

**Albemarle County Planning Commission  
December 6, 2016**

The Albemarle County Planning Commission held a regular meeting on Tuesday, December 6, 2016, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Bruce Dotson, Mac Lafferty, Pam Riley, Jennie More, Daphne Spain, Tim Keller, Chair; Karen Firehock, Vice Chair and Bill Palmer, University of Virginia (UVA) representative.

Other officials present were J.T. Newberry, Senior Planner, Elaine Echols, Planning Chief; David Benish, Planning Chief; Sharon Taylor, Clerk to Planning Commission; Amelia McCulley, Director of Zoning/Zoning Administrator; Amanda Burbage, Senior Planner; Andrew Gast-Bray, Assistant Director of CDD/Director of Planning and John Blair, Deputy County Attorney.

**Call to Order and Establish Quorum:**

Mr. Keller, Chair, called the meeting to order at 6:00 p.m. and established a quorum.

**The Planning Commission recessed at 7:50 p.m. and the meeting reconvened at 7:58 p.m.**

**ZTA 2016-00003 Farm winery, brewery, and distillery events** – The Planning Commission will hold a public hearing to receive comments on its intent to recommend adoption of an ordinance amending Secs. 18-3.1, Definitions, 18-5.1.25, Farm wineries, 18-5.1.57, Farm breweries, 18-5.1.59, Farm distilleries, 18-10.2.1, By right (Rural Areas district (RA)), 18-10.2.2, By special use permit (RA), 18-11.3.1, By right uses (Monticello Historic district (MHD)), 18-11.3.2, By special use permit (MHD), of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend Sec. 18-3.1 by amending cross-references in the definitions of farm winery event, farm brewery event, and farm distillery event, and in the use classifications in Secs. 18-10.2.1, 18-10.2.2, 18-11.3.1, and 18-11.3.2; amend Secs. 18-5.1.25, 18-5.1.57, and 18-5.1.59 as follows in each respective section: (1) amend sub. (b) by moving farm winery, farm brewery, and farm distillery (“FWBD”) events, weddings, wedding receptions, and “other uses” to sub. (c); (2) amend sub. (c) to require that FWBD uses established on and after the effective date of the ordinance have at least the minimum agriculture production and use, along with beverage-related uses on-site in order to hold FWBD events, weddings, wedding receptions, and “other uses” on-site; allow by right FWBD events, weddings, wedding receptions, “other uses,” and up to 4 education events related to agriculture or beverage making, if attendance at one time is 200 persons or less, and by special use permit if attendance at one time is more than 200 persons; establish method for calculating attendance; define “other uses”; and require notification to abutting owners and an on-site point of contact if a zoning clearance is required; (3) amend sub. (d) to require a traffic management plan to be submitted with an application for a special use permit; (4) amend sub. (e) to prohibit outdoor amplified music between 10 p.m. Sunday thru Thursday nights and 7 a.m. the following mornings, and between 11 p.m. on Friday and Saturday nights thru 7 a.m. the following mornings; (5) amend sub. (f) to establish 125 foot setbacks for tents, off-street parking areas, and toilets, with a grandfathering provision and provision for special exceptions; and (6) delete sub. (h), which is addressed in amended sub. (c). A copy of the full text of the ordinance is on file in the office of the Clerk of the Board of Supervisors and in the Department of Community Development, County Office Building, 401 McIntire Road, Charlottesville, Virginia.

Ms. Burbage summarized the staff report in a PowerPoint presentation.

Mandy Burbage stated that the Comprehensive Plan includes goals of supporting agricultural uses in the rural area – which includes farm wineries, breweries and distilleries – and allows special events to occur as a means to support those uses, providing those events are subordinate to a primary onsite agricultural use. She stated that the zoning ordinance allows by-right events associated with wineries, breweries and distilleries to occur, and associates those privileges with holding an ABC license – but because there is no minimum amount of onsite agriculture required for acquiring an ABC license, or under the current zoning ordinance, the potential exists for abuse of the license to hold by-right events in the rural area. Ms. Burbage

said that it is clear there is demand for rural area event space, and it is the county's intent to address this gap in the ordinance to ensure that events that do occur are supporting a true agricultural use.

