An adjourned meeting of the Board of Supervisors of Albemarle County, Virginia, was held on December 9, 2015, at 3:00 p.m., in Room 241, County Office Building, McIntire Road, Charlottesville, Virginia. The meeting was adjourned from December 4, 2015. The regular night meeting was held at 6:00 p.m., in the Lane Auditorium, County Office Building.

PRESENT: Mr. Kenneth C. Boyd, Ms. Jane D. Dittmar, Ms. Ann Mallek, Ms. Diantha H. McKeel, Ms. Liz A. Palmer and Mr. Brad L. Sheffield.

ABSENT: None.

OFFICERS PRESENT: County Executive, Thomas C. Foley, County Attorney, Larry W. Davis, Clerk, Ella W. Jordan, and Senior Deputy Clerk, Travis O. Morris.

The meeting was called to order at 3:06 p.m., by the Chair, Ms. Dittmar.

Agenda Item No. 1. Work Session: Five year Financial Plan.

The Executive Summary presented by staff states that on September 9, 2015, the Board of Supervisors and the School Board received initial information on the County's FY 17 – FY 21 Financial Plan. On November 11, the Boards received updates to the assumptions included in the Plan and further discussed employee compensation and benefits information, initial information pertaining to the FY 17 - FY 21 Capital Improvement Program, and the recommendations set forth in Citizens Resource Advisory Committee Report. On December 2 the Board further discussed the policy recommendations provided by the Citizen's Resource Advisory Committee and the Joint General Government and School Division's Efficiency Team's recommendations.

The December 9, 2015 work session will primarily be focused on the County's CIP challenges. This will include considerations and a timeline for a potential Capital Improvement Plan Bond Referendum, discussion with the school division regarding their school capacity needs and redistricting, and discussion of follow up items identified at the December 2nd Five Year Financial Plan Work Session. Staff will be prepared to discuss follow up items related to our Employee Health Care program at the January 6th board meeting.

There is no direct budget impact; however, the results of this work session could inform the County's long-range financial outlook.

Staff recommends that the Board and staff utilize this work session to finalize the Five Year Financial Plan discussions and to provide recommendations, options and approaches that could positively impact the County's long-range financial future.

Mr. Foley stated this is the final work session for the five-year financial planning process done every year, with the major objective being to talk about the big issues that will drive the five-year plan into the future, more so than to try to come up with a balanced five-year plan. He noted the focus of this work session will be on the capital program, with the Board indicating which policy directions and priorities are most important for the County to be pursuing as they move into the annual budget process. Mr. Foley said there are some positive items emerging from the Oversight Committee, and while they focus on the capital program it is important for them to continue to realize that it is a piece of the big budget picture, with the operations side also presenting challenges. He noted it would be helpful for staff to get feedback from the Board on general direction such as supporting the need for more revenues to move the capital program forward, even if the specifics of how that should be done have not yet been decided.

Ms. Lori Allshouse, Director of Office of Management and Budget, stated this is the fourth of five joint five-year plan work sessions held with the School Board, and said she will provide a brief review of the plan, with Ned Gallaway, School Division, Trevor Henry, Director of Office of Facilities Development, and Bill Letteri, Deputy County Executive, also presenting. Ms. Allshouse said that Albemarle County is a benchmark community in terms of the way it does five-year planning, which plays a central role in tying the financial plan to the annual budget and strategic plan and provides the opportunity to establish a longer-term financial outlook. She stated the County's five-year plan ties three different funds together, the schools' budget, funds transferred to the CIP, and the General Fund budget, collectively representing 90% of their total budget. Ms. Allshouse noted this is a critical part of the County's AAA bond ratings, with assumptions updated throughout the process to create the framework for the annual budget development process. She referenced a slide with an updated picture of the five-year financial plan shared with the Board and School Board on November 11, noting the total expenditure and revenue lines. Ms. Allshouse stated there is still a structural imbalance between expenditures and revenues, with assumptions built into the model for a tax rate increase of 0.9 cents in FY17, and 2.1 cents in FY19 to be dedicated to the capital program. She said in FY17, the total operational gap is $5.4 million, including some new positive assumptions, including school revenue information from the state, updates on VRS, and updates on school enrollment. Ms. Allshouse said the gap increases to $22.8 million in the out years, and the budget assumptions do not move the CIP very far but just maintains it as a current adopted CIP model.

Mr. Ned Gallaway addressed the Board, stating the recent redistricting decision will impact capital, and the School Board has been optimistic about potential improvements in education funding since meeting with legislators. Mr. Gallaway stated that in the redistricting process they learned of acute capacity issues, with division-wide projections over the last five years having been fairly accurate, but it is difficult to pinpoint what is happening in specific locations. He reported that 10 out of 16 elementary schools and 2 out of 3 high schools were experiencing capacity conflicts, and will meet or exceed capacity over the next five years, with specific issues at Greer Elementary and Albemarle High School. Mr. Gallaway stated that in the next 10 years they will be short about 300 high school seats, driven by growth in the urban ring and impacting Albemarle High School.

Mr. Sheffield commented that he has not been able to clarify how those projections for five years were established, because the Comp Plan identifies what should be growing versus what is zoned a certain way. Mr. Gallaway responded it is difficult to project using birth rates and who will show up to enroll, but that is what started the elementary school process. He stated there are also times when an influx of students will return to the school system in middle or high school, but that is difficult to project.

Mr. Dean Tistadt, Chief Operating Office, School Division, addressed the Board, stating that as the schools are doing their enrollment projections, the primary driver used is the "cohort survivor" methodology measuring each grade moving up, and then works with the County to examine development patterns and the timing of any of that population reaching school age.

Mr. Sheffield asked if the Comp Plan discussions are involved in that process. Mr. Tistadt responded it can be informative, but if it is not already in a rezoning or permitting process it is unlikely to affect decisions directly, adding the schools' projections are increasingly inaccurate because of those factors.

Mr. Sheffield stated when the Board makes those types of decisions it is disrupting those predictions and possibly impacting redistricting, so it is something they need to keep in mind as they move forward.

Mr. Tistadt noted that school administration recently had conversations with the County Executive's office about doing a more in-depth analysis of development patterns to inform future capacity needs.

Mr. Foley said that Mr. Sheffield is suggesting doing more assessment of impacts to school enrollment as rezonings come forward.

Mr. Sheffield commented the most obvious is Brook Hill, which is going from 300-400 by-right homes to almost 1,000, which begs the question as to where those kids will go to school.

Ms. McKeel stated that with the recession there was little development activity, but the County is going to see a real spike in that.

Mr. Foley said the approved inventory will be captured, but the issue is development not yet online and how that might impact decisions such as whether to build an addition to a high school or an entirely new one. He stated that school and County staff have posed that question to be sure they are factoring in variables that might drive a different conclusion.

Ms. McKeel stated this will impact middle schools also, and they need to contemplate how big they want them to be.

Mr. Tistadt noted that all schools will be impacted.

Ms. Palmer asked if there is any timeframe on Northpointe and how those residential units will play out. Mr. Foley responded the County does not have anything definitive to share at this point, although staff has heard there is more activity underway with that project.

Ms. Mallek commented that between 2004 and 2008, there were 4,000 development units in Crozet through rezoning, with only about 2,000 of them built, and many of them turned out to be family housing instead of retiree housing as originally expected. She stated the Brownsville Elementary expansion was expected to last about 10 years, but that has already been consumed with growth and the school is at capacity.

Mr. Gallaway stated that in long-range planning a few years ago, Crozet had an addition planned, but that has now been replaced by the Woodbrook addition.

Ms. Mallek added that a few years ago there were 10 more classrooms in the CIP for Western Albemarle High School, so it is very challenging to keep up with.

Mr. Gallaway stated the recent redistricting update went through the process typically used, and the Redistricting Committee had come back and said there was no viable redistricting option that they could put forward. He said the School Board asked for additional options that the committee did not wish to look at, considered a few options beyond what the committee had contemplated, and the School Board and Superintendent agreed with the committee that they do not see a redistricting option for Greer or for Albemarle High School. Mr. Gallaway stated there were two neighborhoods that could have been moved for Albemarle that would have provided short-term relief with grandfathering of about 80 seats, and moving all of those students to Monticello without any grandfathering would put that school over capacity and put Albemarle at capacity. He said that Albemarle would continue to grow in the outlying years and would soon be over capacity, and the School Board recognized that the growth was occurring at that school.

Mr. Gallaway stated there had been a misperception that it was not possible to build onto Albemarle High School, but the real reason it had not been expanded is that the School Board had not been willing to go past a certain number of students at any school. He said with the past redistricting decision, the majority of the School Board is willing to accept a larger school population provided the capacity can be met within the facility. Mr. Gallaway noted that allowing the growth at Albemarle High School will address both immediate and projected issues, and said that a new "northern high school" would split the population of Albemarle and allow for four comprehensive high schools of about the same enrollment, although an addition at AHS would be cheaper. He mentioned that in the long-range plan there had been an addition for Monticello or Western, so the Monticello slot could be used for Albemarle, with considerations for cafeteria, hallway and instructional space.

Ms. McKeel said in past discussions of Albemarle High School expansion, people had been told that the school simply did not have the land to put an addition, so she is curious as to where it would go.

Mr. Gallaway stated that school administration asked the same questions, and asked Mr. Tistadt to comment.

Mr. Tistadt explained there are sections of AHS that do not have a second floor, so they can add on at those points although the construction costs would be higher given the nature of that type of expansion. He emphasized it is a constrained site that will only allow for additional parking on the margins of the site, and there is a possibility that next year only seniors will be able to drive.

Ms. Mallek stated that was how it was when she attended, with no underclassmen driving, and there were 1,600 students in the building before there were any additions. She added that she is appalled that 9th and 10th graders are driving to school anyway.

Mr. Tistadt said that perhaps that is a different discussion.

Mr. Gallaway stated the redistricting committee had said the two communities suggested to be redistricted were the last two options they could consider out of Albemarle, so even if they do the overcapacity issue at Monticello there will still be an issue of overcapacity at Albemarle. He said what they are finding is that redistricting is only providing short or medium relief, and it is a challenge for all involved. Mr. Gallaway stated if the original plan for Greer expansion had gone through as planned, the County would not have a capacity issue there and would be meeting the needs, even having available slots, but that project got scaled back and there is now a capacity issue. He said they just put the addition on Agnor-Hurt and will likely have a capacity issue there unless another relief valve can be identified. The Woodbrook addition alone will not solve the elementary seat issue seen in the growth area in northern part of the County. Mr. Gallaway stated that Agnor-Hurt will be at capacity, Hollymead is within 20 seats of being at capacity, Baker-Butler is approaching capacity, Broaddus-Wood will have some availability, but redistricting to that school will put all northern ring elementary schools at or near capacity. He said that adding 300 seats to Woodbrook helps with some schools' capacities, but it does not do much to address elementary school population growth in the northern part of the County.

Ms. McKeel asked for confirmation that Northpointe has a proffer for a school site. Mr. Davis responded they do have a proffer for a school site there, but it is fairly small at 20 acres, but the School Board signed off on it as being an appropriate school site.

Mr. Sheffield commented that apparently the site is on a cliff. Mr. Foley stated the proffered school site is a good one, and a different property that the County had bought on Polo Grounds Road is on a parcel with a cliff.

Mr. Gallaway said the School Board had voted 5-2 on the redistricting decision for Albemarle High School, with unanimous agreement on Greer. He stated they agreed this would not provide even a short-term solution and they need to figure out a long-term solution, as the situations are becoming critical at AHS and are past critical at Greer. Mr. Gallaway stated that in terms of the redistricting impact on the CIP, the schools had submitted a request for a Woodbrook addition that is not currently funded, and one for Monticello High School that can be moved to AHS but is not currently funded. He said that other unfunded capital needs reflect the challenge of wrestling with capacity vs. parity issues, because they would only be able to solve one problem per year that would be a large-scale project. Mr. Gallaway said that while they are talking about capacity, there are still parity issues, with modernization requests and needs such as library upgrades at Red Hill to bring it up to standard, as well as the need for Western Albemarle High School addition and renovation. He noted that Red Hill modernization was removed from being funded, and the school division received $1 million toward renovation and modernization, with $100,000 allocated toward the design of those upgrades, which have been completed.

Ms. Palmer noted it is a smaller size project that does not increase the size of the library, and asked if there are any other schools in the system that do not meet the state standard for a library size.

Ms. McKeel said there are schools that do not meet the state standard for classroom size, and those issues tend to be found in the older schools.

Mr. Gallaway stated that he does not believe there is a comparable library issue to Red Hill, which has other space issues as well, with no place for administration to meet. He noted that Stony Point and the smaller elementary schools all have comparable size gyms.

Ms. McKeel said she is concerned about Greer because the Fire Marshal has already cited the school for violations four times.

Mr. Gallaway noted they have corrected those issues.

Ms. McKeel acknowledged they had, but said when a school gets so over capacity they have trouble figuring out where to have some of their small classes. She stated that she and Kate Acuff of the School Board had met with the PTO and administration there recently and discussed ideas to ease the situation, including moving a class to Jack Jouett, but the logistics of doing that are complicated.

Mr. Gallaway referenced a letter from the Redistricting Committee as sent from the School Board, which contains a quote regarding the capital program and the hopes that more revenue can be identified. He noted the Citizens Resource Advisory Committee (CRAC) had identified a number of strategies for raising funds, some of which require action from the General Assembly, but a bond referendum is one tool that can be decided by the County, and from the School Board's point of view this needs to happen sooner rather than later. Mr. Gallaway said if a bond referendum goes out in fall 2016, the projects can be online by 2020 or 2021, and if the more reduced grandfathering had been done as brought forth by the Superintendent, 2020 is the same year that the full impact of redistricting would have been felt. He stated the Board could theoretically pass a bond and put an addition onto Albemarle High School and expand the northern elementary school facilities, as well as possibly addressing some school parity issues. Mr. Gallaway emphasized the reason the School Board likes the bond referendum idea is that voters will have a say in it and will be signing off on it, and if it is not going to be a possibility then they should take it off the table and look at other viable options, because a solution needs to be found, along with addressing local government capital needs.

Ms. Dittmar asked if the School Board is in favor of going to the public for a bond referendum. Mr. Gallaway responded they have not held an official vote on it, but they are all in agreement of sending the letter forward and there were some who saw economic development as another way of generating revenue. He stated if he had to guess, with some of the changes to the School Board with new members beginning on January 1, 2016, it would probably be a majority vote for a bond referendum, but if the Board of Supervisors wants them to have a formal vote, that would have to happen.

Ms. McKeel noted that everyone on the School Board supports the letter.

Mr. Boyd asked Mr. Gallaway if the School Board has discussed what should happen if the referendum does not pass. Mr. Gallaway responded it is the same conversation they were already having, because a capital program has to continue with or without a bond passing, and the schools will just have to work within the confines of what they have available and continue to do what they are doing now.

Mr. Boyd asked what options that leaves the schools if a bond referendum were voted down by the public, because he cannot see the Board of Supervisors approving a plan that the community has already turned down. Mr. Gallaway stated there will be more trailers going into schools like Greer, and they would probably need to reconsider the redistricting option to alleviate the 200 seats it could potentially provide over the next few years. He said his answer would be that the School Board would deal with things the same way they are now, because nothing is funded, and whether the bond goes through or not they do not have the capacity to deal with elementary seats, with a severe issue at both Greer and AHS. Mr. Gallaway stated the School Board has directed staff to figure it out in the meantime, and it could mean a 5th grade going from Greer to Jack Jouett or sending 9th graders to Jack Jouett, or possibly having people in the building at different times. He said they are having to look at these strategies now because they cannot wait for another two or three years, but the problem will continue to increase in the coming years.

Mr. Boyd said his concern is that the meals tax, which was specifically targeted for public education funding, was defeated. He stated he will not be on the Board to decide it, but cautioned that they will tie their hands if they go to referendum and it fails, and if they do not get the addition at Albemarle High and Greer, it will not preclude the Board from building another high school in the future.

Ms. Palmer asked if they will be talking more broadly about a referendum. Mr. Foley said they will and noted that most of the bond referendums out there are passing overwhelmingly as the data shows, so there is a lot of information that needs to get out if they are interested in going to the next level of decision making.

Ms. Palmer asked for clarification that the Board cannot be pushing a bond referendum out to the public, and she really wants to understand the guidelines better.

Ms. Dittmar stated that political leaders can advocate, but no taxpayer money can be used to support a bond referendum campaign.

Mr. Foley said that different groups in the community can advocate, but County government cannot.

Ms. Palmer asked if she can go out as a Supervisor and advocate for the bond. Mr. Davis responded that she can as long as no County funds are used for that purpose.

Ms. Mallek stated the big ticket item in the schools is the $30 million in modernization, and she had asked the schools to come back with prioritization of that on balance with the new facilities. She said she would like to hear about this from the School Board because it is unlikely that it will all be funded at once, and she needs to hear about it from more than a few people on a CIP committee.

Mr. Gallaway said the School Board has not yet had that conversation, but they know it is part of the discussion as they know that a bond referendum will not solve all of those problems.

Ms. McKeel stated they would have to prioritize things like science labs versus other needs.

Mr. Gallaway recognized Ms. Dittmar for her service and appreciated working with her as Board chair, adding that they had made great strides in the budget process and the School Board is appreciative of that effort.

Ms. Dittmar said she has enjoyed chairing the Board while he was School Board chair.

CIP Review

Mr. Trevor Henry, Director of the Office of Facilities Development, addressed the Board, stating that he will discuss the Capital Improvement Program (CIP) and the Oversight Committee meetings, with a formal memo from the committee scheduled to be presented to the Board, School Board, and Planning Commission within a week or so. Mr. Henry stated the CIP had tragically lost a key committee member, Mr. Chris Lee, who has been a member for more than a decade and has been a great contributor to County government.

Mr. Henry said the CIP had a total of $616 million in requests over a 10-year period, with $338 million in the first five years and $278 million in years six through ten. He stated the scenario he had originally presented in the joint board session on November 11 looked pretty bleak, but over the past month, through updates of revenues, project review, and adjustments, staff was able to make a balanced recommendation. Mr. Henry said the Oversight Committee's first scenario is their adopted plan as revised with new requests for this year, including things like courts and other items that have been adjusted. He stated they have been able to balance with this model to 0.9 cents in year one and 2.1 cents in year three, with this model only having the currently adopted program. Mr. Henry noted that school security, Pantops Station 16 construction, and the schools' telecommunications network upgrade are included, but there are no new projects.

Mr. Henry stated that Mr. Gallaway did an excellent job of characterizing what the Oversight Committee had spent a lot of time talking about, which was the volume of requests and their prioritization. During the 10 meetings held they identified the top needs and essential projects that the committee feels should be funded. He said this includes local government projects such as the public safety training facility, a police department training academy, and transportation revenue sharing dollars to match with VDOT funds, as well as some school projects. Mr. Henry stated the Oversight Committee feels these projects should be funded, at least at some level, especially those identified on the school side. He said with that discussion, the Oversight Committee asked staff to look at a few incremental scenarios, and he will reference these projects within each scenario as part of their discussion.

Ms. McKeel asked what is meant by "school security delay." Mr. Henry explained that in order to make the model work and be balanced to at least $1 million a year on fund balance each year, staying within planned revenues, they have to take the school security request of approximately $6 million over two years and push it to over three years. He added they also have to move some maintenance projects out, such as the windows for the McIntire Building, just to make certain they stay within the balanced CIP parameters. Mr. Henry noted the school security request had increased by a few million dollars in the adopted plan since the original CIP request, due to understanding the scope better and factoring in the reality of costs from the Cale Elementary project.

Mr. Foley pointed out the Board had dedicated 1.3 cents on the tax rate to the capital program based on their action last year, which would be going to some of the projects approved that had some increased costs.

Ms. Mallek clarified with that action, the Board did not talk about what specific CIP projects that amount would accomplish. Mr. Foley responded it is mostly going to get them to the baseline scenario in the five years, because of some of the project costs.

Mr. Henry said what was in the request a year ago showed a higher anticipated tax increase in FY17, and by the Board taking action last year it reduced that, from 2 cents down to 0.9, which is reflected in the model.

Mr. Henry stated the first scenario takes the most critical CIP projects, which includes the Red Hill modernization component and accelerates that Woodbrook modernization item. He said the first two or three years transportation revenue sharing are for pedestrian crossings across Route 29 and Route 250, and the first thing the Oversight Committee had asked staff to do was to take the baseline model and determine how those projects can be accomplished. Mr. Henry stated it was determined that those crossings can be accomplished with an additional 0.6 cents in addition to the 0.9 cents, to bring down an equal match from the state, with the County providing just over $3 million of a total $6.4 million cost.

Mr. Boyd asked how much this plan has for the ACE Program. Mr. Henry responded there is nothing for it in the first scenario, but it is identified as an important project and there are other scenarios to present. He stated in the current adopted plan, there are a total of three pennies on the tax rate over five years, and the Oversight Committee asked for a model study in which the three pennies would all be put in the first year to accelerate the project list.

Ms. McKeel asked if scenario two assumes an additional tax increase. Mr. Henry confirmed that it assumes an additional 0.6 cents, with the cost neutral scenario being the baseline staying within current revenues.

Mr. Foley clarified that it relies on raising revenues by 0.9 cents.

Mr. Bill Letteri added it also includes the 2.1 cents in FY19.

Mr. Foley said that Ms. McKeel is trying to make sure they clarified the dedicated amount to capital, and the 1.3 cents dedicated last year plus scenario two gets them up to almost 3 cents total, but even that total only gets them through the scenario two projects. He clarified the correct total is not exactly 3 cents, but is 2.8 cents.

Mr. Boyd noted the reason he had asked about the ACE program funding is that he feels making existing growth areas more attractive places in which to live might be a better way of spending money than extinguishing development rights in the rural areas. He added there is an impediment to the growth area now because Route 29 and Route 250 split it right down the middle, making the neighborhoods non-walkable and bikable.

Ms. Mallek commented he should vote for the next thing that comes up, because that is how they will achieve it, and said she feels it is both making the connections and protecting critical resources.

Mr. Henry reiterated that ACE funding is not in the baseline scenario, and the only non-maintenance projects in the baseline, which include the dedicated 0.9 and 2.1 cents, are school security, Pantops Station 16, and the telecommunications upgrades. He stated this is still not addressing the majority of the projects identified by the Oversight Committee as important, and with scenario three they looked at putting all three pennies in year one to see what could be added to the request. Mr. Henry said this would allow the County to bring in the public safety training facility and the first year of school modernization. He emphasized it still does not get to critical needs as discussed, with the list including Woodbrook, Red Hill, Western Albemarle, the public training safety facility, the police academy, and the high school addition labeled as the “Oversight Committee Preferred.” He stated in order to meet these essential projects, a model with 4 cents in year one and 0.7 cents in year five would accomplish those. Mr. Henry noted they had also included learning space modernization at a reduced level to achieve some parity, and some additional transportation revenue sharing funds beyond the crossings. He added while this is not all of the projects, it starts to address critical needs for public safety and schools and brings in ACE at a smaller amount.

Mr. Foley asked if it is clear that the 4 cents is on top of the 0.9. Mr. Henry responded the 4 cents takes the 0.9 and 2.1 and collapses them to 3 cents, then adds another 1 cent. He stated the 4 cents will be brought forth in year one, with nothing else until 0.7 cents in year five, which has to be brought in because of debt service.

Ms. Palmer noted the term “preferred” is not a reflection of the committee saying the tax rate should be raised by 4 cents, but just what will be covered by it. Mr. Henry said they did not come out of Oversight with a strong recommendation for a referendum, although there is some interest in that, but the projects are deemed to be the most critical and it is felt they should get in the plan.

Ms. Palmer stated she did not remember the Oversight Committee discussing the public safety training facility and why it is preferred.

Mr. Henry said at the first meeting they reviewed the ranking of projects, and the public safety training facility was the top ranked non-maintenance project by the Oversight Committee.

Ms. Mallek noted the burn building for fire and rescue training is about 25 years old, and she recalls a lot more discussion about the 3-cent scenario, supported strongly by several people who said that is the way it was always done up until 2009 for a flat investment in capital rather than one that is up and down. She added it may not be as fast to get to some projects further down the list, but it certainly will be defensible, and a former Board member had strongly encouraged that it not be changed because it would be a long hard fight to get it back.

Ms. Dittmar stated that in talking with PVCC President, Frank Friedman, a year earlier about CATEC and a possible partnership, and Mr. Friedman’s previous college had built a burn building right on the campus for fire and rescue training purposes.

Mr. Letteri said the training academy is a great example of an opportunity that kind of partnership, with the City, University and ECC all needing this kind of facility, as they have to go to Weyers Cave now for that type of training.

Mr. Foley stated that even with support for some dedicated revenues, there will still be some prioritization needed by the Board, and before some of the collaborative projects proceed, the regional partnership commitments will need to be clarified. He said that moving a project out might allow a school to get done more easily, but there is still some scrutiny that needs to be done for CIP projects as there is not a regional partnership lined up with operational contributions to run a new regional training center that will replace the current one the police use. Mr. Foley emphasized they do account for operational impact with all CIP requests, and there must be operating costs identified before spending capital dollars.

Mr. Boyd said if they are looking for a vote, the operations cost is the missing piece for him.

Various Board members and staff commented they are not at that point with this discussion.

Ms. Mallek asked if the public safety training facility at $4.2 million in the scenario three slide is the fire building or the police classroom.

Mr. Henry responded it is the fire and rescue facility, including the burn building and classroom, and in the Oversight Committee's scenario four the police training academy would allow police to have their own academy and pull out from the Weyer's Cave facility, which will provide an opportunity for regional partnership. He stated when the decision was made years earlier to discontinue plans for a combined regional facility, those functions have now dispersed into their own siloed requests.

Ms. Mallek asked if the $100,000 proposed for the interim police training academy is operational or classrooms added onto the shooting range. Mr. Henry said the funds would go toward converting a space on 5th Street for a training academy, to be used for three years while the larger project is built.

Ms. Palmer noted the $4.2 million and $11.3 million used to be one lump project. Mr. Henry responded there was some sharing of facilities and collocation in that scenario.

Ms. Palmer said this would be nice to have at PVCC also.

Mr. Henry stated that with the Oversight Committee seeing what the model showed, there was a lot of discussion about projects and priorities, with staff developing models to show what it would take to accomplish them. He said where the Board and County Executive's office settles with the budget, staff might have to go back to the committee and look at how to stay within that framework. Mr. Henry noted that he worked to try to get a decisive discussion about having a referendum, but he does not feel that was accomplished.

Ms. Mallek emphasized there was definitely a decisive discussion, but they did not feel there was a clear advantage for a referendum, because taxpayer money would have to pay for it anyway, and the County's borrowing capacity is excellent. She mentioned that several School Board members had suggested that getting back to a dedicated three cents to capital will create an orderliness for investment and more confidence that these projects will have some certainty going forward.

Mr. Foley suggested holding that conversation until they review the referendum information, because staff has done the next level of review regarding savings between a AAA-bond rating and what can otherwise be accomplished over a scenario of $100 million, which is important because there are savings to be realized.

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Bond Referendum Discussion

Mr. Bill Letteri, Deputy County Executive, stated there has been a good deal of discussion about bond referendums, including with the Citizens Resource Advisory Committee, who identified it as an important strategy. He stated that staff is not looking for specific decisions about projects at this point, but what the Board feels in terms of general approach. Mr. Letteri said the bond referendum is one of a number of different financing options available to localities in Virginia, and he presented information on three types of bond financing in the state and mentioned there are also options of direct bank placement for loans and VPSA pooled financing options.

Mr. Letteri reported that a general obligation bond seeks Board approval and is on a ballot to seek voter approval, so when bonds are issued they will have the full faith and credit of the community, which provides a lower interest rate cost. He stated the second option is the lease revenue bond, which is a complicated transaction in which title is transferred to the EDA and lease payments curtail the debt. Mr. Letteri noted these bonds are subject to annual appropriations, so bonding agencies recognize there is more risk than with general obligation bonds and thus there is a delta between the interest rates of the two approaches, ranging from about 1/4% to 0.4% in a good market. He stated the last bond option is a revenue bond, in which a dedicated source of revenue, such as stormwater fees, has been identified to pay back the bond.

Ms. Palmer said they cannot do all of these projects at once, and asked if they will come into play when the tax increase revenue is realized. Mr. Letteri responded he will explain how the timing of this might work a little bit later in his report.

Mr. Boyd asked if revenue bonds can be used for service districts. Mr. Davis stated that service districts are not typically a source for revenue bonds, but create a revenue stream that can be used for similar purposes.

Mr. Foley noted they could change the tax rate with the service districts, whereas revenue bonds are fully obligated to pay back that debt.

Mr. Boyd asked about using CDAs for a specific revenue stream. Mr. Davis responded that CDAs are the same principle as a service district but are technically not the same.

Mr. Foley added they are also not through a revenue bond.

Mr. Letteri summarized that bond referendums are issued directly by the County and involve full faith in credit of the County, which is why they are offered at a better rate. He stated that regardless of whether they do a general obligation bond or a lease revenue bond, they still need to go out and reestablish their credit rating, which is a AAA and would likely not change anytime in the near future. Mr. Letteri said that once a bond referendum is on a ballot and approved, the County will have to act on it within an eight-year period of time.

Ms. McKeel asked what “act on” means, specifically, and whether it refers to completion or start of the projects. Mr. Davis responded it requires issuance of the bonds which can be done in one issuance or in a number of issuances, but it must be done within eight years.

Mr. Letteri reported that staff has gone back and looked at some data relating to bond issues in the state, with eight or nine AAA localities, all of whom other than Albemarle have issued general obligation bonds in the last several years. He stated that in looking at the specifics of those bonds, there was a variety of purposes, with school projects being popular and often approved, public safety initiatives, and major road improvements. Mr. Letteri said what they did not see are projects that were mandated or critical, such as court projects.

Ms. Palmer said when they have overcrowded schools, they have to do those schools.

Ms. McKeel said that was Mr. Boyd’s earlier point.

Ms. Dittmar stated it is important to elaborate on why permission is being requested, and with a critical need they are saying to citizens that this is the best way to finance, and given the interest rate, it is, so they are asking for the best way of financing. She acknowledged that some people will vote against it if they do not feel it is a critical need, but how they ask the question gives an idea of how people are thinking.

Mr. Foley said there are a number of ways to ask the question.

Mr. Letteri reported that he would share information about the timeline for the bond referendum, and if they are to do a referendum in November, the projects to go on the ballot it will have to be adopted by the Board in this cycle. He said in February or March, the CIP projects including those for the referendum will be recommended, and in April the five-year plan will be adopted with the County budget, including the projects along with the tax rate increases necessary to support them over the five-year period. He said in May, assuming there are school projects as a part of this package, the School Board will have to act and by resolution request that the school projects be included in the bond referendum. Mr. Letteri said in June the Board will approve the questions and the wording of them, then pass a resolution to hold a special election in November. He stated in July and August, the Circuit Court will enter an order for a special election for purposes of conducting the bond referendum, at which point the County will engage in a public education process. Mr. Letteri added the rating agency reviews and bond document development will happen later that spring into summer, with issuance in the fall, putting it into FY18.

Ms. Palmer asked when the tax rate will actually go up to pay for the bonds. Mr. Foley responded it will depend on how it is timed. The voters are not voting on the tax rate, but the County is essentially telling them that passing the bond will impact the tax rate by a certain amount. He noted that a number of localities have gotten approval for the financing and projected a rate increase necessary to pay for it, but have then had revenue growth that is stronger than anticipated and not raised taxes as much. Mr. Foley said it depends on when the debt for a particular project would be issued, over an 8-10 year period, and it typically will not be done all at once because the projects probably cannot be done collectively.

Ms. McKeel asked if the public education timeframe mentioned is something prescribed by law or staff’s timeline. Mr. Davis responded it is just the typical amount of time, with a more focused effort revolving around production and distribution of materials.

Mr. Letteri stated he wants to take some time to address potential savings realized by using bonds, and to establish that staff used a $100 million hypothetical figure with that amount issued immediately for projects with 20-year terms. He stated that about $500,000 would be the cost of issuing those bonds, and costs to issue lease revenue bonds is slightly higher than those with general obligation bonds, and the public education campaign is not included but needs to be considered.

Mr. Boyd asked if the savings numbers are net of the issuance cost. Mr. Letteri confirmed they are net.

Ms. Dittmar said they cannot be included because the County cannot pay for public education expenses.

Mr. Foley clarified they can pay for public education costs in terms of explaining to voters what is being considered, but not to advocate for a position, and he does not see that they are talking about extensive costs to educate the public.

Ms. Palmer asked if she could advocate for the bonds at a meeting the County had paid for. Mr. Foley responded that she could not advocate at that meeting.

Ms. Palmer emphasized it is important to make that distinction.

Mr. Letteri reported the County is currently in a good interest rate environment, and the consultants have indicated if they are to go out in 2016, the difference between general obligation and lease revenue bonds will range from 0.25% and 0.4%, or $164,000 to $263,000 per year for the term of the loan.

Ms. McKeel pointed out this is only the comparison between the two bond formats, not a comparison of bonds versus a different type of funding.

Ms. Mallek asked what the cost of $500,000 represents. Mr. Davis responded it reflects attorney and financial advisor fees, and bond rating issuance costs.

Mr. Foley noted there is no other locality in Virginia with a AAA bond rating that has not gone to referendum, and even though the annual amount up to $263,000 might not seem significant, there is a cumulative effect over the life of the financing. He stated there is also a political component to this in terms of how they want to engage.

Ms. Palmer asked why the figure of $100 million was selected, as it does not seem they have this much in projects. Ms. Mallek responded this is what it will take to zero out the capital program and pay for all identified needs for the three CIP years.

Ms. Dittmar noted it is partly a result of the schools' long-range planning.

Mr. Foley stated they would likely not borrow $100 million in year one, but they also do not know where the interest rates are going, and they will need to follow up with a comparison between other types of financing. He emphasized that rates are going to go up, and it will have an impact on any bonds.

Mr. Letteri pointed out the County did model the increased rate into the debt service program that builds the capital plan, based on conversations with financial advisors.

Mr. Foley said he would like to go to the next level of review if there is Board interest in doing so, and the first benchmark on the timeline was a decision about which projects they want to put forward and which they do not.

Mr. Boyd asked if the same approach can be done to reduce the cost of debt they have now. Mr. Davis responded it will be hard to beat the rates they currently have.

Mr. Letteri said the last issuance was at 2.8%. Mr. Foley stated the advisors had already refinanced a lot of it, but not through a GO rate.

Mr. Letteri said they had done those they were able to do, but not those they could not do, such as VPSA-financed debt.

Mr. Davis stated that theoretically you could use bonds to refinance, but he has never seen them used that way.

Mr. Boyd noted that a few years ago when they refinanced, it created quite a bit of savings over a period of time, and he wonders if they can use the same approach.

Mr. Letteri commented that just a quarter percent will make a big difference.

Ms. Palmer asked if the 4% is what they expect for next year. Mr. Foley responded that staff has included it as a scenario based on what has been experienced, but the next level would be to include work with Davenport to advise them, and by that time the Federal Reserve will have made a decision on rates.

