Albemarle County Planning Commission
August 11, 2015

The Albemarle County Planning Commission held a public hearing on Tuesday, August 11, 2015, at 6:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

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

Staff present was Will Cockrell, Planning Program Manager with (TJPDC) Thomas Jefferson Planning District Commission; Chip Boyles (TJPDC) Executive Director, Amanda Burbage, Senior Planner; Amelia McCulley, Director of Zoning/Zoning Administrator; David Benish, Chief of Planning; Wayne Cilimberg, Director of Planning; Sharon Taylor, Clerk to Planning Commission and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Mr. Morris, Chair, called the regular meeting to order at 6:01 p.m. and established a quorum.

From the Public: Matters Not Listed for Public Hearing on the Agenda.

Mr. Morris invited comment from the public on other matters not listed on the agenda.

Neil Williamson, Free Enterprise Forum, spoke regarding the opportunity for public comment at Planning Commission and Board of Supervisors meetings. In recent weeks there has been a great deal of discussion about matters from the public in other localities. I often talk about things going wrong in Albemarle County. However, this Commission, as well as the Board of Supervisors, has taken a very positive step to make certain that everyone is heard and has a fair hearing. That is not an easy thing to do and is best done when it is consistent across all speakers. He congratulates the Commission for that and hopes it will continue.

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

Review of Board of Supervisors Meetings – August 5, 2015

Mr. Benish reviewed the Board of Supervisors actions taken on August 5, 2015.

Consent Agenda:

Approval of Minutes: May 12, 2014

Mr. Morris asked if any Commissioner would like to pull an item from the consent agenda for further review.

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

The motion carried by a vote of (7:0).

Mr. Morris said the consent agenda was approved.

Presentation

Rural Long Range Transportation Plan

Present from the Thomas Jefferson Planning District Commission were Chip Boyles Executive Director and Will Cockrell, Planning Program Manager.

Mr. Chip Boyles, Executive Director for the Thomas Jefferson District Commission, introduced Will Cockrell, Planning Program Manager who will give the presentation. He thanked the Planning Commission for having them here. They have been going around to talk about the upcoming Long Range Plan for Rural Transportation within our region with both county and town commissions. They are using this as an opportunity to open the door and open discussions for a much longer process of addressing the rural transportation needs. A lot of this stems back to our conversation with you several months ago with Charlottesville's Planning Commission about the MPO's next Long Range Transportation Plan. We want to make sure to involve the public and each of the local governments as much as possible. Coming to you very early in the process with the Rural Plan is going to be very worthwhile. We have already seen direct benefits from meeting with town planning commissions by identifying some of their intermediate needs. He would ask Will Cockrell to make the presentation.

Will Cockrell, Planning Program Manager, emphasized they wanted to go out and talk to all of the planning commissions in our region first before doing anything, which they are in the process of doing. Our goal here is to just start the conversations and the dialogue. They just wanted the commissions to know what they are planning to do and get feedback to see what type of plan you need as planning commissioners across the region. Our main goal is to have this document serve as a tool for local officials to help get through the changing landscape of transportation that we have in Virginia right now.

With that said, Mr. Cockrell presented a PowerPoint presentation on the Rural Long Range Transportation Plan. Most of the people they have talked to have not heard about the Rural Long Range Plan, which highlights the first big issue with the plan that people do not know that it exists.

Background
In the mid-2000s, VDOT partnered with the 20 Planning District Commissions (PDCs) that house rural transportation programs to initiate an innovative new concept to develop regional, long range transportation plans for rural areas of the state. It was a state-wide effort. VDOT hired some on-call consultants and they developed this plan for each one of the planning district commission regions that have a rural transportation program. While there are 21 PDCs across the state only one of them does not have the rural transportation program that is run in Virginia. All the others have a version of this plan that basically functions the same. He emphasized this is only for the rural transportation programing area, and does not include the MPO. You are the only locality in the region that actually has a MPO and Rural Area. This does not address transportation issues within the urbanized area, but only in the areas shown as rural.

These plans complement the MPO Long Rang Transportation Plans (LRTPs), except that the rural versions do not include fiscally constrained project lists.

RLRPs are intended to:

- Identify transportation deficiencies and recommendations for improvements throughout the region in the rural areas;
- Assistance with comprehensive plan updates and traffic impact studies (Chapter 527);
- Evaluate the effects of land use and development decisions on the transportation system;
- Establish programming of transportation improvements (timing and the funding for transportation projects in the rural areas); and,
- Provide content and guidance for statewide transportation plans (documents).

Across the state we have VTRANS, which essentially is the comprehensive plan or transportation plan for the state, which is the main transportation document. The RRPs go into the state highway planning chapter of that document. It is important because it feeds into the state's transportation plan. Many times when the Commonwealth Transportation Board is making decisions on funding for projects it has to be consistent with that state wide plan. So it is important that these documents are integrated into that process.

Feeding into Statewide Highway Plan:

- MPO's Long Range Plan

- RLRP
- Local Comprehensive Plans
- Area Plans

Each RLRP plan is a glossy, bound document. All of the RLRPs have the same formatting, with 4 main sections:

- Overview of the Region
- Demographic and Land Use Trends
- Regional Transportation System
- Transportation System: Performance & Recommendations
- The final section is the most valuable to localities, providing a list of roadway and intersection deficiencies from around the region.
- Those deficiencies are divided into categories:
    - Operation,
    - Geometric, or
    - Safety.

He believes when the RLRP was developed and adopted it won a few awards and it was seen as very innovative. It is kind of the rural version of the MPO's long range transportation plan. The rural areas did not have that coordination or these plans up until that point. It was seen as being very innovative across the state and recognized nationally. However, there are a few issues. This was done five years ago so they have had some time to work with it and have staff look at how VDOT and their consultants developed these.

A few issues they identified that they intend to address with the 2015 update are:

Opportunities for Improvement

While the RLRP concept is innovative, there are opportunities to improve the plan:

- The existing format is not user-friendly nor easily updated;
- The function of the plan is unclear;
- Projects are not prioritized and there are too many projects listed;
- The plan does not clearly implement the stated goals;
- The recommendations only include road projects;
- There are no clear recommendations for studies;
- There is no coordination with the MPO; and,
- The existing plan does not address recent changes in State policies (HB2).

Albemarle County had four pages of projects just listed out of deficiencies that are really not prioritized. It is a little overwhelming and does not really fit as a very good guide. While it states the intended purpose of the plan, it is really not incredibly clear on how it is supposed to be integrated with the locality and adjust to the state-wide processes. Another part is state-wide things have changed quite a bit since 2010 and 2014. With the new House Bill 2 requirements it is an entirely different ballgame in terms of how we fund our transportation projects with what types of information in the processes we need to follow as localities and regions on submitting those projects. It is completely different. There has not been as much discussion about how different this is going to be. Personally, he is a little bit concerned looking across the state that a lot of localities really are not prepared for what these changes are going to bring. This will be an opportunity for us to prepare our localities for this new paradigm.

Regarding other opportunities, the RLRP really only focuses on roadway improvements. There is not really a lot of discussion on bike/pedestrian improvements in the rural areas. Certainly in the towns you will find that. There is no real mention of JAUNT and their services and how they can be improved. Also, with RAIL going through our region there is really no mention of that at all. Even though there is a RAIL picture on the cover there is nothing in terms of substance inside the plan.

Also, the recommendations are not terribly clear as they are written now. There is no coordination between the rural areas and the MPO, and people don't really see those boundaries as they function in

our communities. Since roads go through that boundary they need to better coordinate between the rural areas and the urban areas. Again, the House Bill 2 is a huge change.

Changes for 2015

Staff identified the potential for several changes to the document, including basic updates:

- Remove projects that are now within the MPO, as those borders expanded since the 2010 RLRP;
- Remove road projects that were completed or that are underway; and,
- Reassess local and regional priorities;

New Features for 2015 Update

Staff also proposes the addition of new features:

- A section that better identifies how the RLRP should be integrated into the Six Year Improvement Plan (SYIP) and other programs;
- Recommendations for other modes of travel and facility types, other than just roads;
- A new profile system that provides additional detail on identified road deficiencies, including more defined action items and timelines;
- Recommendations for additional studies and planning efforts, rather than just construction recommendations.

An example of why it is important to have studies identified for the future is in Nelson County in the 151 Study that was in our rural transportation program for 2013. They were able to get consultants from VDOT to do this study for them, which was covered by VDOT's funds. The locality did not provide any funding to this project. It was a great study and they already have three road improvements already funded and ready to go from this one study. That is remarkable because they don't normally have that when you have a study that within the year you can get funding to make improvements on that corridor. He thinks that shows how effective that is and how important these studies are. With House Bill 2 you can no longer just submit certain projects into the Six Year Plan and expect them to be funded. You can't just submit deficiencies, but actually must provide very detailed project descriptions. You can't just say we need to improve roadway capacity. You have to say we are going to add a lane of 12 feet; it is going to cost X amount of dollars; and it is going to be scheduled out with this timeframe. A lot more details are required. Studies like this are going to be how the rural areas actually find that detail.

