Albemarle County Planning Commission
October 9, 2012

The Albemarle County Planning Commission held a regular meeting on Tuesday, October 9, 2012, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Bruce Dotson, Ed Smith, Richard Randolph, Don Franco, Calvin Morris, Chairman and Russell (Mac) Lafferty, Vice Chair. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was present. Members absent were Thomas Loach.

Other officials present were Scott Clark, Senior Planner; Glenn Brooks, County Engineer; David Benish, Chief of Planning; Francis MacCall, Senior Planner; Amelia McCulley, Director of Zoning/Zoning Administrator; Wayne Cilimberg, Director of Planning and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Mr. Morris, Chairman, called the regular meeting to order at 6:03 p.m. and established a quorum.

Other Matters Not Listed on the Agenda from the Public:

Mr. Morris invited comment from the public on other matters not listed on the agenda. There being none, the meeting moved to the next item.

Committee Reports

Mr. Morris invited committee reports. There being no committee reports the meeting moved to the next item.

Review of Board of Supervisors meeting – October 3, 2012

Mr. Cilimberg summarized the actions taken by the Board of Supervisors on October 3, 2012.

Public Hearing Items:

SP-2011-00002 Castle Hill Cider
PROPOSALS: SP-2012-00002: Special Use Permit for farm cidery with special events for up to 3,000 attendees on total of 310.47
ZONING: RA Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots); FH Flood Hazard – Overlay to provide safety and protection from flooding
SECTION: SP-2012-00002: 10.2.2.53 Farm winery uses authorized under section 5.1.25 (c)
ENTRANCE CORRIDOR: Yes
COMPREHENSIVE PLAN: Rural Areas – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (0.5 unit/ acre in development lots)
LOCATION: 6065 Turkeysag Road, Keswick
TAX MAP/PARCEL: 049000000018B1, 049000000018B2
MAGISTERIAL DISTRICT: Rivanna (Scott Clark)

Scott Clark presented a Power-Point presentation and summarized the staff report. This is a special use permit request for events for a farm winery for more than 200 persons as required by the zoning ordinance as described in the above description.

Specifics of the Proposal:

- 15 events per year – 201 to 500 attendees
- 1 annual cider festival – 501 to 3,000 attendees

- Previous proposal
  - 30 events per year – 201 to 300 attendees

- 10 events per year – 301 to 500 attendees
- 5 events per year – 501 to 1,000 attendees
- 1 annual cider festival – 501 to 3,000 attendees

The previous proposal was for a total of 46 events per year. That is no longer what is being requested. The 6 events is the current request.

Conformity with the Comprehensive Plan: Comprehensive Plan designates the subject properties as Rural Areas emphasizing the preservation and protection of agricultural, forestal, open space, and natural, historic and scenic resources as land use options.

It should be noted that the Comprehensive Plan does not currently provide any measures or metrics for determining what size or frequency of events would be considered inconsistent with its goals for the Rural Areas.

The Rural Areas chapter of the Comprehensive Plan contains the following Goal:

"Encourage creative and diverse forms of rural production and support rural land uses that provide rural landowners with economic viability."

Farm-winery events can provide additional economic viability for County farms that qualify. The large cider festival would promote the agricultural product made on this property.

However, like any other alternative commercial use in the Rural Areas, the proposed events should meet the following guidelines from the Comprehensive Plan. The plan states that such uses should be:

Reversible (so that the land can easily return to farming, forestry, conservation, or other preferred rural uses);

The proposal would use an existing structure, and parking would mostly be on grass. No significant improvements would be needed other than the new entrance road. Therefore the use should be easily reversible.

scaled and sited to cause minimal impacts on their rural surroundings;

The proposed use would increase traffic impacts on the surrounding properties and on the length of Turkey Sag Road. However, the recommended conditions of approval would require management of these traffic impacts.

Noise impacts on nearby properties have been an issue with the by-right events currently being held on the site. To rectify this problem, the applicant has offered a condition of approval that would require compliance with a sound management plan designed to limit sound levels at the property lines to 55 decibels during any event.

Visual impacts are expected to be minimal due to the location of the event building and its distance from public roads.

minimal in their public health and environmental impacts; and

The site is large enough to provide water and septic fields for large uses, and to provide space for the minimal new infrastructure without significant water-quality or erosion impacts. Public-safety impacts could be created by the increased traffic to the site. The applicant has proposed traffic-management measures that would reduce these impacts, and these measures have been approved by the Virginia Department of Transportation. Access to the site is acceptable to the Police and Fire/Rescue departments.

viable with no increase in public infrastructure or services, either at time of approval or later.

No new public infrastructure would be needed for the creation of this use. However, the increased number of customers on the site could increase the need for Police and Fire/Rescue services.

Staff reviewed a table in the presentation to give a context of larger sized events that have been approved previously in the rural areas. There are three kinds of events: 1. special events, which are weddings, meetings, dinners that are not related to a farm winery. 2. Temporary events, which are things like music festivals that typically happen for one weekend a year or something like that, and the 3. farm winery events, which they are discussing now.

SP20110002 Castle Hill Cider
Planning Commission – October 9, 2012

Name	Type	Attendance	Frequency	Max. Attendees per Year
SP2010-00026 Pink Ribbon Polo held at King Family Vineyard	Temporary	2,000	1 day/year	2,000*
SP2010-00018 Music Festival	Temporary	500	3 days/year	1,500
SP2011-00012 Locally Grown	Temporary	700	1 day/year	700
SP2011-00027 Panorama Events	Special	200	24 events/year	4,800
SP2011-00002 Castle Hill Cidery	Farm winery	200-500	15 events/year	7,500
		1,000 – 3,000	1 event/year	3,000
		Total	**16 events**/year**	**10,500***

*** In addition to attendance from the unlimited number of events for 200 or fewer attendees**

**** Single-day events – no multiple-day events are proposed**

This is a comparison of some recent events. The Pink Ribbon Polo event was a 2,000 person event. It is roughly similar in scale to the proposed cider festival. It happens to be held at a farm winery, but it is not really a farm winery event. It is the same case though that on top of that large event they have the by right farm winery events happening on the same site.

The Crozet Music Festival, which is three days a year, with 500 people a day that is a total of 1,500 a year. The Locally Grown Festival is 700 people only one day a year. Then a recent special events approval was for events at Panorama Farm, which are 200 people 24 times a year. Then there is a comparison with Castle Hill Cidery, which has 16 events per year with the smaller events being 200 to 500 people. That is 1,000 to 3,000 per year and actually 500 to 3,000 people for the one large event. The potential maximum attendance for those would be 10,500 people. That is in addition to whatever by right events for 200 or fewer people to be held on the site. The single day cider festival is roughly comparable to some of the larger events they have approved in the past. The smaller events, the 200 to 500 person events, are somewhat larger than other approvals they have had in the past.

The two major concerns to discuss are the traffic and noise. They know those are a concern for a lot of the neighbors. It has definitely been a part of the analysis.

Traffic:

- Entrance would be located on Turkey Sag Road; Police Department prefers this location to Route 231
- Issue: Traffic generated by cider festival would meet VDOT warrants for turn lanes at Route 231 and Turkey Sag Road
- Proposed solution: Traffic management at intersection by police or other trained personnel on day of festival
- Issue: Western portion of Turkey Sag Road is narrow and steep, but traffic related to this use can arrive or depart by that route.
- Proposed Solution:
    - All departing traffic would be required to exit eastward toward Route 231 (except for residents of Turkey Sag Road)
    - However, route of arriving traffic cannot be controlled
        - Note: Applicant making efforts to instruct vendors and guests not to use Turkey Sag Road

Noise:

- Winery events typically use amplified sound systems
- Issue: Complaints have been received about audibility of music on this site, outside the property and neighboring properties
    - Zoning personnel have monitored sound in the area twice:
        - First event: Sound monitored at property lines; no violation of noise ordinance (above the 55 decibels that are permitted at the property line at night)
        - Second event: Sound monitored at nearby properties; three readings above permitted levels
- Proposed solution: Preparation and implementation of sound-management plan
    - To be prepared by licensed acoustical engineer
    - To include self-monitoring to allow immediate control of sound levels

Staff added to the presentation that the proposal is adjacent to several parcels that are in agricultural and forestal districts, which are two different districts. The Agricultural and Forestal District Committee did review this proposal. However, when they reviewed the proposal it was at the previous level of 46 events and not the current 16 events in size. Also, the committee did not know about the sound management plan. The committee did recommend denial of this application because they were concerned about noise impacts and traffic impacts on farm properties, and horse operations in the nearby area. However, the committee did not get a chance to review it at this new reduced level of operation.

SUMMARY:

Staff has identified the following factors favorable to this application:

- The proposed use—in particular the largest proposed event--would increase promotion of local agricultural products.
- The existing roads, not including Turkey Sag Road west of the site, are adequate for the traffic that would be generated by the 15 proposed events for 201 to 500 persons.
- The traffic impacts of the proposed cider festival at the intersection of Turkey Sag Road and Route 231 can be managed with on-site personnel, and therefore improvements to the rural highway would not be required.
- The applicant would be required to manage noise impacts to stay within permitted night-time noise levels at all times of day according to the sound management plan.

Staff has identified the following factors unfavorable to this application:

- The use attracts traffic from Route 20 to Turkey Sag Road, which is narrow and unpaved where it crosses the ridge of the Southwest Mountains. Departing traffic from the site can be directed to Route 231, but the route taken by arriving traffic cannot be controlled. The applicant has stated that they have updated the driving directions that they provide to attendees to show routes that do not use Turkey Sag Road.

Staff recommends approval of SP-2011-00002 Castle Hill Cider subject to the following conditions:

1. Development of the use shall be in general accord with the Conceptual Plan entitled "Special Use Permit for Castle Hill Cider," labeled "Index Title: CP1," prepared by Dominion Engineering, and dated 8/28/12, as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the plan, development shall reflect the following central features essential to the design of the development:

    - Location of the structure (labeled "Event Barn") used for the events
    - Location of the entrance and exit (labeled "New Entrance Road" and "Existing Entrance")
    - Location of parking
    - Location of "Event Vicinity"

2. Up to 15 single-day events for more than 200 persons may be held per calendar year, with a maximum total daily attendance of 500 persons. Attendance at these events shall be by prior reservation, ticket sales, or invitation only.
3. One single-day farm winery event for 501 to 3,000 persons may be held per calendar year.
    a. This event shall not be held without written approval from the Virginia Department of Transportation of a traffic-management plan for the intersection Virginia Route 231 and Turkey Sag Road. This plan shall require, and the permittee shall provide, police officers or other trained personnel approved by the Virginia Department of Transportation to be at the intersection of Virginia Route 231 and Turkey Sag Road to direct arriving and departing traffic. This approval shall be submitted to the Zoning Administrator no less than three (3) weeks before the scheduled date for the festival.
    b. The permittee shall obtain approval of a zoning clearance by the Zoning Administrator prior to holding this event. The permittee shall apply for the zoning clearance no less than three (3) weeks prior to the date of the event. Approval of the zoning clearance will be contingent upon the Zoning Administrator determining that all conditions of this special use permit have been satisfied.
    c. Admission to this event shall only be by prior reservation or ticket purchase.

