

**Albemarle County Planning Commission
November 10, 2015**

The Albemarle County Planning Commission held a regular meeting and public hearing on Tuesday, November 10, 2015, at 6:00 p.m., at the County Office Building, Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Cal Morris, Chair; Richard Randolph, Thomas Loach, Bruce Dotson, Karen Firehock and Tim Keller. Absent was Mac Lafferty, Vice Chair. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was present.

Staff present was Scott Clark, Senior Planner; Claudette Grant, Senior Planner; Trevor Henry, Director of Office of Facilities Development (OFD) and Lindsay Harris, Office of Management and Budget Analyst (OMB), Sharon Taylor, Clerk to Planning Commission; David Benish, Acting Director of Planning; Wayne Cilimberg, Deputy Director of Community Development and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Mr. Morris, Chair, called the regular meeting to order at 6:00 p.m. and established a quorum.

Public Hearings

- a. **AFD-2015-00004 Green Mountain District Creation** Notice is hereby given that the Albemarle County Planning Commission will hold a public hearing to receive public comments regarding the creation of the Green Mountain Agricultural and Forestal District. The parcels that would compose the proposed District are Tax Map 120, Parcels, 15A, 15B, 16C, 18A, 18A1; and Tax Map 121 Parcel 2. The proposed District would be approximately 1,248 acres in size and located near Keene and Alberene. The Albemarle County Agricultural and Forestal Advisory Committee has recommended approval of this district. (Scott Clark)

AND

- b. **AFD-2015-00005 Eastham Addition – Henry** Notice is hereby given that the Albemarle County Planning Commission will hold a public hearing to receive public comments regarding the addition of the following parcel to the Eastham Agricultural and Forestal District (Albemarle County Code § 3-212). The parcel proposed for addition (Tax map 47, parcel 17B) totals approximately 27.8 acres in size and is located at 2989 Stony Point Road. The Albemarle County Agricultural and Forestal Districts Advisory Committee has recommended approval of this addition. (Scott Clark)

AND

- c. **AFD-2015-00006 Carter's Bridge Addition – Frank** Notice is hereby given that the Albemarle County Planning Commission will hold a public hearing to receive public comments regarding the addition of the following parcel to the Carter's Bridge Agricultural and Forestal District (Albemarle County Code § 3-210). The parcel proposed for addition (Tax map 122, parcel 18D) totals approximately 28.8 acres in size and is located at 6200 Blenheim Road. The Albemarle County Agricultural and Forestal Districts Advisory Committee has recommended approval of this addition. (Scott Clark)

AND

- d. **AFD-2015-00007 Hardware Addition – Keeling** Notice is hereby given that the Albemarle County Planning Commission will hold a public hearing to receive public comments regarding the addition of the following parcel to the Hardware Agricultural and Forestal District (Albemarle County Code § 3-214) The parcel proposed for addition (Tax map 88, parcel 3M) totals approximately 21 acres in size and is located approximately 980 feet northeast of the end of Waldemar Drive. The Albemarle County Agricultural and Forestal Districts Advisory Committee has recommended approval of this addition. (Scott Clark)

AND

- e. **AFD-2015-00008 Lanark Addition – Vernon** Notice is hereby given that the Albemarle County Planning Commission will hold a public hearing to receive public comments regarding the addition of the following parcel to the Lanark Agricultural and Forestal District (Albemarle County Code § 3-221) The parcel proposed for addition (Tax map 103, parcel 2E) totals approximately 20.7 acres in size and is located at 3856 Presidents Road. The Albemarle County Agricultural and Forestal Districts Advisory Committee has recommended approval of this addition. (Scott Clark)

AND

- f. **AFD-2015-00009 Keswick Addition – Aiello** Notice is hereby given that the Albemarle County Planning Commission will hold a public hearing to receive public comments regarding the addition of the following parcel to the Keswick Agricultural and Forestal District (Albemarle County Code § 3-219) The parcel proposed for addition (Tax map 81, parcel 11H) totals approximately 48.41 acres in size and is located at 4775 Woodbound Road. The Albemarle County Agricultural and Forestal Districts Advisory Committee has recommended approval of this addition. (Scott Clark)