New Features for 2015 Update

- A more user-friendly format for local, regional and state officials;
    - Divide lists into - existing deficiencies (all modes) and recommendations;
    - Provide greater assistance and guidance with local comprehensive plan updates;
    - Provide greater guidance with local land use decisions;
- Performance Measures for projects prioritized under House Bill 2;
- Step-by-step guidance for implementing projects (pathways); and,
- Better integration with the MPO's LRTP.

Finally, an important step not currently in the Rural Long Range Plan is they wanted a step by step guide for projects in those rural areas. As planning commissioners you probably receive citizen calls about how to get a road project moved forward. VDOT does an excellent job and he cannot praise them enough for all the great work they do. However, they are a big organization and you might call someone from VDOT and get someone different depending on who you call. When you have an organization that big just inherently you might get different answers, which was identified by some of the planning commissioners across the region. That is an issue when they call they get different responses depending on who they talk to.

What they wanted to do was take the priority projects and really outline step by step what needs to happen for that project to be implemented. Does it go through House Bill 2? If it does, how is it going to score? If it scores very poorly or we think it will score poorly, then what other processes are in place that would help us bypass that project. There are ways to bypass it. Is there funding available? What pots of money do we pull this funding from? What is the great detail of those processes from your priority projects so it is more of a guide for local officials?

This is our first step in the process. We will continue coming back to talk to the Commission to get feedback and run projects through you as well. In terms of process they started these meetings about a month ago and don't anticipate approval of the plan until well into next year. It may be in the winter of 2016 if not a little bit beyond that. All of that was just to give the Commission a sense of what we were thinking with this process. He invited feedback on what type of information would be useful and fit into what your needs are.

Mr. Morris invited questions for Mr. Cockrell.

The Planning Commission discussed the presentation with Mr. Cockrell and staff regarding the following issues:

Mr. Randolph asked Mr. Cockrell if he meant multi-modal travel in the reference to other modes of travel in the summary; and Mr. Cockrell replied yes.

Mr. Randolph asked that the number of charity rides in the area be noted. He asked is the state cutting back funding for rural roads? When they talk about strategic isn't that another word for we are really dealing with increased state scarcity; and, thereby we are being more strategic because they have to figure out a formula to better allocate reduced funds. Am I correct that there is less money available?

Mr. Cockrell replied there seems to be consensus that the new House Bill 2 process is going to be a greater advantage to urban areas because it is essentially going to take some funding away from what might typically go into the rural areas. They don't know for sure, but just looking through the scoring process it seems like it just stacks against the rural areas.

Mr. Randolph said he was not surprised because one of the things in looking at the membership of the Commonwealth Transportation Board is only one rural representative is on that board. That person is designated as an at-large rural member. Everybody else represents a major urban constituency; so thereby the money gets allocated to the metropolitan regions and does not get allocated to the rural divisions accordingly. He noted economic development use to be for job creation, but now it includes proximity to shopping centers. So if they put economic development in as one of the major criteria to determine where the rural funds should be allocated it automatically works against a lot of rural interests which may not have a shopping center. He just wanted to make note of that and thank them for coming to speak at Scottsville.

Mr. Keller pointed out the last plan that came out of TJPD was very thin because of the old data that was used. The real challenge is to figure out how to get VDOT to give us new data, such as the Martha Jefferson Hospital change of location; CNA change of location; and the Zion Crossroads, Ruckersville and Standardsville nodes. They are affecting the rural areas as well as the urban area here. There are more contemporary ways to get data from the traffic cams to be able to get license plat information so that we can have a better idea of trip generation and where it is going to and from. He encouraged them to think about how to do that because it is really something they have to deal with.

Mr. Keller said at the last meeting the Commission was looking at an area with a gravel road next to a significantly historic church in southern Albemarle; and, yet we have approved a daycare center that is going to increase the traffic on that road. The way the Rural Roads Program has been re-envisioned to be able to hard surface gravel roads when they get to a certain traffic count without actually improving the engineering design of those roads is something that transportation planners are really concerned about. That is something they really need to think about as well as answers to many questions: How do we keep the special qualities of the cultural landscape in those areas and at the same time allow for change? How to involve the community and find out whether indeed they want to maintain their gravel roads as many people do around the country; whether they want to change that; and what that relationship is to the abutting urban area. Another issue was tourism travel and how it is changing circulation in our rural areas, particularly with the use of GPS, in how is that affecting the rural areas in the county. They have farmer markets, tourism and major commuting to points of work from the rural areas.

Mr. Morris said he would piggyback on that. The next item is looking at distilleries that tie in with breweries and wineries because most of those are located on rural roads. When you have a cumulative effect what does that do and where is it triggered where the traffic now demands paving the gravel roads? This would be not only in Albemarle County, but every county.

Ms. Firehock asked for more detail about how they determine the deficiencies that coordinate the final cut.

Mr. Cockrell replied when this was accomplished in 2010 VDOT had their on-call consultants basically to assembly these plans rather than the PDC's because they wanted consistency across all the PDC's. It was done through the Rural Technical Committees, which has members of planning staff or local planning directors, who would identify what projects they wanted studied. Then the consultants would go out and study each one of those roadways and identify whether they thought there was a geometric deficiency, operational deficiency, or a blatant safety issue. All that data came from an on-call consultant who went out and collected that data based on guidance from planning departments on what areas to study. The consultants did not do all the analysis, but they took what was existing that was known from all the records they have and then planning staff kind of filled in the gaps and identified other areas that should be studied.

Ms. Firehock asked Mr. Cockrell to say a little more about who is coming up with the list of rural studies that are needed.

Mr. Cockrell replied at the TJPDC they have the Rural Transportation Program. Typically, we have identified a list of rural transportation projects to study over the next fiscal year. What they are proposing now is to really focus in on one project each year rather than doing a lot of different projects. They would rotate among the rural areas to identify a corridor to study, use VDOT on-call consultants, and get additional discretionary funds from VDOT to do those studies. Mr. Keller brought up a good point about the data. The real important aspect of this is the data just does not exist in a lot of the rural areas, which is another reason why the House Bill 2 process is kind of stacked against the rural areas. All this data is needed to even submit the request into the system and it is just not there. They really need these studies done on the front end to collect this data, and it is going to be hard to determine what studies are done first. However, it is something they are going to have to do regionally and get the localities talking to each other to identify what those priorities are and what needs to be studied right away or wait until the next year.

Mr. Dotson pointed out when he looked at the 2010 plan it is very clear that it is not every rural road since it refers to 29, 250, 64, Barracks Road, etc. He asked is that correct.

Mr. Cockrell replied that is correct. The project area is the entire rural area of the county or anything outside the MPO area. However, there is not information on every single roadway. The existing list of deficiencies is only those deficiencies that are already identified in previous plans for roadways that are identified by staff and studied by the on-call consultants.

Mr. Dotson noted part of the reason he asked the question is there are areas that sort of build on some observations where the goal is to keep the rural area rural and to maintain the scenic gravel roads and landscape as is. He was concerned that this would bump up against that objective. However, looking at the plan it does not seem to address very many of those sort of roads. He asked if they would look at some of the minor roads that are very locally significant.

Mr. Cockrell replied that will be a decision for all of you. We could certainly add some projects to the list, but currently this is really just a list of deficiencies. That is going to be our main source of data. Then by working with each one of the localities they will identify what projects to push forward to get implementation. Out of those projects we will prioritize which ones best fit into House Bill 2 or other funding sources. In terms of projects of paving graveled roads that is going to be a decision for all of you. If that is a priority to keep those rural roads rural, then they are not going to be in the project list.

Mr. Dotson noted his thought, which may be a separate issue down the road, is a category of roads that are not intended to be improved rather than just omitted. The second question is about the process. With the Long Range Transportation Plan they have the MPO Policy Board, which includes the MPO Technical Committee that I served on and the CTech that Mr. Lafferty served on. He asked what the parallel process is here regarding who is involved in the month to month work and making recommendations of improvement.

Mr. Cockrell replied it is kind of a similar structure. In the rural programming area they have a Rural Technical Committee that is made up of local planning directors, VDOT, Rideshare and JAUNT. They are the advisory committee and the Planning District Commission are the ones who make the approval of the document.

Mr. Dotson asked is that a set structure; is there opportunities for planning commissions to be represented on that; or is that established by VDOT or others.

Mr. Cockrell replied that is a pretty standard structure. Mr. Lafferty had asked is there a project committee. It really has been the Rural Tech at this point who have met and talked about it a few times. There is flexibility to change the process and include others, but they will keep coming to all the planning commissions. However, if there is a desire to get together more as a working group on that we are very open to that.

