Albemarle County Planning Commission
July 15, 2014

The Albemarle County Planning Commission held a regular meeting on Tuesday, July 15, 2014 at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

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

Staff present was Rachel Falkenstein, Senior Planner; Amanda Burbage, Senior Planner; Francis MacCall, Principal Planner; Amelia McCulley, Director of Zoning/Zoning Administrator; David Benish, Chief of Zoning; Sharon Taylor, Clerk to Planning Commission and Greg Kamptner, Deputy County Attorney.

Call to Order

Mr. Morris, Chair, called the regular meeting to order at 6:00 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 including the consent agenda items.

Mr. Lafferty questioned where the property was located on the Ivy Creek Natural Area.

Mr. Benish replied the property is on Lamb's Road past the entrance to Greer and Jouett. It is part of 5 lot subdivision that was approved in the 70's. He noted a typo in the description that should have said 1,500' from Rio Road, not 250.

Mr. Lafferty pointed out it would not change his vote.

Mr. Randolph said as a Scottsville representative he would like to pose some questions about the Martin subdivision. He asked what steps will be required if any additional plats in the future would want to tie into this driveway.

Mr. Benish replied any further subdivision could require the private road to be approved and upgraded depending on the number of lots that access it. He did not recall the division rights on those parcels and whether there is any further development potential. However, the road would have to meet additional private road standards for any further development on that roadway, which would be subject to review by the county.

Mr. Randolph asked would it mean that the driveway has to take on a different dimension of standards than it is right now.

Mr. Benish replied yes, if it reaches a fifth lot. However, he thinks it is unlikely in this circumstance since most of the lots in this area already have frontage. Parcel six is being subdivided, which looks like it is a derivative of other subdivisions. On the tax maps there is a 6B and 6B3. So he would not be surprised if all the division rights have been distinguished. In fact, there may be a note on the plat. However, any additional subdivision would kick in

additional road standards and that would be subject to review by the county engineer for those design standards.

There being no further comments or questions, the meeting moved to the next item.

Committee Reports

Mr. Morris invited committee reports.

Mr. Lafferty reported the following:

- Places29 Committee met and staff gave a synopsis of the progress of the 29 Study, how they would try to keep the public informed and to minimize the impact on the businesses.
- Citizens Transportation Advisory Committee (CTAC) met and endorsed the 29 project, which will go to the MPO Policy Board to make the final decision on roads.
- PACC Tech meets Thursday.

Mr. Randolph reported the following:

- The Rivanna Solid Waste Authority met and looked at current and past contracts and studies that have been done to formulate recommendations possibly by the end of fall. A representative from UVA was added and they are looking for a representative from the City of Charlottesville.
- The Village of Rivanna Regional Advisory Council participated in the Board of Supervisors meeting on Rivanna Village with submittal of over 900 signatures from residents in Glenmore in support of the east entrance alternative during the construction phase with a recommendation to continue work on the east entrance as a viable substitute. A meeting to be scheduled with Joel DeNunzio and others to take a look at alternatives. They hope to see some movement on VDOT's part and an attempt to try to incorporate some of the recommendations of the community.

Ms. Monteith asked the name of the UVA representative, and Mr. Randolph replied he would email it to her.

Mr. Morris reported the Free Bridge Congestion Relief Project Committee will meet tomorrow to go over two possibilities to try to find another connector across the river.

There being no other committee reports, the meeting moved to the next item.

Review of Board of Supervisors Meeting – July 2, 2014 & July 9, 2014.

Mr. Benish reviewed the Board of Supervisors actions taken on July 2, 2014 & July 9, 2014.

Mr. Lafferty asked if the August 5 meeting would be cancelled if Barnes Lumber Company was not going to be heard.

Mr. Benish replied that in talking with Ms. Grant she thought the additional time to August 19th might be necessary. However, he could not confirm that at this point and was not aware of a change. He would check and notify the Commission.

Mr. Morris asked on July 2nd what was actually approved by the Board of Supervisors on the Monticello Viewshed. He asked was the Board decision just to stay with what is in the current Comp Plan and does that restrict the viewshed to Monticello or does it include Mt. Alto as the

Thomas Jefferson Foundation wanted.

Mr. Benish noted he was not at the meeting and was reading from notes. However, his recollection is Mt. Alto is not included in the current plan. The current plan refers to the Monticello property. Since Rachel Falkenstein was the note taker he suggested that she confirm it.

Rachel Falkenstein confirmed that is correct in it was just the Monticello Viewshed and they wanted to stay the course of what staff is doing now with their analysis.

Mr. Morris reiterated that in other words it stays with the current comp plan, and Mr. Benish replied that was correct.

Consent Agenda:

a. **Approval of Minutes**: May 13, 2014
b. **SUB-2014-00031 Martin – Private Street Request**
c. **CCP-2014-00003 Ivy Creek Donation**

Mr. Morris asked if any Commissioner would like to pull an item from the consent agenda for further review. He thinks most of the Commission's questions have been answered on that.

Motion: Mr. Lafferty moved and Mr. Randolph seconded for approval of the consent agenda.

The motion carried by a vote of (6:0). (Dotson absent)

Mr. Morris said the consent agenda was approved, which includes the following.

- SUB-2014-0031 – Correct property description that should have said 1,500' from Rio Road, not 250. Approved Private Street to serve TMP 114-6 and Parcel "H" only.
- CCP-2014-0003 – Found site for the addition of the subject property to the ICNA in substantial accord with the Comp Plan.

Public Hearing Items

SP-2014-00012 Westgate/Barclay
PROJECT: SP-2014-00012 Westgate/Barclay Place
MAGISTERIAL DISTRICT: Jack Jouett
TAX MAP/PARCEL: 06100-00-00-042D0
LOCATION: 2617 Hydraulic Road (Westgate Apartments)
PROPOSAL: Request to amend conditions of existing special use permit to allow relocation and expansion of office space within apartment complex on 4.677 acres. No additional dwellings are proposed.
ZONING: Planned Residential Development, PRD – residential (up to 35 units/acre) with limited commercial uses, professional offices by special use permit under Section 19.3.2 of zoning ordinance.
ENTRANCE CORRIDOR: Yes
COMPREHENSIVE PLAN: Urban Density Residential (in areas around centers) residential (6.01 – 34 units/ acre), supporting uses such as religious institutions, schools, commercial, office and service uses in Neighborhood 1 of Places 29 Development Area.
(Rachel Falkenstein)

Ms. Falkenstein presented a PowerPoint presentation on SP-2014-00012, Westgate/Barclay Apartment Complex.

Proposal: The applicant requests to amend approved SP-94-18 to relocate existing office space within the Westgate Apartments complex.

The previously approved special use permit was SP-94-18, which allowed for the location of professional offices on the site. The offices are Great Eastern Management Company, which manage off-site and on-site rental properties. The previously approved special permit had conditions requiring these offices to be located at specific addresses of 2619 and 2621 Hydraulic Road. The applicant is requesting to amend the conditions to allow the offices to be relocated to 2617 Hydraulic Road as shown on the conceptual plan. The previous permit also allowed for expansion of the office spaces, but was never completed. The applicant is requesting to do a small expansion to 2617 Hydraulic Road as shown on the plan.