4. Before commencing the use, the permittee shall submit, and thereafter comply with, a sound management plan to be prepared by a licensed acoustical engineer and approved by the Zoning Administrator. This plan shall include a plan for monitoring sound levels at the property boundaries and for immediately adjusting amplification equipment to reduce sound levels to no more than the required maximum. During any event, including those with attendance of 200 or less, the sound level at the property lines of the site shall not exceed an average of 55 decibels (dBA) for any five-minute period, or a more restrictive applicable maximum sound level established in the Albemarle County Code.
5. Amplified sound for all events shall not begin before noon and shall end not later than 11:00 p.m.
6. At every event, traffic-management personnel shall be on site at the exit to direct traffic eastward to Virginia Route 231. These personnel shall be in addition to the traffic-management personnel required under condition 3(a) above. All departing traffic shall be directed to go eastward on Turkey Sag Road, except for those vehicles whose occupants reside westward on Turkey Sag Road.
7. The permittee shall provide prior notification of all events for more than 200 persons to all owners of properties within 1,000 feet of the exterior boundaries of the property and to the Zoning Administrator. A notification letter shall be sent by mail at least 14 days before each event. The letter shall include:
    a. The date, starting and ending times, and expected number of attendees for the event
    b. A telephone number at which the permittee may be contacted during the event
    c. The County's zoning complaint hotline telephone number (434-296-5834) and identify it as such.
8. No parking for any event shall be permitted within 200 feet of any stream.
9. Any new outdoor lighting shall be only full cut-off fixtures and shielded to reflect light away from all abutting properties. A lighting plan limiting light levels at all property lines to no greater than 0.3 foot candles shall be submitted to the Zoning Administrator or her designee for approval

RECOMMENDED ACTION:

Based on the findings contained in this staff report, staff recommends approval of SP-2011-00002 Castle Hill Cider subject to the conditions outlined in the staff report.

Mr. Morris invited questions for staff.

Mr. Randolph commended staff for the time and effort they put into this application. On page 4 of the materials it says scaled and sighted to cause minimal impacts on the rural surroundings. Mention is made that there would be increased traffic on surrounding properties on the length of Turkey Sag Road. He did not see any mention on Route 231.

Mr. Clark replied that he had not mentioned that because that would be the main route to access the site.

Mr. Randolph noted that Route 231 is a narrow road and scenic highway. He questioned given the volume of potential vehicular traffic dumped out onto Route 231 to a special event, which could involve 5,000 people, he would think that would warrant some kind of traffic impact study. Right below that on page 4 it says the site is large enough to provide water and septic fields for large uses. He asked if there is adequate capacity on site with the septic system to handle 3,000 people.

Mr. Clark replied the applicant did a traffic study that was forwarded directly to VDOT. They also had the police department review the application. The police department, as mentioned, largely wanted to get the entrance use off of Route 231. They were satisfied with the solution of coming in from Turkey Sag Road. That addressed their safety concerns. VDOT's only recommended measure for addressing the impacts of the use was the traffic management for the large event. Otherwise, they did not recommend any changes or recommend against the level of use. As for the septic capacity, he did not know. Therefore, they need to ask the applicant.

Mr. Randolph asked when they look on page 6 at King Family Vineyard if their Pink Ribbon Polo Event is a charity event for the University of Virginia and Cancer Center.

Mr. Clark replied yes that it was a charity event.

Mr. Morris asked if a traffic impact study has been done for Turkey Sag Road. He thought they have had one done for 231.

Mr. Clark replied that the applicants can address that in more detail. However, they did provide a traffic study directly to VDOT that looked at both roads.

Mr. Smith asked to clarify this was a special use permit for a farm winery.

Mr. Clark replied in the supplemental regulations for farm wineries that set the standards for the by right events there is a subsection that permits events beyond that 200 person maximum by special use permit. That is what the applicant is requesting here.

Mr. Smith asked if this is a winery or a cidery.

Mr. Clark replied that it is licensed as a farm winery although they are producing something other than a grape based wine.

Mr. Cilimberg pointed out actually state regulations have a farm winery inclusive of a farm cidery.

Mr. Morris opened the public hearing for the public and applicant. He invited the applicant to address the Planning Commission.

John Rhett, of Rhett Architects and the Director for Strategic Planning for Castle Hill Cider, expressed their appreciation for all of the good efforts that staff has contributed to this application as well as the input from concerned neighbors. He made the following comments.

- He believed that Castle Hill is in a special place. Two hundred and fifty years ago Thomas Jefferson called the Southwest Mountains America's Eden and it still retains that aurora. The owners of Castle Hill recognize that beauty and placed the property under permanent

conservation easement and donated 425 acres on Walnut Mountain to the Nature Conservancy assuring that there will never be roads or lights visible along the mountain top. The cattle operation on the property was removed, which reduced run off and non-point source pollution. Wild life management areas with native plantings were installed along the streams and the woodland edges further protecting the watershed.

- In 2007, the owner of the property engaged Rhett Architects to convert the existing cattle barn to a residence and create a landscape associated with the residence. An English park landscape was conceived that included a reflecting pond, a riding trail, and a native hardwood forest. Working with the Nature Conservancy the pond was designed to collect the runoff and sediment before they reached Turkey Sag Creek, which still runs uninterrupted through the property. During times of flooding the pond water backs up into the little valley where it returns naturally to the stream channel. A letter of permission to create this pond was obtained from the County Office of Erosion and Sediment Control. That letter states that the installation of a farm pond is an exempt activity; and therefore relieves them from requirements of submitting an erosion control plan, obtaining a grading permit, and posting a performance bond. This is related to two other special use permits requests that the Commission will see tonight, which he wanted to give a little history on. At the same time there was a failed stream crossing of crushed and corroded metal culverts that they replaced with larger HDPE culverts set in concrete and decorated with stone walls and with stone paving on top. The camber over this crossing is there to slow down travelers on the long straight driveway and to create a pause so that a close up connection to the stream could be made. One often observes blue and green herrings, small hawks, and goldfinch along this stream. During storm events water does cross the road as before but with less frequency. There is a section of cement stabilized drive that retains the appearance of a graveled or state road but does not wash into the stream.
- In 2009, the owner decided not to renovate the barn into a home. So the feasibility studies were made into other uses. Ultimately the decision was made to establish a cidery, which is licensed as a farm winery. The landscape elements including the pond that have been designed for a residence were repurposed for the cidery and its event barn. The two special use permits for the work in the floodplain are thus requested retroactively to bring the cidery into compliance with this new use. They are happy to comply with the conditions staff has included in their report.
- One of the factors in choosing to create a cidery is the recognition of the beauty of the land. An orchard sets lightly on the land. The blossoms are endearing and there is a three-dimensional beauty that one can stroll through. There is agricultural beauty within a natural setting and there is a powerful attraction to Castle Hill Cider as it was to Thomas Jefferson. Every visitor to Castle Hill comments on it and they are extremely careful to maintain that attraction for cidery clients many of whom are inspired to get married here. The consequences are that many young people develop fond memories of the Albemarle country side while enjoying the festive flavor of Castle Hill cider.
- Another factor is the historic connection with the Albemarle Pippin apple, which was introduced to the county at Castle Hill by Thomas Walker, the original builder of Castle Hill. Of the 20 varieties of heirloom cider apples the Pippin is the most prevalent in our orchard. It has a substantial presence in all of our ciders. They are pleased to reestablish it at Castle Hill. Until our orchard becomes bearing they are obtaining a vast majority of apples from other Virginia growers throughout the state. Of course, making a living by making cider is important. The good news is that the sales of hard cider in Virginia increased 50 percent from 2011 to 2012 to reach 16,750 cases. The Department of Agriculture and Forestry expects Virginia to sell 33,000 cases annually within the next five years. As the third commercial hard cider maker in Virginia they are excited to be part of this revival of an American farm product. All of these factors are effective for fulfilling the agri-business and the agri-tourism goals that are part of the county's plan for rural areas. They believe that everyone who attends an event at Castle Hill Cider will be more supportive of natural and historic conservation having experienced them both on the most special day of their lives in a special part of Virginia.
- They have made application for a special use permit because there is a demand for an event venue that can accommodate more than 200 persons and because Castle Hill Cider is particularly capable to host those events. The nation's largest wedding magazine ranks Charlottesville/Albemarle area as third in the nation for destination weddings. When brides look

to this area they find few venues in the county large enough to host over 200 person events and fewer still with the combination of beauty, history and privacy at Castle Hill Cider.

- What else qualifies Castle Hill Cider to hold events over 200. In short, Castle Hill Cider is large, accessible, private, quiet and safe. The event venue is located on a 600 acre property. The concept plan demonstrates the existing paddocks can easily accommodate the parking required at the intense levels they are requesting. The barn itself contains 10,000 square feet on the first floor and there is a 3,000 square foot loft. Castle Hill is easily accessible since being only 8 miles from I-64 clients can easily get there from Charlottesville and Richmond using the Route 22 and 231 corridors. The internal roadway has been reconfigured to allow buses to drop people in front of the barn and park nearby in a holding area. This means there is reduced vehicle trips on public roads as they are encouraging the use of buses to their larger events.
- They have met with neighbors and they are working on ways to prevent their event guests from travelling on Turkey Sag Road from Route 20. They have contacted the GPS companies to route people along the Route 231 Corridor whenever feasible. They strongly emphasize the need for guests to follow the printed directions included with their invitations and as described on their website. Additionally, the tickets for the one larger agri-business event per year will have directions printed on them. Currently, the vast majority of vehicles coming to the Castle Hill Cidery do come from Route 231.
- According to the county's traffic engineer and the police department the intersection of Route 231 and Turkey Sag Road can safely accommodate the attendance of up to 1,100 people at Castle Hill Cider events without a turn lane or other traffic mitigation efforts. After listening to our neighbors they are requesting only 15 events at less than a half of that attendance level. For each annual event over 500 they will submit the traffic mitigation plan to the county, which would include the use of police officers to direct traffic at the intersections of Routes 640 and 231. Castle Hill Cider is private. The barn is flanked on two sides by forested hills that are 50' higher in elevation than the event barn. To the west are the unoccupied Southwest Mountains. The closest residence to the event barn is 2,200' away. There are several large estate properties in the area. The nearest are Castle Hill Estate at a distance of 2,350', Cismont Farm at 3,150' and Old Keswick Farm at 4,475', which is a little under a mile away. The event barn or the parking areas are practically invisible from the adjoining properties owner's residences.

Mr. Morris invited questions for the applicant.

Mr. Randolph asked what percent of the cider currently sold at the facility is in fact grown on site.

Mr. Rhett replied zero percent.

Mr. Randolph said when one uses the term of farm winery usually one understands that to mean that there are grapes sold on the premises. In this case there is no cider generated through apples grown in this facility.

Mr. Rhett replied yes and that is typical of all wineries and cideries. When they start out they obtain their products from other places.