Mr. Dotson said it is something worth considering. Just as a comment he would underscore Mr. Morris' concern about rural events associated with ciderys, breweries and distilleries as being a new concern that perhaps was not considered in 2010. The third bullet about what this will do and how it will be helpful says evaluate the effects of land use and development. What he means there is on the transportation system. He would also like to see it include the flip on that where there are existing deficiencies which may not be addressed to evaluate what does that tell us about land use in that area.

Mr. Loach commented from looking at the presentation there will be a higher demand on the counties to give more specific project information. He would hope on the other side of that the county would get a more firm timeline on the plan. If it documents the deficiencies it is a good idea to prioritize and they need to see the scope of the deficiencies that point to the site. If it is on the bottom of the list that is important.

Mr. Lafferty complimented them for bringing this to the planning commission early to try to get us involved. He suggested they make the present study more readable and useable. These studies take a lot of time and effort and for it to just lay on the shelf as unreadable does not make any sense. He compliments them.

Mr. Randolph said when he cut across Jarman's Gap Road over to 250 when he passed King Family Vineyard that road is falling apart. I am not surprised because of the size of the activities held there. The state has authorized up to 200 people, a standard operating procedure for a bonafide agricultural enterprise, such as King Family Vineyard. The Board has authorized the push on to 1,000 people for special events there, and yet that road is not a priority road and would not be treated as a primary road that needs upkeep maintenance. The level of travel on it now has become significantly higher as a result of permitted activities partially authorized and initiated by the state. Therefore, he thinks the state has got to look for some way to take on some responsible for that road or otherwise they will continue to see the deterioration and a safety issue as people drive pretty quickly on that road. He recommended they look at the formula because the formula is designed with an urban center of mind. Last night it was brought up at a town council meeting in Scottsville that the kinds of expectations that VDOT would have for a town in terms of level of expertise and the kinds of research and study that can be done exceed the capacity of the town to undertake. He thinks there is a need to look at a formula that is more appropriate for rural communities and not automatically translate the paradigm that works well and has an empirical basis in the city where it is a more urbanized MPO entity; but, in another way of getting at this kind of information that is fair and fiscally more appropriate given the amount of resources for a town.

Mr. Lafferty asked if he was talking about the House Bill 2 (HB2) formula.

Mr. Randolph replied he was talking about the formula that is being applied here in terms of the rural area.

Mr. Lafferty replied that was HB2 and he did not know that they have a formula yet. He pointed out they have categories.

Mr. Cockrell pointed out they have categories and actually have finished the formulas, too. There were representatives from each one of the localities getting training on the submission process. The prioritization process here does not have to be exactly the same as House Bill 2. Certainly our Long Range Transportation Plan for the MPO is not the same as House Bill 2, and we can see what we can do about that. Some projects won't have to go through House Bill 2 and would go through a different process. Therefore, they definitely can give a lot of thought to how to have a better system for the rural areas.

Mr. Morris opened the work session and invited public comment. There being none, the public comment was closed.

Mr. Loach said as a follow up to what Mr. Randolph was describing that he would basically call it a hybrid road that is in the rural area. However, because of the land use system growth area contiguous Mr. Dotson was saying it is causing traffic to increase in the rural area, yet it is still a rural road and sort of a hybrid type of thing.

There being no further questions, Mr. Morris thanked Mr. Cockrell and Mr. Boyles for the presentation.

Mr. Boyles said they hope to come back again. They will send out a survey to all the planning commissions to get more guidance on what structure would best fit the needs of the localities, what you would be looking for, and also identify some specific issues. If anyone is interested, let him know if they would be interested in participating if they put together a special working group.

Work Session

ZTA-2015-00002 Farm Distilleries - Discussion on proposed changes to Farm Distilleries, Farm Breweries & Farm Wineries zoning text amendment. (Mandy Burbage)

Mandy Burbage presented a PowerPoint presentation regarding ZTA-2015-02 Farm Distilleries – August 11, 2015. Ms. McCulley handed out a quick reference sheet.

Background
The genesis of this Zoning Text Amendment (ZTA) came from a bill before the 2015 General Assembly, SB 1272, dealing with "limited distilleries" or farm distilleries (36,000 gallons or fewer per year that are located on land with agricultural zoning, and that use some products grown on the farm in the production of those spirits.). The State Code changes went into effect on July 1 and for the most part mirror the provisions in the State Code for farm wineries and farm breweries. Mr. Kamptner's memo, an attachment in the staff report, provides a detailed background on the extent to which localities are able to regulate the operation of farm wineries, breweries and distilleries and the events and activities associated with them. She would touch on the major points of Mr. Kamptner's memo to provide some context for the proposed ordinance revisions.

There are specific activities related to the production, sales, tasting and storage of spirits, beer or wine that localities cannot touch, which is one important thing to keep in mind. The second is that any restrictions that are imposed by a locality shall be reasonable, have to take into account the economic impact of the restriction, the agricultural nature of the proposed activity, and whether or not the activity is considered usual and customary. Finally, the local regulation of usual and customary activities is limited to those activities that have a substantial impact on public, health, safety and welfare. However, the Code does not define what that substantial impact is. Through previous zoning text amendments our zoning ordinance has included a definition of substantial impact as well as a specific set of triggers for

substantial impacts that apply to both farm wineries, farm breweries, and as you may recall from last year's agricultural operations as well.

Background:
March 17 ROI for farm distilleries
May 12 PC Work Session
July 1 SB 1272 takes effect
June 2 Revised ROI to include farm wineries, breweries & distilleries

This ZTA process began with a focus on farm distilleries earlier this year and a recommendation to treat them the same as farm wineries and breweries in our ordinance. A work session was held on the draft ordinance. At that work session it became clear that the Commission had several concerns that warranted broadening the scope of the resolution to include farm wineries and farm breweries.

As I mentioned earlier, these State Code changes took effect on July 1, and we are working as quickly as we can to make our ordinance consistent with these changes.

Planning Commission Concerns

To recap the concerns since it has been a while since the last work session:

- Events associated with multiple ABC licenses on the same property,
  1) Cumulative events associated with multiple ABC licenses on one property. This is something that wasn't anticipated last year when they were working on farm breweries. However, it is definitely a possibility for a property to have a farm winery license and a farm brewery license; and, therefore able to have more than one by right event of up to 200 people without ever needing to get a special use permit. That was something the Commission had pointed out as a concern.

- Cumulative impact of rural area (RA) uses on multiple properties
  2) Cumulative impact associated with multiple by right uses within a concentrated area when none of those uses individually triggers a substantial impact. Taking into consideration the wide range of by right activities that are already permitted in the Rural Area, not just wineries and breweries, but farm stands, B&B's, agricultural operations, etc., there is definitely a potential for this to occur already. However, it is not something that the County has really experienced to date. Since there is a relatively high bar for wineries and breweries to get that special use permit in the current ordinance for events of over 200 attendees, the Commission thought it might be beneficial to consider additional thresholds that would provide the opportunity to address potential issues that may arise before the 200 person threshold is triggered.

- Relationship of farm distillery, winery and brewery activities and events to an agricultural use of the property
  3) Relationship to an agricultural use of the property came up in the context of farm distilleries, wineries and breweries not being required to produce a minimum amount of agricultural product to obtain an ABC license. This arose because of the unique requirements of the ABC license, which for distilleries and breweries are a much lower bar in terms of how much agricultural product needs to be grown on site to get that license. For Class A farm wineries, in particular, you have to have 51 percent of the product grown on the farm. All but one of our wineries is a Class A farm winery. While the County is not able to consider the amount of product in allowing the use itself, as Mr. Kamptner's memo outlines it can in its consideration of allowing events and activities associated with that use.

Proposed Ordinance Revisions

How are these concerns addressed by the proposed revisions? First, she would touch on the highlights of the changes and then review the table passed out to get into the specifics.

1. Add provision for cumulative attendance associated with multiple ABC licenses on one property. That would apply to farm wineries, farm breweries and farm distilleries.
2. Apply agricultural operations zoning clearance thresholds to activities at farm breweries and farm distilleries that exceed the 50 vehicle trips occurring on a parcel less than 21 acres. Those would both trigger the zoning clearance requirement.
3. Farm wineries – no change
   - License has stronger ties to agriculture
   - Tend to be on larger parcels
   - More zoning history

With the exception of the provision for multiple ABC licenses on one property the farm winery regulations are unchanged in the revisions we have before the Commission this evening. The rationale for that is there is more of an agricultural basis associated that is inherent in getting that ABC license (51% on site production for Class B). That sets wineries apart from breweries and distilleries because that agricultural basis tends to be on larger parcels; and, therefore have less anticipated impacts on neighbors. In addition, they have had more history with the use in our county and no real problems associated with abuse of that license.

The table passed out summarizes what has changed since the last work session. They have the current regulations on the left side of the table and on the right are the proposed regulations. Everything that has changed since the last work session is in italics. The following additions are proposed.