Factors favorable:
- The proposed redevelopment is within an existing apartment complex and does not propose any new uses.
- Issues identified by ARB staff can be remedied during the ARB review process.

Factors unfavorable:
- No unfavorable factors.

Based on the findings contained in the staff report, staff recommends approval of SP-2014-00012 Westgate/Barclay with the three amended conditions as outlined in the staff report.

Mr. Morris invited questions for staff.

Mr. Keller asked staff to clarify if there was an acceptance of the PRD or the special use permit originally. He asked why the PRD was not being amended instead of the special use permit if it was an acceptance of the PRD.

Ms. Falkenstein replied the apartment complex actually predated the PRD. However, they rezoned the PRD in a comprehensive rezoning to recognize what was already there and within the PRD zoning district a special use permit is required for professional offices.

There being no further questions for staff, Mr. Morris opened the public hearing for the applicant and public comment. He invited the applicant to address the Commission.

David Mitchell, construction manager with Great Eastern Management, said they were just moving their offices. They were in the two townhomes and would like to move to one of the apartments across from the drive isle. At the same time, independent of their special use permit, they were going to move their leasing as well and provide a clubhouse for the tenants in the apartment community. They have been through several years of internal renovations of the apartments, which were built in the 60's. As they rehab the apartments they also need to increase the amenities and the clubhouse is one of those things. From our financial standpoint the two townhomes they are in would rent tomorrow if they were available. The apartments, especially right on Hydraulic, are not viewed as the most desirable ones, and nobody likes the apartments next to the pool. They are trying to provide better amenities and maximize the value.

Mr. Morris invited public comment. There being no public comment, he closed the public hearing to bring the matter before the Commission for discussion and action.

Mr. Randolph said he thinks this is a marvelous idea. He asked Mr. Mitchell if he has adequate office space for the growth he is anticipating within the new headquarters.

Mr. Mitchell replied they don't actually plan to add any more people and are in the process of increasing and updating their accounting management software. It is very labor intensive right now. As most know, Great Eastern Management is hopefully bringing forward North Point properties. They have properties they see being redeveloped in the future with more density and apartments and that type of stuff. They really think they have enough people, but need better processes to manage in a more efficient manner. The offices do lend to that. Right now they have people in two different buildings on two sides of the street, which is just not very good. He did not see an increase in staff.

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

Motion: Mr. Lafferty moved and Ms. Firehock seconded to recommend approval of SP-2014-00012, Westgate/Barclay with the conditions outlined in the staff report to allow for the relocation of professional offices.

1. Development of the use shall be in general accord with the conceptual plan received by staff on April 7, 2014, as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the application plan, development and use shall reflect the following major elements within the development essential to the use, as shown on the plan:
    a. Office building mass and location
    b. Office parking

    Minor modifications to the plan may be made to ensure compliance with the Zoning Ordinance;

2. New construction shall not commence prior to the issuance of a Certificate of Appropriateness by the Architectural Review Board;

3. Use shall be limited to property management services.

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

Mr. Morris noted that SP-2014-00012 Westgate/Barclay would be forwarded to the Board of Supervisors with a recommendation for approval on a date to be determined.

ZTA-2014-00001 Farm & Farm Breweries – State Code changes

The Planning Commission will hold a public hearing to receive comments on its intent to recommend adoption of an ordinance amending Secs. 18-3.1, Definitions, 18-5.1.25, Farm winery, 18-5.1.47, Farm stands, farm sales and farmers markets, 18-10.2.1, By right (Rural Areas district (RA)), 18-10.2.2, By special use permit (RA), 18-11.3.1, By right uses (Monticello Historic district (MHD)), 18-11.3.2, By special use permit (MHD), and Sec. 18-31.5, Zoning clearance, and adding Secs. 18-5.1.47, Farm breweries, and 18-5.1.58, Events and activities at agricultural operations, to Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend Sec. 18-3.1 by amending and adding definitions pertaining to agriculture, farm

wineries, farm breweries, and events and activities at agricultural operations ("ag operations"), amend Sec. 18-5.1.25, by requiring farm wineries established on and after the effective date of this ordinance to obtain a zoning clearance prior to generating outdoor amplified music; amend Sec. 18-5.1.47, by moving the regulation of farm sales from that section to new Sec. 18-5.1.58; add Sec. 18-5.1.57 (farm breweries) and 18-5.1.58 (ag operations), by establishing regulations applicable to those respective uses by delineating the uses, events and activities ("uses") allowed by right and by special use permit, the requirements for establishing those uses, substantial impact thresholds of 200 visitors at any time (farm breweries) or acreage, vehicle trips per day, visitors at any time, and structure size (ag operations), sound generation from outdoor amplified music, minimum yards and other health and safety matters; and prohibiting restaurants and helicopter rides; amend Secs.18-10.2.1, 18-10.2.2, 18-11.3.1 and 18-11.3.2 by adding farm brewery and ag operation uses, events and activities as being allowed by right or by special use permit as provided in Secs. 18-5.1.57 and 18-5.1.58, respectively; amend Sec. 18-31.5, by providing for a zoning clearance for certain events and activities at agricultural operations as provided in Sec. 18-5.1.58, and make technical changes to sections being amended. A copy of the full text of the ordinance is on file in the office of the Clerk of the Board of Supervisors and in the Department of Community Development, County Office Building, 401 McIntire Road, Charlottesville, Virginia. (Mandy Burbage)

Ms. Burbage presented a PowerPoint presentation on the proposed amendment to the Zoning Ordinance ZTA-2014-000001 to address State Code requirements for Agricultural Operations and Farm Breweries.

Background

- Already familiar with the two bills that prompted this ZTA that limit the activities localities can regulate at farms and farm breweries. These State Code changes took effect on July 1st and staff is working as quickly as possible to amend our ordinance to be in compliance with the new regulations.
- Our focus is on activities with substantial impact on public health, safety and welfare since these are the things that localities are enabled to regulate under the State Code. Since the State Code does not define what these activities are it is up to localities to decide.
- There are some activities that explicitly can't be regulated -
    - Agricultural Operations - Production & harvesting
    - Farm breweries have a longer list similar to what is in the State Code for wineries – things like storage, sales, tasting (expressly listed in legislation)

ZTA Process

- In March the Planning Commission adopted a Resolution of Intent to amend the ordinance.
- Held three work sessions and a public roundtable to date. During these work sessions the Planning Commission provided direction on several key issues:
    - Treating farm breweries and farm wineries the same
    - Having clear criteria for bona fide agriculture (The Rockingham County resolution was discussed at the last work session, which had some specific terminology with regards to what constitutes evidence of bona fide agriculture.) – If there was any question, agricultural operation would have to demonstrate that it is bona fide by providing evidence of capital investment, operating expenses, labor and acreage devoted to production. The draft ordinance before the Commission this

evening staff has added language that talks about some of the evidence that an agricultural operation would have to provide in order to demonstrate that it is bona fide.