Mr. Sheffield asked if there is a work session planned for what should go into the bond referendum. Mr. Foley responded there absolutely will be, but staff does not want to plan for that if the Board feels that a bond is not the direction they want to undertake. He said that once that is established, staff will start to plan for setting up a work session that will start by discussing strategies and what other localities have done.

Ms. Dittmar asked Board members if they feel this should be on the table.

Ms. Palmer stated she does not feel it should be off the table, and asked if the four dedicated pennies in the scenario would catch them up at the same rate as it would with a bond referendum.

Mr. Henry asked her to rephrase her question. Ms. Palmer asked at what point a tax rate increase dedicated to CIP would equal a $100 million referendum. Mr. Henry responded the scenario with the four pennies in year one would have an additional $86 million in projects over the five-year period, plus the Board's action.

Mr. Foley pointed out the 1.3 mentioned earlier is $1.3 million, so the issue is the same, but the numbers are 0.4 off of the 0.9 he had mentioned.

Mr. Boyd stated they would also need to factor in the debt service costs, as his recollection is that their debt service is hitting the ceiling for everything contributed to the CIP to begin with. Mr. Henry noted it had been modeled in already.

Mr. Boyd said he would also like to see what the projected tax increases will be with housing costs and property values factored in, to get an idea of the impact on the average household.

Ms. McKeel asked for clarification that the 1.3 is $1.3 million. Mr. Foley responded that 0.9% equals $1.3 million in tax revenue, and the other complicating factor is that last year in the budget they had taken away money from capital and reallocated it to police officers in the field, because it was felt to be a higher priority than ACE and sidewalks. He stated if the Board wants to proceed, staff will take it to the next level and get all of the numbers laid out.

Mr. Gallaway stated that he needs to leave the meeting, but left behind an information sheet containing data on other localities that use general obligation bonds.

Mr. Foley said this would be helpful in their next level of discussion should the Board decide to proceed. Mr. Foley stated he would like to get some direction from them as to whether there is support to move forward to the next step for a bond referendum. He stated there is an adopted CIP with a 0.9 tax increase dedicated to capital that he feels compelled to put in the proposed FY17 budget because it has been part of the planning the Board has supported. Mr. Foley noted that staff is not finished with the budget and is waiting for a revenue update, with some decision making and analysis just getting underway, with a lot of issues on the operating side.

Ms. Mallek said if they start by following the historical pattern of putting three cents back in the budget for capital, which would then become the baseline going forward, it will not preclude them from a referendum decision in January or February.

Mr. Foley said that is correct, but it is possible that implementing a tax increase and then going to voters might be confusing.

Ms. Palmer stated she would not feel comfortable doing the 3-cent increase without a referendum, but will support the 1.5 cents to address some of the critical projects.

Ms. Mallek said she would be in favor of the 3 cents. Mr. Foley clarified that she would like to get back to a total of the 3 cents on the tax rate, considering the 0.9 that is already gone, because it gets them back to a position where they were before the recession.

Ms. Palmer said she would like to get back to the 3 cents, but would like to do it incrementally and also see what the impact would be on households.

Ms. McKeel asked when the additional increases were put into the CIP, because it is not the current Board. Mr. Foley said it was likely over the last 5-7 years.

Ms. Allshouse stated the year she came to the County there was a 4-cent tax increase dedicated to capital.

Mr. Foley stated that in early 2000, Sally Thomas had put forward a 4-cent increase that was enacted, with 3 cents of it dedicated to capital.

Mr. Davis clarified it was done after the operating budget was approved as an additional amount to what was recommended by the County Executive.

Mr. Foley said staff can provide an exact date as to the first budget year when that was adopted.

Ms. Allshouse stated that in the past they have balanced the five-year plan in the model, but last year they did not when the structural imbalance was showing a different picture, and they began working jointly with the schools on the plan. She asked the Board if there are any other details they need at this point in thinking about the entire process.

Ms. McKeel said she is interested in pursuing more information about the bond referendum, and there are two new members on the Board who will be voting on this and hence will need to be educated on it.

Mr. Foley stated there are some budget "boot camps" planned as well as focused reviews of certain issues, so staff will also work in the bond referendum discussion.

Ms. Palmer said she is most interested in how a bond referendum will impact taxpayers, because there are other issues beyond school needs and they can obviously not do everything at once.

Mr. Foley stated that staff will need to develop some scenarios and engage the Board in discussions as to whether they want to just address schools or a mix of projects.

Ms. Mallek said that her preference would be for a mix of projects, and asked if the burn building can come out of the fire fund. Mr. Foley responded that staff is doing projections now, and said if there is some excess in operating that is not needed, it can be transferred to capital to pay for the building.

Ms. Mallek stated that her understanding is that the capital funds are already covering fire engines.

Mr. Foley said the amount was paying for operating, and to the degree that revenues would exceed operating needs, they would support capital for fire and rescue. He noted they had spent some extra time last year doing an extra presentation on that.

Mr. Boyd asked how a $100 million referendum would impact the County's AAA-bond rating. Ms. Allshouse responded that staff has run some initial models on that because of needing to look at certain ratios and found that the County is still within its policies, hitting high compared to the other AAAs, but they may be changing as well, and the County will make sure it does not jeopardize their rating.

Mr. Foley stated this will all need to be a part of their decision-making process, and staff will make sure it is part of their presentation.

Ms. Mallek noted that part of their debt load was coming off. Ms. Allshouse confirmed that it is.

Mr. Foley stated that staff will work on the next level of bond referendum information, and will at least propose the 0.9 for capital in the FY17 budget.

Ms. Allshouse said the school's budget process moves faster than the County Executive's, and the Superintendent's budget will be presented to the School Board on January 19, with a public hearing on February 4, and on February 9 the School Board will finalize their request, with a Board work session in late February or early March around the school budget. She stated the next County Executive's budget meeting will be February 19, with February 23 being the public hearing on the budget and four budget work sessions in February and March. Ms. Allshouse said the tax rate for advertising will be finalized March 8, to be adopted formally on April 12.

Ms. Mallek stated that her preference would be to schedule all of the meetings and eliminate them as needed, because one of the challenges in their budget work is trying to rush everything and cram all the information in.

Mr. Foley said the way the State Code changed makes it almost impossible not to be rushed, because the tax rate needs to be set by a certain date.

Ms. Allshouse mentioned that the City is holding an all-day offsite budget retreat this year for the first time.

Mr. Foley said that in January the Board will review and approve their calendar, including budget work session dates and times.

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Agenda Item No. 2. Closed Meeting.

At 5:02 p.m., Mr. Boyd **moved** that the Board go into a Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia under Subsection (1) to discuss the retirement of a department head and the appointment of a department head. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Sheffield, Mr. Boyd, Ms. Dittmar, Ms. Mallek, Ms. McKeel and Ms. Palmer.
NAYS: None.

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Agenda Item No. 3. Reconvene and Call back to Order. At 6:02 p.m., the Chair called the Board back to order.

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Agenda Item No. 4. Certify Closed Meeting.

Mr. Sheffield immediately **moved** that the Board certify by a recorded vote that to the best of each Board member's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing in the closed meeting were heard, discussed, or considered in the closed meeting. Ms. McKeel **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Sheffield, Mr. Boyd, Ms. Dittmar, Ms. Mallek, Ms. McKeel and Ms. Palmer.
NAYS: None.

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Agenda Item No. 5. Pledge of Allegiance.
Agenda Item No. 6. Moment of Silence.

Agenda Item No. 7. Adoption of Final Agenda.

Ms. Palmer asked if they were going to discuss the joint resolution with the City Council about the Charlottesville Albemarle Convention and Visitors Center.

Ms. Dittmar responded that she would bring it up at the end of the meeting.

Motion was offered by Mr. Sheffield to adopt the final agenda. Ms. McKeel **seconded** motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Sheffield, Mr. Boyd, Ms. Dittmar, Ms. Mallek, Ms. McKeel and Ms. Palmer.
NAYS: None

Agenda Item No. 8. Brief Announcements by Board Members.

Ms. Palmer reported there is a new daycare located in the Yancey School, “The Little Learners”, which takes any child that is potty trained, or older. She stated their website address is www.littlelearnerstricountry.org, or people can email her directly and she will pass on the information.

Ms. Mallek reported that PERL, an energy certification program launched in Central Virginia, has been launched with Nest Realty and will hopefully soon be working with other realty partners to provide energy efficiency certification to help enhance the value of homes that have invested in energy conservation measures.

Ms. Mallek reported that the previous evening she had attended the launch of ornaments at the Governor’s mansion, and said that Albemarle’s ornament was beautifully displayed on the tree in a prime location at eye level in the center of the tree. She stated the Governor had mentioned that he is announcing new trade deals, particularly in agriculture, with India and other countries greatly increasing the purchase of apples.

Ms. Mallek reported that the Crozet Dog Park, located on the eastern border of Claudius Crozet Park, will open on December 12.

Ms. Mallek acknowledged the death of Chris Lee, stating that she has known his family for a very long time and noting that his grandfather and her father had been very close friends. She cited his work on the Local Climate Action Planning Process, the Development Review Task Force, the Transportation Working Group, and other local government efforts.

Ms. Dittmar stated that she knows Mr. Lee’s father, who was very active when she was with the Chamber of Commerce, and when she was elected Supervisor, Chris had reached out to her regarding workforce training and the impact of pre-K education. She said that as a result of his efforts, in part, the Board is committed to pre-K in the community.

Ms. Dittmar reported that Albemarle County Schools had recently been recognized for being in the top 5% in Virginia and in the top 2% in the United States.

Agenda Item No. 9. Recognitions.

Colonel Steve Sellers addressed the Board and stated that he is formally announcing his retirement from the Albemarle County Police Department effective June 1, 2016. Colonel Sellers stated that he has enjoyed his 34 years in law enforcement in Virginia and the last 5 1/2 in Albemarle County, adding that the ACPD is highly regarded in the state and nationally, and is loved and supported by the community. He noted that policing has become more difficult and complex in the last few years and has changed in the time he has been here, with the trend nationally for officers to “de-police” and avoid conflict, responding only to calls for service. Colonel Sellers said this is not the case in Albemarle County, with arrests continuing to increase and the crime rate going down, and he cited the collaboration between the community and law enforcement as the reason for this. He stated that prior to his departure on June 1, he wants to see a few projects to fruition: the combined regional police firearms training facility, the new CAD dispatch system, the new police records management system (RMS), and a revamping of ACPD departmental policies. Colonel Sellers said that in his retirement, he plans to do some consulting to other police departments nationally, and will also pursue his woodworking hobby and go fishing with his grandchildren.

Attendees applauded.

Ms. Dittmar thanked Colonel Sellers for his service.

Agenda Item No. 10. From the Public: Matters Not Listed for Public Hearing on the Agenda.

Mr. Kieran Cottrell addressed the Board and said that he, Addie Almalham and Samantha Payne are present at the meeting to present their CAP project.

Ms. Payne addressed the Board and stated the three of them are from Monticello High School and are before the Board to discuss the higher rainwater fee for urban areas than rural areas, which seems fair because the rural area surface is pervious and does not create the same kind of runoff as urban areas.

Mr. Cottrell said the students are suggesting the County use the impervious model in service districts instead of individual residences, and urban areas are causing more of the runoff problems that impact the Chesapeake Bay.

Ms. Almalham said the students would also like to suggest having the County implement tax incentives for people to make eco-friendly design choices, and places such as Cardinal Beer Hall, which has a pervious parking lot; and Dell Pond at UVA, which is a stormwater pond.

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Mr. Naji Jones addressed the Board and said that he, Makayla Whitehurst and Sherrika Howard are also doing a CAP project and have the topic of pre-K education, which will focus on expanding the service to those students who cannot afford it.

Ms. Whitehurst said that one of the major benefits of ensuring children go to pre-K is making sure they get off to a strong academic start, with reading skills and learning at an earlier age.

Ms. Howard stated the children also learn social skills, such as getting along with others, sharing, communication, and this is key if they are not learning those skills at home.

Mr. Jones reported there are between 250-350 students of preschool age who are not getting pre-K education, and it is important that all Albemarle County children are getting it.

Ms. Whitehurst stated there are a lot of challenges with making pre-K universally available, including limited space and funds, and their group has come up with some solutions for that.

Mr. Jones said they had done some more research and determined that in Albemarle County they are running out of space for senior citizens, so they feel that incorporating them with pre-K students might solve both problems, and if Walker students are sent back to the elementary school and the 6th grade students go to Buford, that building can be used with senior citizens along with preschool students to free up space.

Ms. Whitehurst added that seniors may also be looking for volunteer opportunities, so perhaps they can work with the pre-K students.

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Mr. Bob Breci addressed the Board, stating that he lives on Ballard's Mill Road in Free Union. He stated that in January 2015, Ms. Katherine Kane of Waterperry Farm applied to Albemarle County for a special use permit to hold weddings and other events. He stated that her plan was met with overwhelming opposition from her neighbors, who were prepared to present reasonable grounds for denying the special use permit application. Mr. Breci said that Ms. Kane deferred her application to the County and is now applying for a farm winery license in order to hold weddings and other events by right, under state law. He stated the General Assembly has taken away much of the County's options when they passed the farm winery legislation, and the County, at present, has little or no authority to act with regard to the Ballard's Mill situation. Mr. Breci said it is clear that Waterperry wants the winery so they can have events, and this situation stands on its head, well-intended General Assembly state code to make it easier for farms to hold events, the intent being for farmers to charge a little bit of money to make the farm property productive. He emphasized in this case the opposite would happen, and the wedding and events business would supplant the agricultural products as the primary income-producing activity. Mr. Breci said the winery with one-half acre of grapes planted at Waterperry would be incidental to the non-agricultural commercial business, and as stated earlier the commercial activity will result in traffic and safety issues and greatly diminish the character of the neighborhood. He stated the neighbors' hope is that the County's response is to walk up to an injustice created by the unintended consequences of a well-intentioned law, resulting in intrusion into other people's lives and dreams.

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Mr. Bill Pritchard addressed the Board, stating that his home is across the road from Waterperry Farm, a property applying to the Virginia Department of Alcoholic Beverage Control to become a farm winery, with the express purpose of hosting weddings. He said a farm winery license from the ABC will enable the property owner, Katherine Kane, to use the by-right provision to host weddings. Mr. Pritchard stated that Ms. Kane has done extensive marketing for her business, including articles in local magazines and the web over the last year, and in none of those could he find a mention of her status as, application for, or desire to become a winery. He emphasized that the intent of the farm winery, brewery and distillery bills is to support agricultural development in rural communities, and the many fine wineries in Virginia are all in the wine production and distribution business, growing and harvesting the grapes and bottling the wine. Mr. Pritchard stated the events held at these farm wineries supplements their incomes and promote their core businesses, building the reputation of their products through tastings and tours, which are clearly secondary to the principle business of producing wine. He said in the Waterperry instance, weddings would be the core business, with the wines simply a means to an end, and these events do not meet the standard of being agricultural in nature, nor are they usual or customary. Mr. Pritchard stated the noise, traffic and environmental impacts of what is essentially a large party business run contrary to the goal of agricultural development and preservation. He urged the Board to take immediate steps to control those who wish to sell the County's neighborhoods for profit, and said that residents need them to require that events of this nature be regulated by the same permit process required for all other events. Mr. Pritchard added that if an event is to be held, it needs to be in support of, not in place of, the core operation of a farm. He stated that production of agricultural products should be the majority of the revenue derived by the venture for it to hold farm status, be it a winery, distillery or brewery, and a business is not a winery if it makes all of its money from hosting weddings. Mr. Pritchard urged the Board to act quickly and to stand up for the rights of citizens, and prevent the confluence of greed and a loophole from destroying the community.

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Ms. Sibylle Hunt addressed the Board, stating that she is a resident of Ballard's Mill Road and noting that she will discuss the issue of farm wineries, specifically Katherine Kane's proposed "farm winery" business. Ms. Hunt stated the laws that allow her to hold weddings in a winery are designed to further wine production and agricultural products, not events. She stated her neighbors are concerned that Ms. Kane would have a large enterprise that is not farm-related and jeopardizes the safety of the neighborhood because of increased use of the road and other issues. Ms. Hunt said she hopes the Board will be able to address the issue and do what it can to prevent people from misusing the law, and use it to support agriculture, not event planning.

Ms. Nancy Breci of Ballard's Mill Road addressed the Board, stating that for an investment of $20,000-$30,000 and 10 token grapevines, any Albemarle entrepreneur can apply for an ABC farm winery license. Ms. Breci stated that if neighbors are unaware of what their neighbor is proposing to do, there are two ways they can find out that an application has been filed. She said one of the ways is for the applicant to post a notice of intent on their property, which does not have to be visible to neighbors and will require that a neighbor trespass on the applicant's property to see it; and the other is for two legal notices to be published in *C-ville Weekly* or *The Daily Progress*, which residents will have to read each day or be left in the dark, and opposition must be filed within 30 days of the first legal notice publication. Ms. Breci noted the ABC has no obligation to notify nearby residents of the application, which can be applied for and approved without neighbor awareness, and will become a permanent issue to deal with. She added that there are very few, and hard to prove reasons for ABC to deny a license, and this process totally bypasses County controls and silences all concerned neighbors, giving them no voice in an invasive and impactful situation. Ms. Breci said that a minimal investment and planting would give the licensee by-right ability to hold unlimited for-profit events on their property with up to 200 attendees plus supporting service personnel. She stated that grapes can be leased anywhere in Virginia, and a percentage can be imported from out of state, with most of the production and bottling able to be outsourced. Ms. Breci stated that annual production of several bottles of wine qualifies a business to be a producing farm winery, with no quality issues, and placing a bottle on an event table qualifies as selling. She said that policing of traffic issues, noise level, drunk drivers, and unruly attendees will fall on surrounding neighbors. Ms. Breci stated that calling the police will not be effective as they may or may not respond to the call, and it will be up to neighbors to prove to the ABC Board that there was a valid complaint, taking over a year for discovery and the holding of the board hearing, possibly resulting in a fine as low as $50 and a slap on the wrist. She likened this situation to a cancer growing in Albemarle County, one that will benefit from early detection, and few County residents will be immune. Ms. Breci emphasized that residents need immediate attention from the Board on farm wineries to keep them from becoming a metastasis throughout the County.

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Ms. Elizabeth Neff addressed the Board and stated that she is a resident of Ballard's Mill Road, asking the Board to use the collective wisdom of their position and use all means at their disposal to quickly foil the applications of a winery license as a cover, bypassing special use permits to hold events. Ms. Neff stated that all neighbors fully support bona fide wineries, as they are rural people and have a vested interest in agricultural business, but they adamantly oppose the misuse and manipulation of a well-intended agricultural legislation in order to conceal a non-agricultural business. She said the unforeseen consequence of the by-right event holding part of this legislation will have far-reaching impact on the way of life residents' prize, as reflected in the County's vision statement. Ms. Neff stated that Ballard's Mill Road, dating back to the 1740s, with the Ballard Maupin House in the National Register of Historic Places and a Virginia Historic Landmark, sparsely populated with woodlands, fields and ponds, is exactly what is being referred to in the County's vision statement. She stated the question is if one neighbor wishes to use their property in a way that negatively impacts a historic and rural corridor, with 74 property owners having signed a petition against this use, whether it behooves the Board to do all in their power to direct staff and resources to address flaws in the current legislation. Ms. Neff said the clock is now running with Waterperry Farm having applied for an ABC farm winery license, and once a permit is granted and by-right event uses are underway, the designation will run permanently with the property. She stated this is just the tip of the iceberg and will change the nature and integrity of rural life as they know it. She stated the Board can move forward with zoning text amendments and have the authority to pass an ordinance that will define what agricultural use is and what it is not, and she urges them to act to enact an ordinance to prevent such a travesty that will change this generation and many to come.

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Mr. Jeffrey Aaron addressed the Board, stating he is a resident of the Jack Jouett District and a member of the School Health Advisory Board. Mr. Aaron stated that as he has listened to the anti-Muslim rhetoric and policy proposals, he has been distressed, angered, saddened and disgusted. He stated that over the previous weekend, the president of Liberty University, speaking to his students while encouraging them all to get concealed firearm permits and carry guns, said to them, “I’ve always thought that if more good people had concealed carry permits, then we could end those Muslims before they walked in.” Mr. Aaron noted the Liberty president had later attempted to clarify that he was only referring to those Muslims who would then go and kill people, but the words were very clear, and the president has indicated he would say them again. He stated that as Virginians, Americans and humans, they have a responsibility to speak out against such language and state they do not believe or tolerate that kind of rhetoric, and he asked the Board, as elected representatives, to consider a proclamation stating that as the residents of Albemarle County respect, value, welcome and feel kinship with Muslim friends and neighbors. Mr. Aaron emphasized it is the American thing to do and the right thing to do, and he hopes they will consider it.

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Ms. Katie Devine addressed the Board and introduced Jenna Moody and Braxton Clay, stating that they are seniors at Monticello High School who are working on their citizen action project and their topic is the expansion of communication and broadband to rural areas.

Ms. Moody addressed the Board and stated that it has come to their student group’s attention that more than 90% of Albemarle County has internet connectivity, but this is within the inner circle of the County and does not expand into areas such as Scottsville and surrounding counties. Ms. Moody stated that she is a resident of Key West, where a cell tower is being discussed to be placed, and their student group would like to encourage the Board to expand these communications and explore a partnership with surrounding counties to ensure connectivity through roads in Scottsville and surrounding areas. She said it is a concern for students and their families, but also in terms of public safety on those roads as the ability to reach emergency services decreases in those areas.

Mr. Clay addressed the Board, stating the County had recently received a grant from the state to address the broadband issue, and he feels they should use the money to help connect service to other surrounding counties.

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Mr. Jeff Werner of the Piedmont Environmental Council addressed the Board, stating that it is past time for the County to start pushing back on the General Assembly legislation regarding farm wineries. He expressed concern that someone in the state can start a winery and then do something completely unrelated to the winery if it is not making any money. Mr. Werner stated the Governor has released his proposed bond package, and within his list is $140 million dedicated to state parks, with funding to fully develop the previously created Biscuit Run State Park. He said he wants to provide three specific suggestions: to work with the City and get the item on their legislative agenda in the coming session; to direct staff to evaluate and report back to the Board on ways to fully capitalize on this asset, particularly the economic and fiscal activity that can be generated from the park; and to commit to creating bike and pedestrian connections to the park, which is large and adjacent to the growth area. He stated that Rex Linville is a big proponent of bike and pedestrian connectivity to the park, as Albemarle County residents should not have to drive their car to get to it.

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Mr. Neil Williamson of the Free Enterprise Forum addressed the Board and stated that he appreciates the concerns raised with regard to farm wineries. He urged them to tread carefully on this, as farm wineries make up a great asset in the community, and what the County does is limited by state code, so they should focus on the good that is being done in Albemarle and across the state on the vast majority of farm wineries before pushing back on some legislation that may be misguided. Mr. Williamson thanked Mr. Boyd and Ms. Dittmar for their service to the community, and requested that the Supervisors do their elected duty and follow state code to modify their cash proffer policy in accordance with state law changes enacted in 2014. He stated when he raised the issue in October, he was told by one supervisor that staff had assured him the item would be on the agenda in December. Mr. Williamson said it is only on the agenda as an informational item informing them that the Planning Commission may hold a public hearing in the first quarter of 2016. He stated when he said at their meeting the previous week that the current cash proffer policy is operating in violation of State Code, County Attorney, Larry Davis, told the Board it was not. Mr. Williamson said he is not an attorney, but understands the spirit of the action, and it said two years ago that no cash payment proffered would be used for any capital improvement to an existing facility or operating expense of such facility. Mr. Williamson stated that following the passage of the code change the Board recognized there needs to be a change and appointed a group, which came up with results that reduced the cash proffer amount for single-family detached homes from $20,987 in the current code to a proposed $4,918. He said the County’s current cash proffer calculation includes renovations, technical upgrades and maintenance issues, and thus does not agree with state code. Mr. Williamson stated the staff report tonight indicates that rather than immediately fixing the egregious error that overcharges cash proffers by 426% than allowed by law, they have again delayed and deferred action on this proposal for the financial gain of the County. He said he hopes the new Board of Supervisors will stop the delays and demand that staff act on the spirit of the state code changes.

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Ms. Subin Yun addressed the Board and stated she and her group from the AP Government class at Monticello High School are before them for the last phase of their citizen action project.

Mr. Ethan Beavers stated the issue they have been researching is whether the County should subsidize community college attendance for its residents. Mr. Beavers said he and Ms. Yun have been very involved with community activities, and said he has been involved with Loaves & Fishes, the Toy Lift and several other programs in the community, and had done his Eagle Scout project here with the Parks and Recreation Department. He stated that he learned in his volunteer work about the desire for many to pursue higher education, but a large barrier in attendance is the cost of higher education. Mr. Beavers said that while there are Pell grant and other financial aid opportunities, many students are not sure how to apply or might have issues with other family concerns. He stated that he wants to raise to the Board the issue of subsidizing community college attendance in Albemarle County for residents.

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Mr. Frank Squillace addressed the Board, stating he is a resident of the Scottsville District and thanking the Board Chair for treating each and every person with respect and dignity; taking the time to recognize that she was elected by the people and works for them; reinstating a moment of silence at the beginning of meetings; allowing all voices to be heard; having time for everyone, including those who disagreed with her; for not feeling frustrated with anyone who insulted her, her thoughts, her ideas or her votes; responding to all constituents, taking time to work tirelessly with County staff; and for getting along with fellow Supervisors. Mr. Squillace thanked her for the unlimited hours serving the people of Albemarle County, for continuing to be his best friend, soulmate, loving wife, and mother to their collective six children. He stated that in this season of Christmas joy and holiday cheer, he believes in unison that they can all thank her, as they hear a childlike voice whispering from a manger long ago, “Well done, my good and faithful servant.”

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Mr. John Conover of Lewis & Clark Exploratory Center addressed the Board and apologized if their request later on the agenda is perceived as something that is coming outside of the budget season, but it is not something to be part of the regular budget cycle.

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Mr. Rick Randolph addressed the Board and expressed his thanks and appreciation to Ms. Dittmar, as her appointed Planning Commission representative, and to Mr. Boyd for his service on the Board. He stated that he is looking forward to serving on the Board as a newly elected Supervisor.

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Agenda Item No. 11. Consent Agenda.

(Discussion: Ms. Palmer stated that she needs to pull her assigned minutes.

Ms. Mallek stated that she needs to pull her assigned minutes of June 2 and October 7, 2015.

Ms. Dittmar asked Mr. Foley to share with the Board when they would entertain the proffer recommendations from the Fiscal Impact Committee. Mr. Foley responded that he would like to come back to that as part of his report at the end of the meeting.**)**

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Motion was then offered by Ms. McKeel to approve Item 11.2 on the consent agenda. Ms. Mallek **seconded** motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Sheffield, Mr. Boyd, Ms. Dittmar, Ms. Mallek, Ms. McKeel and Ms. Palmer.
NAYS: None

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Item No. 11.1. Approval of Minutes: June 3, August 5, and October 7, 2015.

Ms. Mallek pulled the minutes of June 3 and October 7, 2015, [pages 1-27 (end Item #12)], and carried them forward to the next meeting.

Ms. Palmer pulled the minutes of August 5 and October 7, 2015, [pages 27 (begin Item #12)], and carried them forward to the next meeting.

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Item No. 11.2. Cancel January 13, 2016 Regular Night Board Meeting.

By the above-recorded vote, the regular night meeting of January 13, 2016 was cancelled.

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Item No. 11.3. Q1 FY 16 Unaudited Quarterly Financial Report; Q1 FY 16 General Fund Revised Financial Projections Report; and Q1 FY 16 Quarterly Economic Indicators Report, ***was received for information.***

The Executive Summary forwarded to the Board states that the attached Quarterly Financial Report (QFR) (Attachment A) provides information regarding the County’s FY 16 General Fund and School Fund performance as of September 30, 2015. The General Fund Revised Financial Projections Report (Attachments B and C) includes projected General Fund revenues and expenditures for FY 16. The Quarterly Economic Indicator Report (Attachments D and E) provides an overview of recent general economic conditions in the County.

Quarterly Financial Report

The Quarterly Financial Report (QFR) reflects year-to-date (YTD) data through September 30, 2015, the end of the first quarter of FY 16. The data in the attached QFR is organized in a way that is consistent with Exhibit 12 of the County's Comprehensive Annual Financial Report (CAFR). Most line item titles in the QFR match the line item titles in the CAFR. Highlights from the QFR include:

Revenues - YTD Actual

YTD total revenues in Q1 FY 16 was $16,853,385 compared to $14,951,433 in Q1 FY 15. In percentage terms, FY 16 YTD actual revenues as a percentage of FY 16 Revised Budget revenues, were 6.76% compared to 6.18% in FY 15. Bearing in mind the segregation of the Fire Rescue Services Fund from the General Fund, this result means that the rate of revenue collection was essentially consistent between the two years.

Individual revenue streams performed fairly consistently in Q1 FY 16 compared to Q1 FY 15. Four revenue streams did experience significant year-to-year variance. These revenue streams included Business License Tax, Charges for Services, Revenues from State Government, and Revenues from Federal Government. For additional information about these revenue variances, please see the analysis on page 2 of the QFR.

Expenditures - YTD Actual

YTD total expenditures in Q1 FY 16 equaled $70,423,828 compared to $61,199,925 in Q1 FY 15. In percentage terms, FY 16 YTD actual expenditures as a percentage of FY16 Revised Budget expenditures, were 28.25% compared to 25.31% in FY 15. This means that expenditures essentially were consistent between the two years, bearing in mind, again, the segregation of the Fire Rescue Services Fund from the General Fund.

Individual expenditure streams performed fairly consistently in Q1 FY 16 compared to Q1 FY 15. Five expenditure streams did experience significant year-to-year variance. These expenditure streams included Fire Rescue Services, Regional Jail, Transfer to School Fund, Transfer to Schools CIP, and Transfers Out: Transfer Accounts. For additional information about these expenditure variances, please see the analysis on pages 2 and 3 of the QFR.

ACPS Quarterly Financial Report

As requested by the Board, the Albemarle County Public Schools Quarterly Financial Report as of September 30, 2015 is included as a table in the QFR.

General Fund Revised Financial Projections Report

The General Fund Revised Financial Projections Report (GFRFPR) (Attachment B) provides a streamlined summary of forecasted revenues and expenditures. The GFRFPR indicates that by June 30, 2016, actual revenues are forecasted to be below appropriated revenues by $0.756 million. This deficit reflects in large part lower-than-expected delinquent property tax revenue. Expenditures are projected to be $0.807 million below appropriated expenditures. The difference between appropriated expenditures and forecasted expenditures is due primarily to savings associated with salary lapse and insurance. The result of the deficit in revenues plus the anticipated expenditures savings is a projected net increase of $0.051 million additional fund balance by the end of FY 16. Please note that this projected $0.051 million in additional fund balance equals only 0.02% of the forecasted $248.520 million FY 16 expenditures and transfers; this small percentage "buffer" reflects an *extremely* tight budgetary environment.

Quarterly Economic Indicators Report

The Quarterly Economic Indicators Report (QEIR) (Attachment D) shows the state of the County's economy. The QEIR contains data taken from the most recently available quarter and compares this data with data from the same quarter of previous fiscal years. General economic activity, as measured by six select revenue streams, collectively grew between Q1 FY 15 and Q1 FY 16, although revenue in certain streams fell while revenue in other streams increased. The unemployment rate in Albemarle declined between Q1 FY 15 and Q1 FY 16, dropping from 4.70% to 3.80%. This year-over-year decline was the largest in the Q1 FY 12 to Q1 FY 16 period. Note that the County's jobs base appears to have experienced robust growth between Q3 FY 14 and Q3 FY 15, the most recent quarter for which information is available. The total number of jobs increased from 48,881 to 50,334. This growth of 1,453 positions was the largest year-over-year rise during the Q3 FY 11 to Q3 FY 15 time frame. The revenue stream, unemployment rate, and jobs data suggest that the County's economy improved in the most recent year, a situation that is consistent with an improving U.S. economy.

Revenues and expenditures data contained in the QFR reflects the state of the County's FY 16 budget-to-actual financial performance as of September 30, 2015. Year-end projections contained in the GFRFPR are subject to change, based on the result of actual collections and expenditures through June 30, 2016. Data shown in the QEIR reflects economic variables that impact the County's current and future revenues and expenditures.

These reports are for information only. Staff welcomes the Board's feedback regarding the content and presentation of these reports.

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Item No. 11.4. CPA 2015-02 Fiscal Impact Advisory Committee and Planning Commission Recommendations on Cash Proffer Policy, ***was received for information*.**

The Executive Summary forwarded to the Board states that the Board of Supervisors directed the Fiscal Impact Advisory Committee (FIAC) and the Planning Commission to provide a recommendation regarding potential revisions to the credits portion of the County's Cash Proffer Policy and to recalculate the maximum per unit cash proffer amount by dwelling unit type. (Attachment A) The recommendations of FIAC were presented as information to the Board on August 5, 2015 and the Planning Commission discussed the policy on September 22 and October 6. A resolution of intent to amend the Cash Proffer Policy was adopted by the Board on April 2, 2014.

FIAC and the Planning Commission have provided comments on possible changes to the policy (see Attachment D). The maximum cash proffer amounts are reduced significantly from the current amounts due to changes in State law and in the County's Capital Improvements Program and Capital Needs Assessment. The recommended changes to credits are limited and consistent with existing practices.

Both FIAC and the Planning Commission made comments and recommendations beyond the scope requested by the Board of Supervisors. Addressing these recommendations will require extensive time and resources to completely analyze. Staff will work with the Planning Commission and FIAC to address the additional issues and will update the Board of Supervisors when additional information is available.

In accordance with the resolution of intent previously adopted by the Board, the Planning Commission will hold a public hearing on the amendment of the Cash Proffer Policy early in 2016. Recommended changes to the policy will then be presented to the Board of Supervisors as soon as it can be scheduled following Planning Commission action.

The lower cash proffer amounts will reduce the amount of funds received as the result of each individual rezoning application. However, FIAC has discussed that the lower amounts may result in an increase in the number of rezonings which may offset the reduction in amount received in any individual rezoning. The impact of credits will be analyzed on a project by project basis.

This is for information only and no action is required by the Board.

