

**Albemarle County Planning Commission
June 14, 2016**

The Albemarle County Planning Commission held a joint work session with the Board of Supervisors on Tuesday, June 14, 2016, at 6:00 p.m., at the County Office Building, Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Planning Commissioners present were Ms. More, Ms. Riley, Ms. Spain, Mr. Dotson, Mr. Keller, Chair; Mr. Lafferty, and Ms. Firehock, Vice Chair. Mr. Palmer, UVA Representative was present.

Board of Supervisors present were: Liz Palmer, Chair; Diantha McKeel, Vice-Chair; Ann Mallek, Rick Randolph, Norman Dill and Brad Sheffield.

Staff present were Mandy Burbage, Senior Planner; Amelia McCulley, Director of Zoning/Zoning Administrator; David Benish, Acting Director of Planning; Sharon Taylor, Clerk to Planning Commission, Ella Jordan, Clerk to the Board of Supervisors, Travis Morris, Acting Clerk to the Board of Supervisors; Elaine Echols, Acting Chief of Planning and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Mr. Keller, Chair of the Planning Commission, called the meeting to order at 6:00 p.m. The Board of Supervisors meeting will be called to order after we have seen if there are matters from the public not listed on the agenda.

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

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

Review of Board of Supervisors Meeting – June 1, 2016 and June 8, 2016.

Mr. Benish provided an overview of the actions taken on June 1, 2016 and June 8, 2016 by the Board of Supervisors on items heard by the Planning Commission.

Mr. Keller turned the gavel over to Chair Palmer to convene the Board of Supervisors.

Call to Order and Establish Quorum:

Ms. Palmer, Chair of the Board of Supervisors, called to order the June 14th Board of Supervisors joint work session with the Planning Commission at 6:04 p.m. She welcomed and thanked everyone for attending. She turned the meeting back over to Mr. Keller.

Mr. Keller noted there was only one item on the agenda tonight, a work session on ZTA-2016-00003 Farm Winery, Brewery & Distillery Events. There has been a lot of interest in this topic and it is great to see the public here to provide comments.

Work Session

ZTA-2016-00003 Farm Winery, Brewery & Distillery Events

Work session to 1) share input received from stakeholder roundtables with Rural Area neighbors, farm wineries and cideries, farm breweries and farm distilleries and 2) receive direction to guide staff in the development of a draft ordinance relating to events in association with these uses. Discussion will include establishing a primary agricultural use for event eligibility and mitigating event impacts. (Mandy Burbage)

Ms. Amanda Burbage presented a PowerPoint presentation regarding ZTA-2016-03 Farm Winery, Brewery & Distillery Events to summarize the executive summary. She pointed out the Chair has agreed to having public comment prior to the discussion of staff recommendations.

Ms. Amanda Burbage stated that she would provide some policy context for the zoning ordinance amendment from both a local and state perspective. Ms. Burbage explained that the County's comprehensive plan establishes a policy framework that supports the protection of land in the rural area for agricultural and forestal uses, which provide for economic opportunity while helping to maintain the scenic landscapes that make the area attractive to both residents and visitors. Ms. Burbage said that wineries, farm breweries and cideries are specific agricultural enterprises the County desires to support both as agricultural producers and makers of value-added products that utilize fruits and grains grown throughout the County, and these are growing industries, with 29 farm wineries, 3 cideries, 3 farm distilleries, and one farm brewery currently. She stated that special events are also discussed in the Rural Areas chapter of the comprehensive plan, as promoting and providing supplemental income to farm wineries, breweries and cideries – and farm distilleries are part of this also although they were not named specifically in the comp plan because the state enabling legislation had not addressed it yet. Ms. Burbage noted that the intent of allowing events to occur in the rural area is that they are directly tied to an agricultural use, and that the events that occur are secondary to the agricultural use of the property. She stated that it is clear that the growing number of events in the rural area has been a boon to both farm-based businesses and to a number of supporting industries in the area, many of whom she would expect they would hear from this evening. However, it is important to keep in mind that the comp plan is supportive of the agricultural basis of farm wineries, breweries and distilleries, and not for them to exist solely as event centers in the rural area.

Ms. Burbage reported that Albemarle County is limited by the state code in how it can regulate activities and events at farm wineries, breweries and distilleries, and she noted that staff has provided a flowchart that shows how the activities can be regulated. She stated that specific activities related to production, sales, tasting and storage are protected from local regulation, and these activities fall outside of the scope of the proposed zoning text amendment. Ms. Burbage said that any restrictions that a locality imposes on activities and events at a winery, brewery or distillery must take into account the economic impact of the restriction, the agricultural nature of the activities and events, and whether or not the events are usual and customary. She noted that like the comp plan, the state code recognizes that localities can consider the nexus between agriculture and the activities and events that happen on the property. Ms. Burbage stated that local regulation of usual and customary activities is limited to activities with substantial impact on public health, safety and welfare – and the state code does not define substantial impact for any of the three uses, so it is up to the locality to establish when a substantial impact may occur. She added that if an activity or event creates a substantial impact, then it may be regulated by provisions that take into account the economic impact of the restriction and the agricultural nature of the activities and events.

Ms. Burbage stated that the County's regulation of farm wineries, breweries, and distilleries is currently tied to the possession of a state ABC license, so if you hold the license, you are entitled to the privileges outlined for each of these uses in the zoning ordinance. She said that although the state enabling authority for regulating these uses is similar, the licensing requirements are quite different. Ms. Burbage explained that while farm wineries with a Class A license must be located on a farm with a producing orchard or vineyard with onsite facilities for fermenting and bottling and have to grow a minimum of 51% of their own grapes, farm breweries and distilleries are only required to be located on land with agricultural zoning and use some unspecified amount of a product grown on the farm in the manufacturing of their beverages.

Ms. Burbage reported that the County has updated its zoning ordinance several times over the past six years to maintain compliance with changes to the State Code, beginning with a significant rewrite of our regulations in 2010, followed by the creation of farm brewery regulations in 2014, and most recently in December 2015, the addition of provisions of farm distilleries that closely mirrored farm winery and brewery regulations. She added that farm cideries are considered as farm wineries under both the State Code and County regulations. So when she references farm wineries farm cideries also apply. Ms.

Burbage said that a resolution was adopted this year to address events and activities at farm wineries, breweries and distilleries.

Ms. Burbage stated that current regulations allow growing, harvesting, tastings and sales by right at farm wineries, breweries and distilleries, as consistent with the State Code. Ms. Burbage said that a zoning clearance is required for activities that generate more than 50 vehicle trips for activities that occur on parcels less than 21 acres, or those that involve the use of outdoor amplified music. She noted that a special use permit is required for events with over 200 attendees or for multiple events on the same parcel with a cumulative attendance of more than 200.

Ms. Burbage reported that despite our efforts to stay current with the State Code and craft regulations that are reasonable, Albemarle County still faces challenges when it comes to events and activities at farm wineries, breweries and distilleries. She said that the growing popularity of events in the rural area – coupled with the state's lack of a minimum onsite agricultural product requirement when licensing these uses – leaves a back door for those seeking to hold by-right events in the rural area. Ms. Burbage stated that the County's current provisions allow for any establishment that holds a valid ABC license to have an unlimited number of events of up to 200 people with just a zoning clearance, which is an administrative permit, regardless of whether or not there is any agriculture present onsite. She noted that while it is not the norm in Albemarle County for individuals to establish a brewery, winery or distillery for the primary purpose of hosting events, the potential does exist – and in the absence of agricultural use, would run counter to the goals of the comp plan and the purpose and intent of the rural area zoning district.

Ms. Burbage stated that the current process is intended to address these challenges, and there are five overarching goals to the proposed ZTA. She said that first and foremost, the County wants to continue to support the economic success of these agricultural enterprises while safeguarding the property rights of surrounding neighbors. Ms. Burbage said that the County also wants to strengthen the relationship between events held at farm wineries, breweries and distilleries, and the agriculture that is present onsite. She stated that they also hope to clarify what uses are usual and customary, particularly when it comes to less established uses like farm breweries and farm distilleries. Ms. Burbage said that the County wants to ensure that adverse impacts associated with events are minimized, taking into consideration factors like roadway condition and capacity. She stated that finally and most importantly, the County wants to ensure that we are engaging stakeholders in the process to help inform any change in regulations. Ms. Burbage said that to that end, the County held four roundtables in May and June, with 65 attendees representing 10 wineries, 3 cideries, 4 breweries, 2 distilleries, and also rural area residents. She stated that for the industry stakeholders, the focus of these conversations was on understanding their operations and the types of activities and events that occur – and for the rural area neighbors, the focus of the discussion was on understanding concerns about event impacts.

Ms. Burbage noted next she just wanted to touch on some of the things we learned in each of the roundtables. Ms. Burbage reported that the first stakeholder roundtable was with farm breweries, with one local brewery represented, one in Rockingham County, and two prospective farm breweries. She stated that one point of feedback was that growing all local ingredients was a challenge, as it requires a lot of land area to supply an adequate amount of product – and some ingredients like hops are harder to grow in Virginia and have a limited shelf life. Ms. Burbage said that as a result, meeting a majority onsite product requirement could be a challenge. She stated that the County also heard primarily from the existing one that the majority of their business comes from the day to day activities of their tasting room, but there is interest in holding events in the future. Ms. Burbage said that for the farm distilleries roundtable, there were two newer local distilleries represented – and similar to farm breweries, the County heard that it was a challenge to grow adequate quantities of product onsite to support the production of distilled spirits, although one distiller is working toward growing a majority of his own product. She stated that distilleries can also support other agricultural uses, and the County heard about using seconds from an orchard for the production of brandy, or using spent grains for cattle feed. Ms. Burbage noted that due to the nature of the aging process, distilleries may not have product to sell for several years, and ABC places limits on how much can be served at a tasting – which is unlike farm winery and farm brewery state regulations that are capped at how much they can serve a customer. So this tasting activity is inherently limited by that state regulation. Finally, the County heard that as startups,

the primary interest in the farm distilleries in the County is in having a tasting room, although there is potential for having events down the road.

Ms. Burbage reported that for the farm winery and cidery roundtable, there was a range of perspectives from brand new wineries to those that have been in the County for over 20 years – so it was a very rich discussion. She stated that the County heard that it was very common for fruit production to occur on multiple owned or leased properties for a variety of different reasons, including startups for fruit while their vines or orchards are being established in the case of cideries, and sometimes a particular grape will grow well in a specific region of the County – so it is helpful for wineries to purchase grapes from properties leased or owned in other parts of the County. Ms. Burbage stated that the County also heard that as a winery grows and is successful, it is helpful to have access to additional properties to allow for expanded production, because often they have maxed out the capacity of their property and need additional land area to grow more vines. She said that wineries have indicated it can take anywhere from two to five years for a planted vineyard or orchard to bear fruit, and additional time to make the wine once the fruit is ready – so a startup may not have wine from their own fruit to sell for several years. Ms. Burbage noted that the up-front investment in equipment and planting is quite expensive, so event income in this instance is critical and can make or break an enterprise in its startup years. She added that the County also heard that events in general are critical for generating onsite product sales.