- Ensuring that events and Agritourism are subordinate to the agricultural use of the property. (Language has been added to a few different sections of the ordinance that emphasize that point.)
- An introduction utilizing a minimum acreage threshold to establish substantial impact for Agritourism type activities on smaller parcels. At the last work session they discussed whether or not a 5 acre or 21 acre threshold was appropriate as that trigger for the zoning clearance.
- She thought it would be helpful on the suggestion of Mr. Keller to share some data from both the Rural Area and the Agricultural Census, both the most recent one and the 1997 one, which is referenced in the current comp plan, to help understand why staff is continuing to support a 5 acre threshold for substantial impact instead of 21 acres.
    - 5 acres (based on minimum acreage for land use taxation) versus 21 acres (established as a minimum acreage to preserve larger RA parcels for agricultural activities)
    - Why staff supports 5 acres – helpful to look at data from the Rural Area and the Agricultural Census:
        - About 10,000 of the RA parcels are over 5 acres (eligible size for land use taxation). 4,669 parcels are in land use. 28% (1,297) of parcels in land use taxation are under 21 acres – About 1/4 agricultural activity is occurring on smaller Rural Area parcels
        - Agricultural Census shows an increasing number of smaller farms over the past 15 years with the greatest growth in the 1-9 acre category. It is important to remember that especially on smaller farms often they look to events and Agritourism as for supplemental farm income.
        - The comp plan is also supportive of preserving agriculture on smaller parcels due to the diminishing number of larger parcels. The County also has a number of programs that support agricultural uses on parcels less than 21 acres – the land use taxation program, agricultural forestall districts and conservation easements.
        - Coupled with the other mechanisms in place to deal with the impacts of these activities – things like the 50 vehicle trip threshold requires Zoning Clearance; supplemental regulations to deal with noise and setbacks – Staff believe the 5 acre standard is adequate.

Staff noted there is not much change going on with respect to Farm Breweries and Wineries. They are essentially treating farm breweries the same way that wineries are currently. The substantial impact thresholds that Apply to Farm Breweries & Wineries are:

- Apply 200 person attendance thresholds to breweries. An event over 200 attendees requires a special use permit.
- For farm breweries & farm wineries – one time Zoning Clearance for outdoor amplified music
    - Only applies to new establishments of outdoor amplified music (existing wineries would be grandfathered)
    - Zoning Clearance review would allow staff to verify that the establishment either has sound equipment that can meet the noise ordinance or has a calibrated sound meter and agrees to self monitor

Substantial Impact Thresholds that Apply to Events & Activities at Agricultural Operations

- Thresholds do not apply to bona fide agriculture (Production & harvesting are not subject to these thresholds)
- Amends ordinance sections related to farm sales and introduces a new section for agricultural operations, but does not affect farm stands or farmers markets

Ms. Burbage pointed out in response to Mr. Randolph's email today these amendments are introducing a new section of the ordinance for agricultural operations and changing our farm sales regulations, but the farm stands and farmer's market are not changed by the ordinance amendments before the Commission tonight. Staff thought there might be some confusion there.

Three (3) Triggers for a Zoning Clearance (Emphasize that any can trigger the need for a Zoning Clearance)

- **Outdoor amplified music** - same as breweries & wineries
- **Agritourism, events or retail sales generating over 50 vehicle trips per day** - triggers VDOT uses for moderate volume commercial entrances and requires compliance with sight distance and access management requirements. A vehicle coming to and leaving a site counts as two (2) trips, which is essentially 25 vehicles coming to a site in a day to engage in Agritourism Events or retail sales. When staff shared the proposed amendments with the Farm Bureau they did have some concerns about applying this to farms that don't generate this type of traffic on a regular basis. (Examples: school field trips or farm tours that a farm is only doing once or twice a year). Whether or not the county would consider perhaps exempting those infrequent activities from the requirement of a zoning clearance is something for the Planning Commission to consider. The VDOT entrance standards would still apply since it is their standards. It is just the zoning clearance process that allows the county to let VDOT know that these activities are occurring. However, the Planning Commission may wish to consider exempting the zoning clearance requirement for activities occurring less than 4 times per year since it applies even if the parcel is over 5 acres.
- **Agritourism, events or retail sales occurring on parcels under 5 acres threshold**- includes abutting parcels if part of the agricultural operation. It applies even if the farm was generating fewer than 50 vehicle trips.

Triggers for a Special Use Permit

- Farm **sales structures over 4,000 square feet** – sales area only, below 4,000 square feet would be by right;
- **Events > 200 attendees** – same as breweries & wineries. The ordinance lists some usual and customary events that commonly occur at agricultural operations – tastings, harvest festivals; if it does not fall into this category, then it would be considered under the special events regulations
- **Over events of any size 24/ year** – exists in current ordinance as maximum number of special events / year by Special use permit

What will be reviewed as part of Zoning Clearance Process?

- VDOT entrance standards (Review by VDOT)
- Adequate travelways for emergency vehicle access
- Adequate onsite parking
- Health department standards
- Meets setbacks, including increased setbacks for parking and outdoor activity areas
    - 75' from property line
    - 125' from existing residence on an adjacent property
- Verification that sound equipment can meet the noise ordinance
- Compliance with all other relevant sections of the zoning ordinance – lighting, setbacks from stream buffers, etc.

Staff Recommendation

The table in the staff report summarizes the proposed regulations. Staff recommends:

- Following public hearing the Planning Commission recommend adoption of the draft ordinance.

Ms. McCulley clarified that Ms. Burbage statement was correct that the exemption relates to when the farm winery was established in terms of the outdoor amplified music.

Mr. Morris invited questions for staff.

Mr. Lafferty suggested that staff come up with sheet of expectations to give the farmer regarding events such as not to block the public road, have adequate medical facilities, etc.

Mr. Morris commended staff for the great job on the staff report.

Mr. Randolph said he wanted to be clear with staff's reassurance that they will have enough data coming in on an annual basis to track how many of these farm businesses, farm stands and farm markets are operational each calendar year. Then staff can put them into a GIS, which they talked about at the last meeting with Mr. Kamptner, and have the capacity so that all of these can be identified and mapped.

Ms. Burbage replied what they do have the capacity to track will be the zoning clearances and special use permits that they are able to issue. That does not mean they are going to be able to track the ones that are not hitting those substantial impact thresholds since they don't have a permit or application in place to count. The reality is there are over 900 farms in the county. The agricultural census happens every five years. One reason it is done every five years is

because it takes a lot of work to reach out and touch all of these different operations. She thinks the best they can monitor with our current staff capacity is the increase in the number of zoning clearances and complaints they might be receiving. .