Ms. Burbage stated that early on, they established these goals in the zoning ordinance amendment process, as reflected in the resolution of intent adopted by the Commission. She said that they boiled down to strengthening the tie between events at wineries, breweries and distilleries and agriculture present onsite, and also addressing impacts associated with events on neighboring properties and the rural area at large. Ms. Burbage said that they began this process in March with the adoption of a resolution of intent, and stakeholder engagement has been a key element of this ZTA process, and they began with four roundtable discussions in the spring to better understand issues associated with these events, and there were over 65 attendees, representing wineries, cideries, breweries, and distilleries – as well as residents of the rural area. She stated that input from the roundtables was shared at a joint work session with the Commission and Board in June, to inform the development of provisions to establish primary agricultural use for events eligibility, and also to address the impacts of events.

Ms. Burbage reported that at that work session, the Commission requested further input from rural area residents, so staff circulated a survey over the summer to rural area residents and received 280 responses. Based on that feedback, she said, staff drafted an ordinance and brought it to the Commission in September for discussion, as well as four other topics identified in the stakeholder survey. She pointed out right now she would touch on those four topics.

Ms. Burbage said that the only issue not addressed in the ordinance before you this evening is the minimum road standard for event eligibility, and said that while Commission supported the idea of exploring a minimum road standard to evaluate winery, brewery, or distillery eligibility to hold events, under State Code requirements in order to use that standard, there must be a finding of substantial impact to public health, safety, or welfare, and the impact must be directly associated with events and roadway safety. Ms. Burbage noted that staff requested five years of accident data from police for roads serving existing farm winery and brewery uses (we did not have distilleries at the time), but that data was inconclusive in associating events with an uptick in accidents. She said that the Commission further requested that staff break down the data into paved versus unpaved roads, which they have included in their packets in Attachment E, but the data remains inconclusive as far as correlating an increase in accidents with these uses. Ms. Burbage stated that staff at this time is unable to provide a minimum road standard to county regulation of these events. She noted that this is something staff would continue to monitor and revisit in the future as more information is gathered.

Ms. Burbage reported that the second provision the Commission discussed at their last work session was a traffic management plan for events over 200, stating that these events already require a special use permit, so the traffic management plan would be required to be supplied by the applicant in conjunction with the special use permit (SP). Ms. Burbage explained that the plan would outline how traffic would access the site, whether or not traffic personnel would be present, and whether or not transportation vendors would be used to manage traffic impacts. She noted that this is a condition that has been applied to other special use permits at wineries, and would simply codify the requirement and give applicants advanced notice of what is expected of them.

Ms. Burbage stated third to address concerns about noise associated with outdoor amplified music, staff had recommended a curfew of 10 p.m. to 7 a.m. – during which music would either have to cease, go indoors, or become acoustic. She said that the timeframe is based on the county's nighttime hours as defined in the noise ordinance, and the Commission supported the idea of a curfew, but requested that a later 11 p.m. curfew be considered to address concerns voiced by some establishments that wedding receptions typically go to 11 p.m. She pointed out she would address how we have modified our provisions accordingly.

Ms. Burbage stated that the final provision was one to require farm wineries, breweries and distilleries that want to hold events to notify their abutting neighbors prior to holding events, and provide an onsite point of contact who can be reached during an event. She said that this would be a one-time process associated with the zoning clearance application, and not prior to each event.