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Item No. 11.5. Annual Report of the Economic Development Authority (EDA), ***was received for information.***

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Agenda Item No. 12. **ZTA-2015-00002. Farm distilleries, farm breweries, and farm wineries.** Ordinance to amend Secs. 18-3.1, Definitions, 18-5.1.25, Farm wineries, 18-5.1.57, Farm breweries, 18-10.2.1, By right (Rural Areas district (RA)), 18-10.2.2, By special use permit (RA), 18-11.3.1, By right uses (Monticello Historic district (MHD)), 18-11.3.2, By special use permit (MHD), and 18-31.5, Zoning clearance, and adding Sec. 18-5.1.59, Farm distilleries, to Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend Sec. 18-3.1 by amending and adding definitions pertaining to farm distilleries; amend Sec. 18-5.1.25 by requiring a special use permit when there may be 200 visitors' attendance in the aggregate at any time for farm winery events, weddings, wedding receptions, or other similar activities; amend Sec. 18.1-57, by requiring a zoning clearance when farm brewery events or activities may generate more than 50 vehicle trips per day or they are on sites less than 21 acres in size and require a special use permit when there may be 200 visitors' attendance in the aggregate at any time for farm brewery events, weddings, wedding receptions, or other similar activities; add Sec. 18-5.1.59 by establishing regulations applicable to farm distilleries ("limited distilleries" are required to be permitted by Virginia Code § 15.2-2288.3:2, effective July 1, 2015) by delineating the uses, events and activities ("uses") allowed by right and by special use permit, the requirements for establishing those uses, requiring a zoning clearance when farm distillery events or activities may generate more than 50 vehicle trips per day or they are on sites less than 21 acres in size and require a special use permit when there may be 200 visitors' attendance in the aggregate at any time for farm distillery events, weddings, wedding receptions, or other similar activities, sound generation from outdoor amplified music, and minimum yards; and prohibiting restaurants and helicopter rides; amend Secs.18-10.2.1, 18-10.2.2, 18-11.3.1 and 18-11.3.2 by adding farm distilleries as being allowed by right or by special use permit as provided in Sec. 18-5.1.59; amend Sec. 18-31.5 by requiring a zoning clearance for certain events and activities at farm wineries licensed after the effective date of this ordinance, farm breweries, and farm distilleries that may generate more than 50 vehicle trips per day or they are on sites less than 21 acres in size, and in order to play outdoor amplified music at a farm distillery.
(Advertised in the Daily Progress on November 23 and November 30, 2015.)

The Executive Summary forwarded to the Board states that last year, the General Assembly adopted new legislation that limits a locality's ability to regulate activities associated with limited (farm) distilleries. Virginia Code § 15.2-2288.3:2 became effective July 1, 2015 and is similar to prior statutes that apply to farm wineries and limited (farm) breweries.

In response, the Planning Commission adopted a Resolution of Intent in March to initiate zoning ordinance amendments to ensure compliance with this new legislation. The Commission held a work session in May regarding a proposed ordinance that would regulate farm distilleries in the County in a similar manner as farm wineries and farm breweries. At its meeting on June 2nd, the Commission adopted a Resolution of Intent (Attachment A) broadening the focus of this ordinance amendment to include farm breweries and farm wineries in addition to farm distilleries.

The Commission held another work session on this matter in August and decided to proceed to public hearing on the following: a) Proposed amendments to address events at farm winery, brewery, and distillery sites holding multiple ABC licenses; and b) Requiring a zoning clearance when there will be more than 50 vehicle trips per day, or a farm of less than 21 acres for events and activities at farm distilleries, and/or for new farm breweries and farm wineries established after the adoption of these revised regulations.

On October 20, 2015, the Commission held a public hearing and recommended approval of ZTA-201500002 (See Attachments B-G for the staff report, attachments and minutes. See Attachments H-J for minutes from the other Commission meetings).

The proposed ordinance implements Virginia Code § 15.2-2288.3:2 with regard to farm distilleries. The ordinance also establishes a regulatory approach that is largely consistent with those previously adopted by the Board of Supervisors for farm wineries and farm breweries.

Further, this proposed ordinance provides additional requirements that address the substantial impacts of these uses. Those provisions are as follows:

1. Definitions for relevant terms;
2. Requirement of a zoning clearance for: a) events and activities at farm distilleries, b) new farm breweries and new farm wineries established after the ordinance is adopted where 1) there will be more than 50 vehicles trips per day or 2) on a farm that is less than 21 acres.
3. Clarification that the total number of guests onsite at any one time for events shall not exceed 200 by-right, regardless of the number of ABC licenses on one farm and/or the number of events at any one time.

After its recommendation to approve the ordinance amendment on October 20, the Commission also recommended that the Board proceed as rapidly as possible with Phase 2 with the following two areas to be studied for further ordinance amendment:

1) Whether and to what extent the current condition of a road directly serving a farm winery, brewery, or distillery may be incorporated into the evaluation of by-right events and activities at a farm winery, brewery or distillery; and
2) What constitutes a bona fide operation for farm winery, brewery or distillery uses. This is very similar to the issues identified by the Commission on May 12th which included concerns about cumulative impacts on roads, water usage, and the relationship of events to bona fide primary agricultural activity on-site.

On November 4, 2015, the Board adopted the Community Development work program, which includes work on Phase 2 analysis of the farm winery, brewery and distillery uses to begin in the 2nd quarter of 2017.

Staff does not anticipate that the adoption of this ordinance would result in the need for additional staff or funding.

Staff and the Planning Commission recommend adoption of the proposed ordinance (Attachment K) after the public hearing.

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Mr. Francis MacCall, Principal Planner, addressed the Board, stating that the zoning text amendment has come about as a result of SB1272 at the 2015 General Assembly session, which addressed farm distilleries and took effect July 1, 2015. Mr. MacCall explained the law stipulated that any restrictions a locality put on this use be reasonable, take into account the economic impact on the use, the agricultural nature of the activities, and whether or not they are usual and customary. He stated the “usual and customary” aspect of the activities must be permitted unless it can be determined that there was a substantial impact on public health, safety and welfare. Mr. MacCall said one thing that is not changing and is not particularly regulated is the production, harvesting, manufacturing, sales, storage and tastings, and he has provided those proposed changes in his information.

Mr. MacCall reported the ordinance added the farm distillery use to the ordinance and added some additional revisions to definitions, just in the rural area zoning districts and the Monticello historic district. He stated that after the Planning Commission adoption of the revised resolution of intent in June, there were modifications proposed. He stated that events and activities at any new farm brewery or farm winery established after the date of adoption of these regulations, a zoning clearance must be obtained for a site less than 21 acres in size, or if the events and activities would generate more than 50 vehicle trips per day. Mr. MacCall noted that both of those provisions were utilized with the amendment in 2014 to add agricultural operations to the ordinance, with a requirement of a zoning clearance for those. He stated the ordinance modifies the modifications outlined in the resolution of intent, pertaining to the total number of persons attending one or more events at a single operation by clarifying the limitation is to a total of 200 people onsite, regardless of the number of events or licenses that a particular property has. Mr. MacCall stated that staff and the Planning Commission have recommended adoption of the ordinance as presented in Attachment A.

Ms. Palmer asked Mr. MacCall to explain grandfathering and how that comes into play with the ordinance. Mr. MacCall explained that the County has about 31 licensed farm wineries currently and one licensed farm brewery, and by changing the regulations those existing uses would not be changed and would be grandfathered operations, so they would not have to have zoning clearance as new ones would.

Ms. Palmer asked what would happen if they intensify their use in any way. Mr. Greg Kamptner, Deputy County Attorney, responded this is why there is a grandfathering provision, because it allows them to exist as a lawful use and not a non-conforming use. He said if the County does not address it directly and the distilleries establish their use, their rights will be under the non-conforming regulations, which will restrict them from expanding their area or intensifying their use, so this provision allows them to continue operating and expand, if desired.

Ms. Amelia McCulley, Zoning Administrator, noted that in the prior adoption of an ordinance in which the County implemented a zoning clearance for outdoor amplified music, that was also done in a grandfathering fashion so it only applies to those new uses that would utilize outdoor amplified music, so basically staff is recognizing that existing uses will continue, just as state law provides.

Ms. McKeel asked when the provision would become effective. Ms. McCulley responded that it would become effective immediately upon the Board's vote.

Mr. Kamptner noted the date in the ordinance is December 9, 2015, and those wineries that are grandfathered still have to comply with all other related applicable regulations.

Ms. Palmer asked what the case would be if they wanted to have an event with 500 people. Mr. Kamptner replied they would still have to get a special use permit.

Ms. Dittmar asked what would be entailed in getting a special use permit if she wanted to hold events. Mr. MacCall explained that a number of years ago, the County implemented requirements that an applicant come in and meet with staff before making application, so there would be a conversation well before the application is made to go over particular regulations pertaining to their request. He stated that it is usually the total number of people that applicants are looking to expand, but some farm wineries have also looked to increase the number of events they are allowed to hold. Mr. MacCall stated the applicants will come in and speak with staff as part of a comprehensive process in which staff provides written comments to applicants, and they would need to address those when they make their formal application.

Ms. McCulley noted there is a community meeting step enacted as part of the improved process to engage the community early on, and the applicant sometimes makes modifications based on that meeting with neighbors. She said that a special use permit application is a discretionary decision, a legislative act in which the Board can consider a wide variety of impacts. She said it is a finding that it is an appropriate location for that use, with things such as traffic, noise, and impacts on adjoining properties and roadways all being factors considered in the Board's approval of a special use permit for a large event.

Ms. Mallek asked Ms. Dittmar if she is asking about events in general, separate from the wineries, distilleries and breweries item. Ms. Dittmar responded that she wants to know how onerous it is for people who want to have an event at their property, if they anticipate more than 50 cars coming.

Ms. Mallek clarified this refers to a commercial offering as an event space, not a person just having their own daughter getting married or some type of private event.

Mr. MacCall stated that a proposal under this ordinance is for an applicant to get a zoning clearance, with staff tracking that they intend to have more than 50 vehicles going to the site.

Ms. Dittmar asked how long it would take to get this through the process. Mr. MacCall responded that it would take about 7-14 days, or perhaps a bit longer depending on who staff needs to talk to.

Ms. Dittmar clarified that she meant the entire process, including the pre-meeting. Ms. McCulley stated the zoning clearance is an administrative process taking 7-14 days, and in this case staff would refer it to VDOT to ensure that it meets entrance standards for the traffic proposed. She emphasized the special use permit process is more extensive, with the community meeting and two public hearings including coming before the Board.

Ms. Palmer asked what the situation would be in terms of commonality of ownership, if there are two 21-acre parcels adjacent to one another. Mr. MacCall responded if that is the farm site, it would be considered a 42-acre property, and the parcels do not necessarily need to be adjacent to each other if a property owner owns them both as agricultural usage, under the definition of "farm."

Mr. Kamptner stated the County's definition of farm follows the state code, and under the state ABC-related statutes, a "farm" is defined as land that is under the same ownership as the licensee anywhere within the Commonwealth.

Ms. Palmer said if that is the case, you can have a less than 21-acre lot in two different districts and still do this because it exceeds the threshold, and she does not understand that provision.

Ms. Mallek said that it is a departure from what she recalled when they had been talking about agricultural uses in 2014, and it did not seem that a few acre parcels scattered around were going to work, and that is why the County went from a 5 to a 21-acre minimum to accomplish any of these things. She asked Mr. Kamptner if he would look at this.

Ms. Dittmar asked Mr. Kamptner if he could clarify the information.

Ms. Palmer asked if the qualifications of over 21 acres would be met if a property owner has a 20-acre lot in one location and a 30-acre lot somewhere else that is being farmed. Ms. McCulley said she agrees with what Ms. Mallek just said, because even though a farm can be comprised of multiple parcels, the provision is concerned with what is together and the acreage on which the land use has to be sustained.

Mr. Kamptner stated that regarding the way they have treated farm wineries, breweries and distilleries, the definition of a farm winery is, "An establishment located on one or more lots in Albemarle County licensed as a farm winery under the state ABC laws." He clarified that the farm winery is considered the land to which the license applies, for purposes of what composes the 21 acres.

Ms. Palmer said the place on which the event takes place has to be 21 acres or more, regardless of where the grapes are grown. Mr. Kamptner stated if the farm winery is licensed in Free Union, but the applicant also owns land in the Scottsville District and that is where most of their grapes are grown, they will be considered a Free Union licensed farm winery.

Ms. McCulley said the enabling authority question is whether the County can impose the zoning clearance requirement based on property that is adjacent and not the acreage on which the license is based under state law that may be dis-contiguous property in different parts of the County, and whether they can base it on the size of the property on which the activity will occur. Mr. Kamptner responded they are doing that, and the reason is that they are picking up on the "substantial impact" concept developed as part of the Ag operations zoning text amendment, where 21 acres was deemed to be the minimum size for agriculture, and that ties in with the assessment of the agricultural nature of the use.

Ms. Palmer asked for clarification if the reason why staff decided on the provisions of greater than 50 vehicle trips, 21-acre threshold, and maximum of 200 people criteria is because they feel that can withstand that bar when being evaluated. Mr. MacCall responded he believes that to be the case, and noted that the second part of the handout provides, which Mr. Kamptner had also put together, in terms of how regulated activities and how this would be applied in terms of economic impact, agricultural nature, and usual and customary activities.

Ms. Mallek asked for clarification that they are talking about limited distilleries, which are those with local on-ground production of some materials used in their process. Mr. MacCall stated the ABC license requires something, but do not stipulate how much.

Ms. Mallek commented there are all sorts of gaps that they have to worry about.

Ms. Palmer asked if the "substantial impact" issue means they have to wait until people complain in order to define what a substantial impact is. Ms. McCulley responded that a special use permit triggers review under "substantial impact" and all of the criteria within that definition, and there is also a category of uses that are not delineated, with the County considering substantial impact of those uses prior to allowing a new type of use to be introduced.

Ms. Palmer asked for clarification that substantial impact does not come into play with the zoning clearance. Ms. McCulley confirmed that it is not the analysis of substantial impact as it is defined, and it is a VDOT review and a review under the current requirements for setbacks, etc.

Mr. Sheffield asked her for a comparison of the special use permit process versus a zoning clearance and how cumbersome each is, outside of the elected body making a decision, as the SUP added an extra layer.

Ms. McCulley responded the zoning clearance review would be fairly straightforward as it is a limited review, even more so than what zoning clearances are typically used for, such as a commercial tenant going into a commercial space, which is a multi-faceted review. She explained that in the farm wineries case, it would be a very limited review to include VDOT assessment of the entrance and setback requirements for structures, tents, porta-johns.

Ms. Mallek noted this was perhaps created when the Artisan Trail came to fruition, with smaller businesses needing to get this process accomplished so they could be listed on the state artisan trail map, so reviewers went around and looked at facilities for their safety and accessibility.

Ms. Palmer asked for clarification of what "phase two" is, and what is to be accomplished. Mr. MacCall responded that phase two is looking at what was recommended by the Planning Commission and whether the extent of the current condition of a road serving a farm winery, brewery or distillery may be incorporated into the valuation of by-right events and activities at these operations, and what constitutes bona fide operation for a farm winery, brewery or distillery.

Ms. Palmer said she thought that "bona fide" was defined by the state.

Ms. Mallek stated the state has no requirements about percentage for that kind of thing, and that is the problem with the current situation. Mr. Kamptner explained the locality is precluded at the licensing stage, and all of the uses the farm wineries, breweries and distilleries are allowed to do under the recent state statute deal with marketing and selling, and when they get to phase two, it will focus on those aspects. He said an example will be if a farm brewery is producing one case of beer per year, how much marketing and selling does that particular establishment need to have, so they will look at the number and type of events that those types of producers would be appropriately entitled to.

Ms. Palmer said they are tying the event to how much they are producing. Mr. Kamptner stated it is the marketing and selling that gives these particular users their rights under the state law, so the County needs to focus on those components.

Ms. Palmer asked if they will be looking to tie the amount of production to the ability to have events. Mr. Kamptner confirmed they will, and said they will be looking at all of the aspects of the state law, including the marketing and selling component, and with the existing farm wineries, it has not been an issue, with 51% of their product being grown on their farm. He stated there is a threat of one that may or may not be legitimately interested in being a wine producer, and although that is not an issue with current makers they will be looking at the level of production in the future.

Ms. Dittmar noted this is in phase two. Mr. Kamptner confirmed that it would be.

Ms. McCulley pointed out the state code for farm wineries as compared to breweries and distilleries is different. They have already established what is usual and customary with farm wineries, but have not established that for breweries and distilleries and does not have the same code language pertaining to those. She stated that currently they are all being treated the same, but for phase two the County would like to better understand what usual and customary events are associated with breweries and distilleries.

Ms. Palmer asked if phase two will help with situations like Waterperry, and whether they can look at the production issue in addition to factors like roads. Mr. Kamptner explained they will not be looking directly at production, but will be looking at quantity and the relationship that what is being produced has to the marketing and selling aspect of their business. He said if the farm winery is producing a demines amount, they will not need to have many events and activities to market and sell that limited quantity; if they are a big producer, they may need to have more events and activities, so staff will be looking at that as part of phase two.

Ms. Mallek stated this describes the gap well, as John Kraft from ABC described to neighbors of Waterperry the day before, and noted that the regulations are very weak and were written to encourage the new industry to begin 25 or 30 years ago, so there were not very strict requirements about real bona fide investment. She added that a person can have an antique wine press and rustic stomping and bottling methods, and that will meet the requirements, and as Mr. MacCall said there is not a real definition of what a “producing vineyard” is in terms of numbers. Ms. Mallek emphasized this is what concerns neighbors because they see this as an end run around the County’s special events proposals, which were well improved over the last several years. She stated her concern is that the backlash, when this really catches on, will damage the County’s truly bona fide wineries.

Ms. Palmer said that she is trying to figure out whether phase two will address this.

Ms. Mallek stated it will evolve as they get into it, and her concern of sending the request at the end of the meeting is to change the order of process so they can really get to it.

The Chair then opened the public hearing.

Mr. Tim Edmond addressed the Board, stating that he is a resident of the Jack Jouett District and is representing Potter’s Cider. Mr. Edmond said that Potter’s Cider operates on a leased parcel on 128 acres in Free Union with four full-time employees, and is regulated as a farm winery because they produce hard cider, but they do not have a tasting room or events onsite. He stated it is difficult to invest in agriculture on leased land, so the company wants to buy land in Albemarle County and wants to set up a new farm winery somewhere else within the County. Mr. Edmond said the company has discovered that they can plant 1,000 trees on an acre, and as a small self-funded producer they would not be looking at a 21-acre parcel because on 5 acres they can produce 15,000 gallons of cider. He stated they can make more than enough room for a tasting room and for parking, and they are a bit worried that the 21-acre requirement will impact the smaller producers who cannot afford larger parcels. Mr. Edmond said that with just his small staff coming and going and a few meetings can exceed the 50 vehicle trip per day limit, and the previous day just their regular activity exceeded 25 trips. He emphasized they are not trying to host events and have crazy parties, they want to be open from 12:00 to 4:00 p.m. and have people come and go, and want to be able to do that without becoming overly regulated or having to achieve extra zoning clearance.

Ms. Mallek asked if the below 200-person limit would work in terms of their operation for the next few years. Mr. Edmond responded that 200 people is a reasonable number.

Ms. Mallek said she wanted to clarify that, as that is what they will be able to achieve with the zoning clearance.

Mr. Dan Potter addressed the Board, stating that he is co-owner with Mr. Edmond of Potter’s Craft Cider and noted that Waterperry has been the catalyst for some of these issues, which are emotional for many people. Mr. Potter stated that not all farm wineries are operating under this perspective of being there to have events, stating that he and Mr. Edmond come at this from an agricultural perspective. He said that what will work on a small parcel for them would become more difficult and a large parcel in Albemarle County would be a reach for them. Mr. Potter stated that cider is a relatively new industry and is in a bit of a gap between wineries, distilleries and breweries, with a cidery regulated as a farm winery. He noted that when Potter's first started they were the fourth cidery in the state, and now there are 18 statewide, with three of the first four in Albemarle County. Mr. Potter mentioned that when they first started out, they were getting their apples from Tim Henley in Crozet, and the cider industry is growing in a really unique way. He urged the Board to look out for the unintended consequences for the little guy, because while they may be watching out for some people's interests, they may be quashing interest and creativity for those coming at it from a different perspective.

Mr. David King addressed the Board, stating that he is an owner in King Family Vineyards in Crozet and is the Chairman of the Virginia Wine Board, which dispenses money on behalf of the Commonwealth for research, education and marketing of wine. Mr. King stated that on January 23, 2007, the Board of Supervisors took action under the then-existing ordinance that would have put his vineyard out of business. He stated that he felt aggrieved by that and went to the General Assembly as a lobbyist for the wine industry, writing 15.2-2288.3.A, the specific winery code section that includes the "usual and customary" and "substantial impact" language. Mr. King said this was used by the General Assembly to expand some of the privileges to the beer and distillery industry over the last several years, and the Board and staff took that and fashioned it into the ordinance they currently have in Albemarle County. He emphasized that the privileges available to the wine industry under that 2007 legislation were all predicated on agriculture, and at the time agriculture was the centerpiece of it, with a requirement for wineries to grow something, manufacture it, and then sell it. Mr. King encouraged the Board to look at the definition of what "agriculture" is to the County, with the wine industry standing ready to participate in that process.

Mr. Sheffield asked Mr. King what he means by "participate" on the definition of agriculture. Mr. King responded that when he started with this in 2006, the then-Governor appointed a commission with a mediator in order to bring all of the stakeholders together, and spent four full days over a full year discussing all of these issues, from the size of the individual parcels on up. He stated that it has all been done, and virtually nothing has changed, with the wineries at that time in an existential crisis because of this. Mr. King said that because of their involvement, the wineries received the benefits of the 2007 legislation, and since that time, with the exception of Fauquier County, the wine industry expanded from 75 to about 280 wineries. He stated that what the General Assembly did works, opening the opportunity to expand the industry, and there is still interest at the legislative level to do that. Mr. King said that the wine industry has always stood ready to participate in any way staff and the Board feels necessary to make those distinctions, and warns that to define "agriculture," they will bump into the Farm Bureau, the Agribusiness Council, etc. He emphasized it is complicated, and their enemies would surprise them as well as their friends, but said the wineries will help in defining these issues on the state level, with Albemarle leading the way.

Mr. Sheffield asked if the County can be doing more with the ordinance in terms of engaging the wineries. Mr. King responded that of course they can and he hopes they will, adding that this is a good time to address these issues, which needs to be addressed. He stated they have come to a level of understanding "usual and customary" and "substantial impact," but in Albemarle County they have enough wineries and background from staff and attorneys to effectively prove up this case. Mr. King added there will be a lot of discussion about it.

Mr. John Schoeb addressed the Board, stating that he is a resident of the Whitehall District and the owner of Pro Re Nata brewery in Crozet, and noted that Ms. Mallek has been a tremendous help in getting his brewery open. Mr. Schoeb stated this is such a complicated issue that they cannot rush into things, adding that the legislation for farm brewery on the Albemarle County website is completely inaccurate, with several errors on the FAQ page. He said they need to take a step back, as there are a lot of things missing and incorrect, and he does not want to be the only farm brewery in Albemarle County as he is now. Mr. Schoeb stated this is the beginning of something that can be great for the County, with Nelson County being full of farm breweries and several distilleries, and he does not want one bad apple to ruin it for the rest of them. He said he is willing to sit down and go through some of the issues and regulations, adding that the wine industry has done a tremendous job in policing itself and breweries will do the same. Mr. Schoeb stated that to randomly throw out legislation without asking those in the business itself is a mistake, and said they all need to be included in that decision-making process, as Mr. King has been.

Ms. Mallek asked if he is distinguishing the phase two discussion, or for the ZTA being discussed at this meeting. Mr. Schoeb responded that the phase two needs a lot more work, and the 50 vehicle trips per day will not allow a business to be successful.

Ms. Mallek said it is only to trip the threshold to get a zoning clearance one time, at a cost of $40.

Ms. Palmer added that it is only for events.

Mr. Kamptner clarified the 50 vehicle trips per day is an existing state requirement, and the only reason the zoning clearance deals with it is so that staff can track it so that VDOT knows that there is a new use requiring a commercial entrance.

Ms. Mallek added that it can also mean that an applicant needs it in the future.

Ms. McCulley stated it is a one-time blanket approval, all done administratively.

Ms. Mallek said it is a checklist for applicants who are new to everything, to ensure they have a place for cars to turn around and so forth.

Mr. Schoeb asked if that also requires a site plan analysis. Mr. MacCall said it does not.

Ms. Mallek said it was just an informal checklist.

Mr. MacCall clarified the provision is only pertinent to operations that want to hold events and activities, and the particulars mentioned by the speakers regarding tastings are not considered an event, so they do not need to get a zoning clearance for them. He emphasized this will not affect operations and tastings held on smaller parcels, such as one acre; it will only apply to events that are defined in those specific sections of each of the three operations.

Ms. McKeel stated the changes being considered have not been reviewed locally by industry representatives.

Ms. Mallek said they have spent the last nine months talking about this.

Ms. McKeel stated that she sees them shaking their heads.

Ms. Mallek said there seems to be confusion with what she had proposed to talk about later regarding what will be covered in phase two.

Ms. McKeel stated there seems to be a mismatch, and they need to make sure that everyone understands and is on the same page.

Ms. Dittmar agreed there is a mismatch.

Ms. McKeel said the disconnect she is hearing is very concerning to her, and perhaps other Board members are more familiar with what is going on, but she wants to air her concerns.

Mr. Sheffield suggested they talk about it after the public comments.

Mr. Steve Blaine addressed the Board, stating that he represents Elizabeth Neff and had the opportunity to meet the neighbors in Ballard's Mill. Mr. Blaine emphasized the neighbors are not opposed to the bona fide legitimate businesses heard from on this topic, as they are very supportive of appropriate agricultural uses. He said it was their hope back in August when the Planning Commission was considering this ordinance at a work session that they could consider what are now being called "phase two" concerns, as those issues were raised in the summer. Mr. Blaine stated it was completely understood that all parties of interest must be involved in the process, and noted that he had been involved in the issue on all sides, having represented wineries and cideries, obtained special use permits for large wedding events, and served on the board of Barboursville Vineyard's parent company. He said he does not feel conflicted at all by representing Ms. Neff because the proposed use at Waterperry is commercial, not agricultural, and it is using a loophole. Mr. Blaine stated if the cidery can produce 1,000 apple trees on an acre then it is an agricultural use, and his clients are not concerned about that, but are by the aberration and the very large loophole being used by Waterperry. He said there is no reason to oppose this ordinance, and could catch through the zoning clearance something that is not appropriate. Mr. Blaine emphasized that a zoning clearance will not consider the bad impacts on neighbors, the district, or the character of the surrounding area, as those things are considered with a special use permit. He stated the neighbors are not opposed to this zoning ordinance, but also hope the Board will accelerate the consideration of the phase two issues.

Ms. Katie Hellebush, Director of the Virginia Wine Council, addressed the Board and stated the council represents all of the farm wineries, vineyards and cideries in the state. Ms. Hellebush stated that she will speak with them about many of the issues that have been raised, adding that the council is supportive and proud of the farm winery license and is proud of their background in agriculture, with a focus on preserving agricultural areas and rural communities. She said they recognize their industry's benefit in the way of economic activity and jobs, and elevating the quality of life for local communities. Ms. Hellebush stated that with the application for special events, which was ultimately withdrawn, the Board would have had the right to deny any application if they felt it was not appropriate due to the health, safety and welfare impacts such as traffic, noise, etc. She said the council looks at different ordinances and processes in place that give the Board the authority to take into consideration the full facts of any situation they address, especially looking to the code section that David King mentioned, which recognizes the unique position the industry is in. Ms. Hellebush stated that the council has Class A and Class B requirements, with 51-75% minimum of fruit grown on Virginia properties, either owned or leased, to make fine quality Virginia wine as all state wineries are committed to. She stated that from the Council's point of view, the ordinance may not address the specific issues, and they would like to be able to work with the County, particularly on phase two, not to put in more burdensome requirements, but to ensure they are both pursuing their objectives to preserve the agricultural nature of the County.

Mr. Neil Williamson of the Free Enterprise Forum addressed the Board and mentioned that he has worked with the wine industry, having just attended a meeting in the new tasting room of Grace Estate in the Whitehall District. Mr. Williamson stated that when the County reviewed its agribusiness policies, he was randomly selected into a workgroup with Jeff Werner of the Piedmont Environmental

Council and Morgan Butler of the Southern Environmental Law Center, and went through these ideas in a roundtable setting. He commented that he appreciates what will be required with a special use permit, including a community meeting, and is concerned that Albemarle County, which prides itself on engagement, has not engaged. Mr. Williamson suggested that perhaps the Jeffersonian Grape Grown Society, which runs the Monticello Wine Trail, could have been contacted. He stated that he feels most of the ordinance is fine and mirrors the regulations they had agreed to under the agribusiness regulations, but the law will outlive Ms. McCulley's tenure as zoning administrator. Mr. Williamson noted that he has indicated with the zoning clearance that it needs to meet three criteria: it has to be easy, fillable in a form or online or both; it has to not require a lawyer; and it has to be inexpensive to do, and only be done once. He stated if you are going to have an event with 200 people, it is reasonable to expect a plan for how to deal with it, and it works on the Artisan Trail. Mr. Williamson said his concern is that the sketch plan talks about mitigation of potential adverse impacts to abutting lots so they are "not substantial," but that can be subjective, with the appeal going to the Board of Zoning Appeals. He asked why there is a rush on this, and stated it would be great if they would engage the community, as people do not like surprise moves. Mr. Williamson emphasized that the winery industry certainly wants to engage with them.

There being no further public comment, the Chair closed the public hearing.

Mr. Sheffield suggested that Ms. McCulley address the engagement piece.

Ms. McCulley explained that in April 2014, the County was dealing with the state law change that implemented agricultural operations and farm breweries. She said at that time agricultural operations law was new to them, and farm breweries were deemed to be similar to farm wineries, but staff felt that they needed to engage and learn more about it. Ms. McCulley reported they held a roundtable in that month, followed by two or three Planning Commission work sessions, and had an extensive mailing list and website with frequent updates and contacts made. She said that with every subsequent meeting, they emailed people who had provided their contact information to keep them apprised of what had developed. Ms. McCulley stated there was a lot of work done to try to figure out the agricultural operations, activities and events, and farm breweries, and at that time, farm breweries were deemed to be similar enough to farm wineries to be treated under the same regulatory scheme. She said with the most recent state code change, things have now evolved to encompass limited distilleries, and the thought emerging from Planning Commission work sessions was to treat them under the same regulatory scheme.

Ms. McCulley emphasized that while comments have been made about the County "moving too fast," the reality is that if someone walks into the County with an agriculture distillery, there would be no limitation on their events right now because there is nothing on the books. She stated that staff is trying to implement this now, knowing they need to do more work to talk about events and activities.

Ms. Mallek pointed out that this is an outgrowth of the original roundtable as mentioned by Mr. Williamson, and many people were involved with that process, which included a significant presence from County staff, and she does not want anyone to think this is being rushed. She stated the reason she has been aggressively pursuing phase two is so it can be moved up in the work program and addressed sooner than 2019, which can be a big problem if they wait that long and she hopes that can be a separate discussion.

Mr. Kamptner stated the work on phase two will certainly include all of the stakeholders, as they want a lot of input from the industry.

Ms. McCulley added they cannot do it without them.

Ms. Dittmar asked if the reason they are considering it now is because they are fearful someone is going to hold an event without the County having a regulation in place. Ms. McCulley explained they want to implement the state code provision that allows limited agricultural distilleries, and this ordinance does that in addition to adding a zoning clearance requirement for traffic and small lots, and addressing the multiple licenses and events at one time. She emphasized that it is a good interim measure.

Ms. Dittmar suggested they come into compliance first with the General Assembly's work and then do a more holistic approach, adding that she has only received two emails on this, one from a winery in her district. She said that she is wondering about the concern that the industries have not been invited to the table for comment, so unless it is urgent it might be better to look at this while including representatives.

Ms. Mallek stated that all of these proposed changes are for new wineries, and it is repeatedly indicated that all of those already in operation will not be affected by them. She said that since it has been a year and a half, perhaps some of them feel they might have missed something, but there is nothing to miss because they will not be covered by the change. Ms. Mallek pointed out this will apply to new establishments coming on, in an effort to ensure that things do not happen without the proper information, for the benefit of everyone including the applicant. She added that having the interview and zoning clearance allows for that information to be clarified.

Ms. Dittmar stated the existing farm distillery operators can help the County understand what this will mean for future businesses.

Ms. Mallek said this is the nature of the discussions they have been having with stakeholders over the last two years, and have held multiple meetings about it. She stated they had a big debate about whether 5 acres was enough and agreed with the 21-acre threshold, because it was likely there would be room for parking, and that was the essence of their thinking during the discussions that had just taken place over the summer.

Ms. Palmer pointed out the by-right uses include storage, sales, tastings, and the ordinance under discussion only pertains to events.

Ms. Mallek confirmed those uses are covered by the "right to farm" provisions and are completely unregulated under agricultural activities.

Ms. McKeel asked for clarification that the Potter's Cider situation will not be impacted by this ordinance in a negative way. Ms. McCulley explained if they are only going to have a tasting and production area, they will not be required to have a zoning clearance based on small size or more than 50 vehicle trips.

Ms. McKeel noted that phase two might kick in at that point, but they are not there yet and have a ways to go, so she just wants to clarify what staff is saying and what the public is presenting, which seems to be different.

Ms. McCulley apologized for any confusion, and said that one of the barriers has been the chief staff person responsible for this item has been on maternity leave since August, but up until very recently staff has been disseminating information to people for whom they have contact information.

Ms. McKeel asked about the comment made regarding incorrect information on the website, and wondered if perhaps it has been misinterpreted because it should be very basic. Mr. MacCall responded that staff would take a look at it to ensure it is correct, and the goal is to have the information out there, but also to encourage dialogue with applicants to ask the question as to whether they are meeting the provisions. He emphasized there could be a few words misunderstood, and staff's role is to clarify that information for the individual operations.

Ms. McKeel commented they would not intentionally put up misleading information. Ms. McCulley stated this is an evolving industry, with the first farm brewery in operation, and things have been proposed to the County that have never been proposed before, so staff is trying to work with other agencies to see how those items are handled. She added it is not that they have incorrect information, they just need to refine it and make it clearer now that they have had their first application.

Ms. McKeel said she just wants to make sure that the operators do not feel they are at risk somehow, noting that staff has done significant outreach to the community in the past. Mr. MacCall stated that at the time of Ms. Burbage's engagement with the wine industry, there had not been a licensed farm brewery, which had only recently been approved by the state. He said when he took over the project, his understanding was that they were aware of what was being proposed, and staff had held multiple work sessions and public hearings with the Planning Commission. Mr. MacCall said those meetings had a few speakers, but never with particular objections to the zoning clearance requirements for events, and generally the Commission's work sessions provided opportunity for input.

Ms. Dittmar noted that people would have to know it was on the agenda, and asked if they had held roundtables about this particular ordinance with the industry. Ms. McCulley explained they had held a roundtable in the past with the prior ordinance, and the proposed ordinance, with the exception of the zoning clearance, follow the same regulatory scheme. She stated the zoning clearance is something discussed in multiple work sessions with the Planning Commission, who wanted staff to better address these activities and their impacts on small properties with substandard entrances.

Ms. Dittmar stated that with Board work sessions, they advertise them, but do not typically reach out to specific constituencies and stakeholders.

Ms. McCulley stated that Ms. Burbage is regularly keeping people informed via email, and people are not responding or coming to the meetings.