Mr. Randolph noted that makes him uncomfortable because in essence they are saying to the rural areas you are open for business, but we as a county don't have any way of knowing how many of these are actually operational. He felt that was a serious deficiency especially because of the issue they have talked about repeatedly meeting after meeting on the subject that is essentially clustering on one road where they can have multiple farm stands, farm markets, and farm businesses operational. If there is 5 acres and they are not having more than 50 vehicles the county is flying blind and they have no idea whether they are operational or not. So we need to get some trigger there that allows the county to be able to keep track of that. That is why he was suggesting again coming back to our ability as a county under the statutory authority of the General Assembly to be responsible for the health and welfare of our citizenry to be assured that these people operating the businesses have a liability insurance policy so if somebody is injured in their farm business that they are covered liability wise. It was just to have that policy provided on an annual basis that has to go into a file. They are not talking about hiring 17 new people to be farm stand managers, but just as a way to keep track and then thereby on an annual basis that file could be pulled and that information be put into the GIS so that they know where these businesses are.

Mr. Kamptner noted just to be specific the farm stands and farmer's markets regulations are not changing. Zoning will be able to track those because a zoning clearance continues to be required. Since 2010 when the regulations were last amended they have had four or five farm stands.

Ms. Burbage pointed out it is collectively farm stands/farmer's markets.

Mr. Kamptner said in the aggregate they have five of them in the county right now that have come on in the last four years.

Mr. Randolph said that is good. Now they need to go into the next level that is businesses that may have events, which they have no way of tracking.

Ms. McCulley asked Mr. Kamptner if he wanted to speak to our legal ability to require the submittal of liability insurance and whether that is something they are enabled to do.

Mr. Kamptner pointed out since staff received Mr. Randolph's email they have been thinking about ways to track. Since these are all agricultural operations they may already have commercial liability insurance in place whether they are having these events or not. So that is not necessarily going to be indicative. They are still thinking of ways that would allow us to track. But, he did not think they track any other type of use in the county. In the Heavy Industrial (HI) district it is possible that every HI parcel could use that most extreme intensive use and they don't track those. So this would be something new and they are still trying to work through that. They recognize the Commission's concern about being able to track this. The other thing he could say is that assuming that this ordinance or some form of it is adopted in the next two or three months it is not going to be set in stone. Staff will constantly be evaluating what is going on in the rural areas to make sure that the purposes of the county's comprehensive plan and compliance with State law is adhered to. They are being kind of forced to learn as we go because of the short time frame they have to get something in place to regulate this.

Mr. Loach said it would probably be good to see a plan for performance measurement as they have done with other industries. He has already stated some of the things they plan on including in that and thinks that is a good start. He suggested staff to get together with fire/rescue and police to see what comes out of that and as far as its impacts on roads and are they seeing more accidents. He was sure staff could come up with something that would be appropriate to give us a measurement to see if they have to enact any additional regulations.

Ms. McCulley agreed, and noted the difficulty is going to be figuring out how to handle the cumulative impacts. But, she thinks they will hear about them. They are trying as best they can to identify triggers, limits, setbacks and reviews on a site by site basis. That is why they have this kind of a tiered approach. Also, they have new setbacks for things that can be impactful like parking areas, outdoor activity area, location of port johns, and things like that. So they are trying to minimize the overall impact by addressing it site by site. However, that does not mean that there won't be cumulative impacts they would need to follow if they see a trend.

Mr. Loach agreed because basically he thinks trending information is what they are looking for.

Mr. Morris invited other questions for staff.

Mr. Keller asked staff to put up the screen with the chart showing the number of parcels. He asked if he was correct that the zoning clearance cost would be $50.

Ms. McCulley replied that was sounds like the ballpark amount.

Mr. Keller said there still continues to be kind of an implication in the presentation of staff's arguments for the size of the parcels that would be reviewed. However, there is something onerous about this and he thinks they need to go back to the point that our comprehensive plan encourages agriculture. They as Commissioners are very supportive of agriculture. This support of agriculture is leading to our series of questions, and not that they are trying to discourage it. If they look at these numbers and see that 80 percent of the parcels are less than 21 acres and the majority of farms are over 21 acres in the farm census, it would seem they would want to have this basic informational zoning clearance be a trigger that the majority of people who were thinking about having events would have as a public education measure. What it really comes down to are the issues of what is bona fide agriculture. He thinks, as Mr. Randolph said, they still have not nailed that down. There have been questions of whether the Agriculture IRS Schedule F showing a certain amount of income over a several year period would be a test of bona fide agriculture. Obviously, this is something that all the jurisdictions that are wrestling with this issue are going to have to deal with. However, that seemed to be something that Rockingham County was trying to come to grips with. Another approach is the insurance, which is one major category.

Mr. Keller noted the second issue is where this threshold test is going to occur. In our first series of discussions and in our personal discussions on the side of the public session staff gave a very strong argument for not having the special use permit with the cost and the kind of onerous aspects of that be applied to the smaller acreage entities and not the larger entities. It is a compelling argument and they have convinced him. However, he thinks that if the purpose of this zoning clearance is primarily informational, then the cost is not onerous with a $50 fee. Then it would behoove us to have the largest percentage of people who are considering going into Agritourism in a significant manner to have to come to the county and see what they are getting into. They are going to have storm water issues that are going to be coming on line because of the Chesapeake Bay Act that is going to deal with things like impervious surfaces.

They do want to have the best practices in terms of steep slopes and buffer zones along stream corridors. Therefore, all of these things do not seem to be onerous to ask the majority of these people. That is why he keeps coming back to the 21 acre threshold as the point as opposed to the 5 acre threshold. He would have to say staff has made some compelling points about the 5 acres, but he was really concerned about those numbers. He thinks that when a bona fide agricultural operation of any size realizes what they need to do to be able to have the events they will be much better citizens and they will have much less opportunity for conflict in our community, which is why he makes this argument for a larger point. The other reason for the 21 acre threshold is because it seems to be somewhat codified through time since the 80's in our zoning. However, there are some other specific pieces.

Ms. Firehock noted she had a list of concerns but was reserving her comments until after hearing from the public.

Mr. Loach asked if staff had any idea as far as agriculture if they are talking about 55 percent of 5 acres or are those lands that are in agricultural production and if it includes residential units on 5 acres as well. He asked if they knew how many 21 acre parcels were residuals of rural developments that essentially serve residential purposes.

Ms. Burbage replied yes that is all rural area parcels and would include those devoted to residential use. The number to keep in mind is that they have 4,600 parcels that are in the land use taxation program, which indicates some kind of agricultural use. So that would be roughly one-fifth of the total rural area parcels that are participating in the land use taxation program. She did know if that helps, but three-fourths of the properties in the land use taxation program are over 21 acres and one-fourth under 21 acres. That paints more of a picture of the agricultural use of RA parcels.

Mr. Loach said the data is very interesting. He would actually get back with her after the meeting to get some additional information. When he looks at it he sees Mr. Keller's point, but the other side of that coin is if they are talking about 5 acres the number of occurrences that would occur on the 5 acres is going to be minuscule because probably the vast majority of those 5 acre lots are residential. Therefore, the number of times would be small where they are going to come up against an agricultural endeavor on the 5 acre lots. He would suppose that essentially a lot of those 21 acres may be residuals of rural developments.