Ms. Burbage reported that the final roundtable is with rural area neighbors, and the issues discussed at the roundtable were more focused on event impacts. She stated that the primary concern was roadway safety and concerns about events placing additional traffic on rural roads, which can have narrow width, little to no shoulder, and blind curves – and coupled with out of town drivers and alcohol consumption, it can create roadway safety issues. Ms. Burbage stated that equal to roadway safety were noise concerns, primarily from outdoor amplified music but also from general crowd noise. She said that rural residents mentioned that they moved to the country for quiet and expected noise from things like tractors and animals but not necessarily from wedding receptions, and they talked about the potential for trash to blow onto adjoining properties or to be thrown out the window of a car. Ms. Burbage stated that residents also expressed concern about the frequency of events, particularly those who live immediately adjacent to a venue that is holding events, and having to put up with the impacts every weekend from April to October or beyond that. She said that residents also expressed concern about the rural area not feeling rural anymore if events are happening all the time, and the impacts of events on nearby conservation easements, as well as potential loss of property value if they live next door to a venue that is having events frequently.

Ms. Burbage stated that taking into consideration all of the input received at the roundtables, staff has come up with three recommendations that are outlined in the staff report. She stated that she would provide an overview of staff's recommendations, and after public comment, Elaine Echols would facilitate a discussion with the Board and Commission to solicit feedback and direction in the development of a draft ordinance. Ms. Burbage noted that there is room for flexibility within each of these proposed recommendations, and staff wanted to put something out as a starting point.

Ms. Burbage reported that staff's first recommendation relates to establishing a primary agricultural use in order to establish eligibility for holding events beyond by-right activities like tasting and sales. After evaluating several approaches discussed at the roundtables, she said, staff felt that a minimum standard approach was most reasonable and allowed for flexibility for farms operating on more than one property. She stated that the proposed requirement borrows language from the Class A farm winery license that requires a minimum of 51% of an entity's own project be used in the manufacture of its beverages, but this project may come from owned or leased property. Ms. Burbage said that staff recommends an additional requirement that there be at least one producing acre onsite, to ensure that there can be a relationship between any proposed events or activities and agriculture. She stated that an exemption from the production standard could be granted in the event of large-scale crop damage, or in the case of farm wineries and cideries during the first five years while an orchard or vineyard is being established, provided that there is a planted acre onsite. Ms. Burbage said that the second standard also stems from the state farm wineries definition, which requires facilities for onsite fermenting. She stated that

stakeholders have indicated that the purchasing of this equipment requires a significant investment above and beyond the planting of an orchard or vineyard.

Ms. Burbage stated that the third standard of a tasting room with regular business hours serves as a metric of whether or not there is sufficient product to sell to the public on a regular basis, and regular business hours could range between a few hours a week to daily hours of operation – as distinguished from a tasting room that is by appointment only. She said that staff's second recommendation is to attempt to address event impacts above and beyond what is already in the ordinance, and since outdoor amplified music is a significant concern raised by neighbors – and also the largest contributor to noise complaints associated with events in the rural area – staff recommends allowing it by special use permit instead of by zoning clearance as the current ordinance provides. Ms. Burbage noted that this would allow for greater review of potential impacts on neighboring properties on a case by case basis. She said that to address concerns associated with noise that is not associated with outdoor amplified music, staff recommends increasing setbacks for parking, porta-johns, and outdoor activities to 75 feet from all property lines and 125 feet from the nearest residence. She stated that this would make our farm winery, brewery and distillery event regulations consistent with those for events at agricultural operations.

Ms. Burbage said that due to multiple concerns about the safety of roads serving these uses and the additional traffic impacts that events may generate, staff suggests that a minimum road standard be met in order to be eligible to hold events. She stated that such a standard could include a minimum width to allow two cars to pass, or a requirement that the road serving the establishment have a paved surface, and this provision could be further fleshed out. Ms. Burbage stated that the next recommendation from staff relates to event impacts, addressing concerns about event frequency, and staff suggests a cap of 20 events of any size per year, with the ability to exceed that cap by special use permit. This would make our farm winery, brewery and distillery events also consistent with our regulations for events at agricultural operations. She said that staff's third and final recommendation would be to grandfather farm wineries, breweries and distilleries in existence prior to the adoption of the ordinance from the new requirements. Ms. Burbage stated that the importance of grandfathering was raised at all three industry stakeholder roundtables, since many have built their businesses relying on our current regulations. She said that many would be entitled to vested rights anyway, but grandfathering would more expressly protect their current operations. That concludes my presentation and she was happy to answer any questions for clarification.

Mr. Keller asked if the Board or Commission had questions prior to opening the public hearing.

Ms. Spain said staff is talking about a limit of 24 events per year. She asked if staff had an estimate of the average number of events these businesses currently offer. She noted that staff had said there were about 35.

Ms. Burbage responded that there are and we have not gathered that data. She knows that there was a wide range, and the County would need to do a follow-up survey with stakeholders to determine an average – with those numbers ranging from just a few per year to more than 70 per year if it is needed.

Ms. Spain asked for confirmation that there was now no limit to the number of events that could be held, and Ms. Burbage responded that was correct.

Ms. Spain noted that the Monticello Trail provides maps of all the wineries, and asked if there were any concerns about the proximity of wineries, or if there was any way to deal with those that are close together. She asked staff where most of these are grouped or concentrated in the County.

Ms. Burbage explained that the wineries really are distributed everywhere, and the County must allow them to exist by right for production, harvesting, sales and tasting – so the County cannot stipulate where they are located. However, at one point Mr. Kamptner had calculated the average distance between them.

Ms. Spain stated that the reason she mentioned this was to see if there could be some economies of scale if some of these regulations are put into effect if some wineries that are located within a couple miles of each other might share some of the costs for things like road paving.

Mr. Kamptner, County Attorney, responded that the only comment he has made previously is that given that the County is approximately 720 square miles with the number of farm wineries, breweries and distilleries we have currently it averages one per 20 square miles, recognizing that they are not equally dispersed.

Mr. Lafferty asked if vehicle trips per day was just coming, not going, unlike VDOT's measure of coming and going.

Ms. Burbage responded that staff uses the same standard as VDOT, with a vehicle coming and going counting as two trips, so 50 vehicle trips is actually 25 round trips – and that is what staff used for the zoning clearance threshold.

Mr. Lafferty asked if there were 25 cars allowed to go to an event under these provisions.

Ms. Burbage responded that this would be the case without a zoning clearance, and that would not apply to by-right activities such as people coming and going from a tasting room – with those people not counted as part of that vehicle trip average for events and activities. The State Code does not allow us to regulate that activity so this would just be vehicle trips generated by events and activities beyond the tasting room.

Mr. Lafferty said that was a lot of people in a car if the limit was going to be 200.

Ms. Mallek noted that those were separate categories.

Mr. Lafferty asked what the requirement would be related to the 125-foot distance between residences as a suggested clearance if the distillery or winery was the residence.

Ms. Burbage clarified that it pertained to a residence on an adjoining property, and it was a setback – not a zoning clearance requirement.

Mr. Lafferty asked how the 24 events per year number was derived.

Ms. Burbage responded that the cap came from the County's existing regulations pertaining to events and activities at agricultural operations, and this would essentially utilize that cap as a precedent that exists in the ordinance.

Mr. Lafferty noted that from the letter-writing campaign, that was definitely a major area of concern.

Ms. Burbage stated that this would be something the Commission and Board would need to discuss when we get to talking about that regulation.

Ms. More asked for clarification of the term "events" and whether it would pertain to any activity outside of people coming to a tasting room.

Ms. Burbage responded that it has been a gray area up to this point, although there are definitions in the ordinance for "farm winery events," "farm brewery events," and "farm distillery events" that attempt to encapsulate the types of events and activities seen as typical for these kinds of establishments – but not every type of activity can be anticipated, so it is not all inclusive. She stated that activities related to a regular tasting room are part of the protected by-right activities, so just being open for regular tasting room hours would not be considered an event, but a wedding or brew master's dinner would be considered an event. Ms. Burbage said that there is not a bright line, but there is language in the

ordinance that can be looked at if there is a question as to whether something is just a tasting or if it is an event.

Mr. Randolph asked if he would have to get a special use permit if music played for a wedding ceremony would only be for the ceremony itself, under the proposed regulations.

Ms. Burbage responded that under what is proposed any outdoor amplification would require the need for a special use permit.

Mr. Randolph said that one thing he would like them to look at is differentiating between amplified music to support a religious ceremony, a wedding of that nature, versus a party celebration, as it would seem rather petty to ask someone to pay for a special use permit if a person was just having a justice of peace marry them and they might have some music. He stated that he was also struck by the 75-foot distance for parking and 125-foot distance for porta-johns from a residence, given the impact of portable toilets that close to another home, especially on a hot day.

Ms. Burbage explained that the requirements would be 75 feet from the property line for parking, outdoor activity areas, and porta-johns, and 125 feet from a residence on an adjoining property that is under different ownership – so it would apply to all three things.

Mr. Randolph stated that his last concern was the provision for two cars to pass, as different car sizes would require different widths, so he would recommend sharpening the language to state something like for “two full-size cars to pass safely at normal operating speed.” He stated that otherwise, it might be legally challenged.

Ms. Burbage clarified that this language was left intentionally general for purposes of this conversation, and when they got to the point of drafting actual ordinance language, they would want to be more specific.

Ms. Mallek said she would hope that VDOT already had a standard in that regard, such as a 12-foot lane in each direction, so the County did not have to create something.

Ms. Burbage responded that they would definitely look at VDOT standards.

Ms. McKeel asked how the grandfathering would play out if the property went to new ownership or the existing owner wanted to make some changes.

Mr. Kamptner explained that the grandfathering approach is a little bit different than vested rights or nonconforming uses, and when the County grandfatheres a particular use or activity, we are expressly providing for it in the ordinance. He said that it may be a use or activity that is established on or before a certain date, and there are a number of regulations in place for that. Mr. Kamptner stated that as opposed to saying nothing and letting the use continue as a nonconforming use – meaning that it has vested rights but the new regulations have now changed what is permitted – the owners are very restricted in terms of use and activities, and they are prohibited from making any kind of structural alterations, which could be very restrictive to commercial enterprise. He said that the grandfathering has a similar effect but also gives flexibility to do what needs to be done into the future, and it does not have to be completely across the board. Mr. Kamptner explained that they may be subject to the new setbacks if they are going to put in a structure, but if they have an existing structure in the new setback, it can continue and can be altered – which allows flexibility and greater protections.

Mr. Dotson commented that the Commission and Board have received quite a few emails, most of which have focused on the number of events per year at 24, so while it is very useful to have that feedback from photographers, musicians, caterers and others, he would also encourage speakers to weigh in on the other aspects such as acreage, produce grown onsite, road width, special use permit, and economic impact – as they are actionable items for the Commission and the Board.

Ms. Firehock stated that in reading the recommendation about having the road be paved, she wondered how many wineries, breweries, and distilleries were paved or unpaved. She said that she noted there were two non-Albemarle facilities on the stakeholder roundtables and wondered why they were chosen to participate.

Ms. Burbage responded that the intent was to reach out to stakeholders in the County, but they did not want the roundtables to be closed-door roundtables, so staff made the best effort to let them know they were happening, and the two roundtables with out-of-county businesses were those where there was good Albemarle representation. She stated that the County has one farm brewery and three farm distilleries, so it is helpful to hear from those outside of the County to understand what their operations are like and what kinds of events and activities they are having.

Ms. Firehock noted that she was referring to two wineries, which Albemarle has plenty of, and she also felt that there was not enough neighbor participation to have a representative sample, and she was not sure if they represented all of the districts in the County. She added that she did not think there was diverse enough perspective on this particular roundtable.