AND

- g. **AFD-2015-00010 Jacobs Run Addition – Collins** Notice is hereby given that the Albemarle County Planning Commission will hold a public hearing to receive public comments regarding the addition of the following parcels to the Jacob's Run Agricultural and Forestal District (Albemarle County Code § 3-218) The parcel proposed for addition (Tax map 20, parcel 6S) totals approximately 21.01 acres in size and is located at 675 Frays Ridge Road. The Albemarle County Agricultural and Forestal Districts Advisory Committee has recommended approval of this addition. (Scott Clark)

AND

- h. **AFD-2015-00011 Keswick Addition – Traylor** Notice is hereby given that the Albemarle County Planning Commission will hold a public hearing to receive public comments regarding the addition of the following parcels to the Keswick Agricultural and Forestal District (Albemarle County Code § 3-219) The parcels proposed for addition (Tax map 48, parcels 45 and 46) total approximately 40.03 acres in size and are located at 2153 Hawkshill Lane. The Albemarle County Agricultural and Forestal Districts Advisory Committee has recommended approval of this addition. (Scott Clark)

AND

- i. **AFD-2015-00012 Moorman's River Addition – McMurdo** Notice is hereby given that the Albemarle County Planning Commission will hold a public hearing to receive public comments regarding the addition of the following parcels to the Moorman's River Agricultural and Forestal District (Albemarle County Code § 3-222) The parcel proposed for addition (Tax map 30, parcel 12) totals approximately 254.24 acres in size and is located at 1113 Locust Grove Lane. The Albemarle County Agricultural and Forestal

Districts Advisory Committee has recommended approval of this addition. (Scott Clark)

Mr. Morris noted that item b. is a proposal for the creation of a new agricultural forestal district and the remaining 8 are additions. The briefing will cover all 9 items at the same time. He would then open it up for comments on one or all 9 items if they so desire during the public hearing.

Mr. Clark presented a PowerPoint presentation and summarized the staff reports individually for all nine requests. There was one request for a district creation, which he would do first, and then the remainder are all additions to existing districts.

After our discussion at the last Planning Commission hearing about agricultural forestal additions he added to the staff report and tonight's presentation some information on the development potential for the parcels that are being added.

b. AFD 15-04 Green Mountain District Creation

For this district creation there are six parcels requesting to be added to this new district including almost 1,250 acres. Almost 85 percent of the district has important soils as designated in the Comprehensive Plan. In September the Agricultural Forestal District Committee voted to recommend approval of the creation of this new district.

<u>Parcel</u>	<u>Owners</u>	<u>Acres</u>	<u>Development Potential</u>
120-18A	Alan S. or Cyndra H. van Clief	366.6	Five development-right lots and 16 21-acre lots
120-16C	Tallwood Forest LLC	437.32	Five development-right lots and 20 21-acres lots
120-15A	Coleswood LLC	101.44	Theoretical potential for five development-right lots and four 21-acre lots. Conservation easement limits this and the following parcel to 3 lots.
121-2	Coleswood LLC	247.28	Theoretical potential for five development-right lots and 11 21-acre lots. Conservation easement limits this and the previous parcel to 3 lots.
120-15B	J. Paula Pierce Beazley	26.02	Five development-right lots
120-18A1	Thomas van Clief	69.81	One development-right lot and three 21-acre lots

Total:		1,248.47	
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Agricultural and Forestal District Significance: The proposed district has the following important soils, as designated in the Comprehensive Plan:

Prime	417.1 acres	33.4%
Locally Important	641.5 acres	51.4%

Recommendation: On September 28, 2015, the Agricultural/Forestal Districts Committee voted to recommend approval of the creation of the Green Mountain Agricultural and Forestal District.

Mr. Clark noted the remainder of the items are additions, which he would briefly review.

c. AFD 15-05 Eastham Addition – Henry

Eastham District:

- 21 parcels
- 1,002 acres

AFD201500005 Eastham Addition – Henry: This proposal would add one parcel to the District.

- The parcel is largely open land with about 9 acres of wooded cover.