Mr. Keller said he thinks that is looking backwards and not forward. Again, our mission from the state as a Planning Commission is to be thinking forward and forward land use. They have examples all over the country of communities where there has been this kind of wave of Agritourism that occurs on the small parcels as well. In effect they are giving a green light to that under the 5 acres. Someone in an area that has the small parcels could decide to open up an agricultural operation. Depending upon how they define bona fide agriculture they could indeed have that bona fide agriculture. Then, again, that to his mind is not a concern at all and is wonderful. The next concern is the issue of the event then being held on that property without any kind of trigger for us to know why that event was even going to happen until it is announced.

Mr. Loach said he was not sure he understands. He asked if his objection to the 5 acre threshold is it is too small for consideration and there should be a larger threshold to hold these events.

Mr. Keller replied he was saying that in less than 21 acres there is a potential of significant challenges given the geomorphology of our region with the hills and valleys and often

waterways in those valleys. There are both slope and riverine issues that come into play. All they are suggesting in this is there be a zoning clearance that calls to the attention of staff that there is going to be the possibility of a large number of automobiles coming to a small acreage where they would possibly by definition have more of an impact because there is less acreage to be able to choose places that would have less environmental impact, or, for that matter less impacts on neighbors if there are sounds associated, although they do have the noise ordinance by Virginia Code that is allowing us to begin to address that piece.

Mr. Randolph said he would like to leverage off of that. He thinks if we were in the great state of Oklahoma, which is fairly flat, they would look at a consistency of acreage. But, 5 acres one can have a 5 acre farm which has significant slopes that could be critical slopes there. As Mr. Keller was saying, he reiterated that there could be wetlands there or riverine and they are not going to evaluate or assess that. They are not even going to know that it is going on. He has a problem with that since he felt that connotes a serious issue. They would not allow a business at an urban setting to be cited with those kinds of characteristics including natural resource characteristics, and yet here they are taking a very expansive definition and they are going to say it is 5 acres and above, which according to his math would be 45 percent of the rural area landowners would now be eligible for agricultural activities. He felt that was a huge first step experiment, whereas going with 21 acres would be a step in. If they were going to follow Mr. Kamptner's suggestion that staff is going to reexamine it, then run it for 2 years at 21 acres and see how it works. If they have people absolutely pleading at 5 to 21 acres include us and let's look at a way as a Planning Commission and a Board of Supervisors to include those people so that they know who they are so that they know that they are customers or there are clients come there and their safety and health and welfare is protected and at the same time the natural resources are protected.

Mr. Keller pointed out that they were not talking about excluding them. So let's make that perfectly clear. They by right can do that to the smallest acreage in the rural area. A one acre parcel in the rural area, because of our state legislation, can do everything. All they are talking about is having a zoning clearance at whatever point we set this at. Whether they set it at 5 acres, 21 acres, 100 acres or 500 acres the people under that threshold are being asked to come in and talk about what they are going to do and have the best practices advice given to them by planning staff. That is not a taking in any way. That is public education.

Mr. Morris opened the public hearing and invited public comment.

Mr. David King, with King Family Vineyard and Chairman of the Virginia Wine Board, said he had a different take on this because it seems awfully restrictive for several reasons. From the winery perspective it looks like with the changes staff is offering on agriculture, agricultural operation and Agritourism they get thrown into the provisions that require or trigger a zoning clearance. The zoning clearance apparently imposes not only acreage but also a vehicle trip per day, which is much more restrictive than acreage. There is no winery in this county that would qualify for a by right use with this definition. Providing a finding of substantial impact is the first in the Commonwealth. This definition of substantial impact is not a definition of anything other than any impact. The last half of the last sentence particularly is an event or activity that is incompatible with existing production of agriculture. So it really says the Board in Albemarle County is making is a finding of what substantial impact is, which again will be a first and he applauds them for doing that if in fact they do it. But, this definition is simply saying any impact that includes a wide variety of factors – generation of traffic, noise, dust, artificial outdoor light, trash, traffic control, and sanitation. It is anything. So this is any minimal impact and this board would make a finding that not only that but the 50 vehicle trips per day, which they have not

focused on, is an impossible standard. So what staff has actually produced here is a way to have every winery and agricultural operation in this county come and have the findings made that suggests 50 vehicle trips per day and/or any impact that requires staff approval in order to get the ability to operate at all.

Warren Butler, representative for the Southern Environmental Law Center, said he would like to pick up with the thrush of the comments he offered at the June work session that they should try to eliminate as much ambiguity as possible in these ordinance provisions, particularly where there is the potential for abuse. Naturally, they can't eliminate all of the ambiguity, but where they can they should try to do so. He has three specific suggestions he would like to share with the Commission, which relates to Attachment B of the staff report.

1. On Page 1 of Attachment B is the operation of agricultural operation event. This draft proposes if they have more than 24 events it is a substantial impact that requires a special use permit. The definition of agricultural operation event does not put a maximum duration on the event. It just says it is an event on one or more days. So there is a potential for abuse where someone could have an event lasting many, many days and stay underneath that 24 maximum events per year. That is an area where it may make sense to clarify that. He would note that the definition of special event in the current zoning ordinance does have a max of 3 consecutive days.
2. On Pages 12 and 13 is the table of different uses. On page 13 the agricultural operation events proposal is that over 200 attendees would be a substantial impact and was substantial enough that it requires a special use permit. The question he raised last time is what is any different about a substantial impact originating from 200 people at an agricultural operation event versus 200 people at an Agritourism activity. Wouldn't it be consistent to have that same 200 person special use permit threshold apply to Agritourism activity and while they are it he did not see a reason why it should not apply to the farm sales and the food production categories as well.
3. On Page 13 in the last row in that table, which is the catch all row, it talks about other events or activities which are determined to be usual and customary. If our goal is to reduce or limit ambiguity this particular row is full of ambiguity. The question he has here is if they can eliminate that row altogether he thinks they would be doing themselves a favor. He thinks the key question when he raised this at the last work session is what usual and customary events and activities are there out there that are not already covered either by what is by right and allowed by special use in the current rural areas zoning district or by these additional provisions for agricultural operations events that they have in the table on pages 12 and 13. In other words, if they can't envision what uses would be caught in there they have already covered the agricultural operations events, and it is hard to think of uses that they need the catch all categories for.

Neil Williamson, with Free Enterprise Forum, said he takes exception to Morgan Butler's second point with regards to other uses with 200 people. Actually at the public meeting they heard about beef sales. When you do not know how many people are coming that is a by right use and no one can argument that is not an agricultural use. He thinks that having them come in for a special use permit for an annual beef sale is a bit onerous if they want to encourage agriculture. Many of the concerns that have been raised he thinks are headed with the best intent. He was curious whether or not they have the legislative authority to do some of the things they are suggesting. He did not believe that when he goes into a restaurant that everyone in that restaurant has been trained in CPR and knows where all the exits are. He did not believe that is the case and they have the ability to mandate such training. Providing opportunities for education are great outside of the ordinance.