Mr. Morris asked has Castle Hill Cidery initiated or performed a traffic impact study for Turkey Sag Road.

Mr. Rhett replied yes, Rainy Kemp was the traffic engineer and they did a traffic count during an event at the intersection of Turkey Sag Road and Route 231. They counted the cars that were coming from both directions. They also counted cars in front of the entrance to Castle Hill Cidery.

Mr. Morris asked if they did not extend west of the entrance, and Mr. Rhett replied that is correct.

Mr. Lafferty asked if he understands correctly that they have an orchard but it is just not bearing fruit yes.

Mr. Rhett replied yes, they have an orchard of over 600 trees.

Mr. Lafferty asked what percentage of the ciders will come from their own trees eventually.

Mr. Rhett replied it would be100 percent when the orchards become bearing.

Mr. Smith asked if they will plant more trees than that, and Mr. Rhett replied yes if all goes well.

Mr. Morris said in looking at the map provided is the area that is hatched off around the barn is that large enough for the events over 1,000. It looks like it would be wonderful for 200 or 300 people. He asked if they expect to confine the events for the 3,000 persons to that footprint.

Mr. Rhett replied he would suspect the event would spread a little bit more than what that dashed line shows. He said they were not confining themselves to that footprint.

Mr. Lafferty asked Mr. Rhett to describe the nature of the parking lot.

Mr. Rhett replied that there are two types of parking. In front of the barn there is daily parking, which they have put a grass reinforcement on the ground so that people can park there without creating erosion or mud and ruining the landscape. Then to the entrance to the paddocks it also has that reinforcement mat, but it is just field parking. Some people get married on one side of the barn so that the parking is then placed in the opposite paddock. Then about 40 percent of the other clients get married on the west side of the barn so the parking then is place in the east paddock so that the use of each paddock is basically in half during the year.

Mr. Morris invited public comment.

Melton McGuire said he was hired by Route 231 in 2005 to help them develop the use plan for the property. They asked him to come tonight and give the history. In 2005, Castle Hill was just under a 1,600 acre estate that included a 400 acre previously approved subdivision on Walnut Mountain that was on the ridge line overlooking Keswick. It included another 1,200 acres between 231 and the peak of the Southwest Mountains. An existing resident of Keswick and a person who intended to move there joined forces when they learned that a developer was looking at the property. The property had some 30 lots on the mountain and had another nearly 90 lots in that flat area of Keswick. They joined forces as Route 231 and pursued a conservation easement that gave away all but five of those division rights. It also included giving away the mountain property in its entirety. The Nature Conservancy is the easement holder. The easement itself is more stringent than they would see in the average easement. It is a very long exhausting easement. The Nature Conservancy has a local office and they are diligent about inspecting the property every year. During this process for the SUP they have been consulted on an ongoing basis. Within the last 60 days he has been on the property with the Nature Conservancy and Mr. Rhett. They have had the SUP in their hand and walked the property. They have had the ability to ask any questions they liked. His understanding is that they approve of this SUP application and he believes there is a letter in the staff's files to that effect.

Billy Proffitt said he had lived on Turkey Sag Road for 80 years. He has been over to Castle Hill when they have weddings. He has seen the crowd of people they have had and has never seen an excessive crowd of people. There was not any great loud noise. He did not think you could go to a wedding if they did not have some kind of noise because it was a celebration. The people do not go into the site at one time and do not leave at one time. It is not like every car has just one person. There are many times four to five persons per car and sometimes they have a bus load of people. He did not see where they have excessive traffic or that there has been any traffic problem. If they need to put in a lake, he thought it would be good to preserve the water for the wild animals. The creeks are not running like they use to run. Any improvements would be more money for county and he would ask why they would want to kick against everything. As far as the traffic on the mountain he would agree with everyone. The traffic has been more and more all the time but people are going across the mountain to go to Charlottesville to keep from going the 250 way. He agreed that it has been dusty and it is rough and narrow. However, he thought it was going to be that way the rest of our time. He supported the request.

John Henry Jordan said he lived about 3,500 feet away from Castle Hill Cidery and about 2,100 feet from another winery located in the Keswick area. He is probably unique in that he gets bombarded by noise from both directions. He made the following comments:

- He will agree with Mr. Rhett on one thing that Keswick is a special place. At 10 o'clock on a Saturday night on his front porch it is not quite as special as it used to be. He can't sit out there and listen to the noise from Castle Hill and another winery any more. It has taken away the peace and quiet. It makes his animals run the fields. It causes his dog to bark and keeps his wife and him awake. He pointed out that the 16 requested events are in addition to unlimited events with 200 or more people. So the number up on the PowerPoint of 10,500 that is from what is potentially one-third of the events that could be held on that property.
- Mr. Jordon continued that he wanted to talk about noise. He appreciates the fact that the applicant had submitted a plan that would reduce the noise that they generate to a 55 decibel level. He thinks people need to understand how decibels work. In the application that was submitted there is some information that says the generally accepted noise level for a quiet rural area is 30 decibels. If they look there is a chart, which he believed was provided by the applicant. The difference between 30 decibels and 55 decibels is a 16 fold increase in the noise. He would be willing to bet that anybody sitting in the dais or in the audience if he was told that he would have to suffer through a 16 fold increase because his neighbors wanted to have more parties, he did not think they would sit or lay down for that. So they could understand why they were a little bit upset about that.
- The road widths within that property to include the one shown going over the culvert one of the applications indicates that is a residential driveway. He did not believe there is a residence on this parcel. That road should be considered a commercial road and should be held to those standards. He found it hard to believe that anybody sitting here knowing and having lived through as most of us have the willful and continued disregard for the noise ordinances that are already in place. They are noise ordinances that are essentially unenforceable in the way in which they are set up. If they grant the SUP's they should not think for a minute that the owners will comply with those noise regulations moving forward. He asked that the Commission to deny this application.

Charlie Proffitt said he was born and raised at Castle Hill and he felt it was just like home. The people are nice as they can be. He goes up there all the time and has been up there when they had a wedding. He was really surprised how they handed it. They parked some in the front field when they come in. They took the rest of them around the barn and parked them in the trees so they could walk right into it. He did not see where all that noise was when he attended the wedding. He enjoyed the place. His grandfather worked there. There are a lot of nice people that treat you right. He had heard good things from the public particularly about and the view. He looks out for that mountain from one end to the other and lives up there. He does not understand where the noise and traffic is. He did not know about the water coming in. Sometimes the stream needs to be opened up. He was interested in the Castle Hill Winery since it was a nice place to go.

Lee Beltrone said she lived at Brook Hollow Farm across from historic Castle Hill which was adjacent to Castle Hill Cider. Castle Hill Cider has requested this special use permit to have one event for up to 3,000 persons a year and 15 events for up to 500 persons per year. This is in addition to their by right ability to hold events for up to 200 persons every day of the year. In fact, they can have even more than one 200 person event on any given day. Their request for the added larger events offers no explanation for what these events would be. The chart on page 6 of the staff report, which they are considering, compares other venues and their approved special use permits. These permits are temporary events and include the King Family Vineyard Pink Ribbon Polo Event for up to 2,000 persons and the music festival for 500 persons three days a year for a total of 15,000 people. All residents living around Castle Hill Cider have a right to know what each large event will specifically be. It is the responsibility of Albemarle County to require this information so that each event request can be carefully considered so that it does not affect the welfare of local residents. Castle Hill Cidery if granted permission to hold 15 undefined 500 person events plus the 3,000 person event could have a profound effect on the entire Keswick area. Please consider this request with great care since it has far reaching implications not just for Keswick but all of Albemarle County.

Art Beltrone, resident of 6057 Gordonsville Road in Keswick directly across from Castle Hill, mentioned again that one of the primary issues that really dates back to the outdoor amplified music regulation that was passed. That is enforcement. There is no enforcement that is handy for a resident who is experiencing noise beyond the levels. Keep in mind these events happen during the evening usually on weekends. There is not staff available from the county to address a problem. The only option is to call the county zoning hotline, which he did Memorial Day a year ago to register a complaint and he has yet to hear a response from that particular call. He raised a question with staff about something in the way of music that was not amplified. He asked where that is that to be considered. He asked if that is to be considered under the farm winery legislation or somewhere else. He went to the police department to pose the same question. If the music is not amplified but it is permeating a house what is the redress for a citizen. Is it zoning or is it the police. The police have no idea and they have not even been informed about the regulations and who is to do the enforcing. He still does not know the answer to that question. So enforcement, enforcement, enforcement – that is the key to this. There has to be some way for enforcement to take effect.

Stuart Madany, the cider maker at Castle Hill Cider, wanted to take a couple of moments to describe what the 3,000 person event might look like. There are currently two large cider events in the United States. One is in Franklin County, Massachusetts and one is in Michigan in the Great Lakes region. The one in Massachusetts is much more established and is in its 18th year and has grown to have 35 events at 13 locations for two days with about 2,000 attendees. This event includes many events within it such as an amateur cider competition, workshops, talks and tastings on orchards, cider making, cooking, cheese paring, cider appreciation, etc. They have heritage apple tastings, sign wood exchange, etc. Cider producer enthusiasts from all over the United States and even from some foreign countries come and attend this. The primary draw of it is what they call the cider salon where over 100 ciders can be tasted in one place. The Great Lakes Cider and Berry Festival in Michigan is similar but only in its fourth year, not as large and pretty much just all in one farm right now. More recently several apple growing and cider producing regions are having cider weeks. Virginia will have its first cider week from November 9 to 17. They will have 25 events with many of them being in store tastings. However, they are looking to grow this cider event for the mid-Atlantic region of apple production. If they were approved for this, it would give them a chance to have a center piece event at Castle Hill while still having many events in the area. They think that this would be an amenity to the county, local residents and be an economic boom to the county as well.

Tony Vanderwarker, Chairman of the Piedmont Environmental Council, said they love wineries. They have a local newsletter that goes out quarterly and they strongly support 78 of them across the Piedmont region. However, they also have noticed with a great sense of alarm when these agricultural operations veer off the track from being a pure agricultural organization and become a tourism business with helicopter rides and paint ball venues. That is the issue the Planning Commission faces. Is this a valid winery or a cidery? Do they grow their own apples? Is it a genuine agricultural operation or is it almost an agricultural operation and really masquerading as a tourist operation? They can't make that decision. Then they have to find as many other counties have done a bright line or a balance between the welfare, health and safety of the neighbors and citizens of the area and for the matter the whole county and agricultural and commercial interest. They need to have that bright line so when this situation comes up again, which will come up again and again, they can say well this is our established bright line.
He thinks they have one at 200 with unlimited events. He strongly encouraged the Commission to prevent the kinds of excesses that they have seen in Fauquier and Loudoun to hold this 200 person limit. It makes sense and they have it. Therefore, they should not leave it.

Ann Vanderwarker, a long time resident of Keswick, said her mother moved to Keswick as a two year old, which would have been 93 years ago. Her father helped develop the Southwest Mountain Historic District. She strongly objects to this proposal because they moved there first. A lot of the families have been in the neighborhood for over 100 years. She did not think it was fair that all of a sudden they should be subjected to this assault from noise and traffic.