Ms. Burbage said that to address how this prior work has translated into the proposed ordinance, she would now focus on the provisions for establishing a primary onsite agricultural use as a prerequisite for event eligibility – which they had discussed at prior work sessions but not at the last. She pointed out that these eligibility requirements do not apply to by-right activities such as production, harvesting, and tasting that are protected under the State Code. Ms. Burbage reported that the first eligibility requirement would be a minimum of five planted acres to be used in beverage production, which may include production on adjoining properties that are under same ownership. She noted that while it is acknowledged that many, if not most, wineries, breweries, and distilleries rely to some extent on outside product, this requirement ensures that there is some minimum amount of agricultural activity onsite that provides an agricultural basis for events that are occurring on the property. She said that the ordinance language makes accommodations for seasonal crops – such as corn or barley – and also for orchards and vineyards that can take several years to become established.

Ms. Burbage reported that the second provision relates to onsite fermenting and bottling, which comes from ABC's requirements for wineries, and while staff feels that it replicates state requirements, it reflects a significant investment in establishing the use above and beyond planted acreage. She said that staff understands that purchasing equipment for fermenting and bottling can cost tens of thousands of dollars more than the cost of planting an orchard or a vineyard. Ms. Burbage added that while it's already an ABC requirement, it gives the County greater ability to interpret and enforce the regulation as it pertains to allowing events – and portable bottling equipment would count toward that onsite provision as long as the bottling was happening onsite.

Ms. Burbage stated that the final provision for establishing the primary onsite use is a tasting room with regular hours, and while the hours can be flexible, they must be open to the public on a regular basis and not by appointment only. She said that the rationale for this is that it is an indicator that a winery, brewery, or distillery is producing enough product that they can sell it to the public on a regular basis – and therefore there is enough product to market and sell at events, which is the reason for allowing events to occur.

Ms. Burbage noted that for all three eligibility requirements, existing farm wineries, breweries, and distilleries would be grandfathered – those that exist on the date the ordinance is adopted. She said that they have built in an allowance for up to four educational events with under 200 attendees per year, to provide some flexibility for those who can't meet these requirements but want to engage in a limited amount of event activity – and this is consistent with provisions in place for agricultural operations.

Ms. Burbage said the second set of provisions relates more to the mitigation of event impacts, with the first provision in that category being an increase in setbacks for parking areas, tents, and portable toilets, and currently those setbacks are dictated by rural area setback standards – which can be as close as 25 feet to the property line. She stated that this would increase the setbacks to 125 feet from the property line, and that would be a property line under different ownership, and could be modified by special exception, taking into consideration permission from the abutting owner who is affected by the reduced setback. Ms. Burbage said that existing parking areas would be exempt from the requirement, but tent areas and portable toilets would be expected to come into compliance.

Ms. Burbage stated the provisions for the outdoor amplified music curfew would apply to all wineries, breweries, and distilleries, and staff has recommended a compromise between residents' desire for nighttime quiet hours and the establishments that want to accommodate weekend activity: to allow a later curfew on Friday and Saturday evenings of 11 p.m., with Thursday through Sunday of 10 p.m. She pointed out this was a correction from the staff report in there was an error that said Saturday and Sunday instead of Friday and Saturday. She noted that this would also be modifiable by special exception. Ms. Burbage reported that staff believes that neighbor notification would promote direct communication between the wineries, breweries, and distilleries and their neighbors – with existing establishments exempt from the requirement. She explained that this was, in part, because many of them are already grandfathered from the zoning clearance requirement from a prior ordinance amendment, with only one established in the meantime. Ms. Burbage stated that the traffic management plan would also be required of all wineries, breweries, and distilleries because it is associated with the special use permit process. She noted that there

has been some confusion about the 200-person trigger, and that pertains only to event attendance – not staff associated with the establishment or anyone engaging in by-right activities such as tastings. So it is just the events attendance that is over 200 that triggers that special use permit requirement.

Ms. Burbage said that she has summarized everything in a table for reference in the staff report with the correction of Friday and Saturday, and staff's recommendation is to recommend adoption of the proposed ordinance found in Attachment A, following the public hearing.

Mr. Keller invited questions.

Ms. Firehock said as a primarily rural area Commissioner she has a number of concerns. She asked about the grandfather provision and if there were many wineries in Albemarle County that would not be effected by this.

Ms. Burbage responded that they would not be affected by the event eligibility requirements.