Requested Additions			
Parcel	Acres	Acres of Important Soils	Development Potential
47-17B	27.818	27.32	Has one dwelling—no further development possible

Recommendation: On September 28, 2015, the Agricultural/Forestal Districts Committee voted to recommend approval of this addition to the Eastham District.

d. AFD 15-06 Carter's Bridge Addition – Frank

Carter's Bridge District:

- 87 parcels
- 8,895 acres

AFD201500006 Carter's Bridge Addition - Frank: This proposal would add one parcel to the District. The parcel is largely wooded, with some open area on Blenheim Road located just east of the Keene Post Office.

Requested Additions			
Parcel	Acres	Acres of Important Soils	Development Pote

122-18D	28.78	28.78	One existing dwelling; has potential for two development-right lots and one 21-acre lot.
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Recommendation: On September 28, 2015, the Agricultural/Forestral Districts Committee voted to recommend approval of this addition to the Carter's Bridge District.

e. AFD 15-07 Hardware Addition – Keeling

Hardware District:

- 56 parcels
- 3,362 acres

AFD201500007 Hardware Addition – Keeling: This proposal would add one parcel to the District. This parcel is adjacent to another parcel under the same ownership that was added to the District last year. The parcel is largely open and includes several acres of pond.

Requested Additions			
Parcel	Acres	Acres of Important Soils	Development Potential
88-3M	21	20.67 (some under water)	No dwellings; Can have one dwelling, but no further development potential

Recommendation: On September 28, 2015, the Agricultural/Forestral Districts Committee voted to recommend approval of this addition to the Hardware District.

f. AFD 15-08 Lanark Addition – Vernon

Lanark District:

- 52 parcels
- 5,957 acres

AFD201500008 Lanark Addition - Vernon: This proposal would add one parcel to the District. The parcel is almost entirely wooded, except for the area around the dwelling.

Requested Additions			
Parcel	Acres	Acres of Important Soils	Development Potential
103-2E	20.7	15.05	Has one dwelling; parcel has five development rights.

Recommendation: On September 28, 2015, the Agricultural/Forestral Districts Committee voted to recommend approval of this addition to the Lanark District.

g. AFD 15-09 Keswick Addition – Aiello and

i. AFD 15-11 Keswick Addition – Traylor

There are two separate additions proposed for the Keswick District.

Keswick District:

- 70 parcels
- 6,913 acres

AFD201500009 Keswick Addition - Aiello: This proposal would add one parcel to the District:

Requested Additions			
Parcel	Acres	Acres of Important Soils	Development Potential
81-11H	48.41	44.32	Has one dwelling; property can only be developed as two 21-acre lots.

The parcel is wooded except for the dwelling.

AFD201500011 Keswick Addition - Traylor: This proposal would add two parcels to the District:

Requested Additions			
Parcel	Acres	Acres of Important Soils	Development Potential
48-45	14.57	32.11	Has one dwelling. Two parcels have a total of ten development rights.
48-46	25.46		
Total	40.03		

The parcels are wooded except for the dwelling.

Recommendation: On September 28, 2015, the Agricultural/Forestral Districts Committee voted to recommend approval of these additions to the Keswick District.

h. AFD 15-10 Jacob's Run Addition – Collins

Jacob's Run District:

- 17 parcels
- 973 acres (This is somewhat a scattered district.)

AFD201500010 Jacob's Run Addition - Collins: This proposal would add one parcel to the District:

Requested Additions			
Parcel	Acres	Acres of Important	Development Potential
20-6S	21.01	20.95	One dwelling; no further development potential

The parcel is partly wooded and partly open land. The proposed addition towards the northeast side of the map.