Susan Forschler, a Keswick resident for 13 years, said she lived within a mile of the cidery and was very negatively impacted by the noise. Almost every Saturday they can count on hearing the live music. They can hear the boom of the base in their back yard. They can even make out lyrics of songs that are being

played. They moved to Keswick because it is such a beautiful tranquil area. It has completely changed their weekends. They have to think twice about parties in their own backyard. The traffic is a concern. They love to walk on Turkey Sag Road. On occasions they took their puppy for a walk and unfortunately happened to coincide with a large event last fall. There was traffic continually going back and forth down the road. Many people did not know where it was so were stopping and asking. Apparently this is a big problem with people not knowing where they are going. Going over the gravel on Turkey Sag is very dangerous. She has experienced first-hand coming over the mountain in the dark there is not enough rooms at points for two cars to pass safety. It is extremely dangerous. They hope the Commission will seriously consider noise impact, the safety impact and will deny the request for this special use permit application.

Cathy Eberly, resident on Turkey Sag Road since 1987, said her family lives over the mountain from Castle Hill Cider approximately one mile from Route 20. They live on the gravel portion of the road that crosses the Southwest Mountains. Frankly, it has always been unsafe. The road is rough, steep, dusty and narrow with only a single lane in places. It is challenging to navigate in good weather and treacherous in bad. At times over the years she has felt protected by the condition of our road precisely because it is rough and dangerous some people choose not to use it. That keeps some speeding traffic off of the mountain. It is the main reason her family has not pushed to have it paved. However, now everything has changed. Since Castle Hill Cider opened they have seen a significant increase in traffic traveling to the cidery over their section of the road. As a farm winery this cidery can already host an unlimited number of events for up to 200 guests. They believe some of the commercial vehicles they see are vendors servicing the cidery. They know others are guests. Many of them unfamiliar with the area are brought to their road via their GPS devices on their way to weddings or other special events. When some of these travelers reach the gravel section of the road they want to turn around but there is no place to safety do so. Turkey Sag Road is already challenged accommodating current levels of cidery traffic. She could not imagine what will happen should Castle Hill be granted permission to open its doors to much larger events. One of her neighbor's concerns was the special use permit would remain with the property forever. In the report prepared for tonight county planner, Scott Clark, recognizes it would be impossible to control the traffic approaching Castle Hill Cider from the Route 20 end of Turkey Sag Road. To put it bluntly adding more traffic to our road would make an already unsafe situation even worse. For this reason she urged the Planning Commission not to recommend approval of this special use permit.

Dave Paulson said he had been associated with the cidery since its inception and actually works for the owner. First he would like to acknowledge the concerns and comments for both people on the other side of Turkey Sag Road over the mountain as well as those along Keswick. All voices should be heard and all opinions considered. He would like to point out some of the factors. In this special use perm it they are actually going to improve and mitigate those concerns to a greater extent than leaving it to status quo. One, with respect to the traffic while he can acknowledge that there can't be a condition that says people can't access Turkey Sag off of Route 20; the right hand turn only for those departing the events will certainly have an impact. He would also like to point out that they are talking about 15 days per year of incremental increased traffic above the 200 again and often times coming with several people to a car. They have talked to the neighbors and are actively trying to figure out ways to make sure they are vigilant in making sure the invitations do in fact imply a warning. They do not want their guests coming over that any more than they do. On the sound 55 decibels is the level of a speaking voice and not his amplified speaking voice. A couple walking along the boundary line talking to one another is 55 decibels. The ordinance currently is at 60 decibels up to 10 p.m. and then 55 decibels after that. They have set it at 55 decibels at all times. So that should actually improve the level of sound. They are going to engage an acoustical engineer to come up with a plan. That plan has got to be approved by the zoning administrator and it will include compliance measures to make sure the sound at our property lines is no higher than conversational speech. It is not the number of attendees that increase the sound. It is the band or the D.J. They have a mechanism or sound limiters and various other things, such as panels they can put up, that can assure compliance with that. The notion that the special use permit is going to increase the sound level just does not make any sense.

Tim Edmond said he would address the Commission as a competitor of Castle Hill Cider. He was the owner of the fourth active cidery in the state. He speaks not as a competitor but as a partner. He would speak to them as a neighbor and how they have conducted business as a competitor. Beyond that what

they are doing on a day in and day out basic he thought they need to look at the broader implications of the economic revitalization of this area and what the industry at large is doing by allowing them to hold events with marginally more people through the year with to 200 to 500 people. He did not think they are going to see any major impacts for those marginal amounts of people. When they look at the wedding venues they are a perfect venue. It makes sense for a lot of reasons. He did not think the marginal increase in the number of people at that venue is going to materially impact traffic or noise patterns. He agreed with the recommendations of the staff and with the measures they have laid forward to preserve noise and protect traffic patterns. Lastly, he would like to address the event that they have mentioned. Lending to the point that they are a good neighbor they on behalf of our industry have supported we as a cider making community to use their space to do things like apple tastings and educational events through the course of that larger event that they are proposing. He thought the economic aspects of what they are doing are important. He thinks the approval and conciliatory gestures they have laid forward with regards to the reduction of the number of events they are going to have over the course of the year are important to consider. He agreed that they should be granted this approval.

Bart Page was not present to speak.

Al Schornberg, owner of Keswick Vineyards, suggested that the Commission should accept the staff's recommendation. He wanted to address the issue of noise because their name did come up. A couple of weeks ago he was forwarding an email that was written to the Board of Supervisors. He received this email during an event. He thought it would be a good idea if he called the Albemarle Police if they were not doing anything of an emergency basis to come out and give a listen. Officer Joseph Richards came out and positioned himself at a couple different spots on the property. He would be happy to tell you that what he heard would not even violate residential standards. He has his contact information if the Commission would like it.

Ken Heimgartner said he was asked to read a statement by Judith Sommer who lives adjacent to Castle Hill. In the interest of time he submitted the statement to the Planning Commission for the record. (**See Attachment A** at the end of the minutes – Statement to Albemarle County Planning Commission, Oct. 9, 2012 re: Castle Hill Cider SP-2011-0000-02) Basically it is two years of documentation of noise issues. There is a lot of heart and emotion in this piece. He really feels for her because she is torn by the lack of the rural identity that they have all come to love about Virginia. He lives on Plank Road in North Garden near the Crossroads. When they bought the property there a few years ago it was everything that they dreamed about when they came to Virginia. He was in the Navy for 32 years and 18 years were in Virginia. It is just a delightful state. The rural character is what attracted him. He was appalled that under the thin veneer of agriculture they have let ourselves endorse what basically are event centers or commercial entities that export noise and traffic. Here they are in the agricultural heart of the country and they are putting commercial entities out in the neighborhoods. If he knew then what he knows now in terms of living adjacent to a so called winery he would not have bought the property. He would offer to the Commission that they are going to have trouble in the future getting people that want to buy this property so that event centers can locate themselves next to our property. He thinks they should say within the 200. If they grant this to Castle Hill they need an enforcement mechanism for the noise. Ms. Sommer has two years of inability to enforce noise regulations. He flew airplanes off carriers and he would tell them that 55 decibels is dependent on the atmospherics. It can be really loud one day and very quiet the next. It seems really questionable to have a decibel measurement since it is what the neighbors hear. If it is ruining their quality of life then they need to be heard.

Pam Moran said she was a neighbor of Cathy Eberly and lived right where the gravel meets what use to be her paved road, which was no longer maintained very well, on Turkey Sag Road on the west side. They also have an annual event. Their annual event happens several times a year are floods that come down off the mountain. So one of the things she would offer is that Turkey Sag Road in no way, shape or form can support the traffic that is every increasing on our side of the mountain going over to the cidery. This past week end her family was out for a walk. They were stopped by a young couple coming down from D.C. wanting to get over to the cidery driving their beautiful BMV. She told them that she would not drive her car over the mountain to 231 because the road is not safe or really particularly drivable for cars going across that road. She advised them to turn around, which they did, to go back to Barboursville to come around 231. She asked the Commission to think very carefully about what are the issues that are

going to face people trying to get over Turkey Sag Mountain on a road that looks like that several times a year.

Stewart Humiston said she lived at Castle Hill Farm. They co-authored the easement with John Carr who is their next door neighbor. She was very disappointed in John Carr because he wrote this easement with them because that land is precious. She thought that they have not been good neighbors. On Saturday and Friday nights they are inundated with cars coming onto their property looking for the cidery. She has been shocked during the weekends how the traffic has increased. She knows for a fact that they frequently have events already that are over 200 people and nothing ever seems to happen to them. So they already don't follow the rules. She hoped the Commission elects not to permit this to happen. They love the area and this land that was so previous to Thomas Jefferson. He has no right to come in here and do this.

Robert Leffers, resident on Turkey Sag Road, said he lived on the segment that was between where the cidery entrance is and 231. Obviously he was in a situation where he gets the benefit of all the traffic that comes there. Therefore, he has a personal involvement there. He wanted to bring something to the attention of the board. If they were not familiar with Route 231, he would point out it was a scenic byway. He was not a traffic expert, but when the number 3,000 came up he was thinking about what was going to go on along 231. VDOT has already said this is all going to be fine. However, could they imagine on a day with 3,000 people on Route 231. He wanted the county to be aware that on a day with 3,000 people on 231 there was going to be a real mess. They need to take extra precautions just for the safety of the general public. He would hate to be driving from Gordonsville to Shadwell or vice versa on a day when there was going to be that much traffic involvement. His own personal feelings aside, he was also close enough to hear the music. However, it has not been so much of an issue for him. The traffic is a real concern due to the character of that stretch of 231 and he hoped they take that into their overall consideration.

Peter Hallock, resident of Keswick, pointed out that Sheriff Bailey called Route 231 one of the most dangerous roads in Albemarle County and no one has improved it. The traffic has gotten worse. For all of the glorious tax revenue they think they are going to get off of this they use it up on road improvements. He suggested that if they do have to improve this that they put a year limitation on it where they come back and discuss it again with the neighbors and let the neighbors know whether it is a success or not. They made a lot of promises, but they have no way to enforce them. If they came back a year later they could see if they lived up to what they say they are going to do.

Jeff Werner, with Piedmont Environmental Council, said that PED is opposed to the expansion of nonagricultural events at the Castle Hill Cidery. They have long supported local agriculture in their nine county regions. But, there is a growing tension within some of their counties relative to wineries. Some wineries have adopted business plans that in part rely on wineries becoming event venues. The debate about wineries now has little to do with agricultural activities. Instead it is about the impacts of these nonagricultural events that are hosted at the wineries. PEC believes that these nonagricultural events should be accessory to the winery operation and not its primary focus. Castle Hill Cidery, which is by the regulations a winery, is within the state and nationally registered Southwest Mountains Historic District. The conservation efforts of private landowners allow this landscape to look today pretty much as it did several hundred years ago. Almost 16,000 of the 37,000 acres in the district are under voluntary conservation easement. As they know Route 231 is designated state and national scenic by way. In short this is a very special part of Virginia and of Albemarle County.