Ms. Firehock stated that there were comments at their last meeting about this related to the time, as one particular winery owner said they would not be able to get bookings because everyone needed to party to 11 p.m. She asked if that winery owner would not be affected by this.

Ms. Burbage replied that staff is recommending that the curfew provision be applied to all wineries, breweries and distilleries.

Ms. Firehock commented that there would not be an unfair competition established then.

Ms. Burbage agreed, adding that an additional complication would be enforcement, as police who are responding would not know if the curfew applied to a grandfathered entity or not. She emphasized that this is cleaner and addresses the issue, and the county has had noise complaints with existing wineries primarily – and those are related to outdoor amplified music typically.

Ms. Firehock said that the idea is that the music goes inside, where the event can continue.

Ms. Burbage confirmed this, clarifying that this is not an event curfew, it is an outdoor amplified music curfew.

Mr. Lafferty said that he would bold the word “curfew”, and said that he assumed the noise ordinance limit of 60 decibels at the property line was still in effect.

Ms. Burbage responded that this was a daytime decibel limit, and said that it would go down to 55 decibels at 10 p.m., noting that often music can be heard and still be in compliance with county regulations.

Regarding neighbor notification, Ms. Spain asked if there would be a way to add that neighbors should be given the updated information if there is a change in staff at a venue, so they have a current phone number – not just one they get at the beginning of each year that might not be valid all year long.

Ms. Burbage responded that once the ordinance provisions take effect, staff would deal with that through their communications with entities who are coming in for the zoning clearance application in making sure that they are providing current information.

Ms. Spain asked if there was a sense of indoor facilities for the places that would be having events for more than 200 people, and if they could move the event inside with indoor music if they had 200 people – and she assumes that the larger wineries would and the smaller ones might not accept the bigger events.

Ms. Burbage responded that she is not sure about all the event spaces and she thinks it varies, stating that some have the space to accommodate it and rely on tents for their event space, so they would be more hamstrung by the curfew, although there is a special exception avenue if they can demonstrate that they

have sound attenuation measures in place and believe they will not be disruptive to their neighbors – as they can go to the Board and request a special exception for those hours.

Ms. More asked for clarification that the 200 attendees did not include staff needed for the event, and whether it included just the facility staff or also the vendors who might be there for a wedding.

Ms. Burbage confirmed that any staff would be excluded from that count, as it is only wedding attendees counted if it is a wedding.

Ms. Firehock asked if it needed to be added to the language, as it did not specifically say that; but, she recalled staff telling the Commission that.

Ms. Burbage responded that staff can look at where that might need to be clarified, adding that the 200 threshold has existed in the regulations since 2010 and even prior. She added that she did not know if that has been an issue with administering the special use permits, but if it can be further clarified, then staff can do that.

Mr. Blair said that he would try to come up with some language before the Commission takes its vote.

Ms. Spain asked why existing wineries are exempt from the neighbor notification provision.

Ms. Burbage responded that in December 2015, when the provisions for wineries, breweries, and distilleries were last adjusted, the zoning clearance requirement was established for vehicle trips over 50 and parcels less than 21 acres. She said that those establishments existing prior to that date of ordinance adoption were grandfathered from that zoning clearance requirement, and because they are not required to submit a zoning clearance for events, they would not have to do the neighbor notification.

Ms. Firehock stated that the Commission had received a letter from one constituent asking why they are against appointment-only wineries, and staff has said they wanted evidence that the establishment was making enough product to be open – but she can think of one or two wineries in the county that run out of product because they are small production wineries. She said that they still fall under this ordinance, but perhaps someone else making the same amount of wine would be allowed to have events and one would not. Ms. Firehock stated that she was not swayed by staff's argument that a winery needed to be open beyond having appointment hours to be a functional winery and worthy of having an event, so she did not know if the intent was to tamp down on the number out of fear that everyone would open up and have weddings along with other things.