Recommendation: On September 28, 2015, the Agricultural/Forestral Districts Committee voted to recommend approval of this addition to the Jacob's Run District. The Committee noted that this recommendation was made to be consistent with the County's past practice of recommending approval of all proposed additions that meet the basic distance requirements for joining to a District. However, the Committee asked staff to note that they had concerns over the lack of development potential on this property. Discussions with the Committee have indicated a growing concern that properties without development potential can use the District program to qualify for the open space land-use tax rate without providing any significant conservation benefit.

j. AFD 15-12 Moorman's River Addition - McMurdo

Moorman's River District:

- 219 parcels
- 10,601 acres

AFD201500012 Moorman's River Addition - McMurdo: This proposal would add one parcel to the District:

Requested Additions			
Parcel	Acres	Acres of Important Soils	Notes
30-12	254.24	155.55	Property has four dwellings. Has potential for one development-right lot and seven 21-acre lots.

The parcel is primarily open land with some wooded areas and hedgerows. It is adjacent to some parcels already in the district and to the South Fork Rivanna River.

Recommendation: On September 28, 2015, the Agricultural/Forestral Districts Committee voted to recommend approval of this addition to the Moorman's River District.

There two actions for the Commission to take. The first motion is for the Green Mountain District Creation and the second motion is for all of the proposed additions. If there are any questions, he would be happy to answer any questions.

Mr. Morris invited questions for staff.

Ms. Firehock asked the minimum district the parcel has to be in order to be considered close enough to be in the district.

Mr. Clark replied under the current code the parcel that wants to join the district has to be within one mile of the core of the district, and that core is the set of original parcels that first formed it. So later additions do not really count. The exception that was recently added to the State Code is that if a parcel outside of that mile requests to join and the committee feels that it is agriculturally significant, whatever that means, they can still recommend approval of it. That is a recent exception to that one about limits, and it has only come up once.

Ms. Firehock asked if in that case there is any guidance on how far away it is from the edge.

Mr. Clark replied no, if it is more than one mile the committee needs to find that it is agriculturally significant.

Mr. Dotson said his question was on the effects of an AFD District. In looking at the ordinance it says that once in an AFD District there is a prohibition of development to a more intensive use.

Mr. Clark agreed.

Mr. Dotson said it then goes on to say a parcel shall not be deemed to be developed to a more intensive use if the proposed development is permitted by right in a Rural Area zoning district. He asked if there are one, two or three additional development rights associated with the parcel if it is put under the AFD District are those useable at any point or only after the withdrawal from the district perhaps as long as ten years from now.

Mr. Clark replied if you continue down that same section where that first five or six items that are not considered more intensive use it talks in more detail about what kind of subdivision specifically is not considered a more intensive use. That is family subdivision and 21-acre subdivisions. It sort of sounds like from that first bullet that anything goes as long as it is by right; but, that is not really the case. As far as subdivision goes it is just the family divisions and 21-acre subdivisions.

Mr. Dotson said if there is a 30 acre parcel and it has an additional development right beyond the existing home that is there putting it in an AFD District would mean that additional home could or could not be developed in the period of it being in the district.

Mr. Clark replied you could build the house, but not subdivide; or, you could subdivide a lot as a family division to build a house on.

Mr. Kamptner pointed out the house is limited to family members or people who are working on the site.

Mr. Benish agreed with what Mr. Kamptner was saying that it would be for farm use, a farm manager or something like that.

Mr. Randolph asked staff in looking at Jacobs Run addition, the Collins property, if he had a rough ballpark idea of what the forfeited taxes to the county would be if, in fact, this is put

into the agricultural forestry district. What would the percentage reduction be approximately in taxes?

Mr. Clark replied that he did not know. However, he could say the property is currently in use value taxation partly through agriculture and forestry. So in this particular case the land owner's motivation is not to go from being taxed at a regular rate to the open space rate, but actually change from agriculture and forestry to the open space rate. The main reason the owners gave was that they feel like under the forestry tax category they are being sort of being pushed along to do a harvest plan and eventually a harvest that they don't want to do. They actually want to keep this band of trees as it is. So in this particular case they are trying to change use value categories rather than go from a full tax rate to use value.

Mr. Randolph said this is where they don't know whether the criteria needs to be tightened and refined to mitigate against this kind of applicant so that we don't see more of this in the future.