1) Apply Zoning Clearance thresholds of 50 vehicle trips daily (VTD) and 21 acres to breweries & distilleries – In applying the threshold you have to consider economic impact, agricultural nature of the activity and whether or not it is usual and customary.
2) Aggregate attendance at events exceeding 200 triggers a special use permit (for events with multiple ABC licenses on the same property or for multiple weddings, receptions or other usual and customary events).

The note added to the table that was not in the original attachment relates to if we are to apply these additional thresholds we have to consider the economic impact of the restriction, the agricultural nature of the activity and whether or not that activity is usual and customary. That is all tying back to the State Code requirement.

For the special use permit trigger not only does that cumulative attendance apply to multiple ABC licenses, but we also wanted to make it clear that it would apply if a farm winery or a brewery or a distillery was having say a wedding and an event that is not categorized in the zoning ordinance but is under that 200 person threshold. So if they were to have multiple events like that going on at the same time they would aggregate the attendance; and, therefore would have to get a special use permit if it was over 200 people.

Staff Recommendation

- Provide feedback on proposed revisions and direct staff to schedule ordinance for public hearing
  - Special Use Permit for cumulative event attendance over 200 (farm wineries, breweries, & distilleries)
  - Zoning Clearance for activities generating > 50 vehicle trips or occurring on parcels < 21 acres (farm breweries & distilleries only)

At this time, staff would like to request feedback on the proposed revisions summarized above. If after the discussion you are comfortable with the revisions as proposed, the Commission may wish to make a motion to move forward with scheduling the amendment for public hearing.

Mr. Morris invited questions for staff.

Mr. Keller thanked staff for the great concise, clean and to the point analysis. The presentation last time allowed us to be able to zero in on the level of specificity. As he understands it staff is suggesting that they not add that agricultural component in for the breweries and distilleries for the 51 percent allowed for wineries.

Ms. Burbage explained they are not allowed to do that under the Code.

Mr. Kamptner pointed out staff are looking into the enabling authority and our general authorities concluded they are preempted from altering the state licensing requirements.

Mr. Keller pointed out he was still not 100 percent clear on the way you have written that whether there was any wiggle room on that.

Mr. Kamptner noted the wiggle room exists in our consideration of regulating the activities and events in that component. It was not whether or not you could have a farm brewery, but in regulating the activities and events.

Mr. Keller said he understands that. He noted last time there was also discussion on water volume taken from above ground and below ground and whether there was any opportunity for any kind of a control on that. He was trying to go over the areas he believed that they have no control over just so it was part of the public record. That is why he was asking the question.

Mr. Kamptner said with respect to the licensing issue in whether or not a farm brewery can exist if they qualify for the ABC license the brewery is allowed to exist. The water control might be relevant to the extent that they are looking at regulating activities and events. Although under a general authority we don't have the authority to control the extractions and ground water. So you can see there is a very high limit, which is something that exceeds 320,000 gallons per day. It is an extraordinary high volume.

Mr. Keller said on the agricultural side of these operations we seem to have no wiggle room in the county.

Mr. Kamptner pointed out he would break it down between the licensing and the brewery or the distillery itself as compared to the activities.

Mr. Keller said he was going to ask about the activities next. But, he was asking on the agricultural side.

Mr. Kamptner pointed out in the context of whether or not these particular uses can establish they need to meet a fee state licensing requirements.

Ms. McCulley asked to make a clarification if you are talking about production. For example, water withdrawal in the context of production of distilled spirits brewery is something that we can't regulate. But, only in the context of activities like events it can be regulated.

Mr. Kamptner noted it was to the extent that it is relevant in evaluating the impacts, and Ms. McCulley agreed.

Mr. Keller said those are the points that he wanted to make that would go all the way around and then they could talk about the activities. But, we have clarified that really we have gone as far as we can using what the state allows us to do in terms of the agriculture. He thanked Mr. Kamptner for introducing the word production in terms of the agricultural production. For instance, if we wanted to see 20 acres of hops for a brewery or we wanted to see wheat or whatever grain for a distillery we have no opportunity to introduce that into the equation at the county level.

Mr. Kamptner replied yes, with respect to the brewery or the distilleries establishment itself.

Mr. Dotson said building on something Mr. Keller was interested in, the 51 percent or Class A winery, my thought was let's put that on our legislative wish list for this next year for an even playing field. His fear is that the 51 percent could go away.

Mr. Keller noted they were talking about it right now because they are not producing enough grapes.

Mr. Dotson agreed. Anyway, the thought is put that on the legislative wish list. The second thought is a question. Is there any maximum size for a farm brewery or farm cidery? Could we have a national scale cidery operating as a farm cidery for instance?

Ms. Burbage replied there was a cap on the production.

Ms. Burbage pointed out there is a cap on the production of about 35,000 gallons for distilleries.

Mr. Kamptner noted it was 36,000 gallons per distilleries, 15,000 gallons for farm breweries, and he was not aware of any cap for farm wineries.

Mr. Dotson said there is a cap for at least some of the categories. Third, he thinks staff has done a very good job in being responsive to the discretions that were raised the last time. He was trying to think through one of the items, the cumulative attendance, perhaps from multiple events on one property. What if the same entity owns two adjacent parcels?

Mr. Kamptner pointed out probably what they could do, which they have done in other regulations, is move from parcel to site or something like that. However, they can work to address that issue under common ownership.

Ms. Burbage noted the agricultural operation regulations do that. It is adjacent sites under the same ownership that are part of the same farm that would be considered as one.

Mr. Dotson said that was good. His other follow on question is would it be possible to say within a certain distance. Let's say it is different ownership but sitting side by side, would it have the same impact as if it were the same ownership. Could we say within a quarter of a mile or some radius that would allow us to capture that kind of situation with a distance criteria?

Ms. Burbage asked if that was in allowing events and activities, and Mr. Dotson agreed.

Ms. McCulley noted that it would be kind of the race to go first.

Mr. Kamptner said it is difficult to regulate one person's activity by right where it is dependent on first come first serve because each parcel has its own bundle of rights for the property owners under the zoning regulations to do what they allow them to do. So that kind of ties into the substantial impact analysis. Right now they are kind of working on the point of the site because they don't have that kind of a critical mass of these activities at this point. But, they are looking at it right now. We could reach the point where there is a different threshold for a substantial impact. We are looking if you are located within a certain distance you may need to address whatever impacts you have because of your proximity.

Mr. Dotson said it seems to be something to continue thinking about since it is not easy to understand. In the staff report, although not in the chart, staff talks about grandfathering existing farm wineries. I can see that somebody would need to be grandfathered in terms of the 21-acre threshold. That is not something that could be changed easily because they are already there. However, in terms of vehicle trips per day it may increase over time; and, then I am not sure they want to grandfather that. So that is something else to think about.

Ms. Burbage pointed out staff was not recommending applying zoning clearance thresholds to farm wineries because of what she mentioned before about them being kind of inherently different in terms of their licensing requirements. The recommendation of grandfathering was because the Commission felt those zoning clearance thresholds should apply. Staff would then recommend grandfathering existing wineries, particularly because they kind of followed last year's ordinance amendments and were under the impression that their regulations were not changing. So they would just want to be careful about sort of changing the rules on them without ever seeking their input again if was going to affect all of them.

Mr. Kamptner pointed out we found that there are two farm wineries that are less than 21 acres.

Mr. Dotson agreed that there needs to be grandfathering if less than the 21-acre threshold.

Mr. Cilimberg said it was worth noting the Board said they would want to have a report back on the effect of any changes to the ordinance. But, when the amendments were passed last year staff actually volunteered that we want to come back within a period of times of one or two years to get a report on what they have seen transpired since the ordinance was passed. I think a lot of that was to see exactly whether or not we have started to get concentrations that could lead to cumulative impacts that might warrant having the ordinance revisited. So that is something that we will need to be doing based on the Board's approval last year.

Ms. Burbage pointed out they have one farm brewery that is in the works, but does not have their license yet. But, since they passed those regulations last November they have not had any farm breweries established.

Ms. McCulley noted there has only been possibly one agricultural operation.

Ms. Burbage said they may have had one or two zoning clearances. It is not the flood of applications that staff anticipated.

Ms. Firehock said she would suggest to give it some time to get investors, start a new business and do all of that. She would not expect you to see the sudden flooding in a year or two. However, five years out is a more appropriate window.

Mr. Randolph asked for some help historically here. To my knowledge we have only permitted one spirit operation in the county that have 1,000 people for special events. He asked if that was correct for the King Family Vineyard.

Mr. Kamptner pointed out one at Castle Hill and Mr. Morris pointed out one at the Cidery.