Ms. Dittmar said it has been quiet since August when Ms. Burbage went on maternity leave.

Ms. Mallek and Ms. McCulley stated the Planning Commission had met in October.

Ms. McKeel commented they have to figure out how to have some redundancy in their department. Mr. Foley agreed with that assessment.

Ms. Palmer stated this is for farm distilleries to make them compatible with the breweries and wineries.

Ms. McKeel said that nobody is arguing with that point, and this is a positive measure.

Ms. Palmer stated they had held a significant discussion at the Board level a few months ago about what a zoning clearance was.

Ms. McKeel pointed out that what they are voting on would only impact new operations.

Ms. Palmer said she does not feel it is an onerous impact because it is not dealing with storage, sales and safety, it only applies if a business wants to have an event with more than 200 people at one time. She noted they are talking only about a zoning clearance and not a special use permit, and stated she has spent several hours reviewing the Planning Commission meeting notes and wants to make sure she understands how grandfathering will apply in this situation.

Mr. Boyd stated there is no person more engaged in the “winery wars” with the original ordinance at the state and local level than Mr. King, and he is concerned that Mr. King feels he is not engaged in this process, and it worries him that the County perhaps has not done their homework with this particular ordinance.

Ms. Palmer pointed out that Mr. King is referring to phase two.

Mr. King addressed the Board and clarified that staff has done everything they were supposed to do, and he had attended meetings at both the staff and Planning Commission level, and the winery industry knew about it. He emphasized that because vested rights would allow current wineries to be grandfathered, there was no reason for them to show up, and they would not object to the new ordinance as proposed. Mr. King reiterated that staff has done what they needed to do and did it well, and he had participated on behalf of the wineries. He stated this was the first time he had heard about phase two.

Ms. Mallek said this is because it has not started yet.

Mr. King stated if the wine industry had known there was a phase two that included a larger variety of potential issues, such as the definition of agriculture, they may have been more proactive. He added that future beer and distillery industry representatives who may want to start something may have no idea about their plans yet, so it is somewhat of an unknown, but the wineries were present and appreciated the opportunity to be involved.

Ms. Mallek said she anticipates having very large meetings in February and March to get everyone to start talking about phase two.

Ms. McCulley noted that staff always contacts the Wine Council representative.

Ms. Dittmar asked where the Board is on this item.

Ms. Palmer said she would be happy to move to approve the ordinance.

Mr. Davis stated that Mr. Kamptner has some minor recommended language changes.

Mr. Kamptner clarified there are four revisions, including a typographical error in the definition of “usual and customary” on page 2 of the ordinance, with the need to add the term “farm distilleries” reference after “farm breweries.” He stated that regarding the issue of what constitutes a farm winery for purposes of determining the 21 acres, staff would suggest replacing the references to “farm winery, farm brewery and farm distillery” in the opening paragraphs of 5.1.25.B, 5.1.57B, and 5.1.59B with the phrase, “the lot or abutting lots on which the uses allowed in this subsection occur.” Mr. Kamptner read the paragraph to state: “The owner shall obtain a zoning clearance under Section 31.5 prior to commencing the use if either the lot or abutting lots on which the uses allowed in this subsection occur are less than 21 acres in size or will generate more than 50 visitor vehicle trips per day.”

Mr. Davis stated this would make it very clear.

Ms. Mallek agreed, adding that it is a good thing to repeat the information.

Motion was then offered by Ms. Palmer to adopt the ordinance as amended.

Mr. Boyd said he wants to clarify that tastings are excluded from the 50 vehicle trip per day threshold. Ms. McKeel commented that tastings are excluded.

Ms. Dittmar asked at what point a tasting becomes an event.

Mr. MacCall explained that each of the uses, farm winery, farm brewery and farm distillery, have a definition of what those events are called, which are all listed in the ordinance sections that talk about them as being agri-tourism or wine-related uses. He stated this is where the 21 acres and 50 vehicle trips per day are found, adding that there is a lot involved with each of those definitions.

Ms. Mallek said that he seems to be clarifying the uses under normal operations, and the question is pertaining to events such as a party, wedding or music concert, including events where people pay money to come.

Mr. Sheffield asked if Ms. Palmer had a second for her motion.

Ms. Dittmar responded that Mr. Boyd had asked some clarifying questions, so there is not really a motion on the floor.

Ms. Dittmar asked if the delineation is an event that takes place during tasting hours versus one that happens outside of that.

Ms. Mallek stated that an event would involve someone outside of the normal winery operation who is using the facility for a special party.

Ms. McCulley clarified that an event is something different from the normal business of tasting.

Mr. MacCall stated the definitions include specifics about "one or more days" where the purpose is agri-tourism, promoting the sales, and then goes into a long list of particulars as far as luncheons, business meetings and corporate luncheons. He said if the business is promoting sales and will be bringing not more than 200 people in, the County would ask them to get a zoning clearance if the size of the property is less than 21 acres, or there will be 50 vehicle trips per day. Mr. MacCall noted that enforcement is very difficult, and explained that an applicant would come in once and review the particulars with staff. With a special use permit required for events of 200 or more people, he stated a sketch plan, as mentioned by Mr. Williamson, is required with a review of maps and so forth, but said the County would not require that kind of review with zoning clearances because everything is being done within regulations.

Ms. Mallek then **seconded** motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Sheffield, Mr. Boyd, Ms. Mallek and Ms. Palmer.
NAYS: Ms. Dittmar and Ms. McKeel.

(The adopted ordinance is set out in full below:)

ORDINANCE NO. 15-18(10)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, GENERAL PROVISIONS, ARTICLE II, BASIC REGULATIONS, ARTICLE III, DISTRICT REGULATIONS, AND ARTICLE IV, PROCEDURE, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article I, General Regulations, Article II, Basic Regulations, Article III, District Regulations, and Article IV, Procedure, are hereby amended and reordained as follows:

By Amending:
Sec. 3.1 Definitions
Sec. 5.1.25 Farm wineries
Sec. 5.1.57 Farm breweries
Sec. 10.2.l By right
Sec. 10.2.2 By special use permit
Sec. 11.3.1 By right uses
Sec. 11.3.2 By special use permit
Sec. 31.5 Zoning clearance

By Adding:
Sec. 5.1.59 Farm distilleries

Article I. General Provisions

Sec. 3.1 Definitions.

. . .

Farm distillery: An establishment located on one or more lots in Albemarle County to which a limited distiller's license is issued under Virginia Code § 4.1-206.

Farm distillery event: An event conducted at a farm distillery on one or more days where the purpose is agritourism or to promote the sale of distilled spirits, including, but not limited to, gatherings not otherwise expressly authorized as a use under section 5.1.59(a), (b)(1) and (b)(3) through (b)(9), including, but not limited to, distilled spirits festivals; receptions where distilled spirits are sold or served; distilled spirits club meetings and activities; distilled spirits tasting educational seminars; distilled spirits tasting luncheons, business meetings, and corporate luncheons with a focus on selling distilled spirits; gatherings with the purpose of promoting sales to the trade, such as restaurants, distributors, and local chamber of commerce activities; distillers' dinners where distilled spirits are paired with food; agritourism promotions; and fundraisers and charity events.

. . .

Substantial impact: An impact that may arise from an event or activity at a farm winery, farm brewery, farm distillery, or agricultural operation that has a significant adverse effect on: (i) an abutting lot or the neighborhood, including an impact on any owner, occupant, or agricultural or silvicultural activity; or (ii) any rural road, natural resource, cultural resource, or historical resource. A substantial impact may result from a wide variety of factors including, but not limited to, the generation of traffic, noise, dust, artificial outdoor light, trash, stormwater runoff, and excessive soil compaction; the failure to provide adequate traffic controls and sanitation facilities; the cumulative effects of large numbers of events and activities occurring simultaneously, particularly when they are in close proximity to one another or require travel on the same rural roads; and events and activities that are incompatible with existing production agriculture.

. . .

Usual and customary use, event or activity: A use, event, or activity at a farm winery, farm brewery, farm distillery, or agricultural operation that is both ordinary and commonly practiced or engaged in at farm wineries, farm breweries, farm distilleries, or agricultural operations, as applicable, within the Commonwealth, as determined by objective evidence.

. . .

(§ 20-3.1, 12-10-80, 7-1-81, 12-16-81, 2-10-82, 6-2-82, 1-1-83, 7-6-83, 11-7-84, 7-17-85, 3-5-86, 1-1-87, 6-10-87, 12-2-87, 7-20-88, 12-7-88, 11-1-89, 6-10-92, 7-8-92, 9-15-93, 8-10-94, 10-11-95, 11-15-95, 10-9-96, 12-10-97; § 18-3.1, Ord. 98-A(1), 8-5-98; Ord. 01-18(6), 10-3-01; Ord. 01-18(9), 10-17-01; Ord. 02-18(2), 2-6-02; Ord. 02-18(5), 7-3-02; Ord. 02-18(7), 10-9-02; Ord. 03-18(1), 2-5-03; Ord. 03-18(2), 3-19-03; Ord. 04-18(2), 10-13-04; 05-18(2), 2-2-05; Ord. 05-18(7), 6-8-05; Ord. 05-18(8), 7-13-05; Ord. 06-18(2), 12-13-06; Ord. 07-18(1), 7-11-07; Ord. 07-18(2), 10-3-07; Ord. 08-18(3), 6-11-08; Ord. 08-18(4), 6-11-08; Ord. 08-18(6), 11-12-08; Ord. 08-18(7), 11-12-08; Ord. 09-18(3), 7-1-09; Ord. 09-18(5), 7-1-09; 09-18(8), 8-5-09; Ord. 09-18(9), 10-14-09; Ord. 09-18(10), 12-2-09; Ord. 09-18(11), 12-10-09; Ord. 10-18(3), 5-5-10; Ord. 10-18(4), 5-5-10; Ord. 10-18(5), 5-12-10; Ord. 11-18(1), 1-12-11; Ord. 11-18(5), 6-1-11; Ord. 11-18(6), 6-1-11; Ord. 12-18(3), 6-6-12; Ord. 12-18(4), 7-11-12; Ord. 12-18(6), 10-3-12, effective 1-1-13; Ord. 12-18(7), 12-5-12, effective 4-1-13; Ord. 13-18(1), 4-3-13; Ord. 13-18(2), 4-3-13; Ord. 13-18(3), 5-8-13; Ord. 13-18(5), 9-11-13; Ord. 13-18(6), 11-13-13, effective 1-1-14; Ord. 13-18(7), 12-4-13, effective 1-1-14; Ord. 14-18(2), 3-5-14; Ord. 14-18(4), 11-12-14; Ord. 15-18(1), 2-11-15; Ord. 15-18(2), 4-8-15; Ord. 15-18(4), 6-3-15; Ord. 15-18(5), 7-8-15)

State law reference – Va. Code § 15.2-2286(A)(4).

Article II. Basic Regulations

Sec. 5.1.25 Farm wineries

Each farm winery shall be subject to the following:

a. *Uses permitted*. The following uses, events and activities (hereinafter, collectively, "uses") are permitted at a farm winery:

1. The production and harvesting of fruit and other agricultural products and the manufacturing of wine including, but not limited to, activities related to the production of the agricultural products used in wine, including but not limited to, growing, planting and harvesting the agricultural products and the use of equipment for those activities.

2. The sale, tasting, including barrel tastings, or consumption of wine within the normal course of business of the farm winery.

3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title 4.1 of the Virginia Code and the regulations of the Alcoholic Beverage Control Board.

4. The sale and shipment of wine to the Alcoholic Beverage Control Board, licensed wholesalers, and out-of-state purchasers in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.

5. The storage, warehousing, and wholesaling of wine in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.

6. The sale of wine-related items that are incidental to the sale of wine including, but not limited to, the sale of incidental gifts such as cork screws, wine glasses and t-shirts.

7. Private personal gatherings of a farm winery owner who resides at the farm winery or on property adjacent thereto that is owned or controlled by the owner, provided that wine is not sold or marketed and for which no consideration is received by the farm winery or its agents.

b. *Agritourism uses or wine sales related uses.* The following uses are permitted at a farm winery, provided they are related to agritourism or wine sales, and further provided that, for each farm winery licensed after December 9, 2015, the owner shall obtain a zoning clearance under section 31.5 prior to commencing the use if either the lot or the abutting lots on which the uses allowed in this subsection occur is less than twenty-one (21) acres in size or the use will generate more than fifty (50) visitor vehicle trips per day:

1. Exhibits, museums, and historical segments related to wine or to the farm winery.

2. Farm winery events at which not more than two hundred (200) persons are in attendance at any time for this use and any uses identified in subsection (h).

3. Guest winemakers and trade accommodations of invited guests at a farm winery owner's private residence at the farm winery.

4. Hayrides.

5. Kitchen and catering activities related to a use at the farm winery.

6. Picnics, either self-provided or available to be purchased at the farm winery.

7. Providing finger foods, soups and appetizers for visitors.

8. Tours of the farm winery, including the vineyard.

9. Weddings and wedding receptions at which not more than two hundred (200) persons are in attendance at any time for this use and any uses identified in subsection (h).

10. Other uses not expressly authorized that are agritourism uses or are wine sales related uses, which are determined by the zoning administrator to be usual and customary uses at farm wineries throughout the Commonwealth, which do not create a substantial impact on the public health, safety, or welfare, and at which not more than two hundred (200) persons are in attendance at any time for this use and any uses identified in subsection (h).

c. *Agritourism uses or wine sales related uses; more than 200 person at any time; special use permit.* The following uses, at which more than two hundred (200) persons will be allowed to attend at any time this use and any uses identified in subsection (h), are permitted at a farm winery with a special use permit, provided they are related to agritourism or wine sales:

1. Farm winery events.

2. Weddings and wedding receptions.

3. Other uses not expressly authorized that are agritourism uses or wine sales related uses which are determined by the zoning administrator to be usual and customary uses at farm wineries throughout the Commonwealth.

d. *Information and sketch plan to be submitted with application for a special use permit*. In addition to any information required to be submitted with an application for a special use permit under section 33.4, each application for one or more uses authorized under section 5.1.25(c) shall include the following:

1. *Information*. Information pertaining to the following: (i) the proposed uses; (ii) the maximum number of persons who will attend each use at any given time; (iii) the frequency and duration of the uses; (iv) the provision of on-site parking; (v) the location, height and lumens of outdoor lighting for each use; and (vi) the location of any stage, structure or other place where music will be performed.

2. *Sketch plan*. A sketch plan, which shall be a schematic drawing of the site with notes in a form and of a scale approved by the director of planning depicting: (i) all structures that would be used for the uses; (ii) how access, on-site parking, outdoor lighting, signage and minimum yards will be provided in compliance with this chapter; and (iii) how potential adverse impacts to abutting lots will be mitigated so they are not substantial.

e. *Sound from outdoor amplified music*. Sound generated by outdoor amplified music shall be subject to the following:

1. *Zoning clearance*. Each farm winery licensed on and after November 12, 2014 shall obtain approval of a zoning clearance under section 31.5 prior to generating any outdoor amplified music at the farm winery. The purpose of the zoning clearance shall be to verify that the sound amplification equipment at the farm winery will comply with the applicable standards in section 4.18 or that the owner has and will use a sound level meter as that term is defined in section 4.18.02 prior to and while outdoor amplified music is being played, to monitor compliance with the applicable standards in section 4.18, or both.

2. *Maximum sound level*. Sound generated by outdoor amplified music shall not exceed the applicable maximum sound levels in section 4.18.04.

3. *Outdoor amplified music not an exempt sound*. Outdoor amplified music shall not be deemed to be an exempt sound under section 4.18.05(A).

f. *Yards*. Notwithstanding any other provision of this chapter, the minimum front, side, and rear yard requirements in section 10.4 shall apply to all primary and accessory structures established after May 5, 2010 and to all tents, off-street parking areas and portable toilets used in whole or in part to serve any use permitted at a farm winery, provided that the minimum required yard may be reduced by special exception upon consideration of the following: (i) there is no detriment to the abutting lot; (ii) there is no harm to the public health, safety, or welfare; and (iii) written consent has been provided by the owner of the abutting lot consenting to the reduction.

g. *Uses prohibited*. The following uses are prohibited:

1. Restaurants.

2. Helicopter rides.

h. For the purposes of determining the actual or allowed attendance at any time under subsections (b) and (c), the actual or allowed attendance for the following uses shall be considered: farm winery events, farm brewery events, and farm distillery events as provided in sections 5.1.25(b)(2) and (c)(1), 5.1.57(b)(2) and (c)(1), and 5.1.59(b)(2) and (c)(1), respectively; weddings and wedding receptions as provided in sections 5.1.25(b)(9) and (c)(2), 5.1.57(b)(9) and (c)(2), and 5.1.59(b)(9) and (c)(2); and unclassified usual and customary uses as provided in sections 5.1.25(b)(10) and (c)(3), 5.1.57(b)(10) and (c)(3), and 5.1.59(b)(10) and (c)(3).

(§ 5.1.25, 12-16-81, 1-1-84; Ord. 98-20(1), 4-1-98; Ord. 01-18(6), 10-3-01; Ord. 10-18(3), 5-5-10; Ord. 11-18(3), 3-9-11; Ord. 14-18(4), 11-12-14)

Sec. 5.1.57 Farm breweries

Each farm brewery shall be subject to the following:

a. *Uses permitted*. The following uses, events and activities (hereinafter, collectively, "uses") are permitted at a farm brewery:

1. The production and harvesting of barley and other grains, hops, fruit, and other agricultural products, and the manufacturing of beer including, but not limited to, activities related to the production of the agricultural products used in beer including, but not limited to, growing, planting, and harvesting the agricultural products and the use of equipment for those activities.

2. The sale, tasting, or consumption of beer within the normal course of business of the farm brewery.

3. The direct sale and shipment of beer in accordance with Title 4.1 of the Virginia Code and the regulations of the Alcoholic Beverage Control Board.

4. The sale and shipment of beer to licensed wholesalers and out-of-state purchasers in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.

5. The storage and warehousing of beer in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.

6. The sale of beer-related items that are incidental to the sale of beer including, but not limited to, the sale of incidental gifts such as bottle openers, beer glasses, and t-shirts.

7. Private personal gatherings of a farm brewery owner who resides at the farm brewery or on property adjacent thereto that is owned or controlled by the owner, provided that beer is not sold or marketed and for which no consideration is received by the farm brewery or its agents.

b. *Agritourism uses or beer sales related uses.* The following uses are permitted at a farm brewery, provided they are related to agritourism or beer sales, and further provided that, for each farm brewery licensed after December 9, 2015, the owner shall obtain a zoning clearance under section 31.5 prior to commencing the use if either the lot or the abutting lots on which the uses allowed in this subsection occur is less than twenty-one (21) acres in size or the use will generate more than fifty (50) visitor vehicle trips per day:

1. Exhibits, museums, and historical segments related to beer or to the farm brewery.

2. Farm brewery events at which not more than two hundred (200) persons are in attendance at any time for this use and any uses identified in subsection (h).

3. Guest brewmasters and trade accommodations of invited guests at a farm brewery owner's private residence at the farm winery.

4. Hayrides.

5. Kitchen and catering activities related to a use at the farm brewery.

6. Picnics, either self-provided or available to be purchased at the farm brewery.

7. Providing finger foods, soups, and appetizers for visitors.

8. Tours of the farm brewery, including the areas where agricultural products are grown.

9. Weddings and wedding receptions at which not more than two hundred (200) persons are in attendance at any time for this use and any uses identified in subsection (h).

10. Other uses not expressly authorized that are agritourism uses or are beer sales related uses, which are determined by the zoning administrator to be usual and customary uses at farm breweries throughout the Commonwealth, which do not create a substantial impact on the public health, safety, or welfare, and at which not more than two hundred (200) persons are in attendance at any time for this use and any uses identified in subsection (h).

c. *Agritourism uses or beer sales related uses; more than 200 person at any time; special use permit.* The following uses, at which more than two hundred (200) persons will be allowed to attend at any time this use and any uses identified in subsection (h), are permitted at a farm brewery with a special use permit, provided they are related to agritourism or beer sales:

1. Farm brewery events.

2. Weddings and wedding receptions.

3. Other uses not expressly authorized that are agritourism uses or beer sales related uses which are determined by the zoning administrator to be usual and customary uses at farm breweries throughout the Commonwealth.

d. *Information and sketch plan to be submitted with application for a special use permit*. In addition to any information required to be submitted with an application for a special use permit under section 33.4, each application for one or more uses authorized under section 5.1.57(c) shall include the following:

1. *Information*. Information pertaining to the following: (i) the proposed uses; (ii) the maximum number of persons who will attend each use at any given time; (iii) the frequency and duration of the uses; (iv) the provision of on-site parking; (v) the location, height, and lumens of outdoor lighting for each use; and (vi) the location of any stage, structure, or other place where music will be performed.

2. *Sketch plan*. A sketch plan, which shall be a schematic drawing of the site with notes in a form and of a scale approved by the director of planning depicting: (i) all structures that would be used for the uses; (ii) how access, on-site parking, outdoor lighting, signage, and minimum yards will be provided in compliance with this chapter; and (iii) how potential adverse impacts to abutting lots will be mitigated so they are not substantial.

e. *Sound from outdoor amplified music*. Sound generated by outdoor amplified music shall be subject to the following:

1. *Zoning clearance*. Each farm brewery shall obtain approval of a zoning clearance under section 31.5 prior to generating any outdoor amplified music at the farm brewery. The purpose of the zoning clearance shall be to verify that the sound amplification equipment at the farm brewery will comply with the applicable standards in section 4.18 or that the owner has and will use a sound level meter as that term is defined in section 4.18.02 prior to and while outdoor amplified music is being played, to monitor compliance with the applicable standards in section 4.18, or both.

2. *Maximum sound level*. Sound generated by outdoor amplified music shall not exceed the applicable maximum sound levels in section 4.18.04.

3. *Outdoor amplified music not an exempt sound*. Outdoor amplified music shall not be deemed to be an exempt sound under section 4.18.05(A).

f. *Yards*. Notwithstanding any other provision of this chapter, the minimum front, side, and rear yard requirements in section 10.4 shall apply to all primary and accessory structures and to all tents, off-street parking areas, and portable toilets used in whole or in part to serve any use permitted at a farm brewery, provided that the minimum required yard may be reduced by special exception upon consideration of the following: (i) there is no detriment to the abutting lot; (ii) there is no harm to the public health, safety, or welfare; and (iii) written consent has been provided by the owner of the abutting lot consenting to the reduction.

g. *Uses prohibited*. The following uses are prohibited:

1. Restaurants.

2. Helicopter rides.

h. For the purposes of determining the actual or allowed attendance at any time under subsections (b) and (c), the actual or allowed attendance for the following uses shall be considered: farm winery events, farm brewery events, and farm distillery events as provided in sections 5.1.25(b)(2) and (c)(1), 5.1.57(b)(2) and (c)(1), and 5.1.59(b)(2) and (c)(1), respectively; weddings and wedding receptions as provided in sections 5.1.25(b)(9) and (c)(2), 5.1.57(b)(9) and (c)(2), and 5.1.59(b)(9) and (c)(2); and unclassified usual and customary uses as provided in sections 5.1.25(b)(10) and (c)(3), 5.1.57(b)(10) and (c)(3), and 5.1.59(b)(10) and (c)(3).

(Ord. 14-18(4), 11-12-14)

Sec. 5.1.59 Farm distilleries.

Each farm distillery shall be subject to the following:

a. *Uses permitted*. The following uses, events and activities (hereinafter, collectively, "uses") are permitted at a farm distillery:

1. The production and harvesting of agricultural products and the manufacturing of alcoholic beverages other than wine or beer.

2. The on-premises sale, tasting, or consumption of alcoholic beverages other than wine or beer during regular business hours in accordance with a contract between a distillery and the Alcoholic Beverage Control Board pursuant to the provisions of Virginia Code § 4.1-119(D).

3. The sale and shipment of alcoholic beverages other than wine or beer to licensed wholesalers and out-of-state purchasers in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.

4. The storage and warehousing of alcoholic beverages other than wine or beer in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.

5. The sale of items related to alcoholic beverages other than wine or beer that are incidental to the sale of the alcoholic beverages.

b. *Agritourism uses or sales related uses.* The following uses are permitted at a farm distillery, provided they are related to agritourism or the sale of alcoholic beverages other than wine or beer, and further provided that, for each farm distillery licensed after December 9, 2015, the owner shall obtain a zoning clearance under section 31.5 prior to commencing the use if either the lot or the abutting lots on which the uses allowed in this subsection occur is less than twenty-one (21) acres in size or the use will generate more than fifty (50) visitor vehicle trips per day:

1. Exhibits, museums, and historical segments related to alcoholic beverages other than wine or beer or to the farm distillery.

2. Farm distillery events at which not more than two hundred (200) persons at any time for this use and any uses identified in subsection (h).

3. Guest distillers and trade accommodations of invited guests at a farm distillery owner's private residence at the farm distillery.

4. Hayrides.

5. Kitchen and catering activities related to a use at the farm distillery.

6. Picnics, either self-provided or available to be purchased, at the farm distillery.

7. Providing finger foods, soups, and appetizers for visitors.

8. Tours of the farm distillery, including the areas where agricultural products are grown.

9. Weddings and wedding receptions at which not more than two hundred (200) persons at any time for this use and any uses identified in subsection (h).

10. Other uses not expressly authorized that are agritourism uses or are sales related uses, which are determined by the zoning administrator to be usual and customary uses at farm distilleries throughout the Commonwealth, which do not create a substantial impact on the public health, safety, or welfare, and at which not more than two hundred (200) persons are in attendance at any time for this event and any events identified in subsection (h).

c. *Agritourism uses or sales related uses; more than 200 person at any time; special use permit.* The following uses, at which more than two hundred (200) persons will be allowed to attend at any time this use and any uses identified in subsection (h), are permitted at a farm distillery with a special use permit, provided they are related to agritourism or the sale of alcoholic beverages other than wine or beer:

1. Farm distillery events.

2. Weddings and wedding receptions.

3. Other uses not expressly authorized that are agritourism uses or related to the sale of alcoholic beverages other than wine or beer which are determined by the zoning

administrator to be usual and customary uses at farm distilleries throughout the Commonwealth.

d. *Information and sketch plan to be submitted with application for a special use permit*. In addition to any information required to be submitted with an application for a special use permit under section 33.4, each application for one or more uses authorized under section 5.1.59(c) shall include the following:

1. *Information*. Information pertaining to the following: (i) the proposed uses; (ii) the maximum number of persons who will attend each use at any given time; (iii) the frequency and duration of the uses; (iv) the provision of on-site parking; (v) the location, height, and lumens of outdoor lighting for each use; and (vi) the location of any stage, structure, or other place where music will be performed.

2. *Sketch plan*. A sketch plan, which shall be a schematic drawing of the site with notes in a form and of a scale approved by the director of planning depicting: (i) all structures that would be used for the uses; (ii) how access, on-site parking, outdoor lighting, signage, and minimum yards will be provided in compliance with this chapter; and (iii) how potential adverse impacts to abutting lots will be mitigated so they are not substantial.

e. *Sound from outdoor amplified music*. Sound generated by outdoor amplified music shall be subject to the following:

1. *Zoning clearance*. Each farm distillery shall obtain approval of a zoning clearance under section 31.5 prior to generating any outdoor amplified music at the farm distillery. The purpose of the zoning clearance shall be to verify that the sound amplification equipment at the farm distillery will comply with the applicable standards in section 4.18 or that the owner has and will use a sound level meter as that term is defined in section 4.18.02 prior to and while outdoor amplified music is being played, to monitor compliance with the applicable standards in section 4.18, or both.

2. *Maximum sound level*. Sound generated by outdoor amplified music shall not exceed the applicable maximum sound levels in section 4.18.04.

3. *Outdoor amplified music not an exempt sound*. Outdoor amplified music shall not be deemed to be an exempt sound under section 4.18.05(A).

f. *Yards*. Notwithstanding any other provision of this chapter, the minimum front, side, and rear yard requirements in section 10.4 shall apply to all primary and accessory structures and to all tents, off-street parking areas, and portable toilets used in whole or in part to serve any use permitted at a farm distillery, provided that the minimum required yard may be reduced by special exception upon consideration of the following: (i) there is no detriment to the abutting lot; (ii) there is no harm to the public health, safety, or welfare; and (iii) written consent has been provided by the owner of the abutting lot consenting to the reduction.

g. *Uses prohibited*. The following uses are prohibited:

1. Restaurants.

2. Helicopter rides.

h. For the purposes of determining the actual or allowed attendance at any time under subsections (b) and (c), the actual or allowed attendance for the following uses shall be considered: farm winery events, farm brewery events, and farm distillery events as provided in sections 5.1.25(b)(2) and (c)(1), 5.1.57(b)(2) and (c)(1), and 5.1.59(b)(2) and (c)(1), respectively; weddings and wedding receptions as provided in sections 5.1.25(b)(9) and (c)(2), 5.1.57(b)(9) and (c)(2), and 5.1.59(b)(9) and (c)(2); and unclassified usual and customary uses as provided in sections 5.1.25(b)(10) and (c)(3), 5.1.57(b)(10) and (c)(3), and 5.1.59(b)(10) and (c)(3).

Article III. District Regulations

Section 10. Rural Areas

Sec. 10.2.1 By right.

The following uses shall be permitted by right in the RA district, subject to the applicable requirements of this chapter:

. . .

31. Farm distillery uses, events, and activities authorized by section 5.1.59(a) and (b).

(§ 20-10.2.1, 12-10-80; 12-16-81; 7-6-83; 11-1-89; 11-8-89; 11-11-92; 5-12-93; Ord. 95-20(5), 11-15-95; Ord. 98-A(1), § 18-10.2.1, 8-5-98; Ord. 02-18(6), 10-9-02; Ord 04-18(2), 10-13-04; Ord. 06-18(2), 12-13-06; Ord. 08-18(7), 11-12-08; Ord. 09-18(11), 12-10-09; Ord. 10-18(3), 5-5-10; Ord. 10-18(4), 5-5-10; Ord. 11-18(1), 1-12-11; Ord. 12-18(3), 6-6-12; Ord. 13-18(5), 9-11-13; Ord. 14-18(4), 11-12-14)

Sec. 10.2.2 By special use permit.

The following uses shall be permitted by special use permit in the RA district, subject to the applicable requirements of this chapter: (Added 10-9-02; Amended 5-5-10)

57. Farm distillery uses, events, and activities authorized by section 5.1.59(c).

(§ 20-10.2.2, 12-10-80; 3-18-81; 2-10-82; 4-28-82; 7-6-83; 3-5-86; 1-1-87; 12-2-87; 11-8-89; 6-10-92; 11-11-92; Ord. 95-20(1), 3-15-95; Ord. 95-20(3), 10-11-95; Ord. 95-20(5), 11-15-95; Ord. 98-A(1), § 18-10.2.2, 8-5-98; Ord. 99-18(4), 6-16-99; Ord. 00-18(6), 10-18-00; Ord. 01-18(2), 3-21-01; Ord. 02-18(6), 10-9-02; Ord. 04-18(1), 5-5-04 effective 7-1-04; Ord.04-18(2), 10-13-04; Ord. 05-18(7), 6-8-05; Ord. 05-18(8), 7-13-05; Ord. 06-18(2), 12-13-06; Ord. 08-18(7), 11-12-08; Ord. 10-18(3), 5-5-10; Ord. 10-18(4), 5-5-10; Ord. 11-18(1), 1-12-11; Ord. 14-18(4), 11-12-14)

Section 11. Monticello Historic District

Sec. 11.3.1 By right.

The following uses shall be permitted by right in the MHD:

. . .

30. Farm distillery uses, events, and activities authorized by section 5.1.59(a) and (b).

(Ord. 05-18(5), 6-8-05; Ord. 08-18(2), 5-7-08; Ord. 10-18(4), 5-5-10; Ord. 11-18(4), 4-6-11; Ord. 14-18(4), 11-12-14)

Sec. 11.3.2 By special use permit.

The following uses shall be permitted by special use permit in the MHD:

. . .

11. Farm distillery uses, events, and activities authorized by section 5.1.59(c), provided, however, that no special use permit shall be required for any use that is otherwise permitted pursuant to section 11.3.1.

(Ord. 05-18(5), 6-8-05; Ord. 10-18(4), 5-5-10; Ord. 11-18(4), 4-6-11; Ord. 14-18(4), 11-12-14)

Article IV. Procedure

Sec. 31.5 Zoning clearance.

The zoning administrator shall review requests for zoning clearances as follows:

a. *When required*. A zoning clearance shall be required in the following circumstances:

   1. *New use*. Prior to establishing a new non-residential use, including those provided in subsections (a)(6) and (a)(7), other than an agricultural~~,~~ use.

   2. *Change or intensification of existing use*. Prior to changing or intensifying an existing non-residential use, including those provided in subsections (a)(6) and (a)(7),other than an agricultural~~,~~ use.

   3. *Change of occupant*. Prior to a new occupant taking possession of an existing non-residential use, other than an agricultural~~,~~ use.

   4. *Specific buildings, structures or uses*. Prior to establishing any building, structure, or use for which a zoning clearance is required under section 5.

   5. *Commencement of extraction activity.* Prior to commencing any natural resource extraction activity within the natural resources overlay district.

   6. *Events and activities at farm wineries, farm breweries, farm distilleries, and agricultural operations*. Prior to the first time that a specific class of event or activity is held at ~~an~~ a farm winery, farm brewery, farm distillery, or agricultural operation, if a zoning clearance is required under sections 5.1.25(b), 5.1.57(b), 5.1.58(d), and 5.1.59(b).

   7. *Outdoor amplified music*. Prior to the first time that outdoor amplified music is generated at an event or activity at a farm winery, farm brewery, farm distillery, or agricultural operation as provided in sections 5.1.25, 5.1.57, 5.1.58, and 5.1.59.

b. *Approval*. If the proposed building, structure, improvements, and site, and the proposed use thereof, comply with this chapter, the zoning administrator shall issue the zoning clearance.

c. *Circumstance when zoning clearance shall not be issued.* The zoning administrator shall not issue a zoning clearance if, after review of any site, the zoning administrator determines that additional improvements are necessary to protect the public health or safety, regardless of whether the improvements are shown on the site plan.

d. *Notice to the owner if the applicant is not the owner*. Within ten (10) days after receipt of a request for a zoning clearance by an applicant who is not the owner of the lot and/or structure to which the zoning clearance pertains, and prior to acting on the request, the zoning administrator or the applicant, at the zoning administrator's request, shall give written notice of the request to the owner. Written notice mailed to the owner's last known address as shown on the current real estate tax assessment records shall satisfy this notice requirement. If the zoning administrator requests that the applicant provide the written notice, the applicant shall provide satisfactory evidence to the zoning administrator that the notice has been given.

e. *Commercial and industrial uses defined*. For the purposes of this section 31.5, production agriculture, production silviculture, and agricultural operations are neither commercial nor industrial uses a home occupation is a commercial use.

f. *Effect of renumbering and renaming*. Any other section of this chapter that refers to section 31.2.3.2 or to a zoning compliance clearance shall be deemed to be a reference to section 31.5 or a zoning clearance.