Ms. Clark pointed out that has been a topic of conversation on the committee for quite some time. The plan that staff has been discussing and hopes to update the committee on in the next couple of days is to ask them to have a meeting early next year probably in January. At that meeting staff will provide the committee with some potential guidelines for what parcels to recommend or not recommend for an addition, and then get that recommendation on to the Board for their consideration. Hopefully, this can be done before the next round of addition proposals come in so that we can have a standard in place for what should or what should not be recommended for addition rather than the approach for the past 25 years which has been basically to accept everybody who meets those distance qualifications.

Mr. Keller said he would just weight into Mr. Randolph's point and make the point that our Department of Forestry in Virginia is rather archaic in a lot of its standards. It is pushing a monocrop kind of forestry without knowing the specifics of these individuals. If one wants to support a long growth eastern hardwood forest reforestation there might actually be some benefits in individuals wanting to do that under the open space category. Then the question becomes the next piece about ACE and easements and whether that is a better way in our overall philosophies in the county comprehensive plan to attack it that way or through the agricultural and forestal district. But, there are so many issues that are rolling around in this. It is not just a simple answer even though we would all like to find simple answers.

Mr. Morris opened the public hearing for applicant and public comment. He asked if there was anyone present who would like to address any or all of these.

Neil Williamson, with the Free Enterprise Forum, said in 13 years of sitting in the isles he has never seen the committee recommend denial of any parcel. It has never come forward. However, he thinks that the examination is overdue. That being said he thinks that we need to remember that the agricultural districts and the difference between that and easements are the difference between renting and owning effectively. Easements are perpetual and forever. This does provide protection for the land, but it also provides landowner benefit in so much that it postpones any development. Some have suggested that is speculative for developers; however, he tends to disagree. The benefit of ten years in an agricultural

forestal district, and some of these have been in since 1980, is significant while the property owner retains the full value of the land. He thinks the benefits to the county are significant. He would encourage the Planning Commission to help inform Mr. Clark in his discussion with the Agricultural Forestal Committee Board as to how you would like to see it change. Part of the concern came out of the CRACK Committee with regards to the Citizens Resources Advisory Committee looking at land use and who gets it and why. He thinks that the Commission needs to weigh carefully the comprehensive plan goals, the tools you have, and remembering that easements are not for everyone. Agricultural Forestal does provide a very significant positive impact that protects the property owner's value and gives up for a period of time those property rights.

There being further public comment, Mr. Morris closed the public hearing to bring the matter before the Planning Commission for discussion and action on the two recommendations. He asked if there was a motion.

Motion: Ms. Firehock moved and Mr. Randolph seconded to recommend approval of AFD-2015-00004 Green Mountain District Creation.

Mr. Morris invited discussion.

Ms. Firehock commented that agricultural forestal districts are not just, of course, about preventing development. They are about providing a certain amount of servitude for landowners who are trying to engage in agricultural and forestal activities, reduce landowner conflicts and protect our rural economy, which is a huge contributor to our tax base. So we are trying to protect agriculture and forestry as part of this, and that was not really discussed for the record.

Ms. Monteith said agricultural forestal districts also provide habitat.

Mr. Morris asked for a roll call.

The motion passed by a vote of 6:0. (Lafferty absent)

Mr. Morris noted AFD-2015-00004 Green Mountain District Creation would go before the Board of Supervisors recommending the addition into our agricultural forestal districts.

Mr. Morris noted the next 8 addition requests could all be taken together in one motion.

Mr. Kamptner agreed assuming that there is consensus on all of them.

Mr. Morris asked is there anyone not in favor of any one of the eight additions.

Mr. Dotson said there are two request, being the Henry and Collins requests, neither of which have any additional development potential that he had questions about. The requests

are consistent with what the actions of the county have been in the past. He knows that the Citizens Resource Advisory Committee has recommended looking at the question of parcels with no additional development rights. Therefore, if he would be allowed to make a motion to reinforce that the Board of Supervisors consider the recommendation of that committee, then he is willing to support all eight of these as proposed.

Mr. Morris said he would think that would be appropriate.

Mr. Randolph said he would echo what my colleague, Mr. Dotson, has recommended, but would love to know if members of the Henry or the Collins family are in the audience and whether they would be willing to fill us in on the rationale for this application. If they are not in the audience, then he would definitely intermediately echo Mr. Dotson's recommendation.