Ms. Burbage said that they reached out through the community advisory committees, but citizens tend to come out when they are reacting to a specific situation, and the rural areas roundtable was influenced by one proposed winery in the County, and those not immediately feeling threatened by one or not experiencing concerns with an existing one don't feel as motivated to come.

Ms. Firehock said that it could also be the date and time that it was held.

Ms. Burbage responded that they held it in the evening, but it was always a struggle to get a representative sample of people at a meeting.

Ms. Firehock stated that she was considering that factor when reflecting on the comments, because she did not feel it was a full sample, although staff had tried. She said that her second question related to defining an event, and staff has said that something like a brew master's dinner would be an event and she was not sure that 25 people was a good cutoff number.

Ms. Palmer noted that it was 25 cars, not people.

Ms. Firehock said that if they brought a friend, it might be 50 people.

Ms. Mallek added that it was also the zoning clearance if they were not a Class A winery.

Ms. Palmer asked if there was any difference in having a wedding with 200 people, or less than 200 people, in a situation where she had an agricultural enterprise but wanted to host an event.

Ms. Burbage explained that under the County's current regulations, agricultural operations for a farm that does not hold an ABC license would not be eligible to host weddings, as they are not considered "usual and customary" under the current interpretation. She said that a winery, brewery, or distillery holding a valid license is permitted to have by-right weddings up to 200 people, which could be exceeded by special use permit.

Ms. Palmer asked if that was true of alcohol-free weddings.

Ms. Burbage responded that the weddings are supposed to be marketing and selling the product.

Ms. Mallek clarified that Ms. Palmer's question was for commercial events where money changes hands, not private events, as that makes a big difference.

Ms. Palmer agreed, stating that she was talking about commercial wedding in which farm products would be featured, and she was trying to figure out the difference as it was not customary to have those types of activities with agricultural operations.

Ms. Burbage stated that a few years ago, when the County was going through this with agricultural operations, there were concerns expressed by Commissioners and Board members regarding the sheer number of farms in the County versus wineries, breweries, and distilleries – and if weddings could occur by right, there would be a lot more of them.

Ms. Palmer asked if a person would have to own or lease properties, or if they could just buy from another farm.

Ms. Burbage responded that the 51% can come from owned or leased properties and can also include contract purchasing from grower's cooperatives, but there may be farm winery representatives present who could be more specific about that.

Mr. Keller explained that the Commission and Board would hear from public speakers, then take a five-minute break and return to begin their discussion.

Public comment was invited.

Mr. Jeff Sanders addressed the Board and Commission, stating that he is owner of Glass House Winery and president of the Monticello Wine Trail. Mr. Sanders said that while the details of this may be difficult, the wine trail in general is not concerned with the proposal and accepts reasoned efforts to establish a primary Ag use for event eligibility. He stated that there is a long history of weddings at wineries and when these events began in the state, they were held at big farms that grew grapes, so the "usual and customary" events such as weddings were established. Mr. Sanders said that the wine trail strongly supports grandfathering and continuing the rules under which existing wineries made investment. He stated that the wine trail has some concerns with the proposed restrictions, primarily because at this point there have not been findings of "substantial impact" as required by state law – which applies to the amplified music, the road standard, and the cap on events. Mr. Sanders said that the wine trail has not seen any study on the future economic impact of wineries, which is something they would be interested in seeing and participating in. He said that they also have concerns that even though they are grandfathered in as existing wineries, there could be a chilling effect on the industry if the restrictions are not those that are specifically targeted toward some substantial impact in the County, as it could shift development of wineries elsewhere. Mr. Sanders stated that in summary, the wine trail feels the efforts to restrict events to organizations with primary agriculture use are understandable and could positively guide the development of the wine industry into productive large farms, etc., but they are concerned with regulations that restrict use unless a specific problem has been identified. He thanked the Board and Commission for the opportunity to comment and said that the wine trail hoped to work with them on developing something that works for the industry, in the event substantial impact is found.

Mr. Ray Caddell addressed the Board and Commission and stated that he is a resident of Carrsbrook and has been a real estate broker for over 30 years, as well as being a wedding band musician since 1968. He stated that having played more than 1,500 weddings, he sees a lot of positive economic impact at wineries, cideries and farms, but did not see specific economic information as to what this generates for the County – and he wanted to make sure there was a study done as to how any regulations would impact the industry. Mr. Caddell said that he grew up in Wilmington, Delaware, which had economic stability due to chemical production, but that came at a price to beauty and air quality. He stated that weddings bring a beautiful, calm, not particularly impactful economic benefit to the County, and they needed to quantify whether there is an actual detriment to having events hosted at wineries rather than just accepting anecdotal claims that there is one – as the impact might be in a positive direction rather than a negative one.

Ms. Charlotte Shelton addressed the Board and Commission and stated that she is the owner of Albemarle Ciderworks in North Garden. Ms. Shelton said that her business is not seeing the impacts as

addressed by these regulations, and the unintended consequences of these regulations are costly – especially if there is not an urgent need to regulate an abuse – is costly. She stated that small businesses often operate on very narrow margins, and this is why the events are important for farm wineries and cideries, as they can be the difference between breaking even. Ms. Shelton commented that small enterprises characteristic of this area needed them in order to be economically viable, and she did not hear issues during her involvement with the roundtables that have been raised in the staff report. She stated that if you build something in an area that is not accessible and has inadequate roads, your business would not be very successful, so those facts would outweigh it. Ms. Shelton said that the 50 vehicle trips per day is absurd, and 200 people would have trouble getting to an event in 25 vehicles. She emphasized that sometimes regulations are enacted without being fully thought through, and it seems that this needs careful thought as over-legislating it could create more problems than it solves.

Mr. Ben Rowe addressed the Board and Commission and stated that he is assistant director of the Virginia Wine Council, which represents the more than 250 wineries, cideries and vineyards in the Commonwealth. He stated that he echoes the sentiments raised by other speakers and says that the VWC cannot support the recommendations in the staff report for several reasons. Mr. Rowe stated that the first reason is that farm wineries and cideries are a longstanding and important sector of the Albemarle County agricultural economy and have operated under the Farm Winery Act as outlined in the Code of Virginia for a number of years – and it has worked very well for them. He said that as they saw in the past legislative session, the wine industry is involved in a discussion with itself and the General Assembly on the right to farm and land use issues being discussed at this meeting, and he encouraged the County to continue to solicit feedback from the wine industry and representatives throughout this process. Mr. Rowe stated that previous speakers mentioned the economic impact of the proposed recommendations and regulations on the industry, and how this would affect farm wineries and cideries located in Albemarle County, as required by the Code of Virginia. He emphasized that it is certainly the policy of the state and hopefully of the County to support and promote the wine industry and not place costly and restrictive burdens on farm wineries and cideries, making them less economically viable and impacting the Albemarle County residents who put forth their savings to build these operations. Mr. Rowe said that they also recognize the positive economic impact of the Virginia wine industry – both statewide and within Albemarle – and the VWC asks that they provide evidence of any legitimate substantial impact on the public health, safety and welfare of County residents from wineries, which would help foster a better understanding of the need for regulations and zoning ordinances. He thanked the Board and Commission for involving the VWC in the roundtables held earlier this year and for soliciting feedback throughout the process, and said that if they collaborate they can come up with a workable solution.

Mr. Brian Slaughter addressed the Board and Commission, stating that he is before them as a representative for a number of residents on Ballard's Mill Road in Free Union. Mr. Slaughter said that there is much discussion about where state law protects wineries from County regulation, and the area where state law stops and the County has the ability and mandate to regulate is with safety. He stated that by definition, many of the wineries are on rural roads – but there are vast differences between rural roads, with some of them being almost one-lane gravel roads that are very windy with washouts and hills. Mr. Slaughter said that having events for 200 people on roads like that when there are drivers unfamiliar with the roads and unfamiliar with driving on gravel roads, unlit at night, coming from events where alcohol is being served, is a recipe for disaster. Mr. Slaughter said that there are no studies that have traffic volume on these roads that would show that it would be an unsafe situation, and beyond just small cars on these roads, there would be trucks, busses and vans. He stated that residents of Ballard's Mill feel that at a minimum, the Board should enact requirements to have these events on paved roads and roads of minimum widths.

Mr. David Thomas of Redfield's addressed the Board and said that state law was intended to protect legitimate agricultural uses by allowing actual agricultural uses to be supported by things like events – for the most part, weddings. Mr. Thomas stated that the issue is people taking advantage of that to have an event space that they couldn't qualify for by getting a special use permit and instead using an end run of state law. He said that he felt this proposal was fair and the speakers from legitimate wineries agree with the point to ensure that the regulations address that particular issue, and the staff recommendation is for 51% of owned grapes with at least one acre grown onsite, and that percentage mirrors the state

requirement, with one acre being a staff recommendation. Mr. Thomas asked the Board to consider making two changes to that recommendation: to increase the minimum site acreage, as one acre of grapes onsite produces about 80 cases total per year. He stated that under current laws, he could have a three-acre parcel surrounded by neighbors, plant an acre of grapes, and put up an event space. Mr. Thomas said that while this was not what the law was designed to allow, but it is what it permits without a county regulation over top of it. He stated that the second provision is for 51% of owned grapes, and that can include land leased from someone else who farms and harvests it, and he would propose that it be 51% actually farmed by the entity seeking an exemption under state law, without outsourcing it as a back door to start up an event space. Mr. Thomas said that there is a big difference with Albemarle Ciderworks on Route 29, Pippin Hill nearby, and a property located 15 miles back and accessible by gravel roads.

Mr. David King of King Family Vineyards in Crozet addressed the Board and stated that he is currently chairman of the Virginia Wine Board and has represented the wine industry since 2006 and was present when the state code provision was drafted. Mr. King said that this was not an issue of "first impression," and in 2006, the secretary of agriculture was required by state law to research these issues at the state level. He stated that there were more than 100 stakeholders who spent four days discussing all facets of the issue, and the distillation of that was Virginia Code Section 2288.3 pertaining to the state's wineries. Mr. King stated that he has provided House Bill 463 to staff, which is a carryover bill into the 2008 session that specifically sets out activities relating to agri-tourism, of which there are 14 subcategories, and activities related to sales, of which there are 8 subcategories – one of which is weddings. He said that in answer to what an event or activity is and what is usual and customary, this has been done before and is a part of the legislative history and state code provision. Mr. King said that staff and the County Attorney have seen this, and he would encourage the Board and Commission not to re-plow plowed ground, as it has been done before ad nauseum and there are resources available. He stated that the wine industry is pretty well-organized here, and he personally attended all roundtable sessions, so they have been represented by someone who might know these issues completely.

Ms. Jen Fariello addressed the Board and Commission and stated that she is a resident of Red Hill and has been a wedding photographer in the area for about 20 years. Ms. Fariello said that what is upsetting her about what she is hearing is why the wedding industry is being unfairly attacked and not perceived as an incredible opportunity for the County and for hundreds of small businesses. She stated that there seem to be 10 trips more to a tasting room on a Saturday than there are in the four hours that a wedding is happening, and she wondered why that was not being regulated in the same way as the events are targeted.