Mr. Werner continued noting that in emails that they have received and comments tonight they have heard concerns expressed by local residents about both the impacts of additional events at the cidery and also about the impacts that are already being experienced by the by-right activities that are occurring there and nearby at Keswick Vineyards. So before any consideration of this special use permit the county needs to resolve how it is going to enforce the regulations that already govern the current activities at these wineries. The concerns raised tonight are not about late night field work or late night harvesting. The issues are about nonagricultural related parties, which general non-agric related noise and traffic. None of these contribute to the rural character of that area. There are 15 wineries in Albemarle County. If the county approves this special use permit for a winery located in a historic district while on a scenic by

way that is in conservation easement and surrounded by land in conservation easement and it is opposed by nearby neighbors under what possible circumstances would the county deny a similar request from another winery in the county. Approval at any scale here creates a slippery slope by which all residents of the county who happen to live near wineries are going to face the same negative impacts of potentially additional non agric activities nearby. These are activities that every year seems to be increasing in scale and scope. So the Planning Commission should recommend denial of this special use permit and at the very least any consideration of approval should include a one-year limit like the Crozet Music Festival that comes back every year. They should allow the community to come back and talk about this every year.

There being no further public comment, Mr. Morris invited the applicant for rebuttal.

Mr. Rhett said he would yield the floor to Dave Paulson.

Dave Paulson said that he wanted to spend a minute rebutting some of the claims, concerns and comments, many of which were very good and expressed opinions that need to be heard. However, there were some comments of which he would like to address.

- The notion of are they a legitimate farm winery or just an event venue he thought has been applied across the board at other wineries. They are unequivocally a farm winery. They have an orchard planted and John Rhett gave the statistics and the number of trees. They are going to be using 100 percent of their own fruit to produce and bottle the cider. The State law that created licensed farm wineries specifically allowed for events because they allow for the economic viability of what is otherwise tends to be a money losing proposition.
- There is a tremendous investment in land, labor, and equipment to get a farm winery started and to sustain it. Nobody is getting rich in the farm winery business. In order to be economically viable they have got to have events. That is why the state requires that. That is why the county requires that. The state then allows the county to put certain restrictions for the health, safety and other welfare. The county has said those events should be 200 in general, but very explicitly says that there are customization opportunities through the special use permit process. Not every venue is the same. There are different traffic implications. There are different sized venues and whether there is available on site parking, how close they are to the neighbors and other public health and safety considerations.
- The notion that all of them are the same and they have some slippery slope he did not think is correct. He thinks that each venue is very different where uniquely situated to handle the moderate amount of increased traffic that they are requesting for the events 200 to 500. Unequivocally the event that would be up to 3,000 would have a traffic impact. However, they have a traffic mitigation plan that has been approved by the County Traffic Engineer and the Police Department to handle that. That is one day per year that they might have if they are lucky that many people at a cidery festival. That would mean that the industry has grown, which would be a good thing for Albemarle County and the State of Virginia.
- With respect to the other side of Turkey Sag Road, he gets it and they don't want their guests coming that way anymore than those residents do. They are going to everything they can to try to prevent that. They can go on to Google Earth and change that around. That can actually have an impact by having these GPS put a warning saying gravel road or whatever. They will do whatever they can to prevent that by the use of just more vigilance in making sure that they follow the written directions or the directions that are on the website.
- One final point is that they have been having events since April, 2010 and did not receive a single complaint directly to us. Perhaps somebody else received a complaint. However, they never received a complaint for nearly 18 months. Now all of a sudden there are all kinds of noise complaints. He did not think the band or D.J. was playing any softer at the events that they had in 2010 and 2011 than events that they have had recently in 2012. That said people are hearing the events and they have a mitigation strategy to make sure that they comply with the county ordinance, once again, that conversational speech level at the property line.

Mr. Morris noted that he would like to ask a couple of questions. He asked if this were approved for the 3,000 venue could an apple cider festival be held in calendar year 2013 on their property.

Mr. Paulson replied yes in 2013, but not 2012. That is exactly what they would like to do.

Mr. Randolph asked what the permitted level of participants was currently on site for any activity.

Mr. Paulson replied 200.

Mr. Randolph asked if he could explain how on the website, Lifestyle, Home and Gardens and Internet Brands and Incorporated Property, somebody in their organization indicated that the maximum capacity of their venue is 1,000. He asked if that is a typo.

Mr. Paulson said it is not a typo and he did not have a good answer for that quick frankly. They do have a 1,000 person capacity. However, they have not had a 1,000 person event.

Mr. Randolph asked what the largest event was they have had on that property so far.

Mr. Paulson replied to their knowledge, and they have gone back and looked at the records, they have had two events that they can say were over 200. One was an event for an association, the CFA Institute. It was over the course of an afternoon and he believed there were 450 people on that invitation list. However, they came and went at different times. But, it is entirely reasonable to assume that at certain points during that period there was over 200. They had a wedding that he thinks was in the 350 range. But besides that of the roughly 50 events that they will have through 2012 they don't know of any others that have been in excess of 200. Most events at Castle Hill typically are over 100 because it is a big venue. However, the great majority of the events are 100 to 200.

Mr. Lafferty asked in the 3,000 event are they going to send invitations to each of the 3,000 people.

Mr. Paulson replied that it would not be by invitation, but it would be by tickets sold in advance. On those tickets would be the directions.

Mr. Morris closed the public hearing to bring the matter before the Commission. Before they get into the discussion the Commission would take a 5 minute break.

Julia Monteith left the meeting at 7:44 p.m.

The Commission took a break at 7:44 p.m. and the meeting reconvened at 7:50 p.m.

Mr. Randolph said when he did admissions work there was a common adage that the thicker the folder the thicker the applicant. In this case he thinks that has to apply because there is no other application that has come before the Commission that there was the degree of documentation of neighborhood concerns as he has received directly in this application. He made the following comments.

- He would like to know the track record certainly in communications he received that began on May 26, 2012 with noise complaints. He looked up the definition of a nuisance and it is anything that interferes with the use or enjoyment of property, endangers personnel, health or safety or is offensive to the senses. Certainly from the testimony this evening he had heard a great degree of concern about traffic and noise that would constitute a nuisance. He would also like to point out that they did permit a firing range in the south of Albemarle County and that had a public benefit. They understood there that the applicant was doing everything possible, which was the county itself to ensure that there would be a minimal amount of noise. That was something that was agreed upon in advance here and discussed with 20' berms, etc. Unfortunately, there has been a track record of a lack of performance on the noise level for the people affected.
- The Comp Plan makes it very clear that this land is zoned rural. Again, the question that was proposed by one of the speakers this evening is the question of whose rights are paramount. Do the rights of a commercial enterprise trump the property owners that are contiguous, adjacent or affected by the commercial enterprise. In his definition of rural the people that are the neighbors that are living in the community that have lived there in some cases for multiple generations and certainly for decades, their interests and needs are paramount. Therefore their needs should trump the commercial interest. He was very concerned about the precedent in this case. He thinks as Jeff Werner has correctly identified that there is a slippery slope here that they as a

Commission need to proceed very carefully. He was not persuaded that there is a justification to go beyond the 200 level that is already the common standard for events at wineries. The King Family Vineyard event, as he pointed out earlier, relates to a fundraiser and therefore for a charitable organization whereas the event that was projected here for 3,000 as far as he knows the beneficiary of this event would be cidery itself. Therefore, he cannot vote for this special use permit.

Mr. Lafferty suggested that they hear from our attorney to try to clarify some of this and what the State law says.

Mr. Kamptner clarified that farm winery licenses issued by the state come in two classes, Class A and Class B. Class B licenses do not require that any of the produce for the wine actually be produced on the farm. There is a minimum threshold that has to be produced within the Commonwealth for the Class B license. The Class A license does require that a certain percentage be produced on the farm – 51 percent. A farm is defined as all of the land owned or leased by the farm winery licensee located within the Commonwealth. So it is a very expansive definition of farm. However, someone can get a farm winery license without producing the product that is used in the wine on the farm itself. That probably exists in part to allow operators to start the farm winery business before their trees or vines are ready to actually go into production. He made the following comments.

- Getting to the state law, those who have been attending the farm winery related public hearings over the last few years know the General Assembly expanded the law on the state's authority over local zoning regulation a few years ago with respect to farm wineries and the types of activities that they allow by right. When the Board adopted the regulations staff, the Board and the Commission at the time studied the usual and customary activities that were held at farm wineries. They are required to allow the use by right if they are usual and customary. They looked at our regulations and what other localities are doing and 200 seemed to be the threshold which took us beyond what was usual and customary. So that is why they require the special use permit for these larger sized events.
- State law also regulated how they can deal with noise from these events. If there is any noise produced by something other than outdoor amplified music they are required to regulate that noise the same way they regulate any other noise. In the zoning ordinance if it is a land use in the rural areas it is the 60 decibels during the daylight hours and 55 decibels at night. Outdoor amplified music is the exception. They can regulate that. What the State law says is that in authorizing outdoor amplified music at a farm winery the locality shall consider the effect on adjacent property owners and nearby residents. The Commission has heard that tonight.
- The other thing is they are prohibited from imposing any regulations on the usual and customary activities. There is an exception. They started in 2010 with our new regulations as having no regulations. However, they can regulate once the county has identified there being a substantial impact on the health, safety, or welfare of the public. So they are mindful of the issues that are being generated even by the smaller scale activities. Admittedly, they have not received very many complaints from the other farm wineries in the last two years since the regulations were adopted.

Mr. Morris invited questions.

Mr. Lafferty asked if outdoor amplified sound implies that the speakers are outside of the building or if they had the doors open.

Mr. Kamptner replied they think the common sense interpretation of that is if the structures without doors or with doors and windows wide open that those should be considered to be outdoor amplified music. In looking at the localities around the country that have bothered to define that term they have defined it that way.

Mr. Lafferty asked if weddings would be usual activities.

Mr. Kamptner replied yes, that the research was that weddings and wedding receptions were usual and customary at farm wineries around the Commonwealth.

Mr. Smith said as Mr. Randolph so eloquently spoke he agreed with him, but feared that they might be trying to close the barn door and the horse has already escaped. They are already there with the noise. One thousand people talking is loud if they live in the country. He thought they were caught between a rock and a hard spot and they will do another one.

Mr. Dotson opposed the special use permit because it was a question of scale and frequency. He might be the only one here that actually has fewer problems with one event of 3,000 because it was just one event. It is special and everyone can acknowledge it, avoid the area and close the windows that day. He was comfortable with a single event of 3,000. Where he has heart pain is in that 200 to 500 range. He was concerned if they did this here then they would experience a rush of others to also request 500. The unique thing about this site is the large barn that could accommodate 500 people inside it. However, with tents he was sure other venues could do the same thing. If they don't have a barn just like this, they could still accommodate them. It is a question of scale and frequency and compatibility. So for those reasons primarily he will not support approval.