Mr. Randolph noted there was a third that the county needs to look at very closely, which was for Thursday night at Carter's Mountain. I think there is certainly more than 200 people on Carter's Mountain. I will estimate it is well over 500. I might even venture there could easily be 1,000 people. But, I think one thing that needs to be factored in, and I don't say this with prejudice in my remarks again on Carter's Mountain, that my concern is there is no allowance in here for extremely steep slopes for entry and most importantly for exit from that facility. I think that is something we need to look at closely here that after people that have been drinking alcohol and they are in essence doing a downhill speed race off of Carter's Mountain in an automobile. It is a situation that something is going to happen in the very near term given the volume of traffic and the steepness there. I think that is something we need to look at when we look at roads here under permitting agricultural activities with alcohol with the steepness of the road that constitutes a risk. I would also submit in light of actual concerns voiced by a gentleman who lived out of Scottsville in running for public office he has raised an issue about topography. There are some vineyards if they are located higher up on a hill you can have an acceptable level of outdoor amplified music. However, if you are living down below the hill because it is on a hill that music rocks out over the county side and you can hear it very clearly. I would submit that we need to look at both the slope of the road and the topography in how it affects adjoining properties when they look at this application. Certainly they need to consider that they are living in the Piedmont region, which is hardly flat. So those are two things that I think are missing somehow or another that need to get into the equation.

Mr. Randolph said he would like to talk about staff's suggested formula on the percentage here on the fruit that is grown for the wine. I am torn here because there really is not a problem now, and I recognize that. But, I think the absence of the ZTA may serve to actually promote pop up tax write offs, state subsidized distilleries creating thereby the perverse necessity to grandfather it and hence lock in a new status quo for multiple bona-fide agricultural operations. The existing agricultural interest may prefer to see the market presence locked in rather than to facilitate an ease of entry of new competitors. I really suggest the county consider creating a committee to look at this issue with all stakeholders included, especially adjoining property owners in the alcohol operation. I hate getting into the Goldie Locks here in

saying it is not too hot; it is not to warm; and do we regulate or do we not regulate. He was not saying he was in favor of regulation. However, we don't have a problem now, but I think a number of us are voicing a concern that the iteration of these over time that we may have a problem. We are far better off having something on the books now and some kind of a structure that is felt appropriate. However, he did not have anything. Fourthly, he wanted to come back to traffic. He thinks they need to come up with additional metrics on traffic for a ratio of normal weekend traffic numbers versus gross numbers with the hour timing of the traffic before proposed spirit operations begin and then post opening impacts after the spirit operations begin. Most of these rural roads as they are again talking about in terms of growing by in King Family Vineyard, these roads were not designed for the volume and intensity of car, bus and truck traffic that is occurring now. So he thinks they need to come up with a better measure on traffic and not be just so tolerant in all roads and all situations that is acceptable. Those are my comments.

Mr. Loach noted he had one question if they can county regulate for health, safety and the general welfare. On the gravel road is there a trip threshold for these roads that can be used if either a. that they are not safe anymore, or b. the deterioration is over and above a trip threshold would kick in. He asked can you use that as a point of reference or a metric deciding how much the road would be. In b. would it then kick up in the way that road would have to be paved in order to have additional enterprises.

Ms. McCulley asked if he was talking about the public road that serves the use and not an internal road.

Mr. Loach replied yes, it would be for a public road and the gravel roads themselves in how do they evaluate as far as trip thresholds for deterioration besides safety where you would not want to put any more traffic on the road for those reasons.

Mr. Cilimberg pointed out there is a threshold for unpaved roads of which they are eligible under the Rural Rustic Program and a threshold in which they would be paved under the normal paving program. Mr. Benish could tell us what the vehicle trip numbers are. It is not a requirement and it does not kick in an automatic paving. It just creates the opportunity for the monies in our unpaved road funds to be used for the paving of those roads. He asked Mr. Benish what the numbers are for when those become eligible.

Mr. Benish noted it was 50 vehicle trips.

Mr. Lafferty said there are so many roads where they have refused the paved roads.

Mr. Cilimberg agreed there are some that do not want their roads paved. There are others who have been asking for many years. There is only a limited amount of money budgeted and available each year through the state program. There is only that threshold that exists. However, it does not automatically kick in a requirement to pay for an automatic expenditure of monies.

Mr. Loach said he was just looking at it gets to a point of diminishing returns with the traffic. There is so much problem with the roads as far as deterioration and repairs that it would be counterproductive to add more to it and use that as some sort of criteria for whether you would allow more enterprises to add additional traffic to the road.

Mr. Cilimberg said in year's past, and he did not think this exists anymore, and Mr. Benish may want to answer this as well, there was a category of secondary roads in the county and across the state that were referred to as non-tolerable based on existing conditions. He did not believe that category is used any longer. They use to evaluate special use permits in part based on the road conditions and the category of non-tolerable.

Mr. Loach asked does that preclude the county from using the category of non-tolerable.

Mr. Cilimberg replied that does not preclude in terms of using it for an evaluation of special use permits, as an example.

Mr. Lafferty asked if the Class A and Class B permits are issued by the state, and Ms. Burbage replied yes.

Mr. Lafferty asked if there were 3 that are below the 21 acres, and Ms. Burbage replied there are 2 below the 21 acres.

Mr. Lafferty asked if they are Class B, and Ms. Burbage replied they are Class A.

Mr. Lafferty said he had a hard time believing that all of the vineyards are producing over 51 percent of their grapes.

Mr. Kamptner noted the one thing is that in the definition of farm sale in our county ordinances it does not have to necessarily be that single contiguous parcel or group of parcels. It is any land within our codes even in the county under state licensing under the same ownership in the Commonwealth.

Mr. Lafferty said that he understands that some grow the grapes in California and ship it in. He was just amazed that some of these vineyards are producing that much grapes.

Mr. Kamptner pointed out there was no minimum production requirement to get their license.

Ms. Monteith noted part of what is happening, at least from what I have heard, is that there are some people who are growing grapes who are not producing wine. So it is all kind of evening out. However, I don't have any statistical data.

Mr. Lafferty said he was reacting on a comment he heard the other day that if you are drinking Virginia wine you are consuming California grapes. Some of these things are hard to measure like 50 vehicle trips a day. He did not know if the county has the resources to do that. He agreed that they need to do something in order to put it in there to say about the concern. As Mr. Randolph was saying about Carter's Mountain, he had an event at Jefferson Vineyards and there were a lot more than 200 people there at the concert. He pointed out everything was fine, but it was just hard to have staff measure.

Mr. Morris commended them for coming up with alternative measures.

Mr. Morris opened the work session for public comment. He invited anyone present to speak.

Steve Blaine said tonight he represented a group of property owners in the Millington area who live on a gravel road who are very concerned, not about the underlying agricultural uses the actual production, but these special events which they know are permitted as a matter of right under breweries and wineries and now with this new legislation would be expanded to distilleries. He also represents a number of farm wineries throughout the state. So he is very familiar with the licensing requirements and he can tell you that he has been through the Class "A" licensing process for clients. It is not rigorous at all. It is a very diminutive threshold to establish a Class "A" farm winery. In fact, the point he thinks that Mr. Kamptner was making is that the winery may lease land to reach the 51 percent and then can lease that land anywhere in the county. I have clients that have a production winery and they are being contacted by start-up wineries to lease a row or two. They can buy juice and that is a common custom. But, to meet that 51 percent it either has to be owned by the winery or it can be leased. There is a notorious ABC Commission case years ago that did not allow that. But, since then the legislation has been changed and it does allow the leasing. So I think your premise on excluding further regulations on the farm winery is misplaced because it is such a low diminutive requirement. We would urge that you go further than what has been suggested by staff to at least require a zoning clearance for farm wineries that meet the same threshold because he thinks the rational does not exist.

Mr. Blaine said we would actually urge that you go further. There are examples in California. I understand it is a different enabling legislation statutory regime, but there are sliding scale ordinances. If you have 1,000 acres, Castle Hill, it is more appropriate to allow events of 200 people than if you have 5 acres and you have established a winery. I have talked to the ABC state agent, Mr. Craft, who has been contacted by people who own farms and they are interested in the revenue producing from events and they say which is easier to get a brewery license or get a winery license. We understand because I represent wine makers who want to promote our wine industry. They want to be able to have other

revenue sources because a highly capitalized industry requires up front capital for years before you actually have a production of revenue. So they allow these events to help provide a revenue source to promote our industry. They want to promote our industry. But, we don't need to promote wedding events in rural areas on gravel roads that will really impact and threaten the rural character. That is what my clients would urge you to consider. I sent a memo of resolution to Mr. Kamptner and Ms. McCulley. Our clients are happy to work with staff to help develop some more rigorous ordinances. It is ironic I am not typically arguing for more regulation as those of you know who have known me for years. But, I think in this instance you have an opportunity because you have to address it because of the new legislation. Let's take that opportunity. Let's not wait for the abuse to happen, but let's see if we can plug it before it happens.