(§ 31.2.3.2, 9-9-92; Ord. 01-18(6), 10-3-01; Ord. 09-18(3), 7-1-09; Ord. 11-18(1), 1-12-11; Ord. 11-18(8), 8-3-11; Ord. 14-18(4), 11-12-14)

Agenda Item No. 13. **ZTA-2015-00010. Signs.** Ordinance that would comprehensively amend Sec. 4.15, Signs, including therein Secs. 4.15.1 through 4.15.24, of Chapter 18, Zoning, of the Albemarle County Code in order to address the United States Supreme Court's decision in *Reed v. Town of Gilbert*. The primary purposes of this ordinance are: (1) to eliminate content based, even though viewpoint neutral, classifications for noncommercial signs (*e.g.*, political signs, protest signs, and other signs that do not advertise an economic interest) and commercial signs in the absence of a compelling governmental interest and, as a result, to establish limits on the number of signs allowed for these broader classifications; and (2) to reorganize and clarify the sign regulations and, in doing so, several sections or subsections in the current regulations pertaining to related subject matter are consolidated, sections are renamed and renumbered, and terminology and cross-references are updated. In the proposed ordinance, Sec. 4.15.1, Purpose and Intent, states the purpose and intent for regulating signs, Sec. 4.15.2, Applicability, is added to state the circumstances in which the sign regulations apply, Sec. 4.15.3, Definitions and Qualifications, amends, adds, and deletes definitions and incorporates qualifications for certain sign classifications, Sec. 4.15.4, Administration, requires compliance with all regulations, states that noncommercial copy may be substituted for commercial copy, adds a severability clause specific to Sec. 4.15, Sec. 4.15.5, Permanent signs for which a sign permit is required; signs exempt from obtaining a sign permit, clarifies current permitting requirements and incorporates a list of those signs exempt from the sign permit requirement, Sec. 4.15.6, Signs for which temporary sign permit is required; temporary signs exempt from obtaining temporary sign permit, clarifies current permitting requirements and incorporates a list of those signs exempt from the temporary sign permit requirement, Sec. 4.15.7, Signs authorized by special use permit; off-site directional signs, off-site bundle signs; signs in a public right-of-way; electric message signs, adds and restates the current eligibility and location standards for off-site signs allowed by special use permit, Sec. 4.15.8, Prohibited signs and sign characteristics, updates and restates those signs and sign characteristics that are prohibited, Secs. 4.15.9, 4.15.10, and 4.15.11, Maximum sign number, area, height, and setback in the [County's base zoning] districts, consolidate and state the number, size, and location requirements for signs in the County's various zoning districts, including those for signs for which a permit is and is not required, Sec. 4.15.12, Maximum freestanding sign size; sign face; measuring sign area, states the maximum allowed size of a freestanding sign and sign face, and how sign area is measured, Sec. 4.15.13, Measuring sign height, states how sign height is measured, Sec. 4.15.14, Measuring sight distance triangle; signs prohibited therein, states how a sight distance triangle is measured and prohibits signs therein, Sec. 4.15.15, Measuring permitted wall signage based on structure frontage, states how the allowed amount of wall signage is measured, Sec. 4.15.17, Sign illumination, is added to consolidate existing requirements for sign illumination, Sec. 4.15.18, Sign maintenance, states the requirements for maintaining a sign, Sec. 4.15.19, Sign alteration, repair, or removal; when required, states the applicable requirements when a sign is altered, repaired or removed, and when such actions may be required, Sec. 4.15.20, Nonconforming signs, states the requirements for nonconforming signs. The following current sections would be repealed, the substance of which would be consolidated into other sections: Sec. 4.15.5, Electric message signs; authorized by special use permit, Sec. 4.15.5A, Off-site signs; authorized by right and by special use permit, Sec. 4.15.6, Signs exempt from the sign permit requirement, Sec. 4.15.8, Regulations applicable in the MHD, RA, VR, R-1 and R-2 zoning districts, Sec. 4.15.9, Regulations applicable in R-4 and R-6 zoning districts, Sec. 4.15.13, Regulations applicable in the PD-SC and PD-MC zoning districts, Sec. 4.15.14, Regulations applicable in the HI, LI and PD-IP zoning districts, Sec. 4.15.15, Regulations applicable in the entrance corridor overlay district, and Sec. 4.15.16, Regulations applicable to certain sign types.
(Advertised in the Daily Progress on November 23 and November 30, 2015)

The Executive Summary forwarded to the Board states that the principle of the *Reed* case and the basis for this ordinance amendment is as follows: content based regulations that apply to noncommercial signs must satisfy strict scrutiny by the courts, and will be upheld only if the regulations are *narrowly tailored* to serve a *compelling governmental interest*. The Planning Commission adopted a Resolution of Intent on July 14, 2015 (Attachment C) to amend the County's sign ordinance in order to comply with the United States Supreme Court's June 18, 2015 decision in *Reed v. Town of Gilbert, Arizona (Reed case)*. The Planning Commission held two work sessions (September and October) and a public hearing on November 17, 2015. It voted to recommend adoption of ZTA201500010, with revisions as noted below.

Please see the following attachments: Attachment A is a revised draft of the proposed sign ordinance incorporating the changes recommended by the Planning Commission, with one noted exception; B is a revised draft of the proposed sign ordinance including explanatory comments; D is a table from the October 20th Commission report that compares the current and proposed regulations.

The Planning Commission recommended approval of the ordinance with the following changes:

1) Retain the current temporary sign height regulations in those districts where a 10 foot height limitation exists (*where increasing sign height to 12 feet was proposed*);

2) Retain the current temporary wall sign heights a) to 20 feet, but not to exceed the top of the fascia or mansard, in the agricultural and residential districts (*where increasing the sign height to not exceed the top of the fascia or mansard was proposed*); and b) 20 feet for residential wall signs and 30 feet for nonresidential wall signs, but not to exceed the cornice line, in the planned, commercial, and industrial districts (*where increasing the sign height to not exceed the top of the fascia or mansard was proposed*);

3) Retain the current maximum wall sign area (*where increasing the wall sign area in several residential districts was proposed to be increased to be consistent with the wall sign area allowed in other districts*);

4) Retain the "temporary off-site directional sign" classification as a sign class exempt from having to obtain a temporary sign permit (section 4.15.6) and define the term. (*Upon further review, retaining this sign class as proposed raises constitutional concerns under Reed and such signs will be allowed as "noncommercial signs" if their copy is noncommercial in nature*), and;

5) Retain the current definitions of commercial sign classes that are based on their purpose (*e.g.*, construction signs, auction signs), and use those terms when referring to such signs in corresponding revisions throughout the ordinance (*where a content neutral approach to these situational signs was proposed*).

There is no anticipated budget impact.

Staff recommends that the Board adopt the attached proposed ordinance (Attachment A) after the public hearing.

_____

Mr. Ron Higgins, Deputy Zoning Administrator, addressed the Board, stating there was a Supreme Court Case in June, Reid vs. the Town of Gilbert, Arizona, that sent localities across the country back to the drawing board on their sign ordinances to try to make sure they are constitutionally sound. He said the issue is on non-commercial signs being treated differently, in conflict with the First Amendment. Mr. Higgins stated that after the ruling, the County put together a team including Mr. Kamptner, Stewart Wright, Francis MacCall and himself, to look at the ordinance thoroughly and determine what parts might need to be changed. He said the group met weekly and went to the Planning Commission in July with a resolution of intent, then went back for work sessions in September and October to try to give them some background on the need for this and on sign ordinances in general, to provide some education and context. Mr. Higgins stated that staff then took some minor changes to make standards consistent, but the Planning Commission was not comfortable with that approach, so while they recommended adoption of the ordinance in November, they pulled out those changes.

Mr. Higgins explained that he would review with the Board what has transpired over the three months during which they addressed the Reid case and the constitutionality of it, including the enabling legislation for the County's ordinance. He said the First Amendment clause against "abridging the freedom of speech" was designed to foster an uninhibited marketplace of ideas and to ensure that the government would not regulate speech based on hostility, favoritism, or any kind of prejudice. Mr. Higgins noted those provisions were the starting basis for the ordinance, followed by the sign code. He explained that the essential elements of a sign code recognizes that signs take up space, obstructing views, distracting motorists, and displacing alternative uses for land. Mr. Higgins said they had a function that caused them to need to be regulated, and the constitutional power of a locality to improve its appearance has been held up in court cases, as has improving traffic safety and preserving the aesthetic character of an area, ultimately protecting property values as part of the well-being of a community. He stated when the California Supreme Court contemplated the Metro Media billboard case, they found it was unreasonable as a matter of law that the ordinance which eliminated billboards designed to be viewed from streets and highways reasonably related to traffic safety.

Mr. Higgins stated the third aspect of the sign consideration was zoning, which was designed to protect health, safety and welfare. He said that aesthetics and traffic safety were two of the primary justifications for regulating signs, with justifications from enabling legislation under the state law regarding structures, one of which was to facilitate the creation of a convenient, attractive and harmonious community; and to protect against danger in travel and transportation, which involves distraction due to a proliferation of signs and signs that might cause hazards. Mr. Higgins noted that two additional purposes of zoning recognized in Virginia courts are regulating aesthetics and encouraging the most appropriate use of the land. He added that enabling authority also allows for local regulation of signs, with protection of property values deemed to be an important government interest.

Mr. Higgins reported that Albemarle County has a zoning ordinance and a sign ordinance that was originally in the zoning ordinance in 1980 and was completely overhauled in the early 1990s, requiring permits for all kinds of signs and allowing a number of signs for which a permit was not required. He explained there are regulations for time, place, manner, size, height, setback, location, number, physical nature, material, illumination, motion, permanent vs. temporary, portable, and so forth. Mr. Higgins stated there are also regulations for review of signs in the Entrance Corridor by the ARB and their staff. He emphasized that sign ordinances are difficult and complex because they have to deal with so many circumstances, situations and interests, and there is a huge balancing act that occurs all of the time when writing and administering ordinances on a daily and hourly basis. Mr. Higgins stated there are competing needs and interests with all sign ordinances, and he appreciates that the Board recognizes that. He commented that the proposed ordinance is considerably less complex than the current ordinance, and staff has made a number of changes to try to make it easier to find things, including regulations put into tables to show how much of each type of sign is allowed.

Mr. Higgins stated that before the Reid case, if a regulation was viewpoint-neutral then it was considered content-neutral, with the goal being content neutrality. Mr. Higgins said that an example was a political sign, which pertains to the candidacy of one or more persons or one or more issues, and if a regulation excludes signs based on particular parties, questions or issues, then it would be considered content-based. He stated that prior to June 18, 2015, the law of the land was that viewpoint neutrality was acceptable. Mr. Higgins said the Reid decision focused on a non-commercial sign, but said the regulations are content-based if the law that applies to those signs depends on the topic discussed. He stated there was a situation in which someone who was non-commercial had a different set of rules than another non-commercial entity and there was no basis for it, so it was considered content-based regulation and would not meet strict scrutiny under the law. Mr. Higgins said an example of this is a political sign, because the regulations that apply to that sign, and the fact it is a political sign depends on whether the sign pertains to a candidate or an issue.

Mr. Higgins emphasized that viewpoint neutrality is no longer a relevant issue, and they are looking for content neutrality throughout all non-commercial signs. He stated the conclusion is that staff must amend the sign regulation to eliminate the content-based sign classification and regulations for non-commercial signs. Mr. Higgins said there are three very narrowly defined exceptions: non-commercial classifications that are justified on public safety grounds such as traffic signs, warning signs, directional signs for vehicular and pedestrian traffic, and address signs at least for 9-1-1 purposes. He stated that what will not change is sign permit requirements, as all permanent signs will require them; exempt signs, which will be more clearly defined; the time, place, manner of regulation; and parameters such as size, height, number of signs and location. Mr. Higgins said that special permits will be required for certain signs such as offsite or electric message signs, with the Board of Zoning Appeals delegated that purview by the Board of Supervisors; ARB review of signs in the Entrance Corridor; and regulation of commercial signs. He noted that signs in the right of way are against state and local law and will not be addressed in the new ordinance.

Mr. Higgins stated the main objective of this review is to remove the content-based elements from the current sign ordinance, such as a subdivision sign. He explained that a subdivision sign is currently defined as “a sign erected at the entrance of a residential development that identified the development,” and they can remove the content-based nature of that by removing “that identified the development.”

Ms. Palmer asked for clarification of that point. Mr. Higgins responded that a subdivision sign is considered content-based because it ended by saying it “identified the development,” so even though the only reason for the sign being there was to identify the subdivision, the County cannot dictate what it says.

Mr. Higgins stated the secondary objective, which they always take the opportunity to do when doing a text amendment, is to organize the current ordinance section so it might be easier to administer and use. He said they want to simplify it and make it easier to understand, so staff took seven tables and turned them into three, and added regulations after each table so the sign standards can be easily located. Mr. Higgins noted they have taken all of the areas clarifying when a permit is required, the regulations for temporary signs and the special use permit provisions, and grouped them so they are streamlined by section. He stated that when the Planning Commission got this information, there was a table in the staff report that talked about changes from the current ordinance to the proposed ordinance, and it removed content-based standard while grouping the regulations accordingly. Mr. Higgins said there are three more sections in the table and staff has examined why sign height limits are different for some signs, such as wall signs, so they made those consistent throughout the new ordinance. He stated there was some pushback at the public hearing, with many people feeling that the County should stick to the Reid provisions, so they removed some of the changes that pertains to consistency to be considered later as a separate process and community discussion.

Mr. Higgins said the conclusion is that the County sign regulations must be amended to comply with the Reid decision, as the regulations applicable to non-commercial signs must be content-neutral.

He stated there are a lot of things in the ordinance that makes it better, including a severability clause just for the sign ordinance so that if something were challenged it would address that one section and not throw the whole thing out. Mr. Higgins said the Planning Commission's recommendation was for the Board to adopt ZTA 2015-0010 as recommended in Attachment A, and offered to have staff answer questions.

Ms. Dittmar stated this is a good presentation, and Ms. Mallek agreed.

Mr. Boyd said it took him years to get the BB&T bank sign on 29 North next to Fashion Square Mall moved up on their building, and he wants to make sure they will not have to move it down as a part of this ordinance. Mr. Higgins responded they would not.

Ms. Mallek asked for clarification that the "commercial flags" referenced in Attachment A on page 26, number 4 do not refer to the signs that are put in the ground and are shaped like a surfboard sail. Mr. Higgins responded those are moving, flapping signs and are prohibited in the ordinance.

The Chair opened the public hearing.

Mr. Neil Williamson addressed the Board, thanking staff for their work on this ordinance and noting this item moved quickly through after the Supreme Court decision. Mr. Williamson said that in this ordinance there was removal of temporary directional signage, and that would cover open houses, parade of homes, the MS 151 ride, etc. He stated he had raised this matter at the Planning Commission level and they were equally concerned, so staff said they would think about it, and Mr. Kamptner concluded that you cannot do that under Reid. Mr. Williamson said that staff has put information into the regulatory comments that indicate their interpretation is that temporary directional signs outside of the right of way would be permitted. He stated he would like some clarification that the changes in content neutrality applies to commercial and non-commercial signage.

There being no other comments from the public, the public hearing was closed.

In response to Mr. Williamson, Mr. Kamptner confirmed that they do, stating that the regulations that apply to commercial signs and are content-based, such as a real estate sign advertising sale or rental of property, stay as they are currently. He also mentioned that some minor typographical and numbering changes as quick edits are highlighted on the five pages, and include no substantive changes.

Motion was then offered by Mr. Boyd to adopt ZTA-2015-00010 as recommended by staff. Ms. McKeel **seconded** motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Sheffield, Mr. Boyd, Ms. Dittmar, Ms. Mallek, Ms. McKeel and Ms. Palmer.
NAYS: None.

(The adopted ordinance is set out in full below:)

ORDINANCE NO. 15-18(11)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE II, BASIC REGULATIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article II, is hereby amended and reordained as follows:

By Amending:
Sec. 4.15.1 Purpose and intent

By Amending and Renumbering:

Old	New	
Sec. 4.15.7	Sec. 4.15.8	Prohibited signs and sign characteristics
Sec. 4.15.22	Sec. 4.15.18	Sign maintenance
Sec. 4.15.23	Sec. 4.15.19	Sign alteration, repair, or removal; when required
Sec. 4.15.24	Sec. 4.15.20	Nonconforming signs

By Amending, Renumbering, and Renaming:

Old		New	
Sec. 4.15.2	Definitions	Sec. 4.15.3	Definitions and qualifications
Sec. 4.15.3	Sign content	Sec. 4.15.4	Administration
Sec. 4.15.4	Signs authorized by sign permit	Sec. 4.15.5	Permanent signs for which sign permit is required; signs exempt from obtaining a sign permit
Sec. 4.15.4A	Signs authorized by temporary sign permit	Sec. 4.15.6	Signs for which temporary sign permit is required; temporary signs exempt from obtaining temporary sign permit
Sec. 4.15.10	Regulations applicable in the R-10, R-15 and PRD zoning districts	Sec. 4.15.9	Maximum sign number, area, height, and minimum sign setback in the RA, MHD, VR, R-

			1, R-2, R-4, R-6, R-10, R-15, and PRD zoning districts
Sec. 4.15.11	Regulations applicable in the PUD, DCD, and NMD zoning districts	Sec. 4.15.10	Maximum sign number, area, height and minimum sign setback in the PUD, DCD, and NMD zoning districts
Sec. 4.15.12	Regulations applicable in the C-1, CO and HC zoning districts	Sec. 4.15.11	Maximum sign number, area, height, and minimum sign setback in the C-1, CO, PD-SC, PD-MC, HI, LI, and PD-IP zoning districts
Sec. 4.15.17	Determining sign area	Sec. 4.15.12	Maximum freestanding sign size; Sign face; measuring sign area
Sec. 4.15.18	Determining sign height	Sec. 4.15.13	Measuring sign height
Sec. 4.15.19	Determining sight distance triangle	Sec. 4.15.14	Measuring sight distance triangle; signs prohibited therein
Sec. 4.15.20	Determining structure frontage	Sec. 4.15.15	Measuring permitted wall signage Based on structure frontage
Sec. 4.15.21	Determining sign setback	Sec. 4.15.16	Measuring sign setback; signs prohibited therein

By Adding:

Sec. 4.15.2	Applicability
Sec. 4.15.7	Signs authorized by special use permit; off-site directional signs, off-site bundle signs, signs in a public right-of-way, electric message signs
Sec. 4.15.17	Sign Illumination

By Repealing:

Sec. 4.15.5	Electric message signs; authorized by special use permit
Sec. 4.15.5A	Off-site signs; authorized by right and by special use permit
Sec. 4.15.6	Signs exempt from the sign permit requirement
Sec. 4.15.8	Regulations applicable in the MHD, RA, VR, R-1 and R-2 zoning districts
Sec. 4.15.9	Regulations applicable in R-4 and R-6 zoning districts
Sec. 4.15.13	Regulations applicable in the PD-SC and PD-MC zoning districts
Sec. 4.15.14	Regulations applicable in the HI, LI and PD-IP zoning districts
Sec. 4.15.15	Regulations applicable in the entrance corridor overlay district
Sec. 4.15.16	Regulations applicable to certain sign types

Chapter 18. Zoning

Article II. Basic Regulations

Sec. 4.15.1 Purpose and intent

The purpose and intent of this section 4.15 include, but are not limited to, the following:

a. The board of supervisors finds that signs are a separate and distinct use of the property upon which they are located and affect the uses and users of adjacent streets, sidewalks, and other areas open to the public; and that signs are an important means of communication for businesses, organizations, individuals, and government~~;~~. The board also finds that signs take up space and may obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation; and that the unregulated erection and display of signs constitute a public nuisance detrimental to the public health, safety, convenience, and general welfare. Therefore, the purpose of this section 4.15 is to establish reasonable regulations pertaining to the time, place, and manner in which outdoor signs and window signs may be erected and maintained in order to:

1. Preserve the rights of free speech and expression;

2. Promote the general health, safety and welfare, including the creation of an attractive and harmonious environment;

3. Protect the public investment in the creation, maintenance, safety, and appearance of its streets, highways, and other areas open to the public;

4. Improve vehicular and pedestrian safety by avoiding saturation and confusion in the field of vision and by directing and controlling vehicular traffic and pedestrians;

5. Protect and enhance the county's attractiveness to tourists and other visitors as sources of economic development; and

6. Protect property values.

b. The board of supervisors finds that the regulations in this section 4.15 advance the substantial governmental interests identified herein and are the minimum amount of regulation necessary to achieve them, provided further that:

1. The board of supervisors finds that the provisions in this section 4.15 that separately classify warning signs advance the compelling governmental interest of protecting vehicular and pedestrian safety.

2. The board of supervisors finds that the provisions in this section 4.15 that separately classify directional signs advance the compelling governmental interest of protecting vehicular and pedestrian safety.

3. The board of supervisors finds that the provisions in this section 4.15 that separately classify address signs advance the compelling governmental interest of ensuring that emergency vehicles are able to locate persons and buildings in emergency situations.

c. Many of the signs allowed by this section 4.15 are situational, and the likelihood of multiple simultaneous situations arising on a lot at any particular time is remote. Therefore, the board finds that the number of signs allowed on a lot is reasonable and allows alternative channels of communication as situations arise without adversely impacting the purposes of this section 4.15.

(12-10-80; 7-8-92, § 4.15.01; Ord. 01-18(3), 5-9-01; Ord. 12-18(2), 3-14-12)

State law reference – Va. Code § 15.2-2280.

Sec. 4.15.2 Applicability

This section 4.15 shall apply as follows:

a. *General*. The requirements of section 4.15 shall apply to all outdoor signs and window signs, including all outdoor signs and window signs in the entrance corridor overlay district, that are visible from beyond the boundaries of the lots on which they are located. Each sign subject to this section 4.15 shall comply with all regulations applicable to that sign.

b. *Within the entrance corridor overlay district*. In addition to all other applicable requirements of section 4.15, prior to erecting an outdoor sign or window sign that would be visible from an entrance corridor street, the owner or lessee of the lot on which the sign will be located shall obtain a certificate of appropriateness for that sign as provided in section 30.6 unless the sign is exempt from needing a certificate of appropriateness under section 30.6.5(d).

State law reference – Va. Code § 15.2-2280.

Sec. 4.15.3 Definitions and qualifications

The following definitions shall apply in the interpretation and implementation of this section 4.15:

Access road. The term “access road” means a public or private street that is not a through street or provides frontage to fewer than ten (10) parcels. (Added 6-4-14)

Address sign. The term “address sign” means a sign containing the address of a structure or a site.

Advertising vehicle. The term “advertising vehicle” means a motor vehicle, trailer or semitrailer (collectively, “vehicle”) that: (i) has a permanent or temporary sign affixed, painted on or placed upon it, including a sign that alters the vehicle’s manufacturer’s profile; provided that a temporary sign affixed to an employee’s private vehicle during his or her working hours is not an advertising vehicle; (ii) is in operating condition, displays valid license plates, and displays an inspection decal that is either valid or has not been expired for more than sixty (60) days; (iii) is used as transportation for the business; and (iv) is parked in an approved parking space or parking area that serves the business, or temporarily parked at another business to actively receive or provide goods or services, such as to load or unload goods, provide on-site services, receive vehicle maintenance and repair, or obtain food for the driver and passengers.

Agricultural product sign. The term “agricultural product sign” means a sign or signs identifying the produce, crops, animals or poultry raised or quartered on the property, or identifying farm sales, a farm stand, a farmers’ market, or a farm winery. (Added 3-16-05; Amended 5-5-10)
Animated sign. The term “animated sign” means a sign that moves or a sign that changes lighting by any mechanical, electrical or other device.

Auction sign. The term “auction sign” means a sign that advertises an auction to be conducted.

Awning. The term “awning” means a covering attached to a structure, erected on or over a window or door, and typically supported by a metal frame.

Awning sign. The term “awning sign” means a type of projecting sign that is painted or printed on, or attached to, the surface of an awning.

Banner. The term “banner” means a type of temporary sign that is not a pennant, consisting of a piece of fabric or other flexible material, suspended from a fixed structure, rope, wire, string or cable. (Amended 3-16-05)

Billboard. The term “billboard” means a type of freestanding off-site sign containing copy that is commercial speech that exceeds thirty-two (32) square feet in sign area.

Bonus tenant panel: The term “bonus tenant panel” means an additional sign permitted for individual tenants in shopping centers or planned developments containing copy that is commercial speech and which may be added to a freestanding sign. (Added 3-14-12)

Bundle sign. The term “bundle sign” means a type of freestanding off-site sign that identifies two or more establishments or sites that are not part of a planned development district and which share a common entrance or access road. (Added 6-4-14)

Canopy. The term “canopy” means a permanent structure, or part thereof, that has a roof with support but no walls, and is intended ~~as~~ to provide shelter.

Canopy sign. The term “canopy sign” means a type of wall sign that is attached to the fascia of a canopy. A canopy sign shall not extend above or below the edge of the canopy’s fascia. See Figure I following this section.

Construction sign. The term “construction sign” means a sign that identifies a construction project and/or an architect, contractor, subcontractor, material supplier or lending institution participating in the construction project.

Copy. The term “copy” means the letters, figures, designs, devices, pictures, projected images, symbols, fixtures, colors, logos, emblems, or insignias, or any part or combination thereof, displayed on a sign face.

Cornice line. The term “cornice line” means the location of a cornice along the top of a wall; or, for a wall that has no cornice, the corresponding horizontal line along the top of a wall where a cornice would traditionally be located. In all cases, the “cornice line” applies to the main walls of a building and does not apply to features that extend above the top of the main walls of a building. (Added 3-14-12)

Directional sign, off-site. The term “off-site directional sign” means a type of freestanding off-site sign that directs vehicular or pedestrian traffic, or both. (Added 6-4-14)

Directional sign, on-site. The term “on-site directional sign” means a type of on-site freestanding or wall sign that directs vehicular or pedestrian traffic, or both, that is not erected at the road entrance to the development, and includes, but is not limited to, a sign that has non-electric changeable copy enclosed in a casement covered by a transparent material. See Figure I following this section.

Electric message sign. The term “electric message sign” means a sign on which the copy can be changed or altered by electric, electro-mechanical, or electronic means, but does not include an electric message sign to display fuel prices and having copy that does not change more than once per day at an establishment at which gasoline or diesel fuel is dispensed. (Amended 3-14-12)

Erect. The term “erect” means, in the appropriate context, to affix, construct, hang, install, locate, paint, place, or print.

Establishment. The term “establishment” means a public or private institution or a place of business; for purposes of this definition, the number of franchises held by an automobile dealership shall not be relevant to the determination as to what is an establishment.

Fascia. The term “fascia” means one or more of the vertical faces of the roof of a canopy or structure.

Flag. The term “flag” means a sign consisting of a piece of fabric or other flexible material attached to a flag pole, light pole, or mount as provided in this section 4.15.(Amended 3-16-05)

Flag, commercial. The term “commercial flag” means a flag containing copy that is commercial speech.

Flag, noncommercial. The term “noncommercial flag” means a flag containing copy that has no commercial speech, such as decorative, hospitality, and seasonal flags containing no advertising, words, or logos related to a specific business, product, or service, and does not represent the official symbol of a national, state, or local government.

Flashing sign. The term “flashing sign” means an illuminated sign of which all or part of the illumination is flashing or intermittent, or changing in degrees of intensity, brightness or color.

Freestanding sign. The term “freestanding sign” means a permanent sign that is supported from the ground and not attached to another structure. See Figure I following this section.

Home occupation sign. The term “home occupation sign” means a sign on the premises of a dwelling unit that has an authorized Class B or major home occupation that does not exceed four (4) square feet in sign area and only states the name of the person occupying the dwelling and identifies the product or service offered by the home occupation. (Amended 1-12-11)

Illuminated sign. The term “illuminated sign” means a sign, or any part of a sign, that is deliberately illuminated by an external or internal light source.

Maintain. The term "maintain" means cleaning, painting, repairing, or replacing defective parts of a sign in a manner that does not alter in any way, however slight, the copy, design, or the structure of the sign.

Marquee. The term "marquee" means a fixed covering that projects over an entrance to a theater or other building.

Marquee sign. The term "marquee sign" means a type of wall sign incorporated in or attached to a marquee, and that may have changeable copy.

Menu sign. The term "menu sign" means a type of freestanding or wall sign designed and located to be read from an authorized drive-through lane.

Moving sign. The term "moving sign" means a sign, any part of which moves by means of an electrical, mechanical or other device, or that is set in motion by wind.

Nonconforming sign. The term "nonconforming sign" means a lawful sign existing on the effective date of this section 4.15 that does not comply with the requirements for the use, the structure, or both, contained herein.

Off-site sign. The term "off-site sign" means: (i) if it is within a district other than a planned development district, a sign that is not located on the same lot with the use to which it pertains, but does not include a sign located in a public right-of-way; or (ii) if it is within a planned development district, a sign that is not located within the area depicted on the application plan approved for the planned development, but does not include a sign located in a public right-of-way. An off-site sign shall count toward the number and square footage for the sign type allowed on the lot on which the sign is located. (Added 3-14-12; Amended 6-4-14)

On-site sign. The term "on-site sign" means: (i) a sign containing copy that is commercial speech that is located on the same lot as the establishment to which it pertains; (ii) a sandwich board sign that is located on county-owned right-of-way abutting the lot on which the establishment to which it pertains is located; and (iii) every sign containing copy that is exclusively noncommercial speech.

Opaque background. The term "opaque background" means the portion of sign face that lies behind the message portion of the sign, and is made of a material through which light cannot pass when the sign is internally illuminated at night. (Added 5-12-10)

Pennant. The term "pennant" means a series of two (2) or more sections of a piece of fabric or other flexible material that is generally triangular and tapering, suspended from a fixed structure, rope, wire, string or cable and designed to move in the wind and including, but not limited to, streamers and tinsel. (Amended 3-16-05)

Permanent sign. The term "permanent sign" means a sign that is permanently installed in the ground or permanently affixed to a structure that is permanently installed in the ground that is intended to be displayed indefinitely and authorized in sections 4.15.5 and 4.15.7, if applicable, or, if the permanent sign is not required to obtain a sign permit under section 4.15.5, as provided in sections 4.15.0, 4.15.10, and 4.15.11.

Projecting sign. The term "projecting sign" means a sign, other than a wall sign, that is attached to a structure but which is not mounted parallel to the structure's wall surface, and includes, but is not limited to, an awning sign. A projecting sign shall not be mounted either: (i) on the fascia of a canopy; or (ii) such that the projecting sign extends, in whole or in part, above the top of the wall structure. See Figure I following this section.

Public sign. The term "public sign" means a sign that is erected and maintained by the county, or the state or federal government, or an authority thereof containing copy that is exclusively governmental speech.

Rare gas illumination. The term "rare gas illumination" means a sign using a rare gas such as neon, argon, helium, xenon, or krypton in a glass tube for illumination. (Added 3-16-05)

Real estate sign. The term "real estate sign" means a sign that is used to advertise the sale, lease, rental, development or other use of the property on which the sign is located.

Roof sign. The term "roof sign" means a sign erected on a structure that extends, in whole or in part, above the top of the wall of the structure; provided that a sign located on a fake mansard is not a roof sign, but is a wall sign.

Sandwich board sign. The term "sandwich board sign" means an A-frame sign with two (2) faces that is periodically placed directly in front of the establishment that it advertises. Sandwich board signs shall be subject to the following: (1) the sign shall not exceed four (4) feet in height, two (2) feet in width and eight (8) square feet of area per sign face; (2) if the sign is placed on a sidewalk or any other public pedestrian right-of-way, it shall be placed in a location that provides a contiguous and unobstructed pedestrian passageway at least three (3) feet wide; (3) the sign shall not be located in any required off-street parking space, driveway, access easement, alley or fire lane; (4) the sign shall not be illuminated; (5) the sign shall be removed during non-business hours; and (6) if the sign is located on county-owned right-of-way abutting the establishment, prior to placement of the sign, the owner shall agree to indemnify and hold harmless the county against any claim or liability arising from the placement of the sign, and the agreement shall be in a form and have a substance approved by the county attorney. (Added 1-13-10)

Sign. The term “sign” means any object, device or structure, or any part thereof including the sign face and the sign structure, visible from beyond the boundaries of the lot on which it is located, and which has copy containing commercial speech, noncommercial speech, or governmental speech. The term “sign” does not include: (i) a flag representing the official symbol of a national, state, or local government; (ii) works of art in which creative skill or imagination is expressed in a visual form, such as a painting or a sculpture, intended to beautify or provide an aesthetic influence, and which contains no copy containing commercial speech; and (iii) architectural elements incorporated into the style or function of a structure. (Amended 3-16-05)

Sign area. The term “sign area” means the area of a sign face within the smallest square, circle, rectangle, triangle, or combination thereof, that encompasses the extreme limits of the copy, together with any materials or colors forming an integral part of the background of the sign face or used to differentiate the sign from the backdrop or structure against which it is placed.

Sign face. The term “sign face” means the area or display surface that contains copy.

Sign structure. The term “sign structure” means the supports, uprights, bracings, and framework of any structure, regardless of whether it is single-faced, double-faced, V-type or otherwise, used to exhibit a sign. See Figure I following this section.

Speech, commercial. The term “commercial speech” means speech that is an expression related solely to the economic interests of the speaker and its audience.

Speech, governmental. The term “governmental speech” means speech that is a message of the government.

Speech, noncommercial. The term “noncommercial speech” means speech that is neither commercial speech nor governmental speech.

Subdivision sign. The term “subdivision sign” means a type of freestanding sign erected at the entrance of a residential development containing copy that is noncommercial speech.

Temporary sign. The term “temporary sign” means a sign that is displayed for only a limited period of time authorized in section 4.15.6 or, if the temporary sign is not required to obtain a temporary sign permit under section 4.15.6, as provided in sections 4.15.09, 4.15.10, and 4.15.11. (Amended 3-16-05; 5-6-15)

Visible. The term “visible” means that which is capable of being seen, whether or not legible, by a person of normal visual acuity.

Wall sign. The term “wall sign” means a sign, other than a projecting sign, that is painted on, printed on, or attached to, a wall of a building and parallel to the wall, is located on a fake mansard, or is a canopy sign or a marquee sign. In order to be eligible to have a wall sign, the establishment shall have an exterior wall. See Figure I following this section.

Warning sign. The term “warning sign” means a sign, that is not a public sign, that provides a warning or a notice to persons on, or entering upon, the premises on which the sign is located including, but not limited to, signs that guide vehicular or pedestrian traffic within, but not at the entrance of a development, identify hazards and possibly dangerous conditions, ensure public safety, or are required by law to be erected.

Window sign. The term “window sign” means a permanent or temporary sign affixed to the interior or exterior of a window or door, or within three (3) feet of the interior of the window or door; provided that the display of goods available for purchase on the premises is not a window sign. (Amended 3-16-05)

(12-10-80; 7-8-92, § 4.15.03; Ord. 01-18(3), 5-9-01; Ord. 05-18(4), 3-16-05; Ord. 10-18(1), 1-13-10; Ord. 10-18(3), 5-5-10; Ord. 10-18(5), 5-12-10; Ord. 11-18(1), 1-12-11; Ord. 12-18(2), 3-14-12; Ord. 14-18(3), 6-4-14; Ord. 15-18(3), 5-6-15)

State law reference – Va. Code § 15.2-2280.