Ms. Burbage responded that the intent was to avoid a situation in which there was a winery that made just a token amount of product but could have events as frequently as they wanted. She emphasized that the purpose of the events is supposed to be to market and sell the product, so if they have a limited amount of product but are having events every weekend, it seemed unlikely that the event would be to market and sell their product. Ms. Burbage commented that it is not a perfect solution.

Ms. Firehock said that she understands; but, then using that logic would we then want to do that based on the amount of product produced rather than whether they have a tasting room that was open. She pointed out that she was not saying they had the time to deal with this right now.

Ms. Burbage responded that it would be another avenue to address it, but it becomes tricky to pick that quantity and have a viable legal basis for it, and they can't pick that number out of thin air as they must be able to justify "substantial impact."

Ms. McCulley said that she did not think if there was an establishment that ran out of their product – and would have regular hours open to the public were it not for the fact they ran out of product – that they would be penalized. She stated that they may still want to be open for other reasons, and she could not imagine that would be a violation they would create because they were completely out of product and end up being closed

Ms. Spain stated that she got the idea about the notification being dependent on zoning clearance, and asked if this meant that existing wineries did not have to notify neighbors, and Ms. Burbage replied yes.

Ms. Spain asked if there was a way to have existing wineries notify neighbors of events that they were going to have throughout the year, independently of the zoning clearance.

Ms. Burbage responded that existing wineries were not required to notify, and while this was something they could encourage, she did not think they could legally require it.

Ms. McCulley noted that they were preexisting the regulation.

Mr. Blair, Deputy County Attorney, stated that ex post facto – which is the same idea as retroactivity – would create a constitutional question about imposing the regulation after this was passed.

Ms. Spain stated that the whole idea was to encourage good neighbor relations, and it wouldn't seem fair to have only some wineries responsible for that and others not. She asked how many would not be bound by this.

Ms. Burbage responded that there were 35 active licensees now, and they would be exempt.

Ms. McCulley stated that this is a complex topic generally, and in the framework that the State Code has given related to wineries, breweries and distilleries there are even further restrictions about what localities can require – but the legal department could examine that after this meeting. She said that a lot of wineries do this as a matter of being good neighbors.

Ms. Firehock said that she has heard that some are good neighbors and others are not, and while they may not have the ability to regulate it legally, they can at least encourage good neighbor practices. She added that everyone wants to get along out there.

Ms. Burbage noted that one of the first things staff says when a prospective winery or brewery comes to the county is, "Have you talked to your neighbors about it," because they know it is going to be an issue that will arise.

Mr. Keller opened the public hearing and turned the meeting over to Ms. Firehock, Vice-Chair.

Ms. Firehock invited members of the public to come forward and speak. She invited the first person signed up to come forward, Mr. Schornberg.

Mr. Al Schornberg addressed the Commission, stating that he is speaking on behalf of Keswick Vineyards and that he believes the ZTA process started out as an effort to curb "faux wineries," which are event businesses disguised as wineries to take advantage of the events. Mr. Schornberg stated that one part of this proposal actually hurts legitimate farm wineries rather protecting them, explaining that the Commission had previously agreed to not incorporate a 10 p.m. curfew on outdoor amplified music. He said that now staff is proposing a 10 p.m. curfew Sunday through Thursday – but Sunday happens to be the second busiest day of the week for farm wineries hosting weddings, equating to approximately 25% of the wedding revenues. Mr. Schornberg said that imposing a 10 p.m. curfew on outdoor amplified music would drive potential customers to other venues that are not limited, and that creates an uneven playing field. He noted that in June and July, the last light is not until 9:30 p.m., so it was somewhat impractical to shut down a half hour after dark. He stated that the proposed curfew discriminates against farm wineries, as there are roughly 17 outdoor venues in the county that host weddings – but only four are farm wineries, or 23% of the venues. Mr. Schornberg said that the vast majority of outdoor venues would have no curfew, and that puts farm wineries at a huge disadvantage but would have very little impact on whatever problem staff is trying to solve. He stated that if there is going to be a curfew on outdoor amplified music, it should apply to all outdoor venues, not just farm wineries. He noted that the intent of the proposed ordinance was to protect legitimate farm wineries – not hurt them and put them at a very obvious disadvantage. Mr. Schornberg