Jeff Werner, with Piedmont Environmental County, said he really appreciates what Mr. Blaine is saying and certainly Mr. Williamson will have some things to say. I think one of the unique and really nice things about this community is we still talk to each other about our problems. It is amazing how throughout PEC my colleagues deal with people that are always kind of fighting and arguing. But, at least here we really do talk about things. Just on a note that Mr. Blaine just referred to, you all know I live in a winemaker's house, the old Monticello Wine Company. Mr. Williamson and I were talking the other day that a year of two ago someone read about it and licensed the Monticello Wine Company name. So they don't even have a vineyard or anything, but they licensed the name. Anything to get more Virginia grapes into more Virginia wines we all would support that.

Mr. Werner said they tend to focus on activities and events. What I have been sort of listening to and thinking about in all of this is this is very different from wine making. It is the breweries and the distilleries, which is the manufacturing process. There is something more going on at these sites than just stomping grapes and letting them ferment. The Commission spoke to the water issue. However, I am still a little curious exactly what that discussion means. When the Commission looked at a special use permit a little while ago at Mechum Trestle they looked at the amount of groundwater used by a restaurant. While there are limitations on what these places can produce they still use water. So when we talk about these limitations and the scale the question is I guess the state is regulating that. So does the state report to the county every year and give information that winery X or distillery B produced X amount last year, and staff looks at that and says oh look at that they exceeded their amount or is it just nobody talks. I find sometimes that is the case when it comes to the state regulating something and communicating that to localities. He thinks the question is really what the tipping point is when that steel out in the backyard becomes Bowman's Liquor. How do we account for that or anticipate when those changes occur. The General Assembly somewhat handcuffed us on activities and events. So just thinking about the regulation, for lack of a better word, of that manufacturing process and making sure those things don't get too far down the road and we have some problems.

Mr. Carrington King, a vineyard manager of King's Family Vineyards and one of three owners, said he was a farmer first and moved to Crozet in 1994 when it was a railroad town and had no traffic light. I have lived on One-Half Mile Branch for a long time and have seen its deterioration. I have three children and two brothers with children. We live on our property so it is very important because we would like to be good neighbors. We have no amplified music outside. I grow 47 acres of fruit and have 400 acres of property. I produce about 200 tons of fruit on my piece of property every year. Some of these events that we are talking about I want to ask one question to clarify and give my opinion. In the proposed opinions 200 cumulative attendees I urge the Commission to consider that during normal daytime open hours since you may as well shut us all down right now if that is open hours. I have got times 21 employees, which is 21 car trips of people that are opening my doors in the morning.

Mr. King urged the Commission to think about the impact and in the decision making looking at these 3 classes. We have no beef or real relationship with farm breweries or farm distilleries. But, I will say there is a distinction. There are some vineyards in this county that grow a lot of fruit. I will say we do events and events help to sell our products. If you took all the Virginia wineries, there are 247, there are several thousand vineyards that make no wine. Of the 247 wineries we have in our state it is about 100 million dollars in business. That is a small to a medium range of one California winery. In these events if we can't bring people and sell the product on the farm, then we can't exist because it is the only way to make money in the wine business. It is the same in breweries since you are Blue Mountain or Budweiser and in

between is a terrible place to be. It is the same for wineries for twenty thousand cases or below. I made 13,000 cases of wine this year, and we are about million and up. If you go up to NAPA and you see it looks like oil factories. It is the only way you can exist. The events get people to buy our product on our location. I will say certainly there are weddings. However, we want to be good neighbors because we live there. We have no outdoor amplified music. We came and worked with the county years ago and said we are going to put up a 1.2 million dollar building to keep it quiet and keep the neighbors happy. He would say also within the several events we do we host lots of free charity events, which includes Albemarle County Fire, Boy Scouts, PEC, Crozet Fire, Brownsville, Western Albemarle, and the list goes on. I am also on the board of Charlottesville Tomorrow, and they host that event. Anybody in the county who wants to have an event at our place that we want to help it is on the house.

Neil Williamson, with Free Enterprise Forum, said he had a background in Virginia and California wine. I spent 15 years in the business and I ran a winery on the west in Prince Michel, which was in one of those spots that Mr. King was referencing. We were doing about 45,000 cases when I was there. To be clear the Virginia wineries that you have in your locality are in the second most populous locality for Virginia wineries. You were surpassed about 3 years ago by Loundon County. You are in the most populous American viticultural area, the Monticello viticultural area. The majority of the Albemarle wineries are using mostly Albemarle fruit, but certainly at least 90 percent Monticello Appalachian fruit. I am well familiar that they are bringing in some fruit from Washington because of some shortages. But, the larger operations that are using some outside California/Washington fruit tend not to be here. That being said, I must defend my winery friends when you are talking about a small parcel. You can make a business with a small parcel. I encourage you to go out to Loving Cup in North Garden. They are growing organically, which I said could not be done in Virginia. They are growing organically with a very small acreage and a very small production. It is a family operation. It is fabulous and I would encourage you to visit. I am concerned about the cumulative attendance at 200 people at any time. There have been many times when I have been on site where there will be a wedding setting up and there will be wedding people coming in. While the tasting room is shutting down certainly that exceeds the 200 ramification.

Mr. Williamson said I have to speak up for the farm breweries and the farm distilleries and ask specifically that you do consider joint ownership of parcels and maintain the "and" in the by right use of on sites with 21 acres or greater. I understand the concern there, but I think that when you limit someone to 50 vehicle trips that is 25 trips or 25 people. I can't run a business and have my employees and customers coming if I am limited to 20 people a day. I would be out of business. That may be the intent to make anyone under 21 acres have to get a special use permit and make it harder and harder to have these breweries. I have heard from many people who have attended many brewery events that some breweries have thought about locating in Albemarle County and chose to move to another locality because of the regulatory nature. That may be a good thing, but it may be a bad thing. That is up to you to decide. I think roads are critically a state responsibility. If you believe that the Carter's Mountain driveway, which I believe is privately held, is a challenge I encourage you to visit Stone Mountain Vineyards in Greene County where you have to drive up a wide mountain road which is a VDOT Road. I drive up and down that road at least once a month, which is traversed by school buses. I do not believe that roadways, since they are state responsibilities, should be a consideration for any special use permit or any permit. The current grape shortage, which will pass, will impact how much fruit is available not only this year but the next two years because you have to wait until third leaf before you get a full harvest from a vineyard.

There being no further public comment, Mr. Morris closed the public hearing to bring it back to the Commission for additional comment and recommendation.

Ms. Burbage asked to address a point that both Mr. Williamson and Mr. King raised and clarify that the 200 person attendance threshold does not include those by right protected activities. So people at a site for sales, tasting, production, and harvesting would not be included in that 200 person cumulative number. It is just the events.

Mr. Kamptner pointed out it also does not include the number of uses that we allow that are not subject to the limitation that are generally seen as fairly low impact as far as blight is concerned. So we are really focusing on a way to define the farm winery events, which are set events where people are invited with the number that they may not exceed for the weddings and the wedding events. They have this catchall

for anything that develops, but we don't include if they have exhibits on site. It would include wine makers and trade accommodations of invited guests, hay rides, kitchen and catering activities, picnics, and tours of the farm winery that are not counted towards the 200. It is only for specific events that are taking place.

Ms. Firehock asked if the 200 would not include the caterers for the event.

Mr. Kamptner replied no it would only be the invitees for those specific events. It is not the general day to day people who show up to visit the farm winery.

Ms. McCulley said they would not want to regulate the caterers for the event.

Mr. Kamptner asked to address the point Mr. Werner raised about controlling manufacturing. The manufacturing of the wine and distilled spirits is something the locality would expressly be preempted from regulating.

Mr. Morris asked if there were any other comments and recommendations for staff. He asked if the Commission is ready to recommend the ZTA go to public hearing.

Ms. Firehock said on the comments they just had about generating less than or equal to 50 vehicle trips per day that just has to do with whether it is by right versus whether they have to come in for a special clearance.

Ms. Burbage agreed.

Ms. Firehock said they can have 200 vehicle trips at a successful farm distillery; but they just need to come in for their clearance to check on everything. She just wanted it to be clear so everyone understands.

Ms. Burbage thanked Ms. Firehock for the clarification.

Mr. Cilimberg noted that typically is going to be in association also with VDOT permitting the entrance.

Mr. Loach thanked Ms. Firehock for clearing up the 200 so to put some minds to rest. But, he would also like to say that the problem is not what is going on on-site because they do a very good job of regulation on that. Over and above them there are fire codes and regulations that they have to adhere to. It is the getting to and from the venue. Mr. Williamson said that is the preview of the state and it is their responsibility. But, they just heard from the representative from the Long Range Rural Planning that there are four pages of rural deficiencies on our roads in the rural county. It seems to me that there has to be some criteria that we can use under health and safety to get some sort of metric. As Mr. Blaine just brought up on a gravel road where there are going to be problems with the roads, problems with the sight lines, etc. they can use this criteria over and above to try to control what the number of people are once inside and going outside.