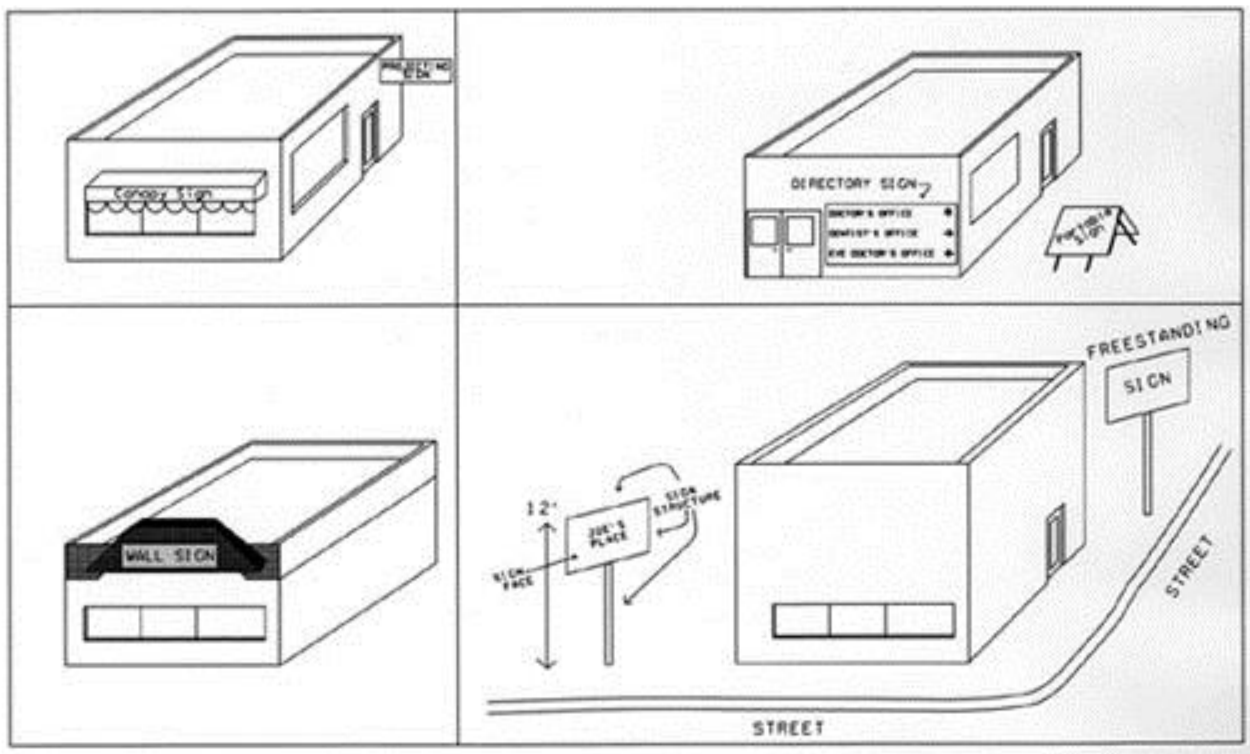

Figure I: Illustrations of Sign Type

Sec. 4.15.4 Administration

The following provisions apply in the administration of this section 4.15:

a. *Compliance with all requirements*. Each sign authorized by section 4.15 shall comply with all applicable requirements of section 4.15 and all other applicable requirements of this chapter. No sign lawfully erected prior to December 9, 2015 shall be altered or moved, except in compliance with the provisions of section 4.15 and all other applicable requirements of this chapter.

b. *Noncommercial copy in lieu of commercial copy*. Each sign authorized by section 4.15 may contain any copy that is noncommercial speech in lieu of, or in addition to, any copy that is commercial speech.

c. *Severability*. It is hereby declared to be the intention of the board of supervisors that the sections, subsections, paragraphs, sentences, clauses, and phrases of section 4.15 are severable. If any section, subsection, paragraph, sentence, clause, or phrase is declared to be unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, the unconstitutionality or invalidity shall not affect any of the remaining sections, subsections, paragraphs, sentences, clauses, and phrases, of section 4.15. The board of supervisors further declares its intention that, if any regulations in section 4.15 pertaining to warning signs, directional signs, address signs, or signs containing copy that is commercial speech are invalidated as being content based and not justified by a compelling governmental interest, the remaining provisions of section 4.15 remain in full force and effect.

(Ord. 01-18(3), 5-9-01)

State law reference – Va. Code § 15.2-2280.

Sec. 4.15.5 Permanent signs for which a sign permit is required; signs exempt from obtaining a sign permit

Each permanent sign is subject to the following:

a. *Signs required to obtain sign permit*. Except for those signs identified in subsection (b), a sign permit shall be obtained for each sign prior to its erection, alteration, replacement, or relocation to ensure that it complies with any applicable requirements of this section 4.15, as provided herein:

1. *Application*. An application for a sign permit shall be submitted to the department of community development, together with payment of the fee required for the application pursuant to section 35.1. A complete application shall consist of the following:

   a. A fully completed application form, provided to the applicant by the zoning administrator;

   b. A schematic legibly drawn to scale and sufficiently detailed showing the proposed location and dimensions of the sign; and

c. Any plans, specifications and details pertaining to, among other things, the sign materials, the methods of illumination, methods of support, components, and the condition and age of the sign, as determined by the zoning administrator to be necessary for the review of the application.

2. *Application review and permit issuance*. A sign permit application shall be reviewed and acted upon by the zoning administrator only as provided herein:

a. *Timing of application*. An application for a sign permit may be filed at any time, and if a special use permit for the sign is required under section 4.15.7 or a certificate of appropriateness for the sign is required under section 30.6 of this chapter, the application may be filed with or any time after the application for the special use permit or certificate of appropriateness is filed.

b. *Action on application.* Within thirty (30) days after receipt of a complete sign permit application, the zoning administrator shall review the application and either: (i) approve the application; (ii) deny the application; or (iii) refer the application to the applicant for more information as may be required by subsection (a)(1)(c). An application shall be denied only if the proposed sign is a prohibited sign, does not comply with the regulations set forth in this section 4.15, the application is for a sign containing purported commercial speech related to an unlawful use under this chapter or other unlawful activity, or, a required special use permit or certificate of appropriateness for the sign was not granted. If the application is denied, the reasons shall be specified in writing.

c. *Failure to timely act*. If the zoning administrator fails to take one of the actions described herein within thirty (30) days of receipt of a complete sign permit application, the permit shall be deemed approved, provided that the sign deemed approved shall nonetheless be subject to, and shall comply with, all applicable requirements of this section 4.15.

3. *Administration*. A sign permit shall become null and void if the sign is not erected within six (6) months after the date the sign permit is issued. Upon written request by the permittee and upon good cause shown, the zoning administrator may grant an extension of the six (6)-month period.

b. *Signs not required to obtain sign permit; subject to all other applicable requirements*. Each permanent sign classified in this subsection may be erected, altered, replaced, or relocated without first obtaining a sign permit, provided that it complies with all applicable requirements of this section 4.15 and the following:

1. *Address signs*. Address signs that do not exceed four (4) square feet.

2. *Advertising vehicles*. Advertising vehicles in which none of the prohibited conditions delineated in section 4.15.8(c)(2)(ii) or (iii) exist. (Added 3-16-05)

3. *Agricultural product signs*. Agricultural product signs, provided that the signs do not exceed thirty-two (32) square feet in total sign area, provided that if two (2) signs are erected, neither sign shall exceed sixteen (16) square feet.

4. *Home occupation signs*. Home occupation signs located on lots on which there is a class B home occupation or a major home occupation that is allowed in the applicable district under section 4.15.9, 4.15.10, or 4.15.11, and that do not exceed four (4) square feet in sign area.

5. *Noncommercial signs*. Signs containing copy that is exclusively noncommercial speech that do not exceed the maximum sign area allowed for the type of sign (*e.g.*, freestanding, wall) in the applicable district.

6. *Warning signs*. Warning signs that do not exceed four (4) square feet.

7. *Window signs*. Window signs, provided that the aggregate area of all window signs on each window or door does not exceed twenty-five percent (25%) of the total area of the window or door. (Amended 3-16-05, 3-14-12)

Subsection (a): (12-10-80; 7-8-92, §§ 4.15.09, 4.15.09.1, 4.15.09.2, 4.15.09.3; Ord. 01-18(3), 5-9-01; Ord. 12-18(2), 3-14-12)

Subsection (b): (12-10-80; 7-8-92, § 4.15.04; Ord. 01-18(3), 5-9-01; Ord. 05-18(4), 3-16-05; Ord. 10-18(4), 5-5-10; Ord. 11-18(1), 1-12-11; Ord. 12-18(2), 3-14-12)

State law reference – Va. Code §§ 15.2-2280, 15.2-2286.

Sec. 4.15.6 Temporary signs for which a temporary sign permit is required; temporary signs exempt from obtaining temporary sign permit

Each temporary sign is subject to the following:

a. *Signs required to obtain temporary sign permit*. Except for those signs identified in subsection (b), a temporary sign permit shall be obtained for each temporary sign prior to its erection, alteration, replacement, or relocation to ensure that it complies with all applicable requirements of this section 4.15, as provided herein:

1. *Application*. An application for a temporary sign permit shall be submitted to the department of community development, together with payment of the fee required for the application pursuant to section 35.1, and comply with the application requirements of subsection 4.15.5(a)(1).

2. *Application review and permit issuance*. A temporary sign permit application shall be reviewed and acted upon by the zoning administrator only as provided herein:

a. *Action on application*. Within seven (7) days after receipt of a complete application, the zoning administrator shall either: (i) approve the application; (ii) deny the application; or (iii) refer the application to the applicant for more information as may be required by section 4.15.5(a)(1)(c). An application shall be denied only if the proposed temporary sign is a prohibited sign or does not comply with the regulations set forth in this section 4.15. If the application is denied, the reasons shall be specified in writing.

b. *Failure to timely act*. If the zoning administrator fails to take one of the actions described herein within seven (7) days after receipt of a complete sign application for a temporary sign, the permit shall be deemed approved as received, provided that the sign deemed approved shall nonetheless be subject to, and shall comply with, all applicable requirements of this section 4.15.

3. *Administration*. The following regulations shall apply to the administration of temporary sign permits:

a. *Number of permits*. No more than six (6) temporary sign permits shall be issued by the zoning administrator to the same establishment, or lot not containing an establishment, in any calendar year, provided that a temporary sign erected to replace a permanent sign as provided in subsection (a)(3)(b)(2) shall not count toward this limit.

b. *Period of validity.* Each temporary sign permit shall be valid for the following periods:

(1) *Generally*. Except as provided in subsections (a)(3)(b)(2) and (a)(3)(b)(3), for a period not to exceed fifteen (15) consecutive days after the erection of the sign, provided that a temporary sign permit issued while a permanent sign is being made may be valid for longer than fifteen (15) days until the permanent sign is erected.

(2) *Within limits of VDOT construction project during construction; where existing permanent sign removed*. For the period between the date the sign is erected, which shall be on or after the date the Virginia Department of Transportation (“VDOT”) issues a notice to proceed for a VDOT construction project, until the date of project construction completion as evidenced by the date that is thirty (30) days after the date VDOT issues a form C-5 or makes an equivalent written determination, or until a permanent sign to replace the removed permanent sign is installed at the establishment or on the lot, whichever occurs first, provided that: (i) the temporary sign is erected to replace a permanent sign on a lot abutting a primary arterial or other public street within the project limits of the construction project that includes the primary arterial; and (ii) the permanent sign was required by VDOT to be removed in conjunction with the construction project.

(3) *Within limits of VDOT construction project during construction*. For the period between the date the sign is erected, which shall be on or after the date the Virginia Department of Transportation (“VDOT”) issues a notice to proceed for a VDOT construction project, until the date of project construction completion as evidenced by the date that is thirty (30) days after the date VDOT issues a form C-5 or makes an equivalent written determination, provided that: (i) not more than one (1) sign authorized by this subsection per lot may be erected; (ii) the lot has an existing primary use or a structure for a pending primary use is under construction; (iii) the lot abuts a primary arterial or other public street within the project limits of the construction project that includes the primary arterial; (iv) the lot is within a district subject to section~~s~~ 4.15.11; and (v) the sign area of the sign shall not exceed either thirty-two (32) square feet if the sign identifies three (3) or fewer establishments, or

forty-eight (48) square feet if the sign identifies four (4) or more establishments, where the establishments identified on the sign may be those located on the lot on which the sign is located and any lot that abuts the lot on which the sign is located, provided that the abutting lot is also within the project limits of the construction area and does not abut a primary arterial or other public street.

c. *Aggregate duration for temporary signs in calendar year.* Temporary signs shall not be erected at an establishment for more than sixty (60) days, in the aggregate, in a calendar year, provided that this limit shall not apply to a temporary sign authorized by subsections (a)(3)(b)(2) and (a)(3)(b)(3).

d. *Portable signs; stabilization*. A temporary sign that is not permanently affixed to the ground or to a permanent structure, or a sign that can be moved to another location, shall be stabilized so as not to pose a danger to public safety. Prior to the sign being erected, the zoning administrator shall approve the method of stabilization.

b. *Temporary signs not required to obtain temporary sign permit; subject to all other applicable requirements*. Each temporary sign classified in this subsection may be erected, altered, replaced, or relocated without first obtaining a temporary sign permit and is not subject to the durational limits in subsection (a)(3)(c), provided that it complies with all applicable requirements of this section 4.15 and the following:

1. *Auction signs*. Auction signs on lots on which there is a pending auction, provided that the signs do not exceed four (4) square feet, the signs are not erected for more than thirty (30) days in a calendar year, and the signs are removed within seven (7) days after the auction.

2. *Construction signs*. Construction signs on lots on which there is an active construction project, provided that the signs do not exceed thirty-two (32) square feet in sign area.

3. *Real estate signs*. Real estate signs on lots where either the lot or any structure thereon, or any portion thereof, is for sale, lease, rent, or development, provided that the signs do not exceed thirty-two (32) square feet in sign area.

4. *Temporary noncommercial signs*. Temporary signs containing copy that is exclusively noncommercial speech that do not exceed the maximum sign area allowed for the type of sign (*e.g.*, freestanding, wall) in the applicable district.

5. *Other*. Any sign classified under section 4.15.5(b).

c. *Flags not required to obtain temporary sign permit; subject to all other applicable requirements*. Any commercial flag or noncommercial flag may be erected, altered, replaced, or relocated without first obtaining a temporary sign permit and is not subject to the durational limits in subsection (a)(3)(c), provided that it complies with all applicable requirements of this section 4.15.

Subsection (a): (Ord. 12-18(2), 3-14-12; Ord. 15-18(3), 5-6-15)

Subsection (b): (12-10-80; 7-8-92, § 4.15.04; Ord. 01-18(3), 5-9-01; Ord. 05-18(4), 3-16-05; Ord. 10-18(4), 5-5-10; Ord. 11-18(1), 1-12-11; Ord. 12-18(2), 3-14-12)

State law reference – Va. Code §§ 15.2-2280, 15.2-2286.

Sec. 4.15.7 Signs authorized by special use permit; off-site directional signs, off-site bundle signs, signs in a public right-of-way, electric message signs

The following signs are authorized by a special use permit granted by the board of zoning appeals under section 34.5, provided that a sign permit required by section 4.15.5 is also obtained for the sign, the sign complies with all applicable requirements of this section 4.15, and the following:

a. *Off-site directional signs*. A proposed off-site directional sign shall satisfy the following:

1. *Eligibility*. The owner shall demonstrate to the satisfaction of the zoning administrator that it has exhausted all possible locations and sign types for an on-site directional sign, and that no on-site directional sign face located at the site entrance would be visible from the street providing direct access to the site entrance within one hundred (100) feet of the site entrance.

2. *Authorized locations*. The sign shall be located only in compliance with one of the following: (i) within one-half (1/2) mile from the site entrance along a street providing direct access to the site entrance; (ii) if the owner demonstrates, to the satisfaction of the zoning administrator for off-site directional signs that are public signs or the board of zoning appeals for all other off-site directional signs, that it is unable to obtain permission from an owner within one-half (1/2) mile from the site entrance as provided in subdivision (i), then within one-quarter (1/4) mile from the turning decision onto a street providing

direct access to the site entrance; or (iii) if the owner demonstrates, to the satisfaction of the zoning administrator for off-site directional signs that are public signs or the board of zoning appeals for all other off-site directional signs, that it is unable to obtain permission as provided under subdivisions (i) and (ii), then another authorized location.

b. *Off-site bundle signs*. A proposed off-site bundle sign shall satisfy the following:

1. *Eligibility*. The site whose owner is requesting the bundle sign must be located within an industrial, commercial, or residential district and share a common entrance or access road with one (1) or more other establishments or sites.

2. *Authorized locations*. The sign shall be located on a lot having frontage on the intersection of a street and an access road serving all establishments or sites.

c. *Signs in a public right-of-way.* A proposed sign in a public right-of-way shall satisfy the following:

1. *Eligibility*. The sign: (i) shall be a either a subdivision sign or a sign at an entrance to a planned development authorized by sections 19, 20, 25, 25A, and 29; (ii) the subdivision or planned development shall abut the public right-of-way in which the sign will be located; (iii) the regulations applicable to freestanding signs for the subdivision or planned development, except for setback regulations, shall apply unless the Virginia Department of Transportation imposes more restrictive standards; and (iv) the applicant submits a written statement from the Virginia Department of Transportation stating that it will permit the sign to be located in the public right-of-way.

2. *Authorized locations*. The sign shall be located only where the Virginia Department of Transportation authorizes it to be located.

d. *Electric message signs*. A proposed electric message sign shall comply with all applicable requirements of section 4.15 and Virginia Code §§ 33.2-1216 and 33.2-1217.

(12-10-80; 7-8-92, § 4.15.05; Ord. 01-18(3), 5-9-01; Ord. 10-18(4), 5-5-10; Ord. 12-18(7), 12-5-12, effective 4-1-13; Ord. 14-18(3), 6-4-14)

State law reference – Va. Code §§ 15.2-2280, 15.2-2286.

Sec. 4.15.8 Prohibited signs and sign characteristics

Notwithstanding any other provision of this section 4.15, the following signs and sign characteristics are prohibited in all districts:

a. *Signs that violate state or federal law*. Signs that violate state or federal law, including but not limited to:

1. A sign that violates any law of the Commonwealth of Virginia related to outdoor advertising, including but not limited to Virginia Code §§ 33.2-1200 to 33.2-1234, inclusive, and 46.2-831.

2. A sign that violates any law of the United States related to the control of outdoor advertising, including but not limited to 23 U.S.C. § 131.

3. A sign that violates any state or federal law related to Virginia byways or scenic highways.

4. A sign that violates the building code or the fire code.

b. *Signs with characteristics that create a safety hazard or are contrary to the general welfare*. Signs whose construction, design, location or other physical characteristic create a safety hazard or are contrary to the general welfare, as follows:

1. *Sign that is attached to another thing*. A sign, other than a public sign or a warning sign, that is nailed, tacked, painted or in any other manner attached to any tree, cliff, utility pole or support, utility tower, rack, curbstone, sidewalk, lamp post, hydrant, bridge or public property of any description.

2. *Sign that casts illumination off-site*. A sign that casts illumination, directly or indirectly, on any street, or on any adjacent property within a residential district.

3. *Floating sign*. A sign that is a moored balloon or other type of tethered floating sign.

4. *Lighting that illuminates outline*. Lighting that outlines any structure, window, sign structure, sign, or part thereof, using rare gas illumination or other light. (Amended 3-16-05)

5. *Sign that imitates a traffic sign or signal or a road name sign*. A sign that imitates an official traffic sign or signal or a road name sign, or conflicts with traffic safety needs due to its location, color, movement, shape, or illumination.

6. *Sign using exposed, bare, or uncovered rare gas illumination*. A sign that uses exposed, bare, or uncovered rare gas illumination having a brightness that exceeds thirty (30) milliamps; provided that a sign within the entrance corridor overlay district that is visible from an entrance corridor overlay street that uses exposed, bare or uncovered rare gas illumination in clear, rather than frosted, tubing, regardless of brightness, is also prohibited. (Amended 3-16-05)

7. *Sign that obstructs vision*. A sign that obstructs free or clear vision, or otherwise causes a safety hazard for vehicular, bicycle, or pedestrian traffic due to its location, shape, illumination or color; and window signs whose aggregate area on a window or door exceed twenty-five percent (25%) of the total area of the window or door. (Amended 3-16-05)

8. *Pennants, ribbons, spinners, streamers*. Pennants, ribbons, spinners, streamers or similar moving devices, whether or not they are part of a sign.

9. *Sign erected in public right-of-way*. A sign, other than a public sign, erected on or over a public right-of-way unless the sign is authorized under section 4.15.7.

10. *Sign that contains or consists of searchlight, beacon or strobe light*. A sign, other than a public sign, that contains or consists of a searchlight, beacon, strobe light, or similar form of illumination.

11. *Sign that produces sound*. A sign that produces sound for the purpose of attracting attention regardless of whether the sign has ~~a~~ written copy.

12. *Sign that contains or consists of strings of light bulbs*. A sign that contains or consists of one (1) or more strings of light bulbs that is not part of a decorative display.

13. *Sign with unsafe illumination*. A sign that is illuminated so as to be unsafe to vehicular or pedestrian traffic.

14. *Sign erected in unsafe location*. A sign that is erected in a location so as to be unsafe to vehicular or pedestrian traffic.

15. *Sign determined by official to create safety hazard*. A sign whose characteristics, including but not limited to its construction, design, or location, are determined by a fire official, the building official, or a law enforcement officer, to create a safety hazard.

16. *Window sign above the first floor, exception*. A commercial window sign affixed to a window or door above the first floor of the structure unless the business to which the sign pertains does not occupy any first floor space. (Added 3-16-05)

c. *Certain sign types*. Signs that are:

1. Animated signs, including signs using rare gas illumination, that give the appearance of animation. (Amended 3-16-05)

2. Advertising vehicles, where (i) the vehicle is parked so as to be visible from a public right-of-way in a parking space or parking area not authorized by section 4.15.5(b)(2); (ii) the vehicle is an inoperable vehicle; or (iii) the vehicle is incapable of moving on its own or is not self-propelled. (Amended 3-16-05)

3. Banners, except as an authorized temporary sign under section 4.15.6. (Amended 3-16-05)

4. Billboards.

5. Flashing signs.

6. Moving signs, including signs using rare gas illumination, that give the appearance of movement, but not including flags that meet the requirements of section 4.15.3. (Amended 3-16-05)

7. Roof signs.

(12-10-80; 7-8-92, § 4.15.06; Ord. 01-18(3), 5-9-01; Ord. 05-18(4), 3-16-05; Ord. 13-18(6), 11-13-13, effective 1-1-14; Ord. 15-18(3), 5-6-15)

State law reference – Va. Code § 15.2-2280.

Sec. 4.15.9 Maximum sign number, area, height, and minimum sign setback in the RA, MHD, VR, R-1, R-2, R-4, R-6, R-10, R-15, and PRD zoning districts

The maximum number of signs permitted, sign area, and sign height, and the minimum sign setback are as follows for each sign within the Rural Areas (RA), Monticello Historic District (MHD), Village Residential (VR), Residential (R-1, R-2, R-4, R-6, R-10, and R-15) and Planned Residential Development (PRD) districts:

Sign Type	Number of Signs Allowed (Maximum)	Sign Area (Maximum)[7]	Sign Height (Maximum)	Sign Setback (Minimum)
Directional[1]	1 or more per establishment, as authorized by zoning administrator	24 square feet	6 feet	5 feet
Freestanding[2, 3]	1 per street frontage, or 2 per entrance, per lot with 100 or more feet of continuous street frontage plus 1 per lot if the lot is greater than 4 acres and has more than 1 approved entrance on its frontage	24 square feet; if more than 1 sign, no single sign shall exceed 12 square feet	12 feet	5 feet
Projecting[4]	1 per street frontage	24 square feet	20 feet, but not to exceed the top of the fascia or mansard	Not applicable
Subdivision[5]	2 per entrance	24 square feet per entrance; if more than 1 sign, no single sign shall exceed 12 square feet	6 feet	5 feet
Temporary[6]	1 per street frontage per establishment	24 square feet	10 feet in the RA, MHD, VR, R-1, R-2, R-4 and R-6 districts; 12 feet, if freestanding sign~~;~~ or 20 feet, if wall sign, but not to exceed the top of the fascia or mansard, in the R-10 and R-15 districts	5 feet
Wall	Not applicable	40 square feet in the RA district; 20 square feet in the MHD, VR, R-1, R-2, R-4, and R-6 district; 1 square foot per 1 linear foot of establishment structure frontage, not to exceed 32 square feet, in the R-10 and R-15 districts	20 feet	Same as that applicable to structure

a. The following apply to the corresponding sign types and standards for which superscript numbers are in the table above:

1. *Directional signs*. The requirements in the table apply to permanent on-site directional signs and off-site directional signs. Up to two off-site directional signs are permitted by right if the signs are erected by the owner of any single twenty-four (24) hour emergency medical service facility or pertain to any public sign identifying a public use, facility, or structure. Up to two off-site directional signs are permitted by special use permit under section 4.15.7(a). An off-site directional sign shall count as a freestanding sign on the lot on which the sign is located.

2. *Agricultural product signs*. Agricultural product signs on lots on which there is an agricultural operation, farm sales, farm stand, farmers' market, farm winery, farm brewery, or farm distillery, and agricultural product signs erected off-site, are permitted by right, provided: (i) the signs do not exceed thirty-two (32) square feet in total sign area; (ii) if two (2) signs are erected on-site, neither sign shall exceed sixteen (16) square feet; (iii) if signs are erected off-site, no more than two (2) such signs may be erected; and (iv) an off-site sign shall count as a freestanding sign on the lot on which the sign is located.

3. *Bundle signs.* One off-site bundle sign is allowed only in the R-6, R10, R-15, and PRD districts by special use permit under section 4.15.7(b), and is not allowed in the other districts subject to this section. An off-site bundle sign shall count as a freestanding sign on the lot on which the sign is located.

4. *Projecting signs*. Projecting signs are not permitted in the RA, MHD, VR, R-1, and R-2 districts.

5. *Subdivision signs; signs in public right-of-way*. The requirements in the table also apply to subdivision signs and planned development signs in the public right-of-way authorized by special use permit under section 4.15.7(c).

6. *Temporary noncommercial signs*. Temporary noncommercial signs are permitted as provided in subsection (b)(8) below.

7. *Additional sign area for establishments at which gasoline or diesel fuel is dispensed*. Any establishment at which gasoline or diesel fuel, or both, is dispensed shall be entitled to additional sign area to display fuel prices of up to fifty (50) percent of the primary sign area to which it is attached, or sixteen (16) square feet, whichever is less.

b. In addition to the signs in the table, the following signs may be erected;

1. *Address signs*. Up to three address signs per lot or establishment composed of: (i) one address sign attached to each official United States Postal Service mailbox; (ii) one address sign attached or printed on a building for each address; and (iii) one additional address sign.

2. *Advertising vehicles*. Advertising vehicles in which none of the prohibited conditions delineated in section 4.15.7(c)(2)(ii) or (iii) exist.

3. *Auction signs*. One auction sign per lot on which there is a pending auction, provided that the sign does not exceed four (4) square feet, the sign is not erected for more than thirty (30) days in a calendar year, and the sign is removed within seven (7) days after the auction.

4. *Commercial flags.* Up to two commercial flags per lot, provided that: (i) not more than one (1) flag may be flown on a lot, provided that if the lot is four (4) acres or larger, then one (1) additional flag may be flown; (ii) the flag shall not exceed twenty-four (24) square feet in size; and (iii) the flag shall be flown on a flag pole and, if two (2) flags may be flown, they may either be on the same or on separate flag poles. (Added 3-16-05)

5. *Construction signs*. One construction sign per lot on which there is an active construction project, provided that the sign does not exceed thirty-two (32) square feet in sign area.

6. *Home occupation signs*. One home occupation sign per lot on which there is a class B home occupation or a major home occupation that is allowed in the applicable district under section 4.15.9, 4.15.10, or 4.15.11, and that do not exceed four (4) square feet in sign area.

7. *Noncommercial flags.* Up to three noncommercial flags per lot, provided that: (i) the flag shall not exceed twenty-four (24) square feet in size; (ii) on commercial, institutional, and industrial lots, the flag shall be displayed only on flag poles or on privately owned light posts and shall be installed in a manner so that it remains taut, and flapping and movement is minimized; and (iii) on residential and agricultural lots, the flag shall be displayed from a mount on a dwelling unit or other permitted primary or accessory structure, a flag pole, a mast, or suspended from a fixed structure, rope, wire, string, or cable. (Added 3-16-05)

8. *Noncommercial signs*. Up to two signs per lot containing copy that is exclusively noncommercial speech that do not exceed the maximum sign area allowed for the sign type (*e.g*., freestanding, wall) within the applicable district, and up to two signs per lot containing copy that is exclusively noncommercial speech that do not exceed four (4) square feet per sign, regardless of whether the signs are permanent or temporary.

9. *Real estate signs*. One real estate sign per lot on which either the lot or any structure thereon, or any portion thereof, is for sale, lease, rent, or development, provided that the sign does not exceed thirty-two (32) square feet in sign area.

10. *Sandwich board signs*. One sandwich board sign per establishment that does not exceed eight (8) square feet.

11. *Warning signs*. Warning signs as required by law or as determined to be necessary to protect public health or safety.

12. *Window signs*. Window signs, provided that the aggregate area of all window signs on each window or door does not exceed twenty-five percent (25%) of the total area of the window or door. (Amended 3-16-05, 3-14-12)

RA, MHD, R-1, R-2 (former § 4.15.8): (12-10-80; 7-8-92, § 4.15.12.1; Ord. 01-18(3), 5-9-01; Ord. 05-18(5), 6-8-05; Ord. 12-18(2), 3-14-12)

R-4 and R-6 (former § 4.15.9: (12-10-80; 7-8-92, § 4.15.12.2; Ord. 01-18(3), 5-9-01; Ord. 12-18(2), 3-14-12) R-10, R-15, and PRD: (12-10-80; 7-8-92, § 4.15.12.3; Ord. 01-18(3), 5-9-01)

State law reference – Va. Code § 15.2-2280.

Sec. 4.15.10 Maximum sign number, area, and height, and minimum sign setback in the PUD, DCD, and NMD zoning districts

The maximum number of signs permitted, sign area, and sign height, and the minimum sign setback are as follows for each sign for each sign within the Planned Unit Development (PUD), Downtown Crozet (DCD) and Neighborhood Model (NMD) districts:

Sign Type	Number of Signs Allowed (Maximum)	Sign Area (Maximum) [8, 9, 10]	Sign Height (Maximum)	Sign Setback (Minimum)
Directional[1]	1 or more per establishment, as authorized by zoning administrator	24 square feet	6 feet	5 feet
Freestanding[2, 3]	1 per street frontage, or 2 per entrance, per lot with 100 or more feet of continuous street frontage plus 1 per lot if the lot is greater than 4 acres and has more than 1 approved entrance on its frontage	32 square feet, plus bonus tenant panels; if more than 1 sign at an entrance, no single sign shall exceed 16 square feet	12 feet	5 feet
Projecting[4]	1 per street frontage	24 square feet	30 feet, but not to exceed the top of the fascia or mansard	Not applicable
Subdivision[5]	2 per entrance	24 square feet per entrance; if more than 1 sign, no single sign shall exceed 12 square feet	6 feet	5 feet
Temporary[6, 7]	1 per street frontage per establishment	24 square feet	12 feet, if freestanding sign; 20 feet, if residential wall sign; 30 feet if nonresidential wall sign, but not to exceed the cornice line	5 feet
Wall[4]	As calculated pursuant to section 4.15.15	1.5 square feet per 1 linear foot of establishment structure frontage, not to exceed 32 square feet if residential wall sign, or 100 square feet if nonresidential wall sign	Not to exceed the cornice line	Same as that applicable to structure

a. The following apply to the corresponding sign types and standards for which superscript numbers are in the table above:

1. *Directional signs*. The requirements in the table apply to permanent on-site directional signs and off-site directional signs. Up to two off-site directional signs are permitted by right if the signs are erected by the owner of any single twenty-four (24) hour emergency medical service facility or pertain to any public sign identifying a public use, facility, or structure. Up to two off-site directional signs are permitted by special use permit under section 4.15.7(a). An off-site directional sign shall count as a freestanding sign on the lot on which the sign is located.

2. *Agricultural product signs*. Agricultural product signs located on lots on which there is an agricultural operation, farm sales, farm stand, farmers' market, farm winery, farm brewery, or farm distillery, and agricultural product signs erected off-site, are permitted by right, provided: (i) the signs do not exceed thirty-two (32) square feet in total sign area; (ii) if two (2) signs are erected on-site, neither sign shall exceed sixteen (16) square feet; (iii) if signs are erected off-site, no more than two (2) such signs may be erected; and (iv) an off-site sign shall count as a freestanding sign on the lot on which the sign is located.

3. *Freestanding signs; bundle signs; electric message signs.* The freestanding signage permitted may include one off-site bundle sign allowed by special use permit under section 4.15.7(b) and one electric message sign allowed by special use permit under section 4.15.7(d). An off-site bundle sign shall count as a freestanding sign on the lot on which the sign is located.

4. *Projecting signs and wall signs*. Each establishment may have both a projecting sign and a wall sign. The projecting or wall signage permitted may include one electric message sign allowed by special use permit under section 4.15.7(d). See subsection (a)(11) for the allowed sign area when both sign types are erected.

5. *Subdivision signs; signs in public right-of-way*. The requirements in the table also apply to subdivision signs and planned development signs in the public right-of-way authorized by special use permit under section 4.15.7(c).

6. *Temporary noncommercial signs*. Temporary noncommercial signs are permitted as provided in subsection (b)(9) below.

7. *Additional sign area for establishments at which gasoline or diesel fuel is dispensed*. Any establishment at which gasoline or diesel fuel, or both, is dispensed shall be entitled to additional sign area to display fuel prices of up to fifty (50) percent of the primary sign area to which it is attached, or sixteen (16) square feet, whichever is less.

8. *Sign area for bonus tenant panels*. In each shopping center exceeding fifty thousand (50,000) square feet in gross floor area: (i) one (1) bonus tenant panel shall be permitted for each fifty thousand (50,000) square feet in gross floor area, not to exceed four (4) bonus tenant panels at the shopping center; and (ii) no bonus tenant panel shall exceed eight (8) square feet in sign area.

9. *Sign area for certain temporary signs within the limits of Virginia Department of Transportation construction projects*. Temporary signs within the limits of Virginia Department of Transportation construction projects may have a sign area of up to forty-eight (48) square feet as provided in section 4.15.6(c)(2)(c).