Mr. Franco said he had been torn by this whole application. Similar to what Mr. Dotson said he felt it had been more a question of scale than anything else. He looks around at the rest of the community and sees they do have events that seem to be of this scale such as Fox field. They have events and are able to handle events like that. It seems that there are ways to address some of the impacts like noise and traffic similar again to the example of Fox field where instead of increasing the numbers of parking spaces reduce the number of parking spaces. They forced the users to come in car pooling or buses and other ways to reduce the traffic impacts on the adjacent roads. Noise, again, they could limit it being just inside the building and help to mitigate the noise. He was less concerned about some of those impacts. He did not think they were there yet having mitigated them. However, the scale is the question. He goes back to a lot of things that they do.

Mr. Franco continued that they don't have all of the Commissioners present tonight since Mr. Loach is missing. The quote he often uses is "First do no harm." So any time they draw these bright lines of 200 it has always been safe. They know it is safe at 200 and are willing to look at exceptions above that under certain cases. He did not know of any other venue that has this sort of scale that could handle this kind of event. Again, there are some impacts that need to be dealt with. The 3,000 once a year does not bother him. He has questions about increasing that size on a regular basis from 200 to 500. It seems there could be some sort of balance of giving up other days. One of the complaints he heard from the public a lot has been that they could have 200 every day of the year. So what happens if they gave up some of those days in order to have the bigger event. So three weeks before the big event when they are applying for the zoning clearance and other things that during that three week period there could be no other events. That would seem to be a way to mitigate that as well. He was not sure they were there yet. However, he was still open to hearing what the other Commissioners have to say.

Mr. Morris noted that he had the same problem as Mr. Franco and Mr. Dotson with the 15 events that are requested between 200 and 500. He thought they have established the level of 200 as the norm for events. He liked the idea of the Cider Fest and 3,000 does not bother him for one time a year. However, what he would like to see is that they cap it at either one or two years and then revisit it to evaluate what they have before they go on and just say this is in perpetuity.

Mr. Lafferty agreed since he did not have a problem with the 3,000. He thought it would be good for the county economically and sort of to educate people about the cidery. They don't have that opportunity very often and endorsement by the other cidery in the county he thinks is helpful. In addition, they will give notice to all the neighbors before the event happens. He has a problem with going over the 200 because they have set that standard. Other wineries could come to us and say they had set a precedent and they will take advantage of it. Basically he was in agreement with Mr. Morris, Mr. Dotson and Mr. Franco.

Mr. Dotson noted a question for staff that he was not clear on regarding the distinction between a special event and a temporary event. In other words, if this special use permit were simply denied could the applicant come back and seek either a special or temporary event for a one day cider festival or is it important that is included in the special use permit.

Mr. MacCall, representative with Zoning, replied he believed they could because it is a separate event and could call it something different. There is nothing that would preclude multiple uses on a particular property. They have the agricultural uses that go on now as well as the farm winery use that is specifically identified. However, it is a special use permit he believed in the rural areas as well. He did not think there was anything that would preclude them from asking for another special event.

Mr. Cilimberg pointed out another option could be that they recommend if the Commission so desires to the Board approval of this special use permit for only the one event and not the other 15. The applicant might not be agreeable to that, but certainly the Commission could make that recommendation along with the conditions that go with that.

Mr. Morris said just taking his point as it is could they put a two year limit on that to be revisited.

Mr. Cilimberg replied yes, the Commission could make that recommendation.

Mr. Morris noted that it may not be what the applicant wants and they can say absolutely not.

Mr. Franco added that putting the time limit does make him feel better by saying let's do it for two years and try it out. If they were to come back in two years and had a track record that there was not an issue at 200, he would be more willing to entertain more events that might bump up the extra 15 that go to 500. The increase could be permitted if there was a better track record of performance.

Mr. Morris suggested that the two years would give them an opportunity to not only have an initial year which is going to be shaky, but then the second year and at the end of calendar year 2014 revisit it. But, that is just a thought.

Mr. Lafferty asked if Mr. Franco was including the special event with 3,000 people in that two year suggestion.

Mr. Franco replied yes, he was saying they scratch the other 15 events that were 200 to 500 and move forward with the special use permit for the 3,000 person single event.

Mr. Morris said he thought the Commission was all in agreement with that.

Mr. Randolph asked if the applicant agreed.

Mr. Morris asked if the applicant would like to address that, and Mr. Paulson replied no.

Mr. Franco pointed out they were realizing, of course, that this is just a recommendation for the Board of Supervisors.

Mr. Morris agreed that they have a chance to take it before the Board for the original request.

Mr. Benish noted that essentially they are eliminating condition 2. Condition 2 is the one that cites the 15 events.

Mr. Franco suggested reworking condition 3 to say 201 to 3000.

Mr. Benish asked if he wants to cite the two-year time limit.

Motion: Mr. Franco moved and Mr. Smith seconded to recommend approval of SP-2011-000002 Castle Hill Cidery subject to the conditions as recommended by staff, as amended, eliminating condition 2; amending condition 3 to say 201 to 3,000 people and to make the special use permit good for two years.

Mr. Morris invited further discussion.

Mr. Kamptner said just to clarify for the special use permit being good for two years they can have two of these events one per calendar year.

Mr. Morris said that is correct.

Mr. Kamptner said or one per 12-month period if the Board of Supervisors approves it.

Mr. Morris added it would be re-evaluated at the end of calendar year 2014. It gives the applicant two full years plus whatever is left of 2012 for two events.

Mr. Benish noted staff will cross check the conditions to make sure they have captured the intent of the Commission's recommendation.

Mr. Randolph said he had a question of the consistency for Mr. Franco with the 2,000 versus 3,000 in that they have 2,000 out already at King Family Vineyard. Does that number of 3,000 affect him in any way since they are going beyond what is already the largest event at a winery in the county.

Mr. Franco said that it does not bother him. Again, he goes back to there are conditions in here that deal with traffic management. They do have other events. He does not remember what Monticello is allowed in their historic district. However, he believed it was much more than 2,000. It was more about 5,000 at Mont Alto. Again, it was not just the site conditions of the area, but also the traffic management plan. He thought they will have a traffic management plan that will be submitted and approved by the county. Therefore, he was comfortable with 3,000 attendees once a year.

Mr. Randolph said he just wanted to ask for consistently.

There being no further discussion, Mr. Morris asked for a roll call.

Mr. Paulson asked to comment on two things. One, they were not talking about two years from now but 2013 and 2014. Second, without the opportunity of events from 200 to 500 he was assuming that all of the things that they proffered or conditioned with respect to the events at 55 decibels as opposed to 60 decibels would go away just for the 200 because there would be no change with respect to the events that they would have as a normal farm winery.

Mr. Morris said he brings up an excellent point. It would seem that the requirements as set forth by the state would apply.

Mr. Paulson said to all the other events the standard requirements under the existing county ordinance and state law would apply to the unlimited number of 200.

Mr. Franco said it was appropriate that anything that goes above the requirement of the state law would be applicable to the single event as opposed to all of the by right events. He would make that part of the motion.

Mr. Smith seconded the amendment to the motion.

The motion passed by a vote of 5:1. (Randolph nay)

Mr. Morris said the request would be forwarded to the Board of Supervisors with a recommendation for approval at a time to be determined with the following conditions.

1. Development of the use shall be in general accord with the Conceptual Plan entitled "Special Use Permit for Castle Hill Cider," labeled "Index Title: CP1," prepared by Dominion Engineering, and dated 8/28/12, as determined by the Director of Planning and the Zoning Administrator.

   To be in general accord with the plan, development shall reflect the following central features essential to the design of the development:

- Location of the structure (labeled “Event Barn”) used for the events
- Location of the entrance and exit (labeled “New Entrance Road” and “Existing Entrance”)
- Location of parking
- Location of “Event Vicinity”

2. One single-day farm winery event for 201 to 3,000 persons may be held per 12-month period or calendar year for two years and be re-evaluated at the end of 2014.
    a. This event shall not be held without written approval from the Virginia Department of Transportation of a traffic-management plan for the intersection Virginia Route 231 and Turkey Sag Road. This plan shall require, and the permittee shall provide, police officers or other trained personnel approved by the Virginia Department of Transportation to be at the intersection of Virginia Route 231 and Turkey Sag Road to direct arriving and departing traffic. This approval shall be submitted to the Zoning Administrator no less than three (3) weeks before the scheduled date for the festival.
    ~~b.~~ The permittee shall obtain approval of a zoning clearance by the Zoning Administrator prior to holding this event. The permittee shall apply for the zoning clearance no less than three (3) weeks prior to the date of the event. Approval of the zoning clearance will be contingent upon the Zoning Administrator determining that all conditions of this special use permit have been satisfied.
    c. Admission to this event shall only be by prior reservation or ticket purchase.
3. Before commencing the use, the permittee shall submit, and thereafter comply with, a sound management plan to be prepared by a licensed acoustical engineer and approved by the Zoning Administrator. This plan shall include a plan for monitoring sound levels at the property boundaries and for immediately adjusting amplification equipment to reduce sound levels to no more than the required maximum. During any event, including those with attendance of 200 or less, the sound level at the property lines of the site shall not exceed an average of 55 decibels (dBA) for any five-minute period, or a more restrictive applicable maximum sound level established in the Albemarle County Code.
4. Amplified sound for all events shall not begin before noon and shall end not later than 11:00 p.m.
5. At every event, traffic-management personnel shall be on site at the exit to direct traffic eastward to Virginia Route 231. These personnel shall be in addition to the traffic-management personnel required under condition 3(a) above. All departing traffic shall be directed to go eastward on Turkey Sag Road, except for those vehicles whose occupants reside westward on Turkey Sag Road.
6. The permittee shall provide prior notification of all events for more than 200 persons to all owners of properties within 1,000 feet of the exterior boundaries of the property and to the Zoning Administrator. A notification letter shall be sent by mail at least 14 days before each event. The letter shall include:
    a. The date, starting and ending times, and expected number of attendees for the event
    b. A telephone number at which the permittee may be contacted during the event
    c. The County’s zoning complaint hotline telephone number (434-296-5834) and identify it as such.
7. No parking for any event shall be permitted within 200 feet of any stream.
8. Any new outdoor lighting shall be only full cut-off fixtures and shielded to reflect light away from all abutting properties. A lighting plan limiting light levels at all property lines to no greater than 0.3 foot candles shall be submitted to the Zoning Administrator or her designee for approval
9. Anything that goes above the requirement of the state law would be applicable to the single event as opposed to all of the by right events.

SP-2012-00018 Castle Hill Cider Pond

PROPOSALS: SP-2012-00018: Request to permit fill in the floodplain for an existing pond and stream crossing on 185.06 acres. No dwellings proposed.

