PREVIOUS ZONING OR S.U.P.:**  
12/95 Zoned General Agriculture

**LAND USE MAPS:**  
Rural Conservation Area

**UTILITIES:**  
Private well and septic

**APPLICANT'S JUSTIFICATION:**  
To use an existing barn for weddings and special events

**The applicant is requesting a one (1) year Extension of Time.**

**STAFF COMMENTS**

The applicant has been working with their engineer to complete the pre-condition. Staff would recommend approval of the request.