Ms. McCulley said there is a locality, she believes Loundon, who considers the road classification as to the permission that you need for events. I am sure that roads, such as gravel roads, would need more permission and it would not be by right. If we go that way I would ask that we do that at a later date; that we go ahead and implement what we need to get Ag distilleries on the books; and then have some public engagement about how best to do that.

Mr. Loach said it would seem reasonable if you already have a road that is marked as deficient by VDOT that has to be taken into the criteria for what goes on that road adding to it.

Ms. Firehock said Mr. Kamptner's memo was excellent, very enlightening, and I learned a lot. They just had a comment from Mr. Blaine about our assumption about a minimum size already inherent in wineries because of the 51 percent production rule. He also mentioned the fact that you can lease other land and then say now you have met that production. I was not aware of that. I have not had the honor of being in

the wine industry for many years, just an enjoyer. I just wanted to ask the Commission is that a question we want to revisit or does it seem to be a concern that there could be a very small winery that got to the right size by enough leasing, but then actually maybe should be treated the same as a small farm brewery, farm distillery, or did that not make the case

Ms. Monteith noted Ms. McCulley just made a good point that it would be good to move forward with what we have and make a decision about that. I think that staff probably understands the other things that have been discussed tonight that they could continue to perhaps benchmark on or look into other examples to see how other communities might be solving some of these issues. But, as we saw from the dates at the beginning of the presentation this has been worked on for a while. So it seems like it would be good to take some kind of action on what we have at hand and then let staff continue.

Mr. Morris agreed.

Mr. Kamptner said one of the issues that Mr. Blaine raised was suggesting that zoning clearances be required for farm wineries like the county does right now for certain farm breweries.

Mr. Morris asked what we are saying.

Mr. Kamptner pointed out for farm breweries they require the zoning clearance if they are going to generate more than 50 vehicle trips under 21 acres.

Ms. McCulley agreed it was for our recommendation.

Ms. Kamptner said the discussion was for a similar standard for farm wineries.

Ms. Firehock pointed out that was just what I was trying to say, but no one seemed interested. So I would be supportive of that.

Mr. Keller asked if there is difficulty in adding that our effort move forward. He asked if the Commission can add two or three things: further exploration of water; further exploration of the roads; and how either of those may or may not provide further review and to make these all parallel.

Ms. Firehock said it was not prevention, it is checking into this to make sure there are no problems that are unforeseen for community impacts.

Mr. Keller agreed.

Ms. Firehock said it is still supporting these rural economies.

Ms. Burbage asked if the Commission wanted to add the zoning clearance for farm wineries to specify whether or not you feel that existing wineries should be grandfathered or not.

Ms. McCulley asked to give a plug in recommendation of grandfathering them. If they don't get grandfathered, then they are stuck in a nonconforming state which limits them from even getting building permits. I don't think we want that to happen.

Mr. Morris agreed.

Ms. Firehock agreed pointing out that they all support grandfathering.

Mr. Morris said some of these things as far as water and so on would be follow up.

Ms. McCulley said that was correct. Staff is recommending the zoning clearance if it is greater than 50 vehicle trips or under 21 acres for breweries and distilleries. The question for the Commission is do you want to add new farm wineries to that requirement also or does that become a later phase for us to consider with water usage and roads and then get some public engagement about that.

Mr. Loach said he would vote for either one.

Mr. Morris said he would like to see any new winery fall under the regulations of current wineries. This is something I think to add on later and not to confuse what we have in front of us.

Ms. Firehock said she would just like us to revisit it at some point because I have spent a lot of time professionally and personally in other counties that are much more congested and I am aware of the amount of impacts it can have to rural landowners. The rural landowners did not buy their property with the expectation that it was going to be a wedding venue. I do understand about wineries and all of that, but I think you are just going to see more. I don't think people are quite aware of the market potential here. I am supportive of them; but, again I want to make sure that they are properly designed and all of these things have been considered before they start.

Ms. McCulley said she was hearing the Commission's support for our recommendation and a request that staff come back with later study of cumulative impact on roads and whatever we can understand about our ability to regulate water withdrawal. She asked does that cover it. Also, it includes the zoning clearance requirement for new farm wineries.

Mr. Kamptner said he assumes the water goal is in the context of activities and events.

Mr. Keller replied no, at this point it is production. It is the point of if VDOT is doing our roads since they could have a debate whether it is the county's responsibility for the roads or whether it is the state's responsibility. Then they have the same issue with the water if the state is regulating the water or if the county was regulating it. They determined that it was the state. So what are our abilities then with working with the state on whether it is asking for the figures of what is being withdrawn?

Mr. Kamptner noted that was what they were looking for in the study of what actually is being withdrawn.

Mr. Randolph asked how doable that is for staff.

Ms. McCulley replied it was going to take some time since she was about to lose her key player here because she was having a baby. She would guess it was something they will consider in light of the work program that will be going to the Board in October.

Mr. Cilimberg suggested what probably will need to happen for you at the hearing is to recommend an ordinance on to the Board and also recommend this additional study of other factors to the Board. The Board will have to then decide where that fits among a number of priorities that they are going to be discussing in the next couple of months.

Motion: Mr. Morris moved and Mr. Randolph seconded to schedule ZTA-2015-00002 Farm Distilleries for public hearing as proposed.

Mr. Morris invited further discussion.

Mr. Keller asked for a clarification before they make the vote on this. Because of this time frame I am assuming that when they have the next public session there will be the opportunity for the public from both perspectives to come forward and bring this up. So then when the Commission makes that recommendation to the Supervisors it will not just be coming from the Planning Commission, but there will be people from the public who have spoken to these various issues both for and against. That will be part of the record as well.

Mr. Morris noted that has been our habit for X number of years and it will not change.

Mr. Cilimberg pointed out staff forwards the minutes of all work sessions as well as the public hearings to the Board. So the Board would have all of that information.

Mr. Morris asked for a roll call vote.

The motion passed unanimously by a 7:0 vote to schedule ZTA-2015-00002 Farm Distilleries for public hearing as quickly as possible.

The Planning Commission took a break at 7:54 p.m. and the meeting reconvened at 8:00 p.m.

Old Business

Mr. Morris asked if there was any old business.

- **Comprehensive Plan Priority Objectives and Strategies** (PC/Wayne Cilimberg)

Mr. Cilimberg said he appreciates the input from the Commissioners on the Comprehensive Plan Priority Objectives and Strategies. The last time the Commission discussed this matter following their joint meeting with the Board of Supervisors they decided to focus on what were the priority strategies that had not been also identified by the Board of Supervisors. I think your assumption was that the Board's identified priorities either that were their own or the Commissioners shared with them had already pretty much been decided by the Board, and so the Commission would focus on those strategies that the Board had not identified as a priority for themselves in making their recommendation.

Mr. Cilimberg said since the last discussion the Commission provided what you considered to be the two top strategies. The two strategies that got the most votes was for the funding of ACE as was represented in the full table that was sent. Then there were a variety of other strategies that received the vote of at least one Commissioner; and, then a second strategy that got two Commissioners support, which was for gathering information on the location of affordable and proffered units in the county, developing mechanisms to promote long term affordability, and protect public investments. So that is what I have reflected in the table sent to the Commission. If this represents what you wanted to forward onto the Board as your additional recommendations regarding priorities for strategies, then you could so act tonight to do that. Then I will make sure this is forwarded on along with a little bit of background on what you decided.

Mr. Cilimberg noted on September 15th there will be having a housing work session. Ron White will be here to particularly discuss affordable housing in how we have gotten to where we are with that and some of the ideas he might have regarding the future. So in some ways that particular strategy will be under some discussion that night with the Planning Commission in the work session.

Mr. Morris said he had one question. They have one area here under Development Areas Strategy 3a, which was a Board priority. He asked if we want to keep that on our list. The others are strictly ours or a combination.

Ms. Firehock apologized for not attending the last two planning commission meetings when you discussed this due to my work schedule. The first one ACE, I originally thought we were picking these things based on helping the Board set priorities so they would be able to help staff develop their work plan. So when I looked at ACE I thought that was something that needs cash rather than work. She asked are we trying to get at the work plan for the staff or just saying put more cash in ACE.

Mr. Morris replied when we were talking about this I took it as a consistent flow of cash to be put in because very often ACE is the first place that the Board takes away from.

Ms. Firehock said she understands the problem.

Mr. Lafferty said I think this was what the workload should be and studying what are our priorities.

Ms. Firehock said it was not easy to understand from email, which is why I asked.

Mr. Lafferty pointed out one of our priorities is to preserve the land.

Ms. Firehock said she had not voted yet; and, therefore would give one to ACE based on the responses, which now should be a six. The other one would be housing strategy 6E because I was really struck by Commissioner Randolph's comments last time about the fact that they were so busy requiring affordable housing units and asking for them and yet the program is really poorly promoted as far as she has come to understand. She also spoke with the Chair about why was that because she had not been in the county for a long time and Charlottesville did an excellent job promoting their program. She did not see the point of having a program if people don't know about it and these units are just going back to market rate. So those are my votes.