Ms. Anna Quillen addressed the Board and stated that she works for a transportation company in which one of her primary responsibilities are to safely transport wedding guests and winery participants to and from wineries – and while she does not have her family's livelihood at stake, she does have her company and her employees to consider. Ms. Quillen said that her work is very much dependent on this industry working, and she felt there was some common ground that could be reached so she could continue to use her talents in driving safely. She stated that as a sober driver, she is always aware of what is going on around here, even when her Mercedes Sprinter is full of inebriated people, and she can think of numerous roads on which it is not safe to pass another vehicle.

Ms. Barbara Lundgren addressed the Board and stated that she is a native of Albemarle County and an event planner for the last 16 years, and she has watched the tourism and events industry in the state grow from the ground up – as well as serving as a venue manager and being mother of the groom three times. Ms. Lundgren said that next to UVA, tourism and events provide the largest industry in the area, and larger industries have not been allowed to invade the town due to many regulations and restrictions, but an abundance of event-related businesses have been building at a rapid pace. She stated that she is also a County resident living in the rural area on a small farm, and she has seen her share of neighborhood issues over the years, and many neighbors are not in support of the wineries or other related businesses hosting weddings and events on their properties – which help them stay in business without selling out to developers. Ms. Lundgren said that she would much rather have responsible land stewards like the King Family next to her farm than someone who might sell their land off for a development that might look like Old Trail or Glenmore. She stated that as far as the transportation

issue, the question is whether they would rather have the potential of a few charters over a weekend or be bombarded by numerous school busses five days a week, or many vans and contractor vehicles 365 days a year. Ms. Lundgren said that the transportation companies that work these events are responsible or do not stay in business very long, and the key is to work with established companies and have some control over who is working with these venues – which means staying local with those who are familiar with the properties, keeping dollars within the community. She stated that venues and vendors must stay on task to keep doors closed and keep the music in, and she works in other counties where neighbors embrace this type of development because it brings jobs and tax revenue without challenging resources, and it means their views in the countryside are protected. Ms. Lundgren emphasized that they can find ways to work together.

Mr. George Hodson addressed the Board and Commission, stating that he is general manager of Veritas Winery in Nelson County but is a Crozet resident and is incoming president of the Monticello Wine Trail. Mr. Hodson stated that there are various owners and representatives from multiple counties outside of Albemarle County because of the unintended consequences that these types of decisions can have on surrounding areas. He said that prudence is extremely important because a quick decision could have some very negative consequences on a growing, good industry as well as surrounding counties – especially those that might not have the infrastructure that Albemarle has. Mr. Hodson said that the Monticello Wine Trail has concerns about some of the end-arounds that can be done, which they are actually working on as a wine trail because the authenticity and their brand as a wine region depend on the quality of the products they are producing – and above anyone else have a vested interest in growing a vibrant and authentic wine industry. He stated that they appreciate the fact they have been brought into this discussion, but at this point there is a long way to go and they should not make any quick decisions.

Mr. Al Schornberg of Keswick Vineyards addressed the Board and Commission and applauded the County for being proactive in trying to protect the farm winery business from potential bad actors. He stated that he agreed with the premise that if you are going to claim to be a farm winery, you have to plant a vineyard, grow grapes, build a cellar, make wine, build a tasting room, and sell your wine. Mr. Schornberg said that he agreed with an earlier speaker that one acre of vines is a very low barrier to entry, and an event company putting in an acre of vines is a \$20,000 investment making 80-150 cases of wine. He stated that as far as grandfathering, they needed to be careful not to have unintended consequences that could hurt existing wineries, and if they moved wedding events from a tent to an indoor facility, it could be misconstrued as an expansion of non-conforming activities – so he would hope they could work with the County Attorney to ensure they were not penalized for doing that.

Mr. Adam Donovan Groves of Secretary's Road addressed the Board and Commission and stated that a bride he worked with as a wedding planner had lived here for seven years, moved away, and came back to get married here. Mr. Groves said that he wanted to give an idea of how much a \$250,000 did for the economy – and his event used all local businesses, including the audio-visual company; a wedding planner; bed & breakfasts; beauty, hair and makeup; calligraphers; catering from Keswick Hall; local musicians; a wedding planner; local florists; local travel companies; a local company for the gift packs; a local company to do the bridesmaids; a local photographer; a local officiant; a local rental company for linens; and local transportation providers. Mr. Groves stated that transportation is the first thing he books, as no one in the wedding party wants any guest to drive home, so this is not something he consciously thinks about, and thus far there have not been any incidents – and his company uses local hotels, inns, wineries, etc. He stated that the biggest concern he has heard is related to the 24-event limit, as it puts companies at a disadvantage, and the national recognition he recently received put a whole new group of brides and grooms in front of him who have chosen this area over places like Napa Valley and England.

Mr. Bob Breci addressed the Board and Commission and stated that he is a resident of Ballard's Mill Road in Free Union and would like to make a few comments about event eligibility, requiring a minimum road standard of a paved surface, and a minimum width to allow two cars to pass. Mr. Breci stated that Ballard's Mill Road is a narrow, substandard gravel road with the majority of the road being 14-16 feet wide, with a single-lane width of 12 feet – so the gravel road is really a 1½-lane road, and vehicles meeting head on must come to a crawl or full stop in order to sneak by each other. He said that residents learn how to navigate these roads and their substandard conditions, but if a driver unfamiliar with the

roads is traveling in the middle of the road – perhaps going too fast, swerving to avoid potholes, consuming an alcoholic beverage at an event, or driving a vehicle that is larger than an ordinary car – then it becomes dangerous for that driver and anyone else on the road with him. Mr. Breci said that oftentimes because of the substandard driving conditions on gravel roads, they are lightly traveled, and it is rare that Ballard's Mill has more than two vehicles on the road at any given time. He stated that if left undisturbed by outside foreign traffic, these gravel roads complement rural residential quality of life and often define the elements that give the area its character. Mr. Breci said that an 18th Century map labeled Ballard's Mill as a primitive wagon road, and it has changed little since then – which is probably true of a lot of gravel roads in Albemarle County. He stated that at one stakeholder's roundtable, a farm winery owner made the comment that if it were up to him, he would not put a farm winery on a gravel road – and Ballard's Mill residents appreciate those comments. Mr. Breci said that none of them oppose legitimate farms or farm wineries, as their opposition centers around taking advantage of a farm winery license in order to be able to hold large, for-profit events that are out of place and dangerous on substandard gravel roads, and that have a substantial impact on both the safety and the rural residential quality of life in those neighborhoods.

Mr. Rich Booth of Free Union addressed the Board and Commission and stated that the primary issue is gravel roads and narrow roads, and places where it is unsafe to have large volumes of traffic. Mr. Booth stated that residents of Ballard's Mill do not oppose the winery business, but want the County to help them find a balance between those who own farms and rural residences and those who want to conduct a business – and that is what the Board and Commission are trying to do. Mr. Booth said that most speakers at this meeting are from the industry or those who have counsel, but he is certain that there are a lot of people who have places in the rural areas for the peace and tranquility.

Mr. Jeff Werner of the Piedmont Environmental Council addressed the Board and Commission and stated that he thought the discussion was going to relate to growing fruit and making wine, but it seems to be about weddings. Mr. Werner stated that the staff report reviews three points they are supposed to take into consideration: the economic impact of the regulations, the agricultural activity and whether the activity is usual and customary, and whether there is substantial impact to public health, safety and welfare. He said that only the last item has a “yes or no analysis to it,” and it has not been determined that regulating amplified music or addressing traffic at weddings would put agricultural activities at risk. Mr. Werner stated that Albemarle County is not a destination for beer, wine or spirits – but it is for rural weddings. He emphasized that this is the economic activity driving the discussion, and the activity that many rural landowners are concerned about: a proliferation of destination weddings under the guise of agriculture, with traffic, fireworks and late-night noise. He said that the comp plan for the rural area says to promote ag/forestry and protect natural resources, and if they want to change it and add the promotion of destination weddings, they should amend the comp plan and say so – and maybe even allow it at every farm in the rural area. Mr. Werner stated that given what people pay for these weddings, it is hard to believe that the income from them merely supplements revenue from agricultural activities, and if the ag revenue is a mere fraction of that from weddings, then nearly any event regulation would be argued as economically detrimental. He said that if there is a goal to promote rural event venues, then that should be stated clearly and regulated as the community deems appropriate – but they should stop pretending that these weddings with hundreds of guests and amplified music are merely subordinate to the growing and selling of local agriculture products. Mr. Werner stated that the legislation does not offer any definitions of Ag activity, substantial impact, or usual and customary activities – but those can be developed locally, and localities need to stop looking to Richmond for clarification on this legislation and instead interpret this in a manner that fits the County. He said that years ago, the County was challenged on its cell tower regulations and went to court to protect them, stood firm, and won a landmark case, and perhaps achieving clarity on this issue will require a similarly bold step. Mr. Werner stated that PEC supports the rural area, the agricultural economy, vineyards, wineries, breweries and distilleries, but the legislation cannot be a blank check. He stated that it is time to stand up to baseless claims that any attempt to regulate noise at weddings will require that an Ag activity actually involve agriculture is actually an attempt to squelch agriculture.

Mr. Mark Hahn addressed the Board and said that he owns a catering company in Charlottesville and said that not all events in question are weddings – there are also corporate events, holiday parties,

employee appreciation events, and fundraisers. Mr. Hahn stated that he heard commonalities from the speakers today in terms of safety, legitimacy and professionalism, and he cannot argue that the roads should be property paved, the people attending events should get home safely – and he believes that professionalism will help guide those things. He said that professionalism is what ties people to the continuation of the events, which ties them to his family, his well-being, and the growth of his community. Mr. Hahn stated that he also agrees with the points about legitimacy, and wineries should not be able to just throw up an acre, put a perimeter of 75 or 125 feet, and be able to encroach further into someone else's property. He urged the Board and Commission to not lose the commonality they have found in the discussion of the ordinance. Mr. Hahn stated that everyone in the event industry understands that it will not grow unless they are careful, safe, professional, and take care of the other industry professionals and the rural landowners who care about the community – and he is in favor of a cohesive plan that takes all of those issues into consideration, with care and with fair regulation.

Ms. Sarah Henley of Henley's Orchard in Crozet addressed the Board and Commission and stated that her family's business has been the family farm and a supplier of the apples and basic products for many cideries, and they have attended many events at King Family Vineyards and Veritas and Castle Hill, etc. Ms. Henley stated that these venues are ways for family farms to be able to stay in existence. She stated that years ago, people were arguing about land use taxation and were saying it was not fair – but without that, they would not be able to exist in this county. Ms. Henley stated that Virginia produces about \$7 million in apple produce, and in order to be able to produce, farms must be able to have certain abilities, and creating value-added products helps fill the gap, especially during slow times between January and June when there is no income on the farm. She said that according to state regulations, events help farms sell those products, and they need to be able to have those, and an added benefit is to be able to help florists, caterers, and other businesses – with a lot of those businesses in existence because of these events. Ms. Henley stated that when her orchard talked about going into the cider business, she had calls from many other businesses asking how they could help, and all of the farms are working together to make this happen – so it is a strange response for County officials to see how they can stop it or regulate it. She said that if the roads are gravel, they should be paved; if more transportation companies are needed, they should be put together. Ms. Henley stated that they don't need to stop things, they need to see where the gaps are – and the County needs to rise to the occasion and help them do it. She said that if the industry is generating significant revenue, then the County gets some of that revenue, and the roads can be fixed.