ZONING: RA Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots); FH Flood Hazard – Overlay to provide safety and protection from flooding

SECTION: SP-2012-00018: 30.3.05.2.1(1), which allows for dams, levees and other structures for water supply and flood control
ENTRANCE CORRIDOR: Yes
COMPREHENSIVE PLAN: Rural Areas – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (0.5 unit/ acre in development lots)
LOCATION: 6065 Turkeysag Road, Keswick
TAX MAP/PARCEL: 049000000018B1, 049000000018B2
MAGISTERIAL DISTRICT: Rivanna (Glenn Brooks)

AND

SP-2012-00019 Castle Hill Cider Stream Crossing
PROPOSALS: SP-2012-00019: Request to repair existing stream crossing in the floodplain and repair culverts.
ZONING: RA Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots); FH Flood Hazard – Overlay to provide safety and protection from flooding
SECTION: SP201200019: 30.3.05.2.1(2), which allows for water related uses such as boat docks, canoe liveries, bridges, ferries, culverts and river crossings of transmission lines of all types.
ENTRANCE CORRIDOR: Yes
COMPREHENSIVE PLAN: Rural Areas – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (0.5 unit/ acre in development lots)
LOCATION: 6065 Turkey Sag Road, Keswick
TAX MAP/PARCEL: 049000000018B1, 049000000018B2
MAGISTERIAL DISTRICT: Rivanna (Glenn Brooks)

Mr. Brooks noted that he had two special use permits on the same Castle Hill Cider property and asked if the Commission wanted to hear the two items at the same time.

Mr. Kamptner said the two special use permit could be presented in one public hearing.

Glenn Brooks summarized the staff reports starting with the stream crossing of the driveway for SP-2012-00019, Castle Hill Stream Crossing. He pointed out the stream crossing in question on the exhibit in the staff report. The entrance drive to the property passes over Turkey Sag Creek, which is a perennial stream with an approximated FEMA floodplain. This is a replacement of an existing crossing. In the photo there were some remnants which he believed might have been part of the original crossing. However, he never saw it, but the applicant has indicated that was part of the original crossing. Normally the Commission would not see something like this since it would be considered as a replacement of an existing crossing which had failed or deteriorated.

In this case it was raised so that floodplain impact necessitates obtaining a special use permit. The other wrinkle is that two years ago the Water Protection Ordinance was changed. This is not particularly under the Planning Commission's preview, but it will go to the Board of Supervisors. It is pertinent because for a perennial stream the Water Protection Ordinance now requires either a bridge, an arch, or a boxed culvert and not circular pipes like this. So there is some gray area of when you apply that. For a new crossing it would be applied. For a replacement crossing it would probably not be required. If they enlarge a crossing as you replace it he questioned if it should be applied or not. It is not too clear, which is why he is taking that to the Board of Supervisors.

The preview of the Planning Commission is the floodplain. Since the road was raised a bit it does increase the floodplain slightly in this area. The zoning ordinance is very strict in the way it is written and it calls for no increases in flood levels, which is not always possible at a crossing or a bridge, and would be interpreted to mean it has no impacts on adjacent properties or the larger environment picture. This is very minor and increases it a bit in front of the drive, but it does not impact any other properties and does not have a sufficient impact on the floodplain profile or plan view.

Staff recommends approval with the following standard conditions:

1. The applicant shall obtain approval from FEMA for changes to the floodplain, and update the FEMA maps. This shall include FEMA's conditional approval prior to the start of construction.

2. The applicant shall obtain all necessary federal and state agency approvals (Army Corps of Engineers, Department of Environmental Quality, etc.).
3. The applicant shall obtain Program Authority approval of a mitigation plan, and provide mitigation according to the Water Protection Ordinance.

Mr. Dotson questioned condition 1 that says prior to start of construction. Since construction has already taken place should that last sentence be stricken?

Mr. Brooks replied yes, the last sentence can be stricken The other condition requires all necessary state and federal permits. The applicant may have gotten those, but he did not see copies at the time he wrote the report.

Mr. Randolph asked if this application was coming to the Commission for a bridge to be designed and built as was constructed here would this be approved by the Engineering Department of the county.

Mr. Brooks replied that they would probably have asked for a box or arch culvert in compliance with the new Water Protection Ordinance By Right Crossing Criteria. That would have probably improved the floodplain situation slightly, but it does not make a lot of difference in this case.

Mr. Lafferty asked if the approach to the bridge raised the roadway. When you go over the hump it looks like it was at regular grade.

Mr. Brooks replied that he can't tell at this point. It does look very close to the original grade, but he could not tell since all of it is new grass at this point. He suggested that perhaps the applicant could tell us.

Mr. Morris invited further questions. There being none, staff was requested to move on to SP-2012-00018 Castle Hill Pond.

Mr. Brooks Glenn summarized the staff report for SP-2012-00018 Castle Hill Pond. The proposal was to obtain approval for a previously constructed dam.

Normally on an agricultural property the Commission might not see an application for a pond because agricultural properties are typically exempt from our erosion and sediment control regulations, storm water management regulations, and those sort of things. However, this is a floodplain and a perennial stream so FEMA regulations apply. The FEMA regulations are not clear because the county allows ponds both in the Water Protection Ordinance and Erosion Control. However, in the Zoning Ordinance they allow ponds for water supply or public projects. The applicant has indicated this is for a water supply for their agricultural operations and therefore is an allowable use.

He would move to the floodplain itself. The applicant has submitted a plan and a study for the floodplain. He had a few differences with this study, which he discussed with Mr. Myers of Dominion Engineering. He believes that the floodplain would include the pond and spill over in the area somewhere on the embankment itself, which runs next to the stream or at the arched culvert. That is an area of a little uncertainty. Regarding the way this pond is built typically on an engineered structure they would see a rather large spillway system for larger storms to clear the embankment without eroding soils which are not natural to the area or not as compacted or as tight and are resistant to erosion. If they did pass waters over an embankment or an area that they knew might be vulnerable they would in some way reinforce it so it would not erode during a large flood event. That was his one concern with the pond itself and the way it was built. Mr. Myers did not have any objections to that analysis so he did add a condition so that would be looked at if they did approve the pond considering the other factors.

Again, the Zoning Ordinance is rather strict in that it does not allow an increase in flood levels. This does increase flood levels by a foot or there about. However, it does not change the flood profile on the lay of the land except in the area of the pond. It does expand into the pond. Where it comes out is debatable. However, he hopes to clarify that with improvements to the embankment or the spillway area where the culvert is.

Staff's recommends approval of SP-2012-00018 Castle Hill Cider Pond with the following conditions.

1. The applicant shall make improvements to the dam and culvert in order to provide a stable, non-erosion path for floodwaters, while keeping flood level increases below one foot.
3. The applicant shall obtain County Engineer approval of plans for changes to the dam and culvert prior to construction.
4. The applicant shall obtain Program Authority approval for an erosion and sediment control plan, and obtain a land disturbance permit according to the Water Protection Ordinance requirements prior to the start of construction for any changes, regardless of whether the project exceeds the minimum disturbance limits.
5. The applicant shall obtain all necessary federal and state agency approvals (Army Corps of Engineers, Department of Environmental Quality, etc.).
6. The applicant shall obtain Program Authority approval of a mitigation plan, and provide mitigation according to the Water Protection Ordinance.
7. The applicant shall obtain approval from FEMA for changes to the floodplain, and update the FEMA maps. This shall include FEMA's conditional approval prior to the start of construction.

Most of the conditions are standard conditions except for 1 and 2. Condition 1 and 2 says there should be further study and an improvement to the dam or culvert in order to provide a stable non-erosion path for floodwaters and to keep the flood level increases below that foot margin. The current study indicates the flood levels increase by about a foot. But, on the other side of the pond the property rises fairly steeply to the barn and it does not spread in that direction. The rest of the conditions are fairly standard – approval for an erosion sediment control plan, federal and state approvals, mitigation plans and the FEMA approval. This again mistakenly says approval prior to the start of construction. But, in this case he would leave it in so if they do make any improvements to the dam that would apply.

Mr. Morris invited questions for staff.

Mr. Lafferty asked on the auxiliary spillway would it be sufficient that they put down the netting or the matting that they use for the parking lot.

Mr. Brooks replied that could do it, but he would probably leave that up to the design engineer. He did not specify. He was not quite sure where it would spill over. That is a very long berm that goes next to the creek. It is fairly unusual. Usually they would see a dam right across the creek being much shorter and easier and they know generally where it is going to spill over. This one is not as clear to him.

Mr. Randolph said staff specifies on page 2 that the applicant estimates that the pond is taking out 20 percent of the normal flow of Turkey Sag Creek. He asked has an assessment been done on the impact on the water quality downstream as a result of the reduction in the quantity and temperature of the water downstream.

Mr. Brooks replied no, there has not been a study that he knows of. Those questions do come up. There was a recent email by a neighboring property owner who had raised some of that. However, his review is limited to just the floodplain impacts.

Mr. Randolph asked how he would characterize the pond since it is the opposite of a detention pond. In looking at the definition of a detention pond generally the outlet side is larger than the inlet side and in this case it is the exact opposite. He asked how he characterizes this pond and is the pond described as being ornamental.

Mr. Brooks replied that he carefully does not describe it and lets the applicant do that. There is always doubt in our minds, especially when they get complaints. It is hard for staff to draw a line between what is an agricultural pond and what is a landscape amenity since it could be both. He has not really made that call. He would clarify his characterization that the inlet is greater than the outlet. If he looks at this pond from an engineering perspective it is really an off line pond that is unfortunately built within the floodplain. He would say that it really does not have an inlet or an outlet appreciably. It has some small plastic pipes 6" to 8" in diameter that they might see on a farm pond that was not engineered. Those are not big

enough to really make a difference in a storm event. So what really happens here is the floodplain rises in the creek and it rises above the pond level and floods it in and then it has to come out somewhere down stream.

Mr. Lafferty said he looked at the day to day operation in that once a pond is filled the 20 percent it is taking out of the creek it is putting it back into the creek. He asked if that was correct.

Mr. Brooks replied that he could not say. That is during normal events and not flooding events. So he was not really worried about that. The water use questions in the past they have passed them on to DEQ because they are really a matter of environmental quality and water quality and not having to do with the floodplain.

Mr. Smith noted in his words he said the pond was in the floodplain. He asked do we know if it is in the floodplain.

Mr. Brooks replied yes that it is specifically in the floodplain and the floodway. It is right next to the creek. It is in the FEMA designated floodplain. When they look at the applicant's detailed study he is drawing the proposed new floodplain in what it will look like now that the pond is built.

Mr. Smith said what he is suggesting for the pond as the emergency spillway is to armor it somehow or another.

Mr. Brooks replied it was to define where floodwaters will spillover and then armor it if necessary.

Mr. Smith asked if it would be the same thing for the three culverts.

Mr. Brooks replied that the three culverts were approved without any sort of extra conditions.

Mr. Dotson asked if this was a repair and replacement of an existing crossing.

Mr. Morris suggested that they hold that question for the applicant.

There being no further questions, Mr. Morris opened the public hearing and invited the applicant to address the Planning Commission on the Castle Hill Pond and then on the Stream Crossing.