stated that it did not seem right, did not seem fair, and he wondered if it was even legal. He said that wedding couples usually contract their weddings one or two years in advance, and those contracts spell out times and dates, so the county would be creating all kinds of expensive legal and contractual issues because people book these events based on existing regulations. He added that he did not believe a 10 p.m. curfew on Sunday is warranted or necessary, and if the county wants to limit noise, they should consider not allowing live music – which is the source of many complaints they are hearing – and venues using DJs and well-placed speakers should be allowed to operate.

Mr. Robert Hodge addressed the Commission and stated that he and his wife bought their Whitehall farm in 1976, and recently about three wineries have sprung up within a mile of his property. Mr. Hodge stated that the winery across the road from them has posted a curfew of 10 p.m., which he believed has not affected their bookings whatsoever. He stated that the problem with the survey is that it did not distinguish those respondents who live close to a winery versus those who live a great distance away, so this provided skewed results in terms of the actual problem. Mr. Hodge stated that the winery he has been working with has been very cooperative, but it is very hard to enforce a conversation and noise level, so he would push to go with the staff recommendation to keep the curfew at 10 p.m., as people have varying work hours. Mr. Hodge said that many people moved out to the rural areas of Albemarle County because of the beauty and serenity, adding that he also has a licensed vacation rental on his property, which people stay in because they want serenity. He emphasized that 10 p.m. is a reasonable compromise and would not really affect the bookings. Mr. Hodge said that people can buy property in Albemarle, but they never know what will pop up next door. He said that it is like a smoking gun because of the commercial activities that are sanctioned in a winery, which is different than what goes on in a zoned area, such as a commercial area where this is permitted. He stated that if facilities want to extend their hours beyond 10 p.m., they should build an indoor facility and have something where they can have music inside. He added that 10 p.m. is very reasonable and should apply to every day of the week.

Ms. Katie Hellebush of the Virginia Wine Council addressed the Commission and referenced comments submitted to them ahead of time. Ms. Hellebush stated that the Virginia Wine Council had been able to take part in discussions about all of the different subjects raised pursuant to this ZTA, and was very interested and engaged in making sure they are representing all of our farm wineries, cideries, vineyards and orchards all across Virginia – especially the 35 in Albemarle and 30 in the Monticello Wine Trail. She said the Council has worked closely with colleagues locally to keep track of the county's efforts, and over the past few months has held its own roundtables and several industry events to talk about current laws and ordinances and discuss other efforts going on around Virginia, and to discuss what the industry needs to do to advance it in a positive way and be aware of issues as they arise. Ms. Hellebush stated that the Council hopes they will come up with an industry-driven solution that will address concerns from the Commission and those presented by constituents, as well as the comments made by Mr. Schornberg and others that are specific to the Virginia wine industry.

Ms. Hellebush stated that the Virginia Wine Council takes issue with four points in staff's recommendation:

- Regulating farm wineries in the same manner as limited breweries and distilleries, as there are separate percentages required regarding agricultural activities;
- The requirements for tasting rooms that are ongoing versus by appointment;
- Curfews, as they should be addressed by farm wineries so as not to impede their businesses; and
- Traffic management plan, as all wineries would hopefully be acting in the best interest of their neighbors as well as people visiting their establishments.

Mr. David King of King Family Vineyards in Crozet and the current Virginia Wine Board chair addressed the Commission, stating that at the wine board's quarterly meeting earlier that day, they found that the issue would again be raised in the General Assembly. He commented that this is an ongoing 10-year saga, and there would be competing bills in the legislature pursuant to Section 4.1 of State Code regarding licensure. Mr. King stated that for the very first time, to the surprise of those in the industry and those in northern Virginia that are directly involved in the current legislation issues, there is a viable alternative that has been provided by the county and the Monticello Wine Trail – who have collaborated to get this to a starting point. He understands there are risks and it is not finished. He said that these efforts, in collaboration with the local wineries association, will be the only viable alternative raised in the 10 years he has been following

the issue. Mr. King stated that he has no comments on the particulars, and the proposal is not perfect, but he wanted to thank staff and congratulate the Commission for providing a viable alternative.