Ms. Andrea Saathoff addressed the Board and Commission and stated that she is the owner of Albemarle Limousine, which employs 50 people with good jobs, and said that approximately 2/3 of their business is destination weddings and tourism. She stated that they have another company – Blue Ridge Wine Excursions – which is the #1 rated local activity on Trip Advisor. Ms. Saathoff said that when people come and tour with her companies, her employees spend the day selling them on Albemarle County and why they should return again and bring their families and friends. She urged the Board and Commission to consider the economic impact in terms of jobs and the effect on hotel reservations, restaurants, activities, and the airport.

Ms. Meg Runion-Purdue addressed the Board and Commission and stated that the Charlottesville/Albemarle area has been recognized nationally for being a great place to visit and live, and the community has become a wonderful tourist destination, including as a site for weddings. She stated that restrictions on the number of events held at venues would be devastating to the community, and the visitors who come here are the visitors who fill hotels; eat at local restaurants; enjoy the City Market; shop at local shops; and hire local florists, event planners, DJs, rentals, limo companies, etc. Ms. Runion-Purdue stated that she is part of that event industry, and some of her clients have told her that they have selected Charlottesville and Albemarle over Napa Valley for their events, and the region is ranked in the top 10 destinations in the U.S. She said that the community should be proud and honored and continue to support this kind of growth – as it brings in more tax revenue, helps property values increase, and supports local jobs. Ms. Runion-Purdue said that she is at a loss as to why these restrictions would be considered, and the legislation could very well do much more damage than realized. She stated that there may be a few residents who don't like increased traffic on their roads, but they would likely be impacted more if a vineyard went out of business, went into foreclosure, or became a large development.

She said that she has been part of this industry for more than 10 years and she fears that something like this could have great impact.

Ms. Elizabeth Neff of Ballard's Mill Road addressed the Board and Commission and stated that the first vineyard was Oasis in Northern Virginia, which came to fruition in the 1980s – and it is wonderful to see the wine industry continue to flourish. Ms. Neff stated that people come to Albemarle County because of the land and its rural beauty, and property owners have been stewards of the land by taking care of it and putting it in conservation easements. She said that there is no cap on the number of events or the number of vineyards, breweries and distilleries, and she wondered where it stopped. Ms. Neff stated that the Board and Commission need to look at the County in terms of how it will look in 10, 15, or 20 years – and look beyond just wineries, breweries and distilleries and associated businesses, but how they want it to look overall.

Mr. Stan Joynes addressed the Board and Commission, stating that he is the owner of the fairly new Valley Road Vineyard on Route 151, and thanked them for the opportunity to have this conversation. Mr. Joynes stated that sometimes a conversation revealed that they did not need to have legislation, and he hoped they would keep in mind that sometimes making a change could cause more trouble than they currently have. He said that he became a farmer at 61 and was delighted to be a part of the agricultural community, but when he started learning about this debate, he was reminded of Farm-Aid and how difficult it is to make a family farm work. Mr. Joynes noted that there are different circumstances depending on the venue, as well as different perspectives, but some of the staff report comments do not make sense to him. He stated that co-ops are from the same mentality as barn raisings, and he did not understand why one facility would have to have everything onsite, when the tradition is for people in agriculture to use shared services and facilities.

Mr. Ron Whitehouse addressed the Board and stated that he lives in Free Union on a horse farm that was started 10 years ago, and came to Free Union because of the rural nature of the area and of Albemarle County. Mr. Whitehouse said that he made a major investment in the horse farm, and would like to remind people that the reason this area is a wonderful destination is because of the rural nature of the community, the beautiful horse farms and the beautiful land – and if they change that, they are going to hurt the people who came here for the rural area but also the vendors. He emphasized that they would destroy what they are trying to promote, and stated that those businesses are not the only commercial enterprises in the community, and his small farm employs the equivalent of four full-time people as well as spending major dollars in the community on goods, services, and taxes. Mr. Whitehouse urged them not to overlook the commercial value of the family farm and family horse farm to the community. He added that in the recommendations, he did not see anything specific about parking, but in his small community there is a cidery that seems to be a nice operation – but it has zero parking, and even though it is a paved road, it is a small, narrow, rural paved road. Mr. Whitehouse stated that there is almost no parking onsite and the road gets filled with cars, turning into a narrow one-lane road at most, so he would hope that in the final regulations, they would require parking onsite.

Mr. Daniel Potter of Potter's Craft Cider in Free Union addressed the Board and stated that he would like to echo the earlier comments about safety and health, and while there are a lot of emotional issues around weddings and events, legislation needs to be taken seriously for unintended consequences. Mr. Potter said that his cidery does not have a tasting room or a lot of parking, and does not have regular events – just two per year currently. He stated that his cidery is on a horse farm in a building that used to be a veterinary clinic, and his small operation is built around making cider – with a 7-10-year process to bring trees onsite to full production. Mr. Potter said that some of the provisions in the zoning text language would have the potential to impact his business dramatically, and the grandfathering provisions are good, but his property is leased – and dealing with new regulations once they purchase a permanent site could really change what they are able to do. He stated that having a tasting room, especially one with regular hours, and tying that to a farm winery and mandating a tasting room or regular hours did not make sense in his case, and suddenly every time they have people onsite it becomes an event. Mr. Potter said that there are zoning clearances already in place, and he would urge the Board and Commission to think about the potential consequences of the legislation.

Mr. Neil Williamson of the Free Enterprise Forum addressed the Board and Commission and stated that he has been involved with the Virginia wine industry for more than 12 years, currently serving as editor of the Virginia Wine of the Month Club and chairman of their tasting panels. Mr. Williamson encouraged them to have the County Attorney provided a report on the 2005 Faulkner case, because it relates to this legislation, with the question before them being not how they will regulate events, but whether they should. He stated that staff pulled the number of "24" from another ordinance, but there is no reasonable nexus between that number and the impact of additional events on public health, safety and welfare. Mr. Williamson suggested that rather than stripping property rights from future farmers, they could look at existing ordinances and ordinance enforcement and make the situation on the ground better for everyone. He asked what would happen if all 15 wineries on the same road held events at the same time on the same day, or if 15 hog farms all opened up on that same road, and asked whether the Board and Commission were ready to strip those property rights. Mr. Williamson stated that wineries and cideries are fundamentally different from farm breweries and distilleries, and if they try to regulate them under the same code for agricultural component, they are setting themselves up for disaster. He said that the Forum appreciates the inclusiveness of the roundtables, the fact-finding tour, and this work session, and feels those efforts will be helpful for everyone to understand where Albemarle is headed.

Ms. Lorena Kush addressed the Board and Commission and stated that she has been a part of the event industry in Albemarle County for the past 20 years as a rental specialist, caterer, and event coordinator. Ms. Kush stated that Albemarle County is a community of farmers, event planners, etc. – and as a community was trying to work together to come up with a good solution. She said that as part of the event professional community, they are supportive of the local rural area as well as the farms – and the majority of caterers and restaurants buy eggs, cheese, milk, produce, vegetables and meat to be able to put these events on. She stated that this is a huge industry that also supports local farmers, who make it a beautiful property and maintain the entire landscape.

Mr. Aaron Watson addressed the Board and Commission and stated that the last time he was before them was related to the sound ordinance and weddings, and the ordinance put in place deals with what is included in the proposal – but one thing that struck him from that meeting was that when a regulation is put in, you have to enforce it. Mr. Watson said that to enforce more regulation would be to bring more police into rural areas and possibly pull them away from more urgent matters. He stated that he also wanted to say that instead of regulating, they should innovate, and road conditions seem to be a huge issue, so they should look at ways to innovate to solve problems. Mr. Watson said that as these vineyards grow, they would add parking, and to limit from the beginning is very short sighted.

Mr. Keller thanked speakers for their thoughtful and insightful comments, offered in a civil manner.

The Board and Commission recessed their work session at 8:01 p.m. and reconvened at 8:14 p.m.

Bill Palmer, UVA Representative left the meeting at 8:14 p.m.

Ms. Elaine Echols stated that her role is to help facilitate their discussion and move them through the particular questions they have. Ms. Echols said that there may need to be clarification as to what the proposed ordinance is about, where it came from, and where they are going – but they are not here to find consensus. She stated that staff needs their feedback and hopes they do not feel compelled to come to agreement, and it would be good for the Board and Commission to provide questions and comments.

Ms. Mallek stated that they began the process in order to follow the next step and the guidance in the legislation – which laid out the state's rules and said that the County's job was to find the definition of agriculture, distilleries, wineries, and breweries in their particular county is and then figure out how to go forward. She emphasized that no one is trying to attack events, agriculture, or wineries, breweries and distilleries, but the charge is to best implement existing state legislation and follow the guidance from Richmond and also find the balance with the notion that neighbors have rights too. Ms. Mallek stated that they are a community but also have a wide range of ways to go forward, so while they can get into details, she did not want them to get off track – and the reason they are here is to implement the legislation from the state.

Ms. Echols said that there are three categories of questions as presented, and she wanted to have Ms. Burbage remind them in the course of their discussion what is being proposed, why it is being proposed, and what is being affected by it. Ms. Echols stated that they are addressing three main things: how to ensure that there is a primary agricultural use as a rural area use when having special events; how to mitigate impacts; and the issue of grandfathering. She said that there are three pieces in establishing a primary agricultural use: 51% of owned product, including owned or leased properties plus a minimum of one acre onsite of production; onsite facilities for fermenting; and onsite tasting with sales and regular hours. Ms. Echols asked Ms. Burbage to expand on why these things are important to this discussion.

Ms. Burbage explained that the 51% comes from the Class A farm winery license requirements, which allows a winery to utilize 51% of their own product coming from either owned or leased properties – and staff has added an additional one-acre onsite production, which they feel is necessary in order for there to be a nexus between events and agriculture on the property. She noted that there are some instances when there is a legitimate winery that is purchasing or getting all of their fruit from other properties, but it is still their product and they are legitimately using that product in the manufacture of wine or cider. Ms. Burbage said that the provision for onsite facilities for fermenting is also in the state definition for farm wineries, and staff dropped the requirement for onsite bottling because they now understand that a lot of these producers use bottling services that bring a truck onsite – but the facilities do not exist permanently. She stated that the onsite tasting with regular hours is a provision that staff feels helps to ensure that a producer is making enough product to be able to sell it to the public on a regular basis. Ms. Burbage said that an entity like Potter's Cider slips through the cracks because they are unlike most producers in their business model, and staff's intent is not to suppress legitimate producers, so the Board and Commission may want to consider that a "one size fits all" approach may not be necessary or wanted.

Ms. Palmer asked what is meant by "regular hours."

Ms. Burbage responded that staff would intentionally leave it flexible in the ordinance because they would want to accommodate smaller producers that do not necessarily have enough product to be open every day of the week from 9 to 5. She stated that some kind of regular hours – even if it is just a Saturday or Sunday – as opposed to by appointment only, would enable a producer who is only making a few barrels of wine a year to get away with having a tasting room when they are not creating enough quantity to support having events on a regular basis to serve their beverages.

Ms. Palmer asked if Potter's Cidery could work out what "regular hours" are for their business.

Ms. Burbage responded that it would definitely be up to them, and they have a longer-term plan for when they buy their own property, but she did not want to speak for them.

Mr. Keller said that in hearing from the vendors at the roundtables and at this session, which has been a great discussion, there are wineries and cideries – but relatively new legislation for breweries and distilleries, with fewer requirements at the state level. He stated that he heard concerns from the wine industry that there may be benefit to adding some of those in at the local level, and suggested that they get some background for standardizing rules for events.