Ms. Firehock said just to understand he was talking about the comment that was raised by the committee concerning the fact that they don't necessarily support adding agricultural forestal districts if they are not preventing development rights.

Mr. Dotson agreed that was correct.

Ms. Firehock said she was not sure she would actually agree with Mr. Dotson on that.

Mr. Keller said he was not sure he agreed with Mr. Dotson on that either.

Ms. Firehock said she thinks they have a larger purpose. As she was just trying to elaborate it is very difficult to undertake those activities when you are surrounded by subdivisions, and it is getting increasingly difficult to do a lot of activities in the countryside. She understands Mr. Dotson's point, but she does not agree.

Mr. Keller agreed with Ms. Firehock, but would just like to add to her point. When they start to look at these districts and it is the combination of that mosaic of small and large parcels together that gives that continuity of agricultural and forestal lands that not accepting a smaller parcel could be a pivotal piece in not continuing that mosaic fabric that is important to us in the rural areas of the county.

Mr. Randolph clarified that he did not think that either Commissioner Dotson or he was suggesting not including them because they are small pieces. It is not the size of the piece per say that they are concerned about.

Ms. Firehock pointed out the size of the piece has to do with whether they have development potential so they directly relate.

Mr. Morris asked Mr. Dotson to try to frame this into a motion.

Mr. Dotson said if they would like to act on the eight requests they can do that, and then he would follow that with a motion.

Mr. Morris said that would really help. He asked if any owners of those parcels are here and would like to address that.

Phyllis Gibson came forward with a friend to speak. Ms. Gibson said she lived on the other side of the President's Road and was wondering what they plan on doing and why she received a letter to come to this meeting. She was talking about the Lenark parcel that comes down off of Blenheim Road just past President's Road. She wondered if her parcel was included.

Mr. Kamptner explained the letter is just notice that is required to adjoining owners that land is being considered to come into what is called an agricultural forestal district. It is not affecting your land if you are not voluntarily applying to bring it into the district.

Ms. Gibson asked what they are going to do there.

Ms. Firehock replied that they want to continue agriculture and forestal as they have been doing and are enrolling into a program.

Mr. Morris explained to Ms. Gibson that her property was in close proximity and that is why the county wants to alert her that this is coming up.

Ms. Gibson said okay and thank you, sir.

Mr. Randolph thanked Ms. Gibson for being here.

Mr. Morris asked for a motion on the eight requests and then they would follow up with another motion.

Motion: Ms. Firehock moved and Mr. Morris seconded to recommend approval of the proposed Agricultural Forestal District additions.

Mr. Morris invited further comments.

Mr. Keller encouraged the Commission to not do this and to vote for the whole set and to have another motion that goes forward to the Supervisors reiterating the concerns that came from the Citizens Advisory Committee. If they had this information at the Agricultural and Forestal District Committee meeting he believed we would have had a different vote. He thinks that the rules of the game have not changed at this point and it is really unfair to these other parcels to be taking a vote to not include them without really having a policy change at the county level.

Mr. Dotson said he believes that is what is being proposed.

Mr. Kamptner noted they have a motion to recommend approval of all eight.

Mr. Keller agreed with the motion for approval since it was for the whole set.

Mr. Morris said Mr. Keller's point was taken and asked for a roll call.

The motion passed by a vote of 6:0. (Lafferty absent)

Mr. Morris said the Planning Commission recommends approval of all eight additions. He asked if there was another motion.

Motion: Mr. Dotson moved and Mr. Keller seconded the Planning Commission request that the Board of Supervisors consider and provide direction based on the Citizens Resources Advisory Committee recommendations regarding agricultural forestal districts and use value taxation.

The motion passed by a vote of 5:1. (Firehock no) (Lafferty absent)

Mr. Morris noted the recommendation would be sent to the Board of Supervisors by a vote of 5:1 on a date to be determined.

The meeting moved to the next item on the agenda.

(Recorded and transcribed by Sharon C. Taylor, Clerk to Planning Commission & Planning Boards)