10. *Sign area if both projecting sign and wall sign erected*. If an establishment has both projecting and wall signs, the allowed sign area of the wall sign shall be reduced by the sign area of the projecting sign.

b. In addition to the signs in the table, the following signs may be erected:

1. *Address signs*. Up to three address signs per lot or establishment composed of: (i) one address sign attached to each official United States Postal Service mailbox; (ii) one address sign attached or printed on a building for each address; and (iii) one additional address sign.

2. *Advertising vehicles*. Advertising vehicles in which none of the prohibited conditions delineated in section 4.15.7(c)(2)(ii) or (iii) exist.

3. *Auction signs*. One auction sign per lot on which there is a pending auction, provided that the sign does not exceed four (4) square feet, the sign is not erected for more than thirty (30) days in a calendar year, and the sign is removed within seven (7) days after the auction.

4. *Commercial flags.* Up to two commercial flags per lot, provided that: (i) not more than one (1) flag may be flown on a lot, provided that if the lot is four (4) acres or larger, then one (1) additional flag may be flown; (ii) the flag shall not exceed twenty-four (24) square feet in size; and (iii) the flag shall be flown on a flag pole and, if two (2) flags may be flown, they may either be on the same or on separate flag poles. (Added 3-16-05)

5. *Construction signs*. One construction sign per lot on which there is an active construction project, provided that the sign does not exceed thirty-two (32) square feet in sign area.

6. *Home occupation signs*. One home occupation sign per lot on which there is a class B home occupation or a major home occupation that is allowed in the applicable district under section 4.15.9, 4.15.10, or 4.15.11, and that do not exceed four (4) square feet in sign area.

7. *Menu signs*. One menu sign per establishment having an approved drive-through lane that does not exceed thirty-two (32) square feet.

8. *Noncommercial flags.* Up to three noncommercial flags per lot, provided that: (i) the flag shall not exceed twenty-four (24) square feet in size; (ii) on commercial, institutional, and industrial lots, the flag shall be displayed only on flag poles or on privately owned light posts and shall be installed in a manner so that it remains taut, and flapping and movement is minimized; and (iii) on residential and agricultural lots, the flag shall be displayed from a mount on a dwelling unit or other permitted primary or accessory structure, a flag pole, a mast, or suspended from a fixed structure, rope, wire, string or cable. (Added 3-16-05)

9. *Noncommercial signs*. Up to two signs per lot containing copy that is exclusively noncommercial speech that do not exceed the maximum sign area allowed for the sign type (*e.g.*, freestanding, wall) within the applicable district, and up to two signs per lot containing copy that is exclusively noncommercial speech that do not exceed four (4) square feet per sign, regardless of whether the signs are permanent or temporary.

10. *Real estate signs*. One real estate sign per lot on which either the lot or any structure thereon, or any portion thereof, is for sale, lease, rent, or development, provided that the sign does not exceed thirty-two (32) square feet in sign area.

11. *Sandwich board signs*. One sandwich board sign per establishment that does not exceed eight (8) square feet.

12. *Warning signs*. Warning signs as required by law or as determined to be necessary to protect public health or safety.

13. *Window signs*. Window signs, provided that the aggregate area of all window signs on each window or door does not exceed twenty-five percent (25%) of the total area of the window or door. (Amended 3-16-05, 3-14-12)

(12-10-80; 7-8-92, § 4.15.12.4; Ord. 01-18(3), 5-9-01; Ord. 03-18(2), 3-19-03; Ord 10-18(1), 1-13-10; Ord. 12-18(2), 3-14-12)

State law reference – Va. Code § 15.2-2280.

Sec. 4.15.11 Maximum sign number, area, and height, and minimum sign setback in the C-1, CO, HC, PD-SC, PD-MC, HI, LI, and PD-IP zoning districts

The maximum number of signs permitted, sign area, and sign height, and the minimum sign setback are as follows for each sign for each sign within the Commercial (C-1), Commercial Office (CO), Highway Commercial (HC), Planned Development-Shopping Center (PD-SC) and Planned Development-Mixed Commercial (PD-MC) Heavy Industry (HI), Light Industry (LI) and Planned Development-Industrial Park (PD-IP) districts:

Sign Type	Number of Signs Allowed (Maximum)	Sign Area (Maximum) [7, 8, 9, 10]	Sign Height (Maximum)	Sign Setback (Minimum)
Directional[1]	1 or more per establishment, as authorized by zoning administrator	24 square feet	6 feet	5 feet
Freestanding[2, 3]	1 per street frontage, or 2 per entrance, per lot with 100 or more feet of continuous street frontage plus 1 per lot if the lot is greater than 4 acres and has more than 1 approved entrance on its frontage	32 square feet, plus bonus tenant panels; if more than 1 sign at an entrance, no single sign shall exceed 16 square feet	In the C-1 and HC districts, 12 feet; 16 feet in all other districts	5 feet
Projecting[4]	1 per street frontage	32 square feet	30 feet, but not to exceed the top of the fascia or mansard	In the LI, HI, and PDIP districts, 5 feet; in all other districts, not applicable
Temporary[5, 6]	1 per street frontage per establishment	32 square feet	12 feet, if freestanding sign; 20 feet, if residential wall sign; 30 feet if nonresidential wall sign, but not to exceed the cornice line	5 feet
Wall[4]	As calculated pursuant to section 4.15.15	In the C-1 and CO districts, 1.5 square feet per 1 linear foot of establishment structure frontage, not to exceed 100 square feet; in all other districts, 1.5 square feet per 1 linear foot of establishment structure frontage, not to exceed 200 square feet	Not to exceed the cornice line	Same as that applicable to structure

a. The following apply to the corresponding sign types and standards for which superscript numbers are in the table above:

1. *Directional signs*. The requirements in the table apply to permanent on-site directional signs and off-site directional signs. Up to two off-site directional signs are permitted by right if the signs are erected by the owner of any single twenty-four (24) hour emergency medical service facility or pertain to any public sign identifying a public use, facility, or structure. Up to two off-site directional signs are permitted by special use permit under section 4.15.7(a). An off-site directional sign shall count as a freestanding sign on the lot on which the sign is located.

2. *Agricultural product signs*. Agricultural product signs located on lots on which there is an agricultural operation, farm sales, farm stand, farmers' market, farm winery, farm brewery, or farm distillery, and agricultural product signs erected off-site, provided: (i) the signs do not exceed thirty-two (32) square feet in total sign area; (ii) if two (2) signs are

erected on-site, neither sign shall exceed sixteen (16) square feet; (iii) if signs are erected off-site, no more than two (2) such signs may be erected; and (iv) an off-site sign shall count as a freestanding sign on the lot on which the sign is located.

3. *Freestanding signs; bundle signs; electric message signs.* The freestanding signage permitted may include one off-site bundle sign allowed by special use permit under section 4.15.7(b) and one electric message sign allowed by special use permit under section 4.15.7(d). An off-site bundle sign shall count as a freestanding sign on the lot on which the sign is located.

4. *Projecting signs and wall signs*. Each establishment may have both a projecting sign and a wall sign. The projecting or wall signage permitted may include one electric message sign allowed by special use permit under section 4.15.7(d). See subsection (a)(11) for the allowed sign area when both sign types are erected.

5. *Subdivision signs; signs in public right-of-way*. The requirements in the table also apply to subdivision signs and planned development signs in the public right-of-way authorized by special use permit under section 4.15.7(c).

6. *Temporary noncommercial signs*. Temporary noncommercial signs are permitted as provided in subsection (b)(9) below.

7. *Additional sign area for establishments at which gasoline or diesel fuel is dispensed*. Any establishment at which gasoline or diesel fuel, or both, is dispensed shall be entitled to additional sign area to display fuel prices of up to fifty (50) percent of the primary sign area to which it is attached, or sixteen (16) square feet, whichever is less.

8. *Sign area for bonus tenant panels*. In each shopping center exceeding fifty thousand (50,000) square feet in gross floor area: (i) one (1) bonus tenant panel shall be permitted for each fifty thousand (50,000) square feet in gross floor area, not to exceed four (4) bonus tenant panels at the shopping center; and (ii) no bonus tenant panel shall exceed eight (8) square feet in sign area.

9. *Sign area for certain temporary signs within the limits of Virginia Department of Transportation construction projects*. Temporary signs within the limits of Virginia Department of Transportation construction projects may have a sign area of up to forty-eight (48) square feet as provided in section 4.15.6(c)(2)(c).

10. *Sign area if both projecting sign and wall sign erected*. If an establishment has both projecting and wall signs, the allowed sign area of the wall sign shall be reduced by the sign area of the projecting sign.

b. In addition to the signs in the table, the following signs may be erected;

1. *Address signs*. Up to three address signs per lot or establishment composed of: (i) one address sign attached to each official United States Postal Service mailbox; (ii) one address sign attached or printed on a building for each address; and (iii) one additional address sign.

2. *Advertising vehicles*. Advertising vehicles in which none of the prohibited conditions delineated in section 4.15.7(c)(2)(ii) or (iii) exist.

3. *Auction signs*. One auction sign per lot on which there is a pending auction, provided that the sign does not exceed four (4) square feet, the sign is not erected for more than thirty (30) days in a calendar year, and the sign is removed within seven (7) days after the auction.

4. *Commercial flags.* Up to two commercial flags per lot, provided that: (i) not more than one (1) flag may be flown on a lot, provided that if the lot is four (4) acres or larger, then one (1) additional flag may be flown; (ii) the flag shall not exceed twenty-four (24) square feet in size; and (iii) the flag shall be flown on a flag pole and, if two (2) flags may be flown, they may either be on the same or on separate flag poles. (Added 3-16-05)

5. *Construction signs*. One construction sign per lot on which there is an active construction project, provided that the sign does not exceed thirty-two (32) square feet in sign area.

6. *Home occupation signs*. One home occupation sign per lot on which there is a class B home occupation or a major home occupation that is allowed in the applicable district under section 4.15.9, 4.15.10, or 4.15.11, and that do not exceed four (4) square feet in sign area.

7. *Menu signs*. One menu sign per establishment having an approved drive-through lane that does not exceed thirty-two (32) square feet.

8. *Noncommercial flags.* Up to three noncommercial flags per lot, provided that: (i) the flag shall not exceed twenty-four (24) square feet in size; (ii) on commercial, institutional, and

industrial lots, the flag shall be displayed only on flag poles or on privately owned light posts and shall be installed in a manner so that it remains taut, and flapping and movement is minimized; and (iii) on residential and agricultural lots, the flag shall be displayed from a mount on a dwelling unit or other permitted primary or accessory structure, a flag pole, a mast, or suspended from a fixed structure, rope, wire, string, or cable. (Added 3-16-05)

9. *Noncommercial signs*. Up to two signs per lot containing copy that is exclusively noncommercial speech that do not exceed the maximum sign area allowed for the sign type (*e.g.*, freestanding, wall) within the applicable district, and up to two signs per lot containing copy that is exclusively noncommercial speech that do not exceed four (4) square feet per sign, regardless of whether the signs are permanent or temporary.

10. *Real estate signs*. One real estate sign per lot on which either the lot or any structure thereon, or any portion thereof, is for sale, lease, rent, or development, provided that the sign does not exceed thirty-two (32) square feet in sign area.

11. *Sandwich board signs*. One sandwich board sign per establishment that does not exceed eight (8) square feet.

12. *Warning signs*. Warning signs as required by law or as determined to be necessary to protect public health or safety.

13. *Window signs*. Window signs, provided that the aggregate area of all window signs on each window or door does not exceed twenty-five percent (25%) of the total area of the window or door. (Amended 3-16-05, 3-14-12)

(12-10-80; 7-8-92, § 4.15.12.5; Ord. 01-18(3), 5-9-01; Ord. 12-18(2), 3-14-12; Ord. 12-18(5), 9-12-12)

PD-SC and PD-MC (former § 4.15.13)

LI, HI, and PD-IP (former § 4.15.14): (12-10-80; 7-8-92, § 4.15.12.7; Ord. 01-18(3), 5-9-01; Ord. 12-18(2), 3-14-12)

State law reference – Va. Code § 15.2-2280.

Sec. 4.15.12 Maximum freestanding sign size; sign face; measuring sign area

Each sign shall be subject to the following, as applicable:

a. *Size of freestanding signs and their support structure*. The maximum combined size of a free-standing sign and its support structure shall not exceed two and one-half (2 ½) times the maximum allowable sign size.

b. *Size of sign face*. The area of a sign face shall not exceed two hundred (200) percent of the sign area.

c. *Measuring sign area*. The sign area shall be measured as provided herein:

1. *Area included*. The sign area shall be measured as the area of a sign face within the smallest square, circle, rectangle, triangle or combination thereof, that encompasses the extreme limits of the copy, together with any materials or colors forming an integral part of the background of the sign face or used to differentiate the sign from the backdrop or structure against which it is placed. Two-sided sign faces shall be counted as single sign face provided the angle separating them does not exceed forty-five (45) degrees. See Figure II following this section.

2. *Area not included*. The sign area shall not include any supporting framework, bracing, or decorative fence or wall when such feature otherwise complies with the requirements of this section 4.15 and is clearly incidental to the sign itself.

(12-10-80; 7-8-92, § 4.15.07.1; Ord. 01-18(3), 5-9-01)

State law reference – Va. Code § 15.2-2280.

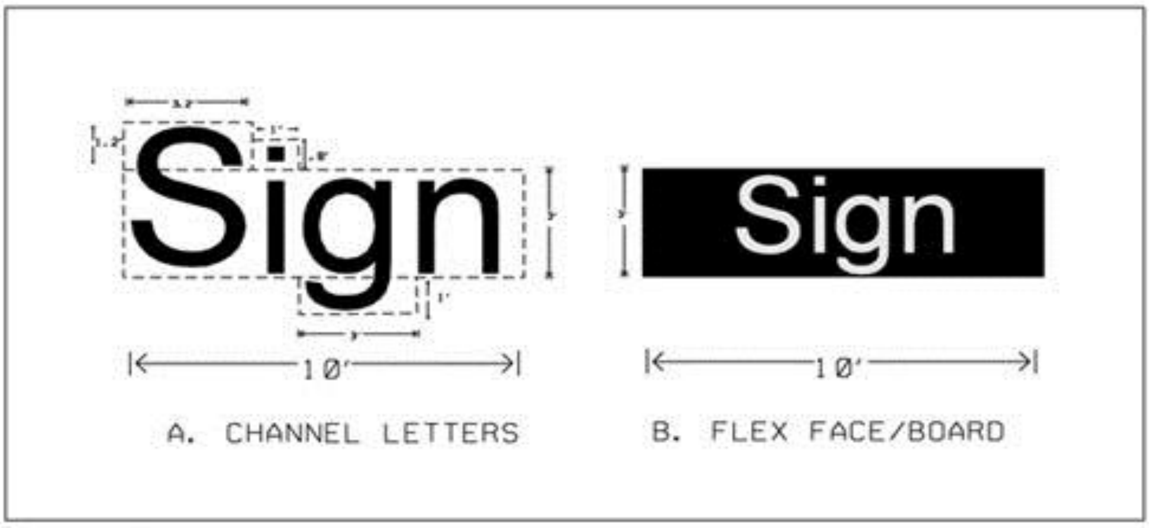

Figure II: Measuring Sign Area

Sec. 4.15.13 Measuring sign height

The sign height shall be measured as follows:

a. *Measurement*. The sign height shall be measured as the vertical distance from the normal grade directly below the sign to the highest point of the sign or sign structure, whichever is higher, and shall include the sign base, regardless of material, including earth used primarily to elevate the sign. See Figure III following this section.

b. *Determining the highest point*. In determining the highest point of the sign or sign structure in subsection (a), the normal grade from which to measure the bottom of the sign height shall be that which is either existing prior to construction, or newly established after construction, depending on which grade is more consistent with the surrounding elevation of the lot on which the sign is located. Any fill or excavation that serves primarily to elevate the sign shall be included in the height of the sign.

(12-10-80; 7-8-92, § 4.15.07.2; Ord. 01-18(3), 5-9-01)

State law reference – Va. Code § 15.2-2280.

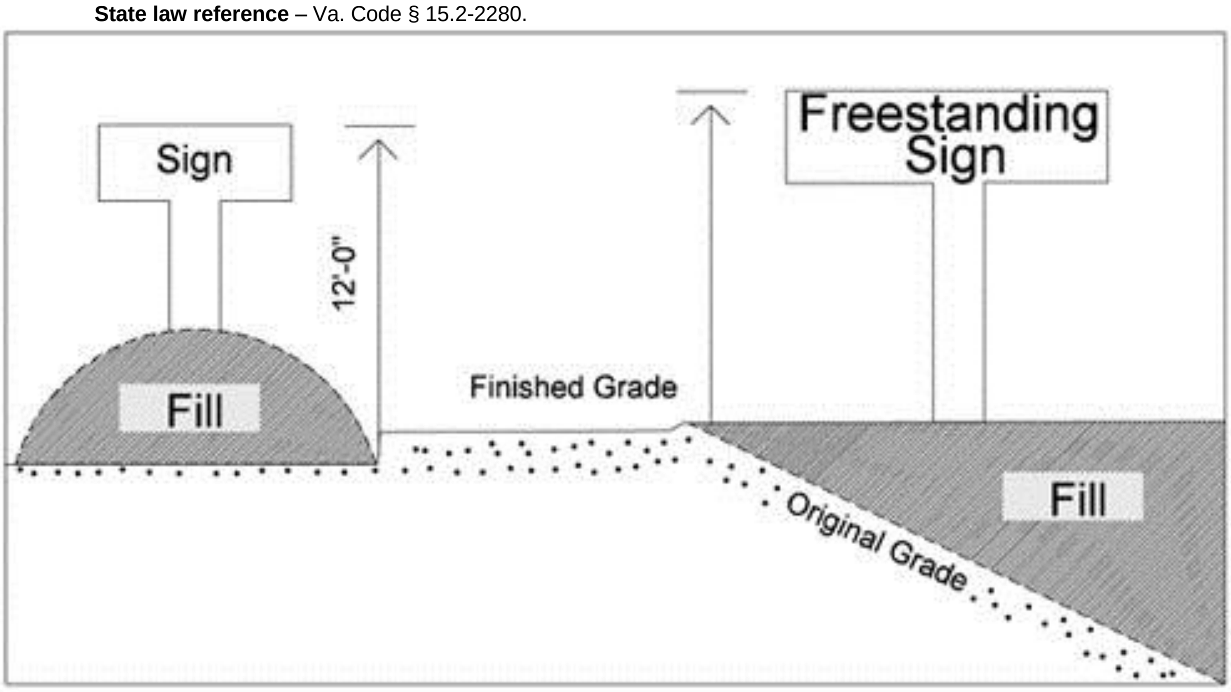

Figure III: Measuring Sign Height

Sec. 4.15.14 Measuring sight distance triangle; signs prohibited therein

Each sign shall be subject to the following:

a. *Measurement*. The sight distance triangle shall be measured as follows:

1. *Area included*. The sight distance triangle is that triangular area on a property between the two lines created by the existing or proposed right-of-way lines of intersecting exterior streets and/or street commercial entrances, and the straight line connecting them at points ten (10) feet distant from where the right-of-way lines intersect. See Figure IV following this section.

2. *Area not included*. The driveway for a single-family or two-family residence shall not be included in this calculation.

3. *Extension of sight distance triangle*. The sight distance triangle may be extended to conform to minimum Virginia Department of Transportation sight distance standards.

b. *Signs in sight distance triangle prohibited*. No sign shall be erected within a sight distance triangle.

(12-10-80; 7-8-92, § 4.15.07.3; Ord. 01-18(3), 5-9-01)

State law reference – Va. Code § 15.2-2280.

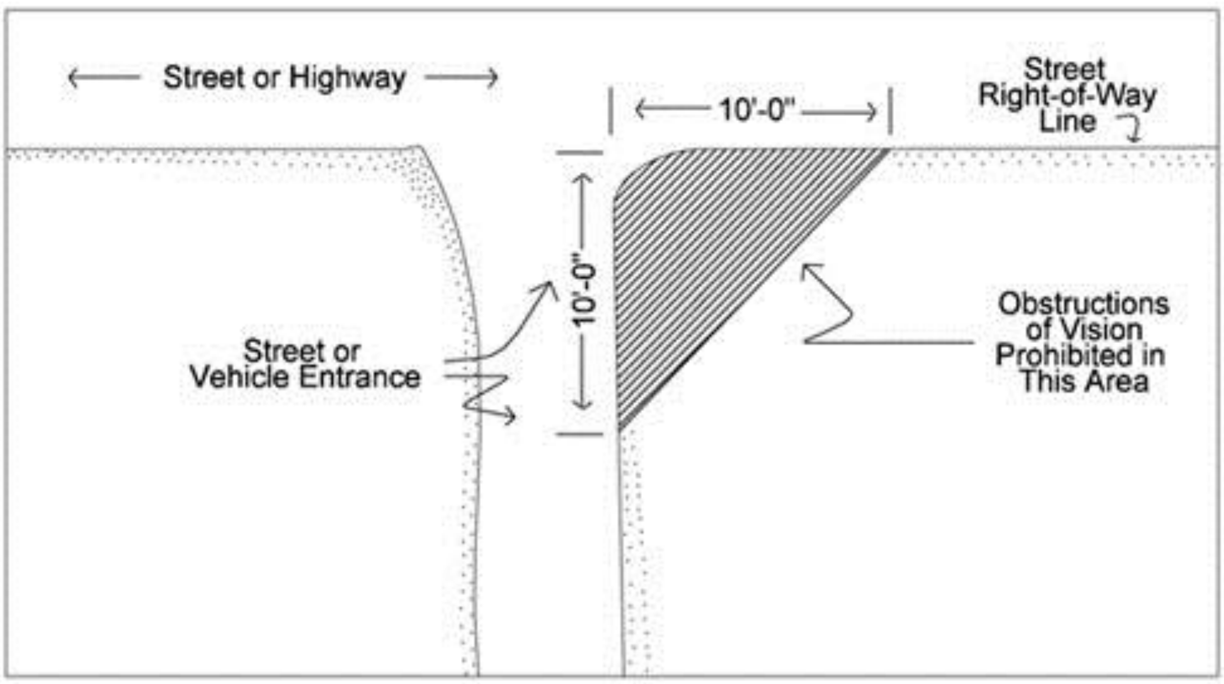

Figure IV: Determining Sight Distance Triangle

Sec. 4.15.15 Measuring permitted wall signage based on structure frontage

The structure frontage shall be measured to calculate the permitted wall signage as follows:

a. *Measurement*. The structure frontage is the horizontal length of the outside structure wall of the establishment, in one plane, adjacent to a street.

b. *Two or more walls adjacent to a street*. If an establishment has two (2) or more walls adjacent to a street, at least one of which is an exterior wall, one (1) of these additional walls may be used to calculate additional wall signage at one-third (1/3) the rate as allowed on the structure frontage. The total permitted wall signage may then be divided to be used on any walls of the structure and/or canopy, provided that no one wall sign shall exceed the applicable maximum allowable sign area.

(12-10-80; 7-8-92, § 4.15.07.5; Ord. 01-18(3), 5-9-01)

State law reference – Va. Code § 15.2-2280.

Sec. 4.15.16 Measuring sign setback; signs prohibited therein

Each sign shall be subject to the following:

a. *Measurement*. For all signs other than a sign within a public right-of-way, the sign setback shall be measured from the property line or, in the case of an access easement, from the edge of the easement, to the closest point of the sign. The setback for a sign within a public right-of-way shall be measured from the edge of the travelway to the closest point of the sign. See Figure V following this section.

b. *Signs in setback prohibited*. No sign shall be erected within the applicable minimum setback area in sections 4.15.9, 4.15.10, and 4.15.11.

(12-10-80; 7-8-92, § 4.15.07.4; Ord. 01-18(3), 5-9-01)

State law reference – Va. Code § 15.2-2280.

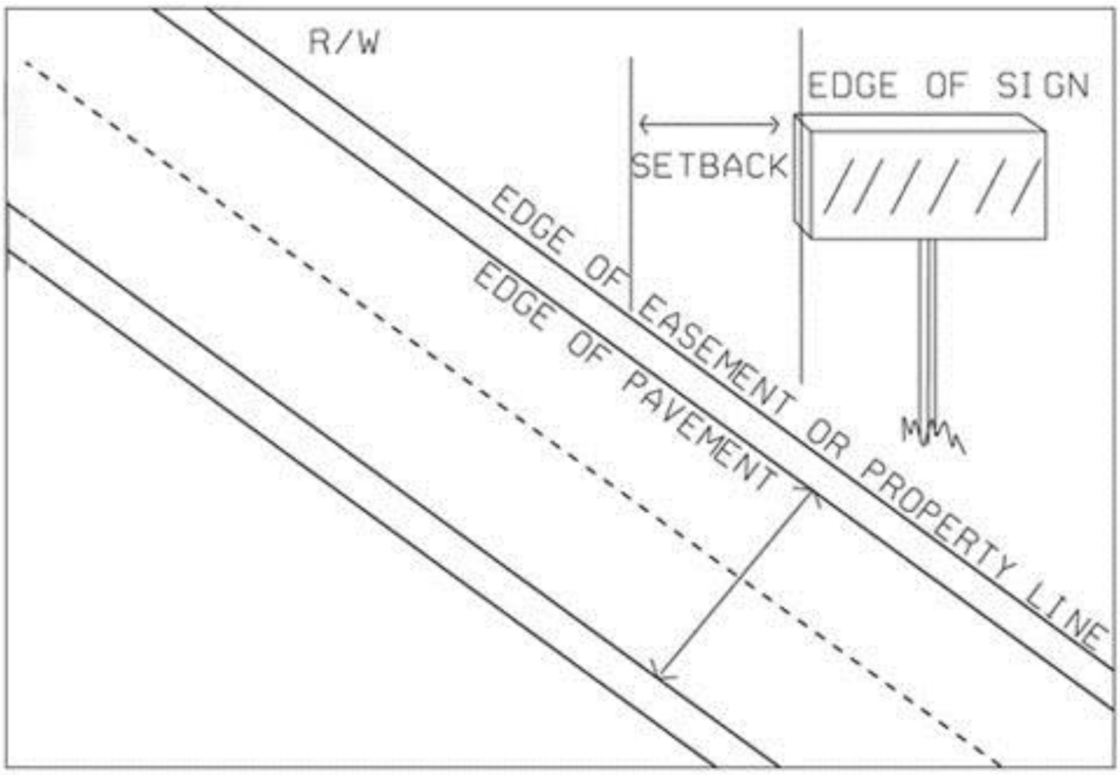

Figure V: Determining Sign Setback

Sec. 4.15.17 Sign illumination

Each sign shall be subject to the following:

a. *Illuminated signs*. Signs using any form of outdoor luminaire shall comply with the requirements of section 4.17.

b. *Signs using rare gas illumination*. Signs using exposed, bare, or uncovered rare gas illumination, and signs within the entrance corridor overlay district visible from an entrance corridor overlay street that use rare gas illumination covered by a transparent material, shall not have a brightness that exceeds thirty (30) milliamps. Brightness shall be determined by the zoning administrator, who shall consider information provided by the sign manufacturer, the rated size of the sign's transformer, and any other relevant information deemed appropriate.

c. *Signs within the entrance corridor overlay district; opaque backgrounds*. All internally illuminated box-style and cabinet-style signs within the entrance corridor overlay district shall have an opaque background.

State law reference – Va. Code § 15.2-2280.

Sec. 4.15.18 Sign maintenance

Each sign, including the sign structure, shall be maintained at all times in a safe structural condition and in a neat and clean condition, and shall be kept free from defective or missing parts. If the sign is illuminated, all lighting fixtures and sources of illumination shall be maintained in proper working order. (Amended 3-16-05)

(12-10-80; 7-8-92, § 4.15.09.4 (part); Ord. 01-18(3), 5-9-01; Ord. 05-18(4), 3-16-05)

State law reference – Va. Code § 15.2-2280.

Sec. 4.15.19 Sign alteration, repair, or removal; when required.

A sign shall be altered, repaired, or removed in any of the following cases:

a. *Alteration, repair, or removal; unsafe or endangering condition*. If a sign becomes structurally unsafe, as determined by the building official, so as to become a danger to the public health or safety, the zoning administrator may order the owner or lessee of the lot on which the sign is located to alter, repair, or remove the sign within a time period determined by the zoning administrator to be appropriate under the circumstances. If the owner or lessee fails to comply with the order, the zoning administrator may cause the sign to be removed or initiate such other action as may be necessary to compel the alteration, repair or removal of the sign.
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b. *Removal; unlawful erection of sign*. If a sign is erected on private property in violation of this section 4.15, the zoning administrator shall order the owner or lessee of the lot on which the sign is located to remove the sign within a time period determined by the zoning administrator to be appropriate under the circumstances. If the owner or lessee fails to comply with the order, the zoning administrator may cause the sign to be removed or initiate such other action as may be necessary to compel compliance with the provisions of this section 4.15. If a sign is erected on public property, including a public right-of-way in violation of this section 4.15, any county employee may immediately remove the sign without prior notice to the owner of the sign.

c. *Removal of copy on sign face; discontinuance of pertinent use*. If the use of a structure or property is discontinued, the copy on each sign face that is commercial speech shall be removed by the owner or lessee of the property on which the sign is located within two (2) years from the date of the discontinuance of the use. If the owner or lessee fails to remove the copy, the zoning administrator may cause the copy to be removed or initiate such other action as may be necessary to compel compliance with the provisions of this section 4.15.

d. *Liability for cost of removal by county*. If the zoning administrator causes a sign or copy on a sign face to be removed under the provisions of this section, the cost of such removal shall be chargeable to the owner of the sign or the owner or lessee of the lot on which the sign is located.

e. *Custody and destruction of removed signs*. Cardboard and paper signs that have been removed by the county pursuant to this section shall be destroyed upon removal. All other signs which have been removed by the county shall be held for a period of thirty (30) days and may be reclaimed by the sign owner within that time by reimbursing the county for the costs of removal. If such a sign is not reclaimed within the thirty (30)-day period, it shall be deemed to have been forfeited by the owner and shall be destroyed.

(12-10-80; 7-8-92, § 4.15.09.4 (part); Ord. 01-18(3), 5-9-01)

State law reference – Va. Code § 15.2-2280.

Sec. 4.15.20 Nonconforming signs

A nonconforming sign may continue, subject to the provisions, conditions, and prohibitions set forth herein:

a. *Alteration of copy*. The copy of a nonconforming sign may be altered by refacing the sign.

b. *Alteration of sign structure*. A nonconforming sign shall not be structurally altered; provided that the zoning administrator may authorize a nonconforming sign to be structurally altered so that it is less nonconforming and further provided that each time the nonconforming sign is structurally altered, the sign area and sign height shall be reduced by at least twenty-five (25) percent of its current area and height until the sign area and the sign height are conforming.

c. *Consolidation*. Two or more nonconforming signs on a lot may be consolidated into a single sign; provided that the resulting sign area and sign height shall be reduced by at least twenty-five (25) percent of its current area and height until the sign area and the sign height are conforming, and further provided that each time the resulting nonconforming sign is thereafter consolidated with another nonconforming sign on the lot, the resulting sign area and sign height shall be reduced by at least twenty-five (25) percent of its current area and height, until the sign area and the sign height are conforming. A sign resulting from the consolidation of nonconforming signs shall not have greater sign height than any of the signs that were consolidated.

d. *Discontinuance of copy on sign face*. A nonconforming sign without copy on its sign face for a continuous period of two (2) years shall lose its nonconforming status and be removed by the owner of the lot on which the sign is located.

e. *Discontinuance of use or structure to which sign pertains*. A nonconforming sign containing copy that is commercial speech shall lose its nonconforming status and be removed by the owner of the lot on which the sign is located if the use to which the sign pertains is discontinued for more than two (2) years.

f. *Enlargement or extension*. A nonconforming sign shall not be enlarged or extended.

g. *Maintenance*. A nonconforming sign shall be maintained in good repair and condition.

h. *Relocation*. A nonconforming sign shall not be moved to another location on the same lot or to any other lot; provided that the zoning administrator may authorize a nonconforming sign to be moved to a location that is more in compliance with the purpose and intent and the requirements of this section 4.15.

i. *Replacement or restoration*. A nonconforming sign may be replaced or restored only as provided below:

1. A nonconforming sign that is destroyed or damaged by the owner of the sign or the owner of the lot on which the sign is located shall not be replaced or restored unless it complies with this section 4.15.

2. A nonconforming sign that is destroyed or damaged as a result of factors beyond the control of the owner of the sign and the owner of the lot on which the sign is located, to

an extent the destruction or damage exceeds fifty (50) percent of its appraised value, shall not be replaced or restored unless it complies with this section 4.15.

3. A nonconforming sign that is destroyed or damaged as a result of factors beyond the control of the owner of the sign and the owner of the lot on which the sign is located, to an extent the destruction or damage is fifty (50) percent or less of the appraised value, may be replaced or restored provided that the replacement or restoration is completed within two (2) years after the date of the destruction or damage, and the sign is not enlarged or extended.

j. *Removal if in unsafe condition*. A nonconforming sign declared to be unsafe by a public safety official because of the physical condition of the sign, including an unsafe physical condition arising from the failure of the sign to be maintained, shall be removed.

k. *Registry of nonconforming signs*. The owner of any lot on which a nonconforming sign shall, upon notice from the zoning administrator, submit verification within sixty (60) days that the sign was lawfully in existence at the time of adoption of these sign regulations. The zoning administrator shall maintain a registry of such nonconforming signs.

(12-10-80; 7-8-92, §§ 4.15.09.5, 4.15.10; Ord. 01-18(3), 5-9-01)

State law reference – Va. Code § 15.2-2280.

NonAgenda. The Board took a brief recess at 8:46 p.m., and reconvened its meeting at 9:02 p.m.

Agenda Item No. 14. Lewis & Clark Exploratory Center Loan Request.

The Executive Summary forwarded to the Board states that in March 2013, the Lewis and Clark Exploratory Center (LCEC) advised the County that its fund raising efforts had fallen short of its goal and requested a total of $260,000 in assistance from both the City and the County to ensure that the Lewis and Clark educational building, an access road and parking area, and a connecting trail network at Darden Towe Park were completed.

On April 3, 2013, the Board of Supervisors approved an appropriation of $130,000.00 in CIP fund balance to the Economic Development Authority (EDA) for the purpose of funding a loan for the Lewis and Clark Exploratory Center, subject to: 1) an agreement between the County and the EDA regarding the EDA's reimbursement of the funds to the County when the LCEC repaid the loan to the EDA; 2) a note or some other instrument acceptable to the County Attorney by which the LCEC would agree to repay the loan to the EDA with a specific time table; and 3) the City of Charlottesville contributing or committing to contribute the other $130,000 required to make up the $260,000 shortfall.

The original note provided that the loan was to be repaid, without interest, by October 17, 2013. A 6-month extension of that payment date was granted by the EDA, extending the repayment date to April 17, 2014. The EDA granted a second 6-month extension to October 17, 2014, then granted a third 6-month extension to April 17, 2015 with the condition that the LCEC make a $1,250 payment in lieu of interest by January 17, 2015.