Next, Mr. Williamson said he is very concerned about the issues Mr. King raised and he appreciates staff clarifying the definition as well as the application to wineries. Last Thursday he had the opportunity to go to a family farm, which had been in their family since 1950. They just opened up a small tasting room for the winery, but they also have cattle on the farm, hay and have been growing grapes for a long time, which includes a Governor's Cup Gold Medalist. He was thinking how these regulation changes are going to impact that farm. He was thinking about the neighbors because it is always a concern. Then he realized that he had pulled off of Earlysville Road and the neighbor was the airport, which use to be their farm. So he thinks it is really important that they take a look at each application. In that case they now have 13 acres under vine and only 8 acres are producing. Someone can have a successful winery with a very small acreage. They also heard from folks doing greenhouse work that it takes a small acreage to make an agricultural enterprise successful. Some of the events they are talking about might be educational events about growing marrows in greenhouses.

In addition, Mr. Williamson said he remains concerned about the 24 event limitation because he was not convinced that there is any way that they are going to be able to track this. When they went through the winery ordinance to make changes they made it unlimited to a level that it created a certainty for the neighbors and operators just as it did with the sound ordinance and they are seeing the self policing. He encourages the Commission to be open for business in the rural areas with proper zoning clearances, which he agrees with. However, remember they need to be cognizant of the State Code and the limitations placed upon you.

There being no further public comment, Mr. Morris closed the public comment period to bring the matter back before the Planning Commission for discussion and action.

Ms. Burbage asked to clarify something in response to Mr. King's comment. The farm wineries are not subject to the substantial impact thresholds of 50 vehicle trips, 5 acres or any of that. In the chart it shows Agritourism activities on farm wineries remain by right activities. All of those substantial impact thresholds that they have been discussing apply to agricultural operations. She realized that at the Roundtable there was discussion about having parallel treatment of wineries, breweries and agricultural operations. Over the last few work sessions the direction has been to treat agricultural operations differently from farm wineries and breweries. She just wanted to clarify that these thresholds are applicable to agricultural operations but not farm wineries and breweries.

Mr. Kamptner noted if there was any uncertainty in the regulations they are happy to amend them to make that crystal clear because the farm winery regulations stay as they are with the only changes that farm wineries after the date of the adoption of this ordinance would be to go through just the review to make sure that the outdoor amplified music system is going to be able to comply with the noise ordinance. That is the only change for farm wineries.

Mr. Morris thanked staff for that clarification. Hopefully, that helps.

Ms. Firehock asked to reflect on some of the comments from the public.

- She would start with one of Mr. Butler's comments on page 1 about limiting agricultural operations events, which says one or more days. She is in concurrence and believes it should have a cap on the number of days per event. They could call it "Peach Month" or something else and just have an event that is 30 days long. That might be a ridiculous example, but it would be in following our current regulations if they just did a cap. So that is a very small matter she believes would relieve some concerns.

- On page 3 of Attachment B where they are talking about substantial impact, which she understand people are concerned about, Mr. King related that it perhaps sounded like it was just any impact. She thinks these are just things that can be reviewed and considered during the informational discussion with staff. She would actually like to add to that list other considerations such as "water runoff or excessive soil compaction." As they look at having repeated events even on a field for potentially small acreage they could have what is called effective imperviousness, which over time as you park even on an unpaved surface it becomes as impervious as a paved surface. So they are concerned with the valleys, streams, and steep slopes since it is not a flat landscape in much of the county. Therefore, that is something she would like them to review on a smaller parcel.

- She did not find the need to come in for a conversation with staff for the zoning clearance to be particularly onerous. She thinks that for a lot of people getting into Agritourism these will be new issues for them. Therefore, she thinks it is a helpful thing. She does a lot of events in her business life in public parks and outdoor facilities and often has staff tell her what about the ambulance access or where the port johns are going. So she finds this helpful and not an onerous requirement.

- On page 11 under natural resources she was thinking under things to talk about in terms of the purpose and intent that one of the things that they are also trying to protect are natural resources and open space. When they refer to what is important to the comprehensive plan, and in light of the conversations recently by the Board of Supervisors, that natural resource protection is also one of the goals of the county that perhaps that could be more particularly emphasized in this section on intent under 5.1.5.8.a.

- On page 13 she would want to add under d. of Attachment B page 13 just that staff also considers environmental impacts. She was not trying to open a large can of worms of some extra government environmental review, but just that if they are familiar enough they have a great GIS system in the county to do some things that perhaps could be pointed out.

- Lastly, she would just note being in support of increasing the parcel size, which would require someone to have to come in. She did not subscribe to the notion they need to make it by right for all of these multiple small parcels to be able to not even have a conversation with staff. She wanted to be absolutely clear that they are not saying everyone is coming in for a special use permit, but they would merely be having a conversation which is a helpful thing.

Mr. Keller noted he had already made his points.

Mr. Lafferty said he was sort of confused on what they are really trying to do besides clearing up some of the ordinance about making it conform to the state requirements. It seems they are trying to think of every worse case that could happen instead of encouraging a vibrate community and agricultural production. He did not think they can even think of every contingency that might go wrong. But, this is not the last shot they will have at this.

Ms. Firehock said she would like to make a philosophical statement that in the past conversations that she has participated in on this topic she has been assured by staff that we can always make this tighter in the future. They can learn from our lessons. However, in her

experience once the cat is out of the bag, or whatever cliché you want to use, it is much more difficult to rein it back in. She wanted to stay in compliance with State Code, but she would stay on the side of caution. She thinks that they can always make it looser in the future once they find it has been going for a while and people understand it and most of the operators that want to engage in this have come in for their reviews. At that time they could make it easier to do. She suggested it may be a simple checklist that they would just download from the county's website, etc. However, she did not know that she would be in support of jumping forward with a very lenient and overly loose set of standards when they actually do have so many unknowns.

Mr. Morris asked Ms. Firehock where she would place the current standard that is in front of us in relation to that.

Ms. Firehock replied she would say this is dramatically improved over what they saw at the beginning and that great progress has been made. For example, she is in agreement with Mr. Butler about the last column on page 13, attachment B that had sort of a catch all and everything else.

Mr. Kamptner pointed out that is required by state law and they have to allow any usual and customary uses throughout the Commonwealth. The reason why they have not articulated a specific list of what those are is because they don't know what they are.

Ms. Firehock asked if they have not covered those ideas already in the preceding rows.

Mr. Kamptner replied he would think Agritourism is probably going to just about cover everything else. However, they don't know. They have been doing surveys and trying to accumulate as much information as they can. However, one problem they have is that some localities don't care what is going on in their agricultural districts or they are not tracking what is going on. So they are not able to tell us what they specifically allow or don't allow. Therefore, they have not been able to compile a list they could include of what would constitute being usual and customary at this point.

Ms. McCulley pointed out it is evolving. They talked with the folks from the State Farm Bureau who indicated what they are seeing now is evolving in terms of what they are seeing for agricultural operations and uses associated with them. They thought it would continue to evolve in the coming year.