Mr. Jeff Werner of the Piedmont Environmental Council addressed the Commission and stated that he agreed with Mr. King's statements, noting that they have known one another a long time and often agreed. Mr. Werner said that there may be a grammatical change needed for one of the provisions. He stated that this was supposed to be about the making of Virginia wine and growing of grapes, but all they ever talk about is weddings and noise. Mr. Werner emphasized that this is the only business that people seem to get into with the complete foreknowledge that they can't make any money making wine or cider – they can only make money if they host weddings or have a commercial event venue in the rural area. He stated that they continue to pretend that this is something else, adding that he lives in the old winemaker's house on Wine Street, and he has found no records that they had to have weddings and events in order to be a viable winemaker, as the wines sold well all over the world. Mr. Werner added that he would like to hear one day with what they can do to help with the agricultural aspect of wineries rather than events, but he does understand the value of incremental compromise. He thanked the Commission and staff for their hard work.

Ms. Cynthia Neff addressed the Commission and said that it is untrue that they are moving from the urban to the rural – as there are several proposed wineries just down the street from Oakleigh. Ms. Neff said that 95% of Albemarle County is designated rural, and she was a big fan of the master plan; but it was also a bit of an enemy at this point. She stated that she works on the Places 29 Hydraulic Committee and lives in that area, but she entertains by visiting area wineries. Ms. Neff echoed the frustration with it is all about the weddings. Ms. Neff stated that within the one proposed winery, there are 2,500 homes within one mile, and that is a vastly different scenario of talking about an agricultural initiative than a winery in the rural area. Ms. Neff said they need to be clear about what they are looking at since she did not know that the urban ring is really where we plan to put in wineries, distilleries and breweries – so she thinks that is something that needs to be considered. She said that she appreciated all the work and effort put into this and thanked staff for their efforts.

Mr. Neil Williamson, with the Free Enterprise Forum addressed the Commission, stating that he had also sent a letter to them with specifics about this item, as well as speaking with Mr. Blair. Mr. Williamson stated that he does not feel that the language as currently proposed accomplishes what the county intends, but he felt certain they would work it out. He said that the reason they don't talk about the agricultural components of the farm wineries is because they are by-right uses: the county can't regulate them so it doesn't talk about them. Mr. Williamson emphasized that the events are the only things that can be regulated, which is why they are discussed. He mentioned that he ran a winery in the Napa Valley for a year and a half, and visited a winery that was over 100 acres and was an appointment-only winery – Duck Horn Winery. He said that you had to make appointments weeks in advance, and he didn't think anyone would think that winery was a "faux winery" because of the manner in which they address their guests, by appointment only. Mr. Williamson stated that the issue they are trying to solve is to tie significant agriculture to the wineries – and they have done that with the five-acre minimum. He concurred with Ms. Hellebush that this should not go together with distilleries and breweries, because they are very different, but cideries are close enough. Mr. Williamson thanked the staff, stating that he participated in all four focus groups and has been in communication with them and with Planning Commission members. He commented that this ordinance was on its way to being very good, and he has raised a total of five points needing attention, and he was hopeful they could work out the curfew so it was what they asked for in the joint meeting with the Board of Supervisors, which was 11 p.m. Mr. Williamson said that it shouldn't be a concern on weekends. He stated that he clearly believed this was part of the county's economic development strategy, and it almost had to be with almost 95% of the county being in rural area.