Ms. Burbage stated that there are differences in licensing requirements for breweries and distilleries, which are referred to as "limited" in the state code – with no minimum agricultural product requirement for that designation. She said that someone holding one of these licenses can have minimal agriculture onsite as long as they are located on land with agricultural zoning, and use some product in the manufacture of their beer or distilled spirits. Ms. Burbage stated that under Albemarle County's ordinance, those businesses are entitled to all the privileges of events and activities that can be held at those types of operations, and in some cases that may mean there is little or no agriculture those activities tie to. She said that the County is hoping to level the playing field with the agricultural provision, which goes above the state requirements, and this component is focused on having some kind of criteria that substantiates an agricultural use of the property.

Ms. Firehock said that 51% of the product being owned or leased seems to indicate that the product could all be farmed somewhere else and brought in, in addition to having one acre of onsite production.

Ms. Burbage responded that this was accurate, and said that this was already a model for a lot of the wineries in the County.

Ms. Firehock acknowledged that this was done because wineries could not have enough grape production or in the event there was a bad year for one grape. She stated that she found it difficult to cover all types of production under one set of regulations, and it would be better to separate farm breweries and distilleries, because trying to make it fit under one rule was causing some difficulty.

Ms. More asked if including owned or leased properties would not include a co-op.

Ms. Burbage responded that under the state regulations, it allows growers' cooperatives to act as a sole entity and be considered a farm, so if County regulations are tracking that definition then they would include cooperatives. She stated that this is why it is important to have the one-acre onsite production provision, and that is a number that exists in state regulations, although it is up for discussion as to whether the Board and Commission feel it is a good number to use.

Mr. Dill asked if the leased property could be anywhere.

Ms. Burbage responded that it had to be within the Commonwealth, and in practice many of them were sourcing the product from within the County.

Ms. McKeel asked staff if they had any thoughts about grouping all of the categories together.

Ms. Burbage responded that it is a challenge given the differences in production requirements, and it is a challenge to find the right threshold – particularly when trying to avoid entities that masquerade as an agricultural use when in reality they just want to have events. She added that if it is the Board's will, they could come up with different numbers for each.

Ms. Palmer asked if it puts the County in a better legal position to have the numbers all be the same.

Mr. Kamptner responded that the reason why the numbers are all the same now is because of the policy approach that the Commission and the Board took when farm breweries came on, as there was a desire to treat all of the industries the same – and when farm distilleries were added last year, the same approach was taken. He explained that there are some subtle differences in the state enabling authority, so while the framework in the three state statutes is similar, there are some differences – the key difference being the way the County is regulating usual and customary events and activities. Mr. Kamptner said that HB463 was the County's template for establishing "usual and customary uses" for farm wineries, but Albemarle does not deem that the activities and events at breweries and distilleries as listed are usual and customary; they are permitted for a different reason. He stated that the other difference is the licensing requirement, as the farm winery license requires a certain amount of agriculture production, whereas the requirements for breweries and distilleries is a minimal amount – they just have to use some product that they grow in their distilled spirits or beer, but there is no minimal threshold. Mr. Kamptner noted that there are legal reasons why they could be treated differently, and there is no compelling reason why they should be treated the same.

Ms. Palmer stated that the County could require the breweries and distilleries to have a certain amount in production.

Mr. Kamptner explained that if they want to have events and activities, one of the components is the agricultural nature of the activity – and if there is no agriculture being grown onsite, it seems reasonable that they are not making the required connection between the activity and agriculture.

Ms. Mallek commented that in order for an industrial use would be located in the rural area, the agricultural component was very important, because being a farm brewery or distillery meant there was access to rural properties – not where Starr Hill is in the middle of the growth area with public water and sewer – so there should be some agricultural component to qualify for the activities. She stated that when the County began this process, there was agreement that the rules and regulations would be different in these three categories, because they cannot be one size fits all for wineries, breweries and distilleries. Ms. Mallek said that wineries have spent 25 years defining what “usual and customary” is for themselves, and it is up to the other industries to do the same and find their way, and help the County get there. She emphasized that it is not the County’s job to imagine.

Ms. Echols stated that staff needs to get feedback from the Board and Commission on the 51% and one-acre provision.

Ms. Mallek responded that in the winery category, the 51% is great because it is what they are doing now for Class A, but the one acre is too small. She stated that for breweries, 51% onsite is probably impossible.

Ms. Burbage asked if it would be acceptable if the 51% could include owned or leased properties in the same way that wineries can lease properties elsewhere in the County.

Ms. Mallek said that with the exception of hops, it would probably work, but the hops do not grow well here.

Ms. Palmer agreed with the 51% on the wineries and would consider going with more than one acre, but said she is most concerned with a small property having events and having too many people close by other properties. She stated that what the County needs to do is see how it can reasonably protect people under these circumstances – as the large farms are a much different situation than a small industry with things going on all around them.

Ms. McKeel expressed her agreement.

Ms. Riley stated that she agrees with Ms. Mallek regarding the proposal for wineries and shared concerns about the breweries if the hops production is not practical for the area. She said that they are setting up the breweries to have to produce an acre of a product that is not viable.

Mr. Randolph agreed, stating that he is concerned about unintended consequences – and this process is full of that possibility. He said that he would like to take a different approach in which the County assigns scores and grades per the conditions established so they can have some flexibility and ranges in assessing the variety of different operations. Mr. Randolph stated that locking breweries into 51% of their own product or getting grains up and running may create a very high bar, which may dissuade people who want to enter the industry – and the same holds true for the one-acre provision. He suggested that they look at one acre at a minimum and score someone higher if they had additional acres under production, and noted that not all roads in the County meet VDOT standards, with water damaging changing the way the roads function. Mr. Randolph stated that the County needed to find a way to score the roads and come up with some empirical criteria to evaluate this. He recommended having someone go out and look at current operations where there are good actors with a broad enough property where noise is not a factor, and they are located on a well-established road, and they would be provided a score that allowed them to qualify for as many events as they wanted to have under those circumstances. Mr. Randolph stated that in situations where neighbors were close by, roads were more precarious to drive on, there was inadequate parking, and there was not bona fide agriculture – with the business really set up to be a wedding destination – then there is a different scoring system under which that entity does not qualify.

Ms. More stated that she agreed with a lot of what has been said, particularly for the 51% for wineries, and she would also support more than one acre for onsite production. She said that she would look at the breweries a bit differently with the challenges of hops production, making sure they are careful in the

way the language is that it can be pulled from owned or leased properties or co-ops, but she would still encourage looking at more than a one-acre provision to ensure there is not an attempt to circumvent the agricultural focus. Ms. More stated that she also agreed with the ranges, particularly in how it may help startup businesses that have an agriculture focus, as that process takes time. She said that she would like the County to establish a system that would not prevent them from growing, but would also weed out those businesses that may not have the intention of having agriculture as a primary focus – and some sort of range or scale would help them identify that.

Ms. Spain stated that her concern about the scale is who the “we” would be – who would establish the scale and go out and make the site visits. She said that while there is legitimacy in dividing the breweries and distilleries away from the vineyards, but there also has to be some criteria that can apply across the Board so that staff time is not spent constantly trying to gather the data and enforce these regulations. Ms. Spain asked if the vineyard supplies the data to support the 51%, or if the state collects it.

Ms. Burbage responded that the vineyard would supply it as part of the licensing process.

Ms. Palmer stated that she did not understand what they could do legally with the breweries, and if they cannot grow the hops onsite, she was not sure if the County could require a minimum acreage and a different setback.

Ms. Echols said that it sounds like they need more information on the needs of farm breweries and the distinctions between the different types of uses.

Mr. Keller stated that the idea of performance standards is interesting, and he would be interested to know if any other jurisdiction in the country is going this way, such as Montgomery County, Maryland. He said that he understood Ms. Spain's concern, but if the review happens once initially and then is revisited, it seems to him that it is a possibility. Mr. Keller stated that they are talking about events – not the agricultural by-right component – and the County has an opportunity to have some voice in what occurs. He said that the wineries have done an amazing job of self-regulating to this point and continue to express interest in that, but the County is going into uncharted territory with the breweries and distilleries. Mr. Keller stated that he would like to bring up the issue of water usage and wastewater with the breweries, as there are environmental components with them, less so with the other two categories.

Ms. Firehock stated that they should treat the breweries and distilleries differently, and while there is a zoning clearance for smaller properties, she is trying to imagine a scenario with a three-acre brewery – some for parking, some for events, and one acre for growing something. She emphasized that this ordinance is supposed to protect agricultural uses, so if they don't have that she questions what they are trying to achieve.

Mr. Dill stated that so many of these rules will inhibit creativity – and even with the wine industry, there has been tremendous change with mixing of grapes, importing syrups, and adding different kinds of fruits from outside the area. He said that his concern is that by trying to control events, the County will end up affecting the business models of the future or the present, and he wondered if there was some way with the breweries and distilleries to have an alternative means of support for some other agricultural food to be grown besides an acre of “faux hops” that can't even really be used. Mr. Dill stated that perhaps those businesses could lease some of their land for people who sell at the farmers' market, etc., as an alternative to having to grow the product that is in their finished product. He said that they have not really talked about the differences between rural areas and development areas – and it seems to him that breweries would want to be in development areas, as that is where the people are, and the business itself is more of a manufacturing industry than an agricultural business. Mr. Dill stated that a brewery out in the country is almost certainly trying to be in the events business, in his mind. He said that in terms of legitimacy, the industry has to create their own legitimacy, with the Monticello Wine Trail and other trade organizations being the ones to weed out the bad actors by not letting them ride on the industry's coattails unchallenged.

Ms. Echols asked if zoning wanted to comment on the distinction of the location for distilleries in the rural areas versus the development areas, and if there was anything in the state legislation that affects that.

Ms. Burbage explained that the limited breweries and distilleries both have to be located on land with agricultural zoning, which in Albemarle County is the rural area, so they can only exist there. She stated that a regular brewery or distillery, in contrast, can be located in the development area – and those would be by-right uses in industrial districts.

Ms. Palmer asked if it was just to qualify for the new state legislation in terms of why they would have to be in the country, and otherwise they could go in regular industrial areas.

Ms. Burbage noted that there is also a production cap placed on limited breweries and distilleries that limits their volume and keeps them from being an industrial use.

Mr. Dill asked what that cap was, and if it was considered non-industrial.

Ms. Burbage responded that it is 15,000 gallons per year for breweries.

Ms. Amelia McCulley stated that the cap is for those on agriculturally zoned properties, and there would be no caps for the industrial uses because they would not come in as “limited” distilleries.

Mr. Kamptner explained that limited breweries are capped at 15,000 barrels per calendar year, and limited distillers are capped as 36,000 gallons on alcoholic beverages per calendar year.

Ms. Palmer asked for confirmation that a property with no agricultural operation that is not growing anything and cannot get land use also has to pay full taxes on its equipment, so in effect gets no tax break at all for being an agricultural operation.

Mr. Kamptner confirmed that it would not qualify without agricultural production.

Ms. Mallek noted that they would also pay machinery and tools tax.

Ms. Echols asked for additional Board and Commission comments.

Mr. Lafferty stated that he definitely felt these should be separated, and the 51% comes from the Class A license for wineries, so he wondered if there was a similar measure from ABC for breweries or distilleries.