John Rhett, of Rhett Architects and the Director for Strategic Planning for Castle Hill Cider, said they basically agree with the county in terms of their recommendation. He was here to answer questions. One question he heard was about the water quality. This was a cattle operation. Those cattle are no longer there. So he thinks having a pond and landscape there is actually an improvement to the water quality. The use of that pond is integral to their business. Since they are licensed as a farm winery the pond is important from an aesthetic point of view. They did plant on a hillside a hardwood forest, which did need water to get established. They planted large tree there and used that pond for a water use. He asked what the question was about the existing culvert.

Mr. Dotson said it was mentioned earlier that they had a letter from the county that from his judgment led him to believe they had no need for this special use permit in order to proceed with the construction of the pond. He asked if that was the reason they have proceeded, but are now coming in after the fact.

Mr. Rhett replied yes that was a correct understanding. He had a letter that said they were exempt and he took that as a way to go forward with the pond.

There being no further questions for the applicant, Mr. Morris invited public comment.

John Henry Jordan said that he finds it a little hard to believe that an applicant who puts as much horse power behind their architect and design elements that they are sitting here telling the Commission that they have improved the quality of that parcel of property without employing somebody knowledgeable enough to know that this type of an impact in a floodplain was going to require little things like soil type

testing, soil compaction testing, overflow armoring, and correct pipe sizing in addition to the other things like approval from the DEQ, FEMA and Corps of Engineers. He finds it a little hard to believe that somebody who puts as much horse power behind their efforts is asking for forgiveness and not permission.

Mr. Morris noted that the next two individuals who signed up were Billy Proffit and Charlie Proffit who were not present. There being no further public comment, he invited the applicant for rebuttal.

Mr. Rhett pointed out his understanding when he was working on the project was basically it was not licensed as a farm winery, was going to be a residence and an agricultural pond. The other thing he wanted to point out is that they worked very hard with the Nature Conservancy to design and construct this pond. In fact, they approved the design of this pond after many meetings. It does not look like a normal pond with a concrete spillway or a trash rack or those kinds of things. He could tell them how this pond operates. The water comes down the hill to actually go into the pond and then in a flood event it backs out the uphill side of that pond and goes back into the stream where it was headed to begin with.

Mr. Morris closed the public hearing on that particular matter and shifted their attention to SP-2012-19 Castle Hill Cidery Stream Crossing. He opened the public hearing and invited the applicant to address the stream crossing.

John Rhett, of Rhett Architects and the Director for Strategic Planning for Castle Hill Cider, said yes that the level of the culverts did raise the level of the road in that particular section. However, on the downhill side of that is the area that was not changed and that was the cement stabilized area of the drive. So actually if during a flood event it needs to get around that crossing it goes like it use to do across the road over the cement.

Mr. Morris invited public comment on the stream crossing.

John Henry Jordan said he had one other comment besides his prior comment concerning forgiveness rather than permission. He had a conversation with a senior administrator out of the Albemarle County Fire Department about this crossing. Despite what was on the board here earlier that police and fire rescue see this access as acceptable, he was told specifically that the fire department cannot respond to emergency events at this barn with normal fire department vehicles. The comment given was about the three metal culvert pipes, which he believed was HDPE material. He had been told that there was sign of failure in one of those three pipes that constitutes this crossing. They don't know what the engineering road structure was for this crossing. He knows that a standard response EMS fire truck weighs between 12,000 and 14,000 pounds, which happened to be about the same size as a loaded passenger tour bus. If the fire department has concerns about taking a 12,000 to 14,000 pound fire engineer across this crossing, then what type of liability does the county assume if they are aware of a potential failure here and they don't shut this operation down until that structure is fixed. What kind of liability do they assume for those passenger buses for that weight and for the 84 people on that bus during every crossing.

There being no further public comment, Mr. Morris invited rebuttal by the applicant.

John Rhett, of Rhett Architects and the Director for Strategic Planning for Castle Hill Cider, said there have been fire department vehicles across that crossing and it was reviewed with them after the fact. However, they have also had tractor trailers in there delivering 35 foot long pieces of steel channel with no problem. He believed that the access question is settled.

Mr. Morris asked if anyone has identified any deterioration for any one of the three pipes in there.

Mr. Rhett replied no, not to his knowledge.

Mr. Smith noted in the applicant's defense there has been a tractor trailer in there with a right good size track hoe on it

Mr. Morris closed the public hearing to bring the matter before the Planning Commission.

Motion on SP-2012-00018 Castle Hill Cider Pond

Motion: Mr. Dotson moved and Mr. Smith seconded for approval of SP-2012-00018 Castle Hill Cider Pond Crossing with the conditions as recommended by the staff.

1. The applicant shall make improvements to the dam and culvert in order to provide a stable, non-erosion path for floodwaters, while keeping flood level increases below one foot.
3. The applicant shall obtain County Engineer approval of plans for changes to the dam and culvert prior to construction.
4. The applicant shall obtain Program Authority approval for an erosion and sediment control plan, and obtain a land disturbance permit according to the Water Protection Ordinance requirements prior to the start of construction for any changes, regardless of whether the project exceeds the minimum disturbance limits.
5. The applicant shall obtain all necessary federal and state agency approvals (Army Corps of Engineers, Department of Environmental Quality, etc.).
6. The applicant shall obtain Program Authority approval of a mitigation plan, and provide mitigation according to the Water Protection Ordinance.
7. The applicant shall obtain approval from FEMA for changes to the floodplain, and update the FEMA maps. This shall include FEMA's conditional approval prior to the start of construction.

Mr. Lafferty noted the conditions need to be cleaned up a little bit because some of them require it to be approved before construction.

Mr. Brooks said he would clean up that condition.

The motion passed by a vote of 6:0.

Mr. Morris said the request for SP-2012-00018 Castle Hill Pond would be forwarded to the Board of Supervisors with a recommendation for approval at a time to be determined conditions.

Mr. Morris noted the next action was for the SP-2012-000019 Castle Hill Stream Crossing.

Mr. Kamptner asked Mr. Brooks about the design standard for the stream crossing. He asked if there is a minimum structural load that they have for this particular type of improvements.

Mr. Brooks replied no, the county does not have a standard for something like this.

Mr. Franco asked do they have liability in approving this.

Mr. Kamptner replied no.

Mr. Brooks noted that he was present when a steel truck delivered. Therefore, he could attest to its capacity.

Mr. Benish said he did not have the fire official's comments and Mr. Clark has left. This farm does have a farm access directly to Route 231, which provides for an emergency access alternative other than the crossing.

Mr. Smith asked if the access is okay from Route 231.

Mr. Benish noted the staff report says the property has an existing farm entrance although the entrance is not suitable for event traffic. It does provide a second access for emergency vehicles in the event they are not able to use the main entrance.

Mr. Morris pointed out when he was out there he was taken on that alternative route because they exited on Route 231. So it exists even though it is a little bumpy.

Motion: Mr. Dotson moved and Mr. Lafferty seconded to recommend approval of SP-2012-00019 Castle Hill Cider Stream Crossing with staff's recommended conditions, as amended.

1. The applicant shall obtain approval from FEMA for changes to the floodplain, and update the FEMA maps.
2. The applicant shall obtain all necessary federal and state agency approvals (Army Corps of Engineers, Department of Environmental Quality, etc.).
3. The applicant shall obtain Program Authority approval of a mitigation plan, and provide mitigation according to the Water Protection Ordinance.

The motion passed by a vote of 6:0.

Mr. Kamptner clarified that the Commission's recommendation pertains only to the special use permit and not the WPO item. That is something exclusively for the Board.

Mr. Cilimberg noted staff would confirm the staff report application numbers were correct.

Mr. Morris said the requests would be forwarded to the Board of Supervisors with a recommendation for approval at a time to be determined.

Old Business

Mr. Morris invited old business. There being none, the meeting moved to the next item.

New Business

Mr. Morris asked if there was any new business.

- No meeting on Tuesday, October 16, 2012
- Next meeting will be held on Tuesday, October 23, 2012.
- No Planning Commission meeting will be held on Election Day.

There being no further business, the meeting proceeded.

Adjournment

With no further items, the meeting adjourned at 8:49 p.m. to Tuesday, October 23, 2012 at 6:00 p.m., Auditorium, Second Floor, County Office Building, 401 McIntire Road, Charlottesville, Virginia.

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V. Wayne Cilimberg, Secretary

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

Attachment A. Submitted to Planning Commission 10/9/12 Mtg

Statement to Albemarle County Planning Commission, Oct. 9, 2012 re: Castle Hill Cider SP2011 000 02

Members of the Planning Commission.
Virginia State Code--'preserve the economic vitality of farm wineries and also protect the health, safety, and welfare of citizens. ' Albemarle County Code--'excessive or unwanted sound threatens the health, safety, and welfare of the public.' Add that the land is under conservation easement. Of these many issues, I will focus on noise.

November, 2010--Castle Hill Cider (CHC) receives a farm winery license.

January, 2011--just 2 months later, CHC applies for a Special Use Permit (SUP). Obviously, before they even opened their doors or had any clue as to the impact of their rental business on the community, they had decided that the 200-person limit didn't suit them.

Their SUP application specifies 'hours of operation 6AM to midnight,' 18 hours per day for them, 6 hours (midnight to 6AM) for residents. This does not remotely resemble 'balance' between residents' and business interests.

October 27, 2010--manager of CHC writes: "Dear Amelia, ...I am supportive of...an ordinance that has an objective standard for measuring sound levels and a reasonable method for measuring those levels."

March, 2011--Board of Supervisors approves a decibel standard.

June, 2011--CHC's first wedding rental begins months of excessively loud outdoor amplified music almost every week-end. However, the unwieldy complaint process discourages the community from reporting the situation. The unrelenting loud noise continues in 2012.

September 15, 2012, 11:15 PM--call to CHC manager about late-night noise. He says he'll 'go over there to quiet things down.' Asked 'who monitors the decibel level at CHC?' he replies 'the Zoning people.' Asked further, 'who from CHC measures the decibel level...who from CHC operates the decibel meter?' His answer:--'We don't have that piece of equipment ....yet.'

A year and a half after the decibel standard went into effect, CHC has made no effort to measure or control the noise level at their facility? Why?

Now, despite the fact that they have ignored the decibel limit, they want license to rent out their space for oversize events. In return, they say they'll get a decibel monitoring system. That makes no sense.

If someone went to DMV and said 'Give me my driver's license now and I'll come back later to take the test, ' you'd say they've got it backwards. Pass test first, get license second.

So does CHC have it backwards. First, let them install a decibel monitoring system. Without it, they've already failed the test and been cited by Zoning Enforcement for excessive noise.

If, after considering the many risks posed by expanding this rental business, you decide to recommend approval of an oversize event, at least limit the permit to one year. That's equivalent to giving them a learner's permit.

Let them demonstrate during that year that they have learned how to comply with County regulations. Let them demonstrate that they have learned how to operate their business without trampling on the rights of those who live nearby. Let them pass the test first, then apply for the permit.

Judith Sommer
6478 Gordonsville Road
Keswick, VA 22947

Submitted by Ken Heimgartner