Mr. Lafferty said he thinks this will be driven by complaints. If they see enough complaints, then they can address that area if it has not been addressed. He thinks it is fine the way it is.

Mr. Loach agreed with the length of the occurrences that they talked about.

Ms. Firehock suggested it with the cap on the length of events.

Mr. Loach asked what else the Commission wants to change.

Mr. Keller supported including all the environmental pieces that Ms. Firehock has mentioned or those references. From his vantage point he would like when it ultimately leaves the Commission he would like a vote on the 21 acre versus the 5 acre threshold so that can be passed onto the supervisors.

Ms. Monteith asked staff in all of the research if there is any information about cumulative impacts at all. She has been pondering this, and it is not just the number of people. There is a big difference between as Ms. Firehock said "peach month" if "peach month" is 12 months a year. She wondered if there has been any information on it. There is a big difference between somebody having 10 events per year versus having 400 events per year. She did not know if that is being addressed in any of the other precedents that they are looking at.

Ms. Burbage replied there are other localities that cap frequency of events and site duration such as 2 days or an event shall be considered no greater than 2 or 3 days. They did see that in several other localities.

Mr. Randolph said he would also like to see a tracking mechanism here. He thinks it is a major deficit in what is proposed if the county does not have a means to keep track of how many of these businesses are operational in the rural area. They should have a handle on that as a Planning Commission and the county should have that information, which is also why he is inclined to look at a higher threshold rather than a lower threshold. Rather than open up the loose gates and expand the market he would think because this is going to be an experiment for this county that it is important to start with the larger tracks of land and see how that works and then move down potentially to smaller tracks. He can support 21 acres and above with a tracking mechanism and some controls of ways in which the county will be able to have a conversation with the land owner about the geomorphology of the property and assessment of the natural resource features on that property based on GIS assessment. But, at this point he would not be able to vote for this because he does not think it is there yet.

Mr. Kamptner requested to ask a couple of questions. At one of the work sessions, staff had thrown out the idea of something akin to the pre-application conference where there is no permit issued, but the pre-applicant comes in and gets information from the county. He asked would that satisfy the tracking issue if something like that was required. The reason why he was asking is they can require a permit and the zoning clearance is a permit only if they have identified a substantial impact. So this pre-application meeting is a way they get the information to them and find out about their proposed activity. But, there is no permit involved and it is just information sharing. He asked if that would satisfy the tracking.

Mr. Loach replied that they live in the world of the internet. It seems that they should be able to come up with a basic online application if well worded that could address a lot of the issues that have been brought up at least to identify the potential for any problems. He questioned how do you require it, but not call it a permit.

Mr. Kamptner replied that all ties into the substantial impact. One of the effects of this state statute is they are not starting from the usual starting point. For these types of regulations they can regulate once a substantial impact has been identified. So the research staff has done up to this point is the vehicle trips per day, the acreage at 5 acres right now and the 200 attendees at any particular time. So those are the three areas they have identified so far.

Ms. Firehock said that was very helpful. She felt it was the cumulative impact they were trying to get out. For example, they could have one particular parcel looked at in its entirety that does not really have a lot of issues and it is okay and then the next one and the next one. She asked at what point or how would staff say there are 10 of these on this 1 mile stretch of road and now cumulatively they need to look at this in a different way. For example, they might need to have extra traffic control on the weekends. She asked how they get to that issue.

Mr. Kamptner said they have been struggling with that because they started relaxing our various agricultural related regulations several years ago. They have 31 farm wineries, and 5 farm stands or farmer's market in the whole county. At least at this point they don't have a track record to show that they are going to have a concentrated explosion of these types of activities. He does not think it is impossible, but they are just going on the recent history that they have.

Ms. Firehock noted she has worked in other counties and helped them with Agritourism. She has seen what happens as they are developing when they have not been able to think of the traffic impacts and all of those things in a cumulative way. She thinks Albemarle County is going to be incredibly affected and this is going to grow tremendously. That is a good thing. However, she is just looking as some of her fellow Commissioners for a way to know that they are not going to have too much of a good thing to the point they have not put the controls in place and they have had people come in for their zoning clearance to have a conversation about how they can balance these things.

Mr. Kamptner said they recognize that there are some localities, Loudon County being an example, where they have been overrun with these types of events. But, their close proximity population center is exponentially larger than ours.

Mr. Randolph noted that center exports some its population down here every weekend to the advantage of certain wineries. The thing he would note about the wineries generally speaking is they have more acreage than what they are talking about here at 5 acres. So it is a different scale of operation, which he thinks is the concern. Going out to the King Family Vineyard there is adequate acreage to handle special events and they are set up for it. However, it is a whole different situation when it is mom and pop's fruit stand and it is 5 acres and then next door is Jane's fruit stand and then Freddy's fruit stand is down the road. There needs to be some way of getting that information into the GIS. He was not about the need for a permit or about the financial return for the county. What he is really concerned about is just that we be able to have that information so that they can look at it and then be able to piece together the overall impact on traffic safety, emergency vehicles, etc. It could impact cyclists going through the area or whatever they want to factor into the equation. Should we be able to have that, and should the police department be able to have that information if they need it within the county. He would submit yes, they should and that is a reasonable exercise of local government to gain that information. They are not compelling it. He thinks their approach to say come in for a voluntary meeting and let's have this conversation before you actually go through to the zoning permit process would be excellent.

Ms. Firehock added in order to put a positive spin on it that requiring people to come in and have that conversation, being able to have this permit and to track what is going on also alerts us as a county that yes this corridor seems to be developing, even if it is from an organic one landowner at a time process; and, then therefore the county is going to make a decision to pave that road or improve those sight lines or whatever planning things. If they decide yes they want that to come, then they want to do things as a county to facilitate that. However, they can't even have those kinds of conversations if they don't really know and have to ride around antidotally to see what is up. She was trying to think about a way to make it so they can be more intentional about it easy to do if that is also something.

Mr. Loach noted that another reason why he called for the rural areas to be master planned was so they can look at these areas not as homogenous but as individual areas with their own uniqueness. He noted should there be a very good reason environmentally or otherwise that

they should not have this as a cumulative impact they would be aware of it because they have identified the factors that there should not be that much development in the master plan.

Ms. McCulley said she thinks raising the minimum acreage so that more of them will have to come in for a zoning clearance provides a lot of what they are talking about here. It provides a tracking and an opportunity to have that conversation. It has us to do the review subject to VDOT and the entrance and all the other things that apply, such as the setbacks and health department, etc. Honesty, the trickier thing comes if there is a substantial impact to determine what the appropriate regulations are to address that. She thinks that is what they are trying to really figure out. She did not think that other localities have even figured that out since they are taking very much the approach that we are where they deal with that individual site and do the review that they can. Then cumulatively they will have to see what happens in the future to some extent. But, raising the minimum acreage for a zoning clearance gets us two of the things in the step in the right direction towards minimizing impacts period because they are having that conversation and review.