The LCEC made the $1,250 payment on April 29, 2015. On June 9, 2015, the payment date was again extended to October 17, 2015, conditioned upon the making of an additional $1,250 payment in lieu of interest by July 17, 2015. The LCEC made a $625 payment on August 4, 2015 and a $625 payment on October 21, 2015.

On October 19, 2015, the LCEC requested that the EDA forgive the loan (see Attachment A). The letter stated that the LCEC's financial situation continues to be challenging and that capital fundraising is hampered by major donors not desiring to donate to a building that is located on land owned by local governments. At its November 10, 2015 meeting, the EDA decided not to forgive the loan in its entirety as requested, wanted the current County-EDA agreement and EDA-LCEC promissory note to remain in place for now, wanted two EDA members to meet with representatives from the LCEC to figure out the possibility of restructuring the loan in a way that would allow the payments to be extended over time (even many years), and then return to the EDA for further discussion at its December 8 meeting. Fran Lawrence, on behalf of the LCEC, told the EDA that he would speak to the LCEC Board and if they were in agreement with restructuring the loan, LCEC representatives would come to the next EDA meeting with a restructuring proposal.

On October 29, 2015, the Board of Supervisors received a letter from the LCEC requesting that the County forgive the County's EDA loan to the LCEC (see Attachment B). The City of Charlottesville also received a letter from the LCEC requesting forgiveness of the City's $130,000 loan. On November 16, the City supported the request to forgive the loan, conditional upon the County's approval to forgive its loan to the LCEC.

If the LCEC's loan is forgiven, the EDA will not be able to reimburse the $130,000 in funds that were loaned to the LCEC back to the County's CIP program.

Staff recommends the Board consider this request. If the Board agrees to forgive the loan, the process would be either of the following:

1) The County could provide a donation in the amount of $130,000 plus any unpaid interest and late fees from the CIP Fund fund balance to the EDA on behalf of the LCEC conditioned upon the donation being used to pay off the loan. This donation would require a Board approved appropriation from the CIP Fund fund balance. Upon the repayment of the loan, pursuant to the agreement between the County and the EDA, the EDA would return the $130,000, as well as all interest and late fees collected to date, back to the County. The Board could then appropriate the proceeds back to the CIP Fund fund balance. An appropriation would be brought to the Board in January to fund this option.

2) The Board could request that the EDA forgive the loan and any unpaid interest and late fees to the LCEC and agree that there shall be no further obligation by the EDA to the County in this matter. This would be communicated to the EDA for its consideration and action.

_____

Mr. Bill Letteri, Deputy County Executive, reported that the matter before them concerns the loan made by the County to the Lewis & Clark Exploratory Center in March 2013 through the Economic Development Authority, for the purpose of assisting with completion of the center at Towe Park. He stated the loan principle amount was $130,000, and the City of Charlottesville had extended a similar loan for a like amount. Mr. Letteri said there have been some complications with completing the project, including project overruns and delays, and the center had some challenges with raising sufficient funds to service the debt. He noted that through previous actions of the Board, the loan itself had been extended on several occasions, and to date there has been no principle payments against the loan, only interest payments that were part of the condition of those extensions.

Mr. Letteri stated the matter before the Board is a request from the Center to forgive the loan, and said should they agree to that, staff has outlined a process by which they would do that, which essentially would involve a donation. Should they decide not to do that, he said, staff recommends that representatives from the Center meet with EDA representatives and structure the loan under more favorable terms.

Ms. Dittmar asked Mr. Letteri for clarification that the Board did not technically forgive the loan, but helped the recipient repay it, and asked him to explain the process. Mr. Letteri explained that this was formally a loan from the EDA to the Lewis & Clark Center, so if the Board wants to effectively forgive the loan, they can make a donation to the Center, the amount of the loan principle plus interest, and use it to pay the loan off. He said that through the County's agreement with the EDA, the EDA would return those proceeds to the County.

Mr. Boyd asked what the impact on future budgets would be, because the money had already been spent and is out there as a receivable at this point, and even if a loan payment is worked out it would have miniscule impact on the budget. Mr. Letteri responded that staff has not formally budgeted the future revenue sources, and the funds that would come back from repayment would go back to the capital fund.

Ms. Palmer asked why that was the case, because typically they would expect money to come back in as part of the budget. Mr. Letteri explained that the source of the original loan funds was the capital fund, and staff felt this was the appropriate place for it to go back.

Ms. Palmer said she had recently asked a question about repayment of $37,000 from the EDA for the Central Virginia Partnership for Economic Development had already been accounted for because she had wanted to know if it could be put in another place, and Ms. Allshouse stated it had already been incorporated.

Mr. Foley asked her to restate her question. Ms. Palmer responded that she is trying to understand why the Lewis & Clark item was not incorporated into the budget, as the County was expecting the money back after lending it.

Mr. Foley stated it probably should have been shown as a revenue, but the County was on the fourth round of asking for extensions and in an abundance of being conservative, staff just did not show it in the budget. He said that as Mr. Letteri had stated, it was considered to go back into the capital fund if it got paid back. Mr. Foley stated they could have shown it as a projected revenue into the capital fund but did not do it, but they should have then and should do so in the future. He added they were just being conservative in light of the numerous requests for extension.

Ms. Dittmar asked for clarification that one of the terms of the City agreeing to forgive the loan or pay it back to their IDA is that the County do the same thing. Mr. Letteri confirmed that is the case.

Ms. Dittmar stated the Board had provided the opportunity for a speaker to address the issue with them.

Ms. Sally Thomas addressed the Board, stating that when she was Chair of the Board in 2000, the City and County leaders concluded a three-year study of the tourism value of having a Lewis & Clark

Center locally. Ms. Thomas said they started making plans because the study showed the Center would likely cause families to spend more time here than with a simple stop at Monticello, and every time a visitor stays longer it multiplies the positive impact of merchants and revenue in the community. She stated she and many others participated in Lewis & Clark festivals in Lee Park for a number of years, and the Center was allowed to use an old barn on the Darden Towe property for programs. Ms. Thomas said that several sites were considered for a permanent Center, but finally a far corner of the park was leased to the Center with a lease agreement requiring that a building be erected and a road be built and paved along the Rivanna River. She stated that throughout all of the intervening years she had served on that board, and at least one or two members of the Board of Supervisors had also served as voluntary board members.

Ms. Thomas said their major source of funding was a Federal Highway Administration enhancement grant, which gave the center a start in the financing process but also tied them to VDOT's procurement and management rules. She said she believes the Center was VDOT's first experience with design-build projects, so VDOT's steep learning curve resulted in the Center occasionally being a guinea pig. Ms. Thomas stated the road and parking lot became the center's "Waterloo," with rock that had hidden itself from test drillings cropping up, and the contractor extracting it in the most expensive way possible, without the Center's permission. She said it was good that they did not disturb the soccer games at the park with dynamite blasts, but it did blast a hole in the center's budget.

Ms. Thomas reported that in 2013, the Board of Supervisors and City Council provided $260,000 to the center, and the Center started giving valuable lessons in natural history and the Rivanna River and dreamed of the day they would have water and electricity in their building. She stated they now have a LEED-eligible, locally designed building that exemplifies the faces on the river and celebrates Lewis & Clark's childhood and the skills they acquired, which were passed on to future generations, as well as the Monacan Indians' use of the river as their main highway. Ms. Thomas stated the site contains a quarry that is a human-size geology lesson spot and sits on County land, intersecting with Parks & Rec programs, as well as regional groups such as the Rivanna Conservation Society. She said the Center is open to the Board to hold strategic planning sessions and open to school groups. Ms. Thomas emphasized the Center is not a national recreation entity like the YMCA and is something that no other community can claim, as this is where the greatest journey of the 19th Century had begun. She stated the local Lewis & Clark group is known as the "Homefront Chapter," and will be prominently featured in the eastern extension of the Lewis & Clark Trail, a natural magnet for many visitors. Ms. Thomas said the Center has tremendous educational value, as well as a hands-on historical museum on the Rivanna River.

Ms. Thomas stated the 2013 Board of Supervisors recognized the Center's value, but this is a different Board with different members and a lot of financial crises looming. She said if the EDA's repayment plan is followed, the County would be receiving $12,000 in the coming budget year from the Center, or that money can be used by the Center to be a more widely available attraction for tourists by increasing staffing for that purpose. Ms. Thomas stated that grants to pay for rock that has already been removed and a public park for a Center on public land is unlikely, but the Center will continue fundraising and will be having income from programs and programmatic grants, but any financial help the Board can provide will make the Center a stronger part of the County's attraction to tourists, able to focus more on visitors and local children's programs. She said the Center appreciates the Board even listening to them at the end of a long day and a long year, and introduced Lewis & Clark Board Members Heather Reiser, Fran Lawrence and John Conover, as well as Executive Director Alex Searles.

Ms. Dittmar asked the Board how they feel about this item.

Ms. Mallek stated she would like to provide the Center the funding in some fashion.

Mr. Boyd said he has served on the Lewis & Clark Center board for the last three or four years, and has been involved with the projects from the very beginning. He stated that Ms. Mallek had reminded him of a meeting with the National Park Service they had held onsite in a tent on a very cold evening, and said he could not think of a more community-involved partnership. Mr. Boyd noted that he had asked Ms. Allshouse for information on how much the County had contributed to nonprofit organizations over the last 10 years, and the total was $19.4 million. He said that visitors are coming to the site from all over, including out of state, and those visitors are spending money and visiting restaurants. Mr. Boyd stated the City has already stepped up and said this would be a fantastic investment at $130,000, which will not impact their budget.

Ms. McKeel commented that the City is celebrating a $4 million surplus this year.

Mr. Boyd responded they may be in a better position, but the County is also most likely going to end up with a surplus.

Ms. Dittmar stated the Center is also for local people and this facility helps to open up the park. She said that one email the Board had received indicates the Lewis & Clark Center personnel and volunteers are functioning as park rangers with cleaning up and helping visitors, and removing barbed wire from the water, so the County is getting some free labor as well as an attraction for tourists and an asset for local people. Ms. Dittmar noted that if she had been on the Board when the request had first come forward, she would have voted for a loan, but she wants to support the help as it is now being requested. She added this is something she can feel good about in her last meeting as a Board member.

Ms. Palmer said she had spent an hour and a half with Ms. Thomas the previous Saturday and visited the Center, which is lovely, but she has a problem with funding this without going through the ABRT process that reviews nonprofit requests. Ms. Palmer said she had exchanged emails with her EDA representative the night before this meeting, and he suggested that they pursue loan restructuring and gave some reasons why. She stated she feels pretty strongly that they should at least take a look at that and at least go through a bit more process before jumping in and forgiving the loan. Ms. Palmer emphasized that she feels the Center is a wonderful place and is not suggesting that she will never provide the loan forgiveness, but in the meantime she feels that the Center should work with the EDA to take a look at it.

Ms. McKeel stated she also has reservations and the County has tried to work with the Center four times, and she hopes the Center can work out something in another way. She said the Center is a great facility and a wonderful attraction, but she is concerned in light of the Board having significant discussion about closing a $250,000 school funding gap. Ms. McKeel said she would encourage the Center to look at their fundraising, and while it was mentioned that it is difficult to fundraise for a project on public property, but the YMCA and Crozet Library are both on public sites. She noted that coming out of the recession, their fundraising might turn around now. Ms. McKeel emphasized that her hesitation in supporting this is not a reflection on the greatness of the facility, and feels that tourists, locals and schoolchildren alike will enjoy the facility.

Ms. Mallek said the value of the road they built for the County Park is worth probably triple this amount, and is a beautifully laid out road replacing the former gravel road with potholes.

Mr. Boyd stated this is a very different situation than the YMCA, with one of the stipulations of that project being that the building would revert back to the bank, not the City, and in the case of the Lewis & Clark Center, it will revert to the County. He said this is also different from the Crozet Library because all those residents did was raise enough money to put the books in it.

Ms. McKeel clarified that she is referring to the Crozet dog park.

Mr. Boyd stated this is a partnership project, with the Center policing the County’s facilities and park.

Mr. Sheffield said he had visited the center early on and appreciates the facility, but he would like to see if restructuring the payment terms would work out. He stated he is not going to compare this to other projects, but would like to see it come back to the Board for loan forgiveness if the restructuring is not working out. Mr. Sheffield emphasized that he wants to see if the financial impact plays out in the way they are concerned it will prior to the County committing to the loan forgiveness.

Mr. Boyd stated his concern is that it will blow what City Council has agreed to do, because if the County is going to work out financing over a 10-year period it will have a nominal impact on their budget, but it will put a burden on the Lewis & Clark budget.

Mr. Sheffield agreed there would be minimal budget impact, but he does not want to make the decision based on hypothetical things, so if over the next year things are not panning out well for the Center, the Board can make its decision on the realities of the situation. He added that his thought is that they should see where the Center is headed since it just opened up.

Ms. Mallek said this is something the Board has to decide anyway because the Center will fall under arts and culture, not social services organizations and the ABRT process. She stated her other question is how this would be any different than what has happened over the last two years where they had been struggling to do all of these things and had made all these efforts, in addition to paying extra to get the building open. Ms. Mallek added that she does not see how it will help to delay this any longer.

Ms. Alexandria Searles stated that her original position was not in favor of loan forgiveness because she did not want to endanger any other nonprofits that might come after the Center in getting loans because of the expectations to have the loans forgiven, but she has changed her position upon learning that the Board would make an independent decision based on the situation. She said the City Council had asked her a lot of questions and Dede Smith, who had directed the Ivy Creek Natural Area, understood that she was assuming all staffing responsibilities at the Center including everything from fundraising to janitorial work. Ms. Searles stated she has never come to the Board with requests for funding and values their partnership in terms of leasing the land and the parks staff mowing the lawn. She said that in thinking about the $260,000, it occurred to her how much she has to do with policing the road and how much time that takes. Ms. Searles said she would like for the Board to change their mind and has actually approached the EDA about sitting down with the budget, and suggested that loan forgiveness or half forgiveness would still allow the Center to sit down with the EDA and talk about viability. She added that the loan forgiveness will allow the Center to use the money to hire a second staff person so that she would have more time to go out and fundraise.

Ms. Palmer responded it would be a good idea for the Center to sit down with the EDA and go through the financial management to see what they can work out.

Mr. Sheffield noted the EDA had met about this already.

Ms. Palmer said they have met, but also offered to sit down with the Center and work through the loan issue.

Mr. Boyd explained that he had spoken to the EDA Chair, who said that he had not understood the issues and the EDA might have looked at this very differently had they been fully aware of the rock clause problem and the overrun on the expenses. He stated the Lewis & Clark Center had tried to work through a federal grant administered through the County and VDOT, which layered different applications. Mr. Boyd said when the Center asked for the $130,000 each from the City and County, they were in dire straits and needed to do something, with the contractor not even showing up on the job site. He stated the Board took the approach that they did because the Center had four walls and no roof and was deteriorating, and if they had not stepped up and given the money it may not have gone forward.

Ms. Palmer said that County staff ended up managing the project, and that is a positive step.

Mr. Sheffield asked why the Board did not just give them the money in 2013, rather than providing a loan. Ms. Searles responded they did not want to take the County's money, which was why the Center had never applied for a grant, and the timing had a very quick turnaround.

Mr. Boyd said this had been the quickest way the Board could do something to get the Center the money in a hurry. Ms. Searles stated there were other delays, such as administrative issues with VDOT when they lost an employee temporarily and took an additional month beyond the contract, which resulted in more cost overruns. She said the building itself was $500,000, and the remaining $1.2 million was the parking lot and road that the Center shares with the park. Ms. Searles said that perhaps they can take more time and get into the budget cycle, but it may mean that the Center would not start off as strong.

Ms. Mallek recalled that in 2008, the County received a bill from the City for half the cost of the skate park at $158,000, and this time they do not have to get into that. She stated that she hopes one Board member will change their mind, because otherwise this will just create a lot of misery for no real gain.

Ms. McKeel asked for clarification as to why this would not fall under tourism funding.

Mr. Sheffield commented that he would be fine if six months from now the Center found that the operations are not producing as quickly as hoped, they can come back. He stated he would just like to see if the Center can get off the ground on its own before the County is looking at intervening.

Ms. Mallek stated the Center had been doing that for years to accomplish what he is suggesting, and to say that nothing has happened for the last three years is not correct.

Ms. Dittmar emphasized the Center is off the ground, but what they are saying is that they will be a stronger organization able to work through their tourism issue as well as their service to the community if they do not have the added expense of the loan.

Mr. Sheffield asked if any nonprofit can say that. Ms. Dittmar responded they are not talking about any nonprofit, they are talking about a building on County parkland with a County parking lot and road. She asked if it would satisfy him to have a financial plan and some management parameters, as the City had stipulated in their agreement.

Ms. Palmer stated this is what she wants the EDA to do.

Ms. McKeel stated she would be much more comfortable with that.

Ms. Mallek commented that she does not understand how the EDA is going to be skilled in developing a business plan for the museum.

Mr. Boyd said that in his conversation with the Chairman of the EDA, Rod Gentry, he said his natural reaction as a former banker was, "Let's work out the terms of the loan." Mr. Boyd said that after explaining the situation to him, Mr. Gentry said he wished he had known those details because it might have changed the way the EDA looked at this, as they did not realize there had been so many site issues. Mr. Boyd stated that Mr. Gentry also did not realize that the Center had never come to the County for anything other than their lease for the land, whereas the County had provided $19.4 million to other nonprofit organizations over the last 10 years, including many festivals and cultural events, and the City had provided an equal amount. He added that facilities like the Center bring tourism dollars to the area, and in this case they partner with the County in helping them police the park and providing a road to get to the dog park.

Ms. Dittmar and Ms. Mallek pointed out that it also provides a link to the river.

Ms. Palmer emphasized she is not questioning the value of the facility.

Mr. Boyd stated he is on the Center's Board and is fully aware of their financial challenges, and it is difficult to try to raise money for a building that is already built, and the YMCA could never have done their facility without the County providing $2 million.

Ms. Mallek added there are also people who cosigned the loan for the YMCA.

Ms. McKeel said that if the EDA did not understand, then the County should let them have another shot at it, since they did not get it the first time or have the right information.

Ms., Mallek said it is the Board's decision and they can direct them as to what to do, as the EDA is not the funding agency here, just the body that carries it out.

Ms. Dittmar asked the Board if they are interested in a compromise situation whereby they forgive half of the loan and have the Center come back in a year or so.

Ms. Palmer stated she is in a position where she would like to talk to them more and understand some things, and feels that she needs more information.

Ms. McKeel added that she is not questioning the value of the Center.

Ms. Mallek said this needs to be on the agenda for January because it will be unfair and unreasonable to string this along for another nine months.

Mr. Boyd agreed, stating that it will leave the Center in a lurch to stretch this out longer.

Ms. McKeel asked if there are any suggestions as to how to go back to the EDA.

Mr. Foley stated that if members of the EDA feel they do not have the full story or background that might have influenced their approach that is some information the Board can consider.

Mr. Boyd asked if the EDA even has the enabling authority to forgive loans.

Mr. Davis clarified that under the agreement with the EDA, he doubts they would take that action because they are obligated to pass that money back to the County, and would probably want some indication from the Board that they would consent to forgiving the loan. He stated the EDA can work out the payment terms and restructure the loan, and the last direction the Board gave to the EDA that an interest provision was needed, and what was negotiated was a payment in lieu of interest, which has been paid by Lewis & Clark. Mr. Davis said at this point in time, the agreement is for a 5% late payment penalty if the loan is in default for more than 30 days, and that is the current situation. He pointed out that the agreement is between Lewis & Clark and the EDA for the repayment of the loan, and the alternative presented to the Board is to override the EDA's decision by making a donation so the Center can make a payment to the EDA and close the books.

Ms. Mallek stated she does not think they are overriding any decision, they are just deciding to make a donation so the Center can clear its obligations.

Mr. Davis said the EDA probably feels as though they cannot forgive the loan without consent from the Board.

Ms. Mallek stated the EDA is not allowed to because of the structure, but there is no point in having them work on a payment plan or restructuring the business model as it does not make any sense.

Mr. Boyd noted that the Center came to the only conclusion they could legally come to, and that was to work out a payment plan, and the EDA did not have any authority to forgive the loan.

Ms. Dittmar emphasized that the Board is the body that will need to make this decision, and asked what will change between now and January.

Mr. Sheffield stated that he never mentioned January and had suggested at least six months or longer, adding there would be a lot of upset nonprofits who had come to the County repeatedly for assistance, and yet the Board is working on this outside of that realm.

Ms. Mallek said this is a 15-year partnership with the County on this project.

Ms. McKeel said there are other organizations that have been turned down over and over.

Ms. Dittmar added this is different because it is not asking for operating, it is asking for help in repaying a loan that went to pay for a road in a County park that is used by people going to the park and not the Center. She said there is not even a parallel for her, and they can say no based on the merits of the request, but she is not concerned that the United Way will be up in arms about this.

Mr. Sheffield stated he is concerned about that and said that he is ready to vote on the item.

Ms. Mallek said they will have to deal with that when the time comes, and to be afraid of future repercussions and not see the merits of the center project, and postpone action on the Center with no particular benefit is not right to her.

Ms. Dittmar noted that Mr. Sheffield has asked for a vote on this.

Mr. Sheffield pointed out that Mr. Boyd has asked this be put on the agenda.

Motion was then offered by Mr. Boyd to direct staff to work out the mechanics of forgiveness of the $130,000 loan and that staff convey it to City Council as soon as possible so that they can move forward on their end with the same bargain. Ms. Mallek **seconded** motion. Roll was called and the motion failed by the following recorded vote:

AYES: Mr. Boyd, Ms. Dittmar and Ms. Mallek.
NAYS: Mr. Sheffield, Ms. McKeel and Ms. Palmer

Ms. Thomas commented that it had been a pleasure to see the Board in action over the past several years, and she is very proud to have four women serving, which is something that she never thought would happen.

Agenda Item No. 15. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Ms. Mallek asked Board members if there is interest in discussing the change in the schedule of phase two of the wineries to move it up from 2017 so they do not lose track of the issues and can make a decision about it now.

Ms. Palmer stated she would like that, and suggested that Mr. Mark Graham let the Board know how that would look.

Ms. Mallek said she had asked for it four times previously, including in the context of the work plan, but it never got any real attention. She asked if any of them would change their mind and agree to move it up.

Ms. Palmer and Ms. McKeel stated they would like to hear about it and are interested in getting it moving.

Mr. Boyd said that given the late hour and the fact they will be talking about future activities of the Board, he does not see a reason for him to participate in it.

Mr. Sheffield agreed this is something that the two new Board members should give direction on, but he understands Ms. Mallek's desire to get clarity on it, so he feels somewhat torn between the two perspectives.

Ms. Mallek noted that it is in every district including his, not just Whitehall.

Mr. Sheffield said he understands that, and understands her need for clarity.

Mr. Foley stated the Board had recently approved a work plan that did not include this item, so Mr. Graham would need to let them know which items he would need to move off, or the Board would need to give him direction on what to move off. He added that Mr. Graham might also indicate how adding a position or two would help them get this done more quickly.

Ms. Mallek said that means it will not happen until January or February of 2017.

Mr. Foley stated this is based on the direction of the Board, so if there are enough votes to change it they can do that.

Ms. Mallek noted the work program has been changed every year since she has been on the Board.

Mr. Sheffield reiterated that there are two new Board members that need to know what is going on before making that decision.

Ms. McKeel suggested that this item come back in January when those new members are seated, because they do not want to get into a long protracted discussion tonight.

Ms. Mallek said that Mr. Graham has been at the meeting for four hours in anticipation of this item, which she had informed him of ahead of time.

Mr. Graham addressed the Board and said he would advise them to take Mr. King's comments to heart as it will be a very complex issue, and staff anticipates that it will take a half full-time employee for at least six months of work to get through this process and a lot of collaboration with the wine industry to find solutions. He stated the Pantops master plan and river corridor plan are moving slower than expected in terms of coordination with the TJPDC and the City, so if they are going to start working on the phase two of the winery issue, the Pantops plan can be pushed back until summer when staff would anticipate having something back to the Board as a recommendation. Mr. Graham said that staff has planned to get something to the Board regarding rural area churches, but that can be pushed off until later in the year as well.

Ms. McKeel stated that she agrees with Ms. Mallek and Ms. Palmer that the winery issue is more timely and more urgent than the RA churches, and since the Pantops item is moving more slowly anyway she would support moving the winery item up, as she fears the County will likely get caught by not having something in place.

Mr. Graham said that he wants them to take into consideration what Mr. King and others have said regarding unintended consequences of potential action, and he wants to make sure they do not rush this and do harm to a great industry in the County.

Ms. Mallek stated the industry's view has always been that their privileges arrive from their agricultural occupation, and adding that sentence to the legislation that had already been passed would in many ways solve their problem. She asked Board members if they would support reaching out to legislators who might be able to get a sentence included, which Mr. Davis could help craft. Ms. Mallek said she does not think the wine industry will see this as a threat in any way because it is what they believe, and added that they would be unlikely to come to a public meeting and make negative comments about people in the industry who have an entertainment motive, but they will say it to her personally. Ms. Mallek emphasized her goal is to make sure they are protecting agriculture and the real bona fide industry, which is providing a tremendous asset from the County, which is perhaps separate from what they want Mr. Graham to do and can be done much more quickly.

Mr. Foley stated that if the Board's direction is to delay the Pantops and rural area churches review to move this up, Mr. Graham can adjust the work program and use current staff resources.

Ms. McKeel commented that one of those items has been moving slowly anyway. Mr. Graham confirmed this is the case, and if this is the Board's direction he will revise the work plan based on that and put it on their informational consent agenda for January.

Ms. McKeel noted that it can be brought forth for discussion at that time with the two new Board members.

Mr. Boyd asked if they are talking about revising the Pantops update to the Comprehensive Plan. Mr. Graham confirmed this would be deferred.

Mr. Boyd said he does not feel it should be delayed until the new Rivanna representative is in place.

Ms. McKeel noted that Mr. Graham has said the item is moving slowly anyway.

Mr. Boyd stated it is only moving slowly because there is nobody working on it.

Mr. Foley said that staff will bring it back as an action item on the agenda, not the consent agenda, as a proposal for consideration.

Mr. Boyd said the Advisory Council had been asking for someone to work on it for the last two years. Ms. Mallek responded that she has also offered the Rivanna River Basin Commission and local river people to carry the ball on the corridor, and that is another way they can get this moving along.

Mr. Foley said that staff will add that to the January agenda.

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Item No. 15a. Update on Joint Resolution of Charlottesville City Council and the Albemarle County Board of Supervisors Regarding Establishment of a Management Committee for the Charlottesville Albemarle Convention and Visitors Bureau.

Ms. Dittmar noted that City Council recently passed the same resolution as the County, so Mr. Foley and City Manager, Maurice Jones, are going to collaborate and make sure that the $1.5 million being sent to the CACVB is allocated as intended.

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Item No. 155b. Year-in-Review.

Ms. Dittmar presented the following poem highlighting the Board's work for the year, based on "Twas the Night before Christmas:"

'Twas the Night Before Christmas
By Clement Clarke Moore – slightly altered without permission by Jane Dittmar

'Twas the night of adjournment, on McIntire Road,
a year-end break was surely owed.
With twenty-fifteen agendas complete,
The sound of the gavel sure will be sweet.

Supervisors live on video to be seen,
Entertaining stardom on the silver screen.
Words captured on audio for listening whenever,
And verbatim minutes captured forever.

Controversies solved that created a clatter,
Nothing remains that immediately matter.
Until after the holidays which will end in a flash,
When a new board will be seated to make their own splash.

The Chair read a list of initiatives from 2015
The pace and actions were more than most years has seen
Budgets, bond ratings and the "CRAC" considered our money
Economic development and CPA's were serious business – not funny

Library expansion and Police Training facilities were awarded
And the Albemarle County Comprehensive Plan was finally forwarded.
The hunt for "last mile" internet and cell service continued
While for our beautiful County, new parks and trails were instituted

$230 million dollars of transportation funds were spent on
Our County as 29 improvements continued momentum
Solid Waste and Storm Water were studied in detail
Before Supervisor votes on final direction set sail

Our citizens come by scores and scores
To share the ideas and concerns at their doors
We appreciate greatly their time and candor
And whenever we could – out of respect not to pander

Daycare and Pre-K in early life really matter
Catec and certifications ensure a lifelong jobs ladder
How to strengthen workforce training is an ongoing struggle
But it's so crucial for our middle class to stay out of trouble

Full time middle class jobs need to expand
But a hurdle is inventory of light industrial land
A thorough review and a report is forthcoming
2016 will be when the Economic office gets humming

With a dapper driver, so lively and quick,
Ensuring the board's bidding without the clock passing a tick.
More rapid than eagles, our Executive's team formed and came,
And he whistled and shouted and called them by name:

On Catlin, on Walker and Bill Letteri
Make sure you stop to ask legal advice from Larry.
On Emily, Jody, EJ and Diane
Can Cheryl help Travis prepare appointment letters to sign?

On Ella who keeps her gaggle straight
And Tom who ensures we are never late
Finishing the public's business that remains on our plate
Plowing through major projects that we have faced to date.

The team was last re-formed by the people in 2013
May have been one of the best the County has seen
Six dedicated individuals spending thousands of hours
To work for the citizens – a responsibility that towers

The oldest is white haired and blue eyed – from the Rivanna house
We watched his brow furl when the vote was unanimous
But a wink of his eye and a twist of his head
Soon gave us to know we had nothing to dread.

Her eyes—how they twinkled! Her dimples, how merry!
Until wedding venue or cell tower would turn her scary.
Water here is much cleaner and nature is having a ball
Because of the advocacy of Ann from White Hall

What focused the doctor from Samuel Miller?
Why trash – yes t'was trash that seemed to thrill her!
Hundreds of meeting hours kept staff on their toes
Searching for the grail – Albemarle's way to dispose

Our school's great advocate hearkened from Jouett
Deceivingly petite until she said "Do it!"
The relationships blossomed between staffs and boards
As she made great progress for the children she adores.

Brad limits his airtime and thinks deeply when voting,
The supervisor from Rio is a road expert worth noting,
On occasion leaving meetings when conflicts arose,
More often calling us into sessions that were legally closed

The Chair knows of course that all things must end
Leaving to help with other things with which we contend
But she couldn't without thanking all before taking flight
"Happy Holiday to all, and to all a good night!"

Item No. 15c. Presentation to Chair.

Ms. Palmer presented Ms. Dittmar with her gavel mounted on a plaque in appreciation of her dedication and leadership from January 1, 2014 to December 31, 2015, stating that she has helped to enhance the quality of life in Albemarle County through her public service.

Ms. Dittmar stated it has been a privilege to serve the citizens of Scottsville and the County. She said that she is proud of the work the Board has done, with their different ways of thinking, work accomplished, and respect they have shown each other, as well as the relationships built with staff and leadership including Mr. Foley and Ms. Jordan.

Ms. Mallek added that Ms. Dittmar had come to the Board in a time of great strife, and jumped right into the middle of things without any complaints or hesitation. Ms. Mallek said that she has learned a lot about the big picture and collaboration from Ms. Dittmar, and presented her a bottle of "3" wine made by local winemakers.

Ms. Palmer also presented Ms. Dittmar and Mr. Boyd with an Albemarle County pin.

Agenda Item No. 16. From the County Executive: Report on Matters Not Listed on the Agenda.

Mr. Foley stated that staff is prepared to update the Board on the proffer policy and the work that has gone on with the Planning Commission, and Mr. Davis could clarify the status of proffer amounts as they would relate to any rezonings coming forward, because the current policy would dictate a proffer contribution of $20,000 per unit, which does not seem to align with where the County is.

Mr. Graham stated that the proffer item is scheduled for a Planning Commission public hearing on January 26, and staff is also working on a lot of zoning applications that would likely want to change their proffer amounts, which cannot be done automatically and will require submission of an application. He said that staff is looking at a way to expedite that process and will provide a recommendation to the Board, and if they have interest in moving that item up further it can be put on their February 10 agenda, but that might mean overlapping advertisements. Mr. Graham noted that a drawback of that approach is if the Planning Commission wants to spend some additional time on the item, it will put them in a bind in terms of trying to get it to the Board on February 10.

Mr. Foley commented this reflects the fact that there are additional issues that drive the conversation with the Planning Commission and prevents it from coming forward more quickly.

Mr. Graham stated that staff is still not sure how many new Planning Commissioners the County will have next year, but it will be at least three, and the first date for their new meeting year is January 26.

Ms. Mallek asked for confirmation if what is in the CIP and the CNA and whether they look at 5 years versus 10 might change the way that some of the formula might work, noting that one of the previous criticisms of the proffers is that they might have been out of balance with what the County is investing in its CIP, but that might change soon with much more investment.

Mr. Davis stated that the proffer formula now includes the CIP and the CNA, so the 10-year framework is captured in the formula, and one of the recommendations from the FEAC Committee is that the recalculation happen more often, with one recommendation being recalculation every second year.

Mr. Foley said if the considerations around school facilities and redistricting are viewed differently, the CIP and CNA will have a lot more money for new facilities, which might ratchet that number back up. He stated there are reasons this discussion has been delayed, but he does not think there is much effect to that given the reality of where things stand, and Mr. Davis can comment further on that.

Mr. Davis stated the state law says they cannot spend proffer money except on new projects and those with expanding capacity, and the County is not spending any money on non-qualifying projects and thus is not in violation of any state law on how it is expending proffer funds. He also said the way the proffer policy is structured is a maximum cash proffer, not a minimum, so the $20,000 cash proffer in the existing policy does not violate state law because an applicant only has to proffer what addresses his impact. Mr. Davis said that based on the recalculation of the formula based on the current CIP, CNA and projects eligible to be funded by proffers, that amount has been reduced significantly. He said that applicants can look at that and proffer what they want to proffer to address their impacts, but the County has not had an application come before the Board after the finding by the FEAC Committee, so it has not been an issue yet for any developer to deal with. Mr. Davis said if a developer does come forward with proffers, staff will advise them of the history of the FEAC Committee, and the cash proffer amount is a maximum cash proffer amount.

Mr. Foley stated that he had thanked Mr. Boyd for his years of service at the recent celebration in his honor, but Ms. Dittmar had not been able to attend that event so he wants to reiterate his appreciation to Mr. Boyd for his work with staff. Mr. Foley said that while Mr. Boyd may not have always agreed with everything staff said, he embraced the concept of partnership and worked with them to talk through it, which made a big difference during a few years of transition on the Board.

Item No. 16a. Year-In-Review.

Mr. Foley stated that at the end of 2014 he had provided a list of staff's and the County's accomplishments by reading them aloud, but said this year staff would provide a slide show of those recognitions and milestones with music in the background (a copy of the presentation is on file with the records of the Board).

Agenda Item No. 17. Adjourn.

At 10:18 p.m., with no further business to come before the Board, the meeting was adjourned.

Chairman

Approved by Board
Date: 03/02/2016 Initials: EWJ