Mr. Randolph noted he had a question in light of our discussion next week about a comp plan amendment. I wondered why strategy 4a under economic development, which states provide a strategic assessment of properties available for existing business expansion, start up industries, and desirable locations for target industries and continue to assess the quality of the areas designated for business and industry to ensure that there is land for business and industrial growth with parcels of suitable size, topography of location and infrastructure. That strategy is apparently not a priority for the board, and yet we as a planning commission have put in quite a bit of time and thought in meetings both as a planning commission and with community members on this issue. I wonder has strategy 4a become an orphan and should it be. It is not something that shows up on our radar and I gather it did not show up on the radar for the Board of Supervisors either.

Mr. Cilimberg replied that it did not, but that does not mean it cannot be. Although it is off of the list that are priorities that have been identified today, it was certainly one that if you feel strongly should be considered among the priorities they could certainly make that recommendation.

Mr. Randolph said personally he had worked energetically within the CIP to try to see that funding is there for ACE on an annual basis. I feel that with the current Board there is a commitment in continuing to fund ACE, which is understood by the majority of the Board. So I am not trying to minimize ACE in any stretch of the imagination. However, I really do feel that this strategy 4a gets at the heart of what we are discussing now as a Planning Commission with the Board and I really do feel that I would take both of my votes, which he actually had three, as a criteria to two votes to a Commissioner and put them both on the strategy 4a

Mr. Keller suggested that the Commission add a third since he thinks the Commission is happy with the other two. He would be glad to do as Mr. Randolph did the last time by paving the way for voting for 3 instead of 2. Now I think the Commission should recommend 3 rather than 2.

Motion: Mr. Randolph moved and Mr. Keller seconded to move from having 2 to 3 recommended strategies with the third strategy out of the Economic Development 4a to be included.

Mr. Morris invited further discussion.

Mr. Dotson asked to review the list of 400 in the email link because what was sent in paper did not include that

Mr. Cilimberg said what I am hearing at this point is that there is support among the Commissioners for all of what you have identified.

Mr. Morris said that was correct.

Mr. Cilimberg pointed out the Commission does not need to send votes necessarily. It is just really the consensus of the Commission as to what you think is important that you agree to that all of you have identified. He was not sure about the one development area strategy that was a Board priority if you were including that or not.

Mr. Morris asked to strike that because it is already there.

Mr. Cilimberg said of the Commission's priorities you agree to all of those that you had identified and are now suggesting adding the Economic Development strategy 4a as an additional priority. If that is what you are agreeing to you can just make that your motion and forward it on unless you have others to add.

Mr. Morris said that he did not have the list and he would like to have the list before casting his third vote. He did not see any reason to go to a third choice.

Mr. Cilimberg said that was why he was suggesting if there was a consensus that the Economic Development 4a is an additional strategy that the Commission wants to add and whether you are going to a third.

Mr. Morris pointed out they can find that out by having a vote since they have a motion and a second. He asked that all the strategies be read into the record because he would like to know what he was comparing that against.

Mr. Randolph read the Economic Development Strategy 4a: Provide a strategic assessment of properties available for existing business expansion, start-up industries, and desirable locations for target industries. Continue to assess the quality of the areas designated for business and industry to ensure that there is land for business and industrial growth with parcels of suitable size, topography, location, and availability of infrastructure.

Mr. Morris asked if he heard him say that is not a Board or Commission recommendation, and Mr. Randolph replied that was correct.

Mr. Lafferty noted that the Commission does that now somewhat.

Mr. Loach said he had a question about the language not only in that one, but in Strategy 4b. When you say ensure there will be adequate land what do you mean by ensure. Is there a methodology behind ensure and how are we going to do that. I don't mind studying something if it is just being looked at. However he was more concerned that the study translates to an action because it says ensure that there will be an action.

Mr. Cilimberg explained that the action may be that there is enough, which was actually the original finding during the Comp Plan work. So we ensure does not mean that you are going to necessarily add anything, but will be a result of the work you did to ensure that you have it.

Mr. Loach said as long as it is understood that ensure does not mean that we provide that.

Mr. Keller pointed out that those who have gone to the Southern Growth Area Expansion public discussions realize that this was really at the heart of the issues right now. If the Supervisors have not made it a priority at least at that point maybe they are thinking about how that needs to happen now. I think those of us who have attended certainly have been thinking that way.

Mr. Morris said that was a good clarification. He asked are we ready for a vote?

Mr. Dotson replied no because I still have some questions. When is what we are going to act on going to the Board? Is this for their work program consideration or for their strategic discussion?

Mr. Cilimberg pointed out the Board's strategic planning retreat is the first step where they will understand what your suggested priorities are in addition to what they have identified. The Board may take up additional priorities themselves and may decide that there are other strategies that are important to them. That would be part of their strategic plan meeting. That will ultimately lead to how Mark Graham works on the work program for our department and eventually how other departments work on their work programs following that strategic plan retreat. The retreat will be in the later part of September.

Mr. Dotson said if the Commission did not resolve it tonight they could discuss it under old business next week.

Mr. Morris noted that next week would not be good.

Mr. Cilimberg said this is your recommendation to make. There is not a staff recommendation here

Mr. Dotson asked how the Board would know what our priorities are and would it be available in some minutes.

Mr. Cilimberg replied he would be forwarding just a list that represents what the Commission agreed to that specifically identify each one of those strategies agreed to as being a priority. He would give a little background on how they got to where you are. The Board will also have the minutes of the discussion you had tonight as well as your prior meetings.

Mr. Dotson said part of my concern is the Board will probably get a ton of paper for that strategic planning session, which makes him wonder if this is just going to get lost particularly if they send them 6, 8, and 9 with no rationale. He was wondering if they would have more influence if they went with a smaller number because they have got one with 6, a number with 1, and 2 with 2 if they explain why we think this is a priority. To me it would be much more influential if I could read why and not just list them. He asked if the motion was for 3 or to add this one to this list.

Mr. Keller said the motion is for 3.

Mr. Dotson asked is the motion to add this 1 to this list.

Mr. Randolph noted the motion was for 3 and this would be one of the 3. So the ones that got the one would not be forwarded to the Board of Supervisors.

Mr. Dotson asked which 3 strategies.

Mr. Keller replied ACE.

Mr. Cilimberg added housing and economic development.

Mr. Dotson noted there were two housing ones so they have two.

Mr. Morris said the two changes to a three.

Ms. Firehock agreed there were two changes in 6e.

Mr. Morris agreed it would change 2 to 3.

Mr. Dotson said he would like to have some narrative about why we think these are important. If they can engage the Board in thinking about these it is likely to have more impacts. So maybe they can vote on these three tonight. He did not share Mr. Randolph's complacency about ACE. He has had conversations that lead me not to be complacent about that. I would be pleased to provide four bullet points on that. I would also be pleased to suggest some bullet points for consideration on the housing strategy. Perhaps Mr. Randolph could suggest three or four bullet points on the one he is proposing to add. I just feel that would be helpful.

Mr. Morris agreed that was a good point and asked that the bullet points be emailed directly to Mr. Cilimberg.

Mr. Morris said there was a motion on the floor with a second. He asked for a roll call.

Mr. Keller added the friendly amendment added by Mr. Dotson.

Mr. Morris pointed out it was to add the bullet points for rationale for each of those.

The motion passed unanimously by a 7:0 vote.

Mr. Cilimberg said he would be taking forward three strategies to the Board: rural area strategy 2e, housing strategy 6e and economic development strategy 4a as the Commission's priorities and each would have its rationale with two from Mr. Dotson and one from Mr. Randolph on economic development.

Mr. Keller asked if they see those at the next meeting so they can sign off on them.

Mr. Cilimberg suggested he would put together what he gets from each of you, put in a little summary, and send it in an email. Then if the Commission needs to do anything they can do it at the next meeting. Staff will then forward the list to the Board and specifically identify each one of those strategies that the Commission agreed to as being a priority. The Commission will review priority strategies at its next meeting.

There being no further old business, the meeting proceeded.

New Business

Mr. Morris asked if there was any new business.

- Ms. Firehock spoke regarding community meeting on US29/I64 Boundary Adjustment CPA to be held in Room A at COB-5th Street on Wed., Aug. 12th, 5:00-7:30 p.m.
- Work sessions to be scheduled on September 15 and 22 with possibility of one session starting at 5 p.m. (Ms. Firehock absent on 22nd)
- The next Planning Commission meeting will be held on Tuesday, August 18, 2015 at COB 5th Street.

Adjournment

With no further items, the meeting adjourned at 8:29 p.m. to the Tuesday, August 18, 2015 Albemarle County Planning Commission meeting, 6:00 p.m., County Office Building 5th Street, Conference Room A, 1600 Fifth Street, Charlottesville, Virginia.

V. Wayne Cilimberg, Secretary

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