Ms. Firehock noted after staff conducts a number of reviews they would then be able to say these are the types of things that keep coming up. She is definitely a fan of making things easy in terms of checklists. She always has heart burn when she looks at how much judgment call is going to be required and she does not know who the staff person is who is doing this. No disrespect to staff, but a lot of expertise is being required to even make that finding of substantial impact and probably more than any one person has in their technical and academic background. She would be more comfortable with trial and error again if the trial and error was happening with more conversations with these sites rather than less.

Ms. McCulley said it was certainly the Commission's prerogative to make that recommendation as part of this public hearing to increase the threshold of 5 acres to 21 acres or whatever acreage they choose.

Mr. Morris asked to take a straw vote from the Commissioners that prefer the 21 acres.

Mr. Keller, Mr. Randolph, Ms. Firehock preferred the 21 acre threshold.

Mr. Loach said he did not mind the 5 acres if there is a methodology to get the data voluntarily as Mr. Kamptner pointed out. If there was a good method to get the data he thinks he could live with the lower 5 acres.

Mr. Lafferty agreed with the 5 acres. To tell somebody who has 5 acres in strawberries that they are inferior and can't make any money with it having an event of kids coming out and picking on one weekend is not fair to them.

Mr. Keller said he would have to do a rebuttal to that because that is not what this is about at all. It is saying that they are going to have to pay $50 and come in to understand the ramifications. It is not telling them they can't have strawberries.

Mr. Morris said he would prefer to start off with the 21 acres. Therefore, the straw vote was 4:2, with one up in the air, with the majority in favor of starting off with 21 acres. He said this straw vote was to get a feel at what the Commission is looking at.

Ms. Burbage asked Mr. Kamptner if the Commission was to modify the recommendation would we need to readvertise based on the legal ad.

Ms. McCulley said it does not list the acreage in the ad, but it is more restrictive.

Mr. Kamptner replied that with the wording of the ad they were probably okay. It would be a recommendation of the Commission. However, staff would certainly take a look at the.

Mr. Morris said they are looking at two areas. They really want to cap the number of days that an event can take place, and also look at moving up to 21 acres what constitutes a farm at this time, which can be changed.

Ms. Firehock requested to ask the Commission about what she thought were minor recommendations. She asked that the following three items be added if there was no objection to them.

- On page 3, attachment B add substantial impact considerations to also include "wide variety of factors including . . ." add to sentence "water runoff, and excessive soil compaction"

- On page 11 in section 5.1.58a purpose add in intent of the ordinance to also reflect the comprehensive plan's values of "natural environment and open space protection".

- On page 13 add to also consider "environmental impacts" as part of the zoning clearance.

Mr. Morris said he had no objections.

Mr. Lafferty said he did not have any objections. They could not even track the number of people on the road and now they are asking what the topology of the land is. He asked how they going to do that with the runoff.

Ms. Firehock said it would be fairly easy for her even with minimal training to look at somebody's sketch plan and have them say they are parking right next to an impaired stream that perhaps could there be other places on the site where they might move parking away from that waterway. They might want to avoid those steep slopes. This is all information that is in the county GIS and it is fairly easy to look at. But, she worked with a lot of people that don't realize these impacts. So it is oftentimes that she just points it out. She thinks staff is capable of doing that without having to pull in an engineer.

Ms. Burbage noted the Water Protection Ordinance requirements are obviously still going to apply to these agricultural operations.

Ms. Firehock agreed, but the agriculture is exempt from the Water Protection Ordinance in terms of protection of the 100 foot stream buffer. However, if they are just having an event they might think it is worse to park under the trees because they will impact the soil roots, or again, park out of the forest and in another area instead of there. These are just things to look at.

Mr. Randolph and Mr. Keller had no objections.

Mr. Morris asked staff to include those and asked Ms. Firehock to give a copy of her suggestions to staff. He asked for further discussion.

Ms. Loach asked if staff could get hold of Farm Bureau to see if they have any statistical data based on the size and their membership of farms so they could see if there are a number of farms below 21 acres. They may have some data that is relevant.

Ms. Firehock noted this is a minor point, but her class at the University of Virginia will be studying Albemarle County this fall and they can give them homework. They will have a team looking at agriculture and Agritourism and if there are things that these graduate students can research she was all ears and they can talk about it or email her. But, she can give them assignments as well.

Mr. Morris said that is very good.

Mr. Keller noted there is another point here that they have addressed but not discussed this evening. It might be helpful to reiterate that it says a 5 acre parcel or combinations of parcels. So if they are moving this to 21 acres it could be that there are several parcels coming together that are more than 21 in one ownership. That was the ideal easy set of numbers for them to be able to pull the GIS. Obviously, when there are larger entities because it is made up of a number of parcels it is not asking for the zoning clearance category. He asked if that was correct.

Ms. Burbage replied that was correct. Given the suggestions made by the Commission she believed that if they choose to do so the Commission could recommend approval with the changes, and she wanted to put that forward. However, if they feel the need for staff to come back they can do that. However, she did not think based on the legal ad that they need to.

Mr. Morris said he thought she was absolutely right. He said he would like to entertain a motion to forward ZTA-2014-00001 with the changes.

Motion:
Mr. Keller moved and Mr. Randolph seconded to recommend approval of the draft ordinance for ZTA-2014-00001 Farm & Farm Breweries – State Code Changes found in Attachment A with the suggested changes, as follows.

- In Section 3.1 Definitions, cap number of days that an agricultural operation event can take place – change wording from "one or more days" to "up to three consecutive days."
- Recommended increasing to 21 acres the threshold below which a zoning clearance would be required for an agricultural operation to engage in events, Agritourism activities or on site retail sales.
- In Section 3.1 Definitions, add to Substantial impact definition's list of factors "water runoff and excessive soil compaction"
- In Section 5.1.58a Purpose and intent, reflect the comprehensive plan's Rural Area values of "protecting natural resources and open space."
- On page 13 in Section 5.1.58d, add consideration of "environmental impacts" as part of the zoning clearance review process.

The motion passed by a vote of 6:0. (Mr. Lafferty voted aye with reservations.) (Dotson absent)

Mr. Morris noted that ZTA-2014-00001 Farm & Farm Breweries – State Code Changes will be forwarded to the Board of Supervisors with a recommendation for approval with the suggested changes at a time to be determined.

Old Business

Mr. Morris asked if there was any old business. There being none, the meeting proceeded.

New Business

Mr. Morris asked if there was any new business.

- Mr. Morris acknowledged and thanked Supervisor Mallek for attending the meeting.
- No Planning Commission meeting on July 22, 2014
- The next Planning Commission meeting will be held on Tuesday, July 29, 2014.

There being no further new business, the meeting proceeded.

Adjournment

With no further items, the meeting adjourned at 7:53 p.m. to the Tuesday, July 29, 2014 Albemarle County Planning Commission meeting at 6:00 p.m., Auditorium, Second Floor, County Office Building, 401 McIntire Road, Charlottesville, Virginia.

V. Wayne Cilimberg, Secretary

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