Ms. Burbage responded that they did not, and there was no guidance at all from the state for agricultural product requirements, so the County would have to come up with its own.

Mr. Lafferty said that it should definitely be separated to address the needs, and the problem with the sliding scale is that may discourage someone who wants to move to the County and open a winery. He stated that Mr. Randolph’s suggestion would mean that the County would have to go out and inspect it, and go by some criteria that may be hard to publish, so it may have some bad effect on that – but he did feel that they should have some leeway.

Ms. McKeel stated that she agreed with the questions asked by Board members and Commissioners, and she felt that the 51% made sense for wineries – but the one acre seems to be a low bar, and she would like to have more information about that, as well as the possibility of separating out the industries. She said that she agreed with Ms. Palmer’s concern about the small areas where there are people nearby.

Mr. Sheffield agreed, and said that he did not have much more to add.

Mr. Dotson stated that he would favor a single ordinance but with special provisions where needed to recognize the distinctiveness of breweries and distilleries – and he would think that would be the one-acre (or larger, as suggested) provision, with breweries and distilleries having a much larger acreage.

Mr. Keller said that the Planning Commission had argued in its discussions a few years ago had argued that these industries needed to be thought about collectively, so whether they are kept together or broken apart, having this discussion about all three of them – so the community can see the similarities and the differences – is important.

Ms. Mallek stated that one ordinance is fine, as long as there can be different requirements, and that is essential to her.

Ms. Echols said that her next question is whether the exemption as posed seems reasonable to them.

Ms. Mallek asked if this presumes there is a real farm happening, because it concerns her that people might say they are having a farm in five years but starting events now. She stated that with the land use program, you have to be a farming operation for five years before you can even apply, so it seems there needs to be some way to have a bona fide investment in whatever farm you have before you get to qualify for exemptions.

Ms. Burbage stated that staff has proposed an exception for the first five years that applies only to wineries and cideries, because those are the ones whose planted acreage takes years to come to productivity. She said the exemption would be allowed, provided they have the planted acreage, and people can't just say they will get around to planting something in five years; they have to have invested in an orchard or vineyard. She also mentioned that the onsite facilities for fermentation and the tasting room are all significant investments that, when taken together, reflect a seriousness about the undertaking – rather than any of them standing alone.

Ms. Echols noted that the onsite tasting and sales would have regular hours, so there would be an activity there that is agricultural, and there would also be onsite fermenting. She asked for feedback on onsite tasting and sales with regular hours.

Mr. Sheffield asked how "regular hours" would be determined."

Ms. Burbage responded that it is broad, and in order to provide flexibility, the County would not want to get to specific – but it should be contrasted with "by appointment only."

Ms. Mallek noted that there have been presentations made to her that limited production would mean there is nothing to sell, so there would be no tasting room hours. She said that many wineries have different hours and different seasons of the year, and the County needs to make sure they have the flexibility to do that, but that there are advertised open times.

Mr. Dill stated that it could just be a certain number of hours per year that are publicized so a business could make its own decisions about seasonality, volume on weekends, etc.

Ms. Firehock commented that it makes sense to her, because some wineries have limited production and actually run out of wine in a good year.

Ms. Mallek stated that when a winery wins the Governor's Cup, they often sell out of that vintage the next day.

Ms. Firehock said that they should not be penalized for their success.

Ms. Echols asked for feedback on the onsite fermenting provision.

Ms. Mallek stated that it should absolutely be a requirement, and was not a winery without it.

Ms. Palmer agreed.

Ms. Burbage asked if the tasting and sales with regular hours and onsite fermenting should apply to breweries and distilleries as well as wineries, to establish event eligibility.

Ms. Echols noted that this is all about making sure there is a primary agricultural use and businesses demonstrating that.

Mr. Randolph said that these requirements should not be subject to the performance criteria and should be essentials in terms of a winery or cidery operation.

Mr. Sheffield stated that he has a bit of hesitation with the regular hours, and said that the provision is intended to prevent only having exclusive hours for events – and he wondered if there was a way to look at it in reverse.

Ms. Burbage said that they could look at it that way.

Ms. Mallek asked if they could bring back the onsite bottling, because it keeps the activity on the farm.

Ms. Echols stated that regarding mitigation of event impacts, staff was suggesting that there be a special use permit for outdoor amplified music, increased setbacks, a cap on the total number of events, and a minimum road standard for event eligibility. She asked Ms. Burbage if she wanted to add anything pertaining to this SP for outdoor amplified music.

Ms. Burbage pointed out that currently in order to have outdoor amplified music, a farm winery, brewery or distillery would need to have a zoning clearance – which is an administrative permit costing \$50 and involving staff review and onsite testing of sound equipment in advance of having activities and events. She noted that getting a special use permit is a more expensive, drawn-out process, and the zoning clearance is good for all events with outdoor amplified music.

Ms. Mallek said that the zoning clearance involves a plan for how a property is going to accomplish that, so their obligation is to follow through with that as stated, and it allows them to self-police within the plan as laid out.

Ms. Burbage stated that they have to demonstrate prior to the event that they can comply with the County's noise regulations.

Mr. Dill asked if the winery itself would apply, or if there was a technician or service that acquired the clearance.

Ms. Burbage responded that it was more typical for the winery to get the zoning clearance, as it was not an overly technical process, and the County has some monitoring equipment available for onsite testing, which can help people understand what the impacts of outdoor amplified music would be.

Ms. Mallek stated that prior history in the Rivanna District was that it was powerful for the landowner to tell the sound technician he could not turn things up, because if they do not retain that control, it can get louder later in the evening.

Mr. Sheffield asked if there was data on complaints or traffic accidents, because he did not want to have a "solution looking for a problem" kind of situation.

Ms. Burbage stated that staff has requested 2015 traffic data from the police department on roads serving wineries, and there were very few accidents reported on those roads – perhaps five total in 2015.

Mr. Sheffield asked if they were related to these events.

Ms. Burbage responded that it was hard to say whether the accidents were directly related, and they

could only look within the proximity of the venue, because police have to rely on the person involved in the accident disclosing where they had been – and they may not want to do that.

Mr. Dill commented that it seems like DUIs would be a bigger statistical pool.

Ms. Burbage stated that staff asked the police about that also, but it was hard for them to draw conclusions based on DUI data because drivers are reluctant to say the last place they have been is a winery. She said that while DUI numbers are available from the rural area, there are so many other factors at play, it is hard to determine that these occurred because of events at wineries, breweries or distilleries.

Ms. McCulley said that staff realizes it is important to provide study information to back up the fact that these are event impacts, and it is problematic to get that information and draw that correlation – but they realize the connection needs to be made.

Ms. McKeel stated that when the Board revisits this, it would be good information to have.

Mr. Dill said that it seems like there would be data in other communities.

Mr. Sheffield asked if they could also include the growth in the number of venues.

Ms. McCulley responded that staff thought about that, and also considered external factors such as general population growth. She stated that regarding noise, there have been very few noise complaints in recent years, with one related to production and one related to a music venue over the last two years. She stated that a lot of businesses are doing events indoors and are preplanning, and that is what the zoning clearance allows. Ms. McCulley said that the County has encouraged people to think about the attenuation of sound and levels at the property line, prior to installing anything permanent on the ground. She stated that the current process is completely administrative and neighbors are not notified, with the special permit at the opposite end of the spectrum with neighbor notification and review by the Board.

Ms. More stated that she would like clarification that the question before the Board and Commission now would require an SP for every event.

Ms. Echols responded that a single SP would cover all the events.

Ms. More asked if that was different from the zoning clearance and what is in place now.

Ms. McCulley explained that an SP is not an administrative process, it is significantly more expensive – with a special use permit process going up to \$2,000 by the time you pay for notice to neighbors. She said that the process for a zoning clearance is just the time required for an applicant to provide the information the County needs, along with the sound studies – whereas a special use permit can take 3-6 months. Ms. McCulley said that the zoning clearance is relying on a non-engineered, non-technical submittal of either the County doing sound studies based on them creating noise on the site and staff measuring it at the property line, or the applicant estimating and agreeing to use their own sound meter, and then self-monitoring – which in the end works the best. She stated that the SP requirement with the grandfathering would not apply to existing establishments, and the County already has grandfathering for zoning clearance requirements for those that were in existence, and it would only apply to new establishments proposing outdoor amplified music.

Ms. McKeel asked why they would reinvent the wheel if the County had something in place that was working.

Ms. McCulley responded that it was working as far as staff knew, which came up at the roundtable, but this is why staff wanted to have a roundtable to solicit feedback.

Ms. Palmer said that if neighbors were complaining, then staff could go out to a particular location and check on it.

Ms. Echols said that one of the big distinctions here between zoning clearance and special use permit is notification – with the administrative process not requiring notification and the SP requiring it – so staff would like to get feedback as to whether the SP goes too far.

Ms. McKeel stated that if what they are doing does not work, neighbors will notify – and that seems to be the notification point, as long as there is a way to act on any complaints.

Ms. Echols asked for confirmation that they did not want the SP process.

Board and Commission members stated that they did not.

Mr. Keller asked about the possibility of a noise ordinance for the whole County.

Ms. Mallek responded that the County has one.

Ms. Burbage stated that event holders must comply with existing noise regulations, and the zoning clearance just helps to ensure that they have the tools needed in order to comply.

Ms. Mallek said that she would be happy to talk about lowering the limits, because 65/55dB was too high, but that discussion was for another time.

Ms. Echols stated that the next point for discussion is setbacks.

Ms. Burbage explained that they are based on the general setback regulations for the rural area, which is 75 feet from the front, 25 feet from the side, and 35 feet from the rear of the property – and this to address concerns about the size of the property and proximity to neighbors, so increasing the setbacks for activities that are occurring outside would help mitigate impacts to smaller properties, although it is not the only way to mitigate them.

Ms. Mallek said that she would love to have 125 feet from the property line so they wouldn't have to be chasing around trying to figure out how far the other person's house is.

Ms. Palmer stated that she could agree to increase it, although she was not sure of the exact number, but she felt that what was proposed was too little.

Ms. Mallek stated that when porta-johns and parking are jammed up against the property line, people get upset.

Ms. Burbage said that the 75/125 comes from the County's regulations for events at agricultural operations.

Mr. Dotson said that was fairly recent, and asked what the basis was when those were established.

Ms. Burbage stated that they were based on the County's swim/golf/tennis regulations, which is another somewhat intensive rural area use for outdoor activities.

Ms. McKeel said that she was concerned about small areas where properties may be close by.

Mr. Sheffield asked what the roundtable's feedback was on the setbacks.

Ms. Burbage responded that they did not discuss setbacks explicitly, but there was a concern about impacts on neighbors, and setbacks are a zoning way of dealing with that – so they were putting forward something based on another similar use in the ordinance.

Ms. Echols said that this is about increasing the distance for those particular properties from what is in the zoning areas currently for rural areas.

Mr. Sheffield stated that his only concern is the actual practice of this regulation, as the size of the parcel that the event venue is on, or the situation of the property such as downwind, on a hilltop, etc.

Ms. McKeel agreed, stating that it is difficult to determine ahead of time what might be around.

Ms. Echols stated that it is almost a case by case basis, with the geographic context and the size of the parcel being factors.

Mr. Sheffield said that he would fall back on the complaint-driven basis for this.

Ms. Mallek stated that they just don't want to give a false sense of security to someone with a small lot, and she would say that 21 acres is a small farm operation in terms of having events – and things like corn mazes and pumpkin patches are on much larger properties, so nearby properties are not an issue. She said that there was a constituent who wanted to have a tasting room on their 18-acre lot in Advance Mills, but the homeowner's association regulations ended up nixing that venture. Ms. Mallek emphasized that having a lot of people and no place to park is a problem when there is a really small piece of land.

Mr. Dill asked if there was an appeal process and if a person might be able to get an exception.

Ms. Burbage responded that there is a special exception granted by the Board.

Ms. McKeel commented that this did not seem to be a one size fits all situation.

Mr. Dill stated that he would be in favor of expanding it with the opportunity for people to ask for exceptions, if it was obviously not going to be bothering anyone.

Mr. Dotson said that in expanding it, there is one suggestion to go uniformly with 125 feet, and he is wondering if there is a rationale that is defensible for a larger setback such as 500 feet, if staff could look at benchmarks to see if that is practicable.

Mr. Keller stated that performance standards could get them to that point, and there could be a scale that would allow for different alternatives – and it wouldn't have to be one size fits all if there are a number of criteria. He said that from an urban design perspective, there are many good, operable performance standards, so there must be some for rural areas as well.

Mr. Randolph said that in the case of the Scottsville District, two wineries – Trump and Ida – setback issues would not be relevant, but First Colony and Jefferson are surrounded by residential properties, and the size of the winery operations is much smaller, so the setbacks and roads become much more critical. He stated that when they focus on this, the County must find a way to build in performance standards and provide guidance for property owners to determine what will be appropriate, because one size really does not fit all. Mr. Randolph said that in comparing wineries such as Whitehall and Cardinal Point, or King and Veritas, they are very different vineyards in terms of scale and nature – and yet the County is trying to merge them all together and regulate them as equals, which he sees as problematic. Mr. Randolph stated that they need to establish some ranges for criteria, tightening those up as areas are more congested.

Ms. Mallek asked Mr. Kamptner if there is a trap of unequal protection with that approach, because lack of clarity makes her nervous – and she wanted to remind everyone that they are talking about new operations coming, so going to the Class A standard eliminates a lot of these problems.

Mr. Lafferty asked if they needed to include something about adequate parking.

Mr. Randolph responded that they did – onsite versus offsite.

Ms. McCulley clarified that there is a requirement that all parking be provided onsite and that there is overflow for large events.

Mr. Lafferty asked about the establishment mentioned in the public comments, with people parking out on the state highway, and what recourse the County had.

Ms. Mallek stated that they were an existing business and thus qualified under the current rules.

Ms. McCulley said that staff would need to look into it and see if it was a traffic concern that needed to be addressed.

Ms. Palmer said that it was in Whitehall, according to her notes.

Ms. Echols stated that in terms of capping the total number of events at any size, Ms. Burbage would discuss why a specific number was proposed.

Ms. Burbage explained that there is currently no cap on the number of events that can occur at farm wineries, breweries or distilleries in a year – and the rural area neighbor roundtable raised concerns about these events happening every day, every weekend for the entire wedding season – which was April to October and beyond. She stated that staff felt that if they did not have to put up with them constantly, it might assuage some of their concerns – so they proposed a cap on the total number of events at any size at 24 per year, with the ability to exceed that cap with a special use permit.

Mr. Dill said that if the cap of 24 would only apply to new establishments, he felt it was inappropriate to give existing wineries a competitive advantage of being able to have 50-100 events per year, and there would be a natural limit to the number of events – so he would rather see them compete for the business.

Ms. Riley stated that the County does a good job of regulating the impacts in some performance manner, and she did not think the number of events was as important – it was the impacts that should be the emphasis.

Ms. Mallek said that putting a cap on would take them back to where they were four years ago, before the last round of state legislation, and she did not want to go there. She stated that with a Class A standard, these are bona fide wineries and businesses, and that takes care of everything else.

Ms. Spain stated that she is still unsure how much the 24-event limit per year actually is since they do not know the average number of events currently sponsored, and she agreed with Ms. Riley that the impact is more important than the number – but she would still like to know how many in each size range of vineyard are offered each year, including corporate events.

Ms. Mallek noted that one winery she knows of had 80 weddings plus other events in 2015, very successfully, with no neighborhood complaints.

Ms. Palmer stated that she agreed that impacts are the more important consideration, but she also wanted to go back to the smaller venues and how the County deals with them – because if they are not being addressed through performance standards, she is more inclined to look at caps, but if there are other ways to deal with them, caps are not necessary.

Ms. More said that she agrees with Ms. Riley that some of the other measures in place would help with the smaller properties, avoiding the caps and addressing impacts in other ways.

Mr. Keller stated that he agrees with the issues of scale, but he also felt there was an issue of proliferation and the impacts from that. Mr. Keller stated that in looking at rural areas, there are case

studies from around the country where the “goose that laid the golden egg” is no longer the most popular venue because of the impacts drawn to the area.

Mr. Dill stated that he did not think the County can determine the right amount of vineyards, and if some of them closed, that is out of the County’s control – and they should not put the burden onto new businesses to have to compete with those who would have a huge advantage, and it would be different if they could cap all of them.

Mr. Lafferty said that putting caps on them had an economic impact, and who is to say that one vineyard does a better job with weddings than others and is a more desirable venue – so he would go with performance standards.

Ms. McKeel agreed that she was not excited about caps, but said that Mr. Keller’s points were interesting and she would like to learn more.

Mr. Dotson stated that one of the difficulties with caps is that events are not all the same – as there are large and small ones. He noted that the staff report says, “Providing that a finding of substantial impact can be made,” and he wondered if that was for all breweries and distilleries, or if it was on a case by case basis.

Ms. Burbage responded that the language referenced the County establishing new regulation, and they would have to establish that there is a substantial impact generally – not on a case by case basis.

Ms. Echols asked Ms. Burbage to discuss the minimum road standard for event eligibility.

Ms. Burbage explained that a number of residents are concerned with road safety, which is associated with events putting more traffic on roads that are already rural and sometimes substandard. She stated that currently, the County has no road standards in the ordinance related to events – but it does have the zoning clearance threshold for activities and events generating more than 50 vehicle trips, including a review by VDOT of the entrance standards of the establishment. Ms. Burbage said that this provision would enable the County to look more holistically at the safety of the roads serving these uses in order to allow events.

Mr. Sheffield stated that he would not mind seeing a map of the current venues with what staff considers deficient roads.

Ms. Burbage responded that the problem is there is no classification of what is deficient – it is kind of a qualitative call – although they can look at things like paved vs. unpaved, road width, shoulder conditions.

Mr. Sheffield said that it really goes back to the data and how you quantify road safety.

Mr. Dotson stated that he agreed that they would like to see more data in general, and he would lean toward width over paving, and he did not want to create an incentive for pressure to pave roads.

Ms. McKeel agreed.

Mr. Lafferty also agreed, stating that the residents on unpaved roads often did not want them paved and would speak up against it.

Ms. Firehock stated that she agreed with these comments and would hate to see road standards lead to an incentive to pave more roads, adding that she also appreciated the comments made by the careful limousine drivers – and that might be something mentioned in a zoning clearance meeting in terms of a recommendation to use that service to ensure safe driving in a certain area.

Mr. Keller said that he agreed and would encourage staff to talk with stakeholders and transit drivers about this – but there are some places that are safer than others, and it would be good to hear about

those. He stated that he was recently run off the road by a tour bus, so there are other aspects to this that could be helpful.

Ms. Mallek noted that she agreed with the no paving requirement, and the full-width road as being preferable.

Ms. Echols asked if the Board and Commission needed further explanation of the grandfathering topic.

Mr. Sheffield said that grandfathering would be lost when a business left a leased space for a permanent space, and asked if staff had an idea of how many businesses were in this situation.

Ms. Burbage responded that Potter's Craft Cider was the only one staff was aware of, and Ms. Echols said that staff could look into it.

Mr. Dill stated that Keswick Vineyards also stated that they have a plan to build an indoor wedding venue but might not get it done by the time this ordinance is put through.

Ms. Echols said that some of this may rest with the final requirements the Board and Commission agree upon.

Mr. Lafferty asked if they knew how many people would be adversely affected by this.

Ms. Echols responded that they are not sure what "this" is yet.

Ms. Mallek stated that they need to make sure it is worded in the correct way so that it is not a nonconforming approach that prohibits further changes, so that an owner is allowed to continue to grow, put in new buildings, make expansions, and continue.

Mr. Randolph said that numerous residents have spoken about an operation in Free Union, so he would like to find a way not to grandfather this for that operation – which is not a bona fide agricultural operation under existing law, and certainly would not be under the proposed criteria. He emphasized that he would not like to lose the opportunity to find a way to shut them down, if at all possible.

Ms. More stated that as far as grandfathering, they would also be talking about the safety of the road, and they have already addressed paving and width – so she would be happy with the grandfathering other than this safety issue.

Ms. Mallek said that if someone has already invested \$10 million and the road is as it is, she did not think the County cannot go back and say, "Sorry, you have to fix this road."

Ms. Mallek also stated that if someone has done their application but is just not operating yet, she wanted to ensure that their investment is recognized – and if they adopt this regulation in three months but they are not ready to open for six months, she wanted to make sure they were not left out.

Ms. Echols responded that grandfathering was a tough issue to grapple with at this point in the meeting, but staff would take with them what has been said and see what they can put together for a return discussion.

Ms. Mallek said that her other concern was the portability of the license, as is the case with Potter's Cider, as they have an ABC license but should be allowed to have that in their expanded operation.

Mr. Dill asked if there would be a mad rush to get licenses in case people want to open winery businesses in the future.

Ms. Mallek responded that it was completely out of the County's control and had a timetable of its own

Ms. Echols thanked the Board and Commission for their input.

Ms. Burbage thanked Ms. Echols for serving as facilitator, and stated that she appreciated the input provided at this meeting. She stated that the next steps would be for staff to take what they have heard and prepare draft ordinance language, which they would like to share with stakeholders – with a Planning Commission work session to be held in late August or early September to allow time to vet whatever recommendations are developed.

Mr. Keller thanked staff and Supervisors for having this discussion with the Commission.

Mr. Kamptner stated that another Rio/29 tour is planned for June 23, but said that if it is an informational tour for Board members at which no business would be discussed, they could simply assemble. He said that the adjournment for this work session would be to the Board’s regular meeting of July 6.

The Board adjourned the joint meeting at 9:45 p.m.

Mr. Keller said the Planning Commission would move to the next agenda item.

Other Public Comments.

Mr. Keller said the Planning Commission would waive receipt of other public comments.

The meeting moved to the next agenda item.

Old Business:

Mr. Keller asked if there was any old business. There being none, the meeting moved to the next item.

New Business

Mr. Keller asked if there was any new business.

- Mr. Benish requested anyone interested in participating in the Certified Planning Commission Program to contact him.
- Commissioners Firehock and Keller announced that they would not be present at the next Planning Commission meeting.
- Mr. Keller announced that Commissioner Lafferty would serve as Acting Chair at the June 21, 2016 meeting.

Adjournment:

With no further items, the meeting adjourned at 9:50 p.m. to the Tuesday, June 21, 2016 meeting at 6:00 p.m. at the County Office Building, Second Floor, Lane Auditorium, 401 McIntire Road, Charlottesville, Virginia.

David Benish, Secretary

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

Approved by Planning Commission
Date: November 22, 2016
Initials: SCT