Sarah Henley of Henley's Orchard in Crozet addressed the Commission, thanking staff and stating that the constituents involved in this do feel like they are being heard – which is very positive. Ms. Henley stated that with rural farms, you do not get a lot of visitors unless you have events going on, so they are important in bringing customers to them, as opposed to an urban location where there are customers stopping by. She said that bringing people out to the county has been the answer as to whether a farm can continue to exist or not. Ms. Henley stated that her orchard lost all of its peaches this year and had a difficult apple crop, and having "Henley Fest" festivals meant a lot to them because it meant people were coming out –

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and they wouldn't have come without the events. She added that there are a lot of vendors, florists, and caterers in Albemarle County who are depending on this as their income, so it impacts a lot of people. Ms. Henley said that she didn't realize that Albemarle County was setting an example for the rest of the state, and congratulated the Commission for that.

Ms. Sue Albrecht addressed the Commission, stating that she has been a resident of Albemarle County since 1980 and is the owner of Rosslyn Farm and Vineyard. Ms. Albrecht stated that she appreciates staff's effort and the Commission's effort in recognizing the growth of the winery, brewery, and distillery industry in the county, and considering how to best manage events allowed at these farms. Ms. Albrecht said that having participated in the last several months of roundtable work sessions and this public hearing, she was sympathetic to the county's desire to regulate farms to prevent lackluster operations from access to holding events – however, these regulations should not task legitimate operations with providing administrative paperwork to substantiate compliance with the ordinance changes. She asked that each commissioner pause and reflect on how much these regulations are going to be a challenge for farmers to provide that information, and how the county is going to monitor these activities. Ms. Albrecht asked who at the county is measuring planted acreage onsite and on adjoining parcels and calculating setback minimums, and what qualifies as a “bottling operation” or “tasting room,” and what are “regular hours”, as well as who the neighbors were – whether they were contiguous or a large radius around the farm. She asked what method would be used for notification, who would be verifying the requirements, who the neighbors are, what the frequency is, and by whom. Ms. Albrecht urged the Commission to reflect on the need to study how these policing tasks will be handled prior to voting on the ordinance changes. She asked how they planned to add additional staff and monitor the changes by the county, and how it will be done. Ms. Albrecht stated that there is already a tall benchmark set for farmers to financially survive with the cost of Albemarle County real estate, and each farmer values the right to individually handle the choices involved in managing land use and crops, and marketing/sales and the scheduling of various types of events. She stated that she feels they all deserve the freedom to manage their farms to best suit their needs without being required to succumb to additional bureaucratic paperwork – taking time and energy from the running of their farms. Ms. Albrecht thanked them for consideration of all these issues.

Mr. Bryan Slaughter of Michie-Hamlett addressed the Commission and stated that he represents a group of landowners on a small rural road in Albemarle County. Mr. Slaughter said that he wanted to talk about the road issue, stating that he would like the Commission to consider reserving to the county the ability to look at certain roads. He stated that they can all agree that somewhere in Albemarle County, there is a road that is not suited to having a hundred cars a night, twice a weekend. Mr. Slaughter emphasized that it is their job, by state statute, to be able to regulate the safety of those roads – but they need that in the regulation. Mr. Slaughter said that he would like them to consider a provision mentioned two meetings ago that a road study is required below a certain threshold – and he thinks it should be the 18-foot width, which is the minimum amount for a VDOT Road. He stated that whatever it is, the county should be able to look at certain roads to say this is not safe to have people at night, after they have been drinking, on these roads. Mr. Slaughter said that he understands they may not be comfortable with an actual requirement, but asked that they maintain the ability to review roads for suitability.

There being no further speakers, Mr. Keller closed the public hearing and brought the item back to the Commission for discussion and recommendation.

Ms. Spain asked how they would address Ms. Albrecht's concern about the paperwork required, monitoring, and so forth, and asked if there was significant amount of paperwork required, one report a year, etc.

Ms. Burbage responded that there is no new paperwork proposed with this ordinance, and currently the zoning clearance and special use permit applications would be the two permits required. She stated that the zoning clearance is a \$54 application that is administratively reviewed by staff, and it is a one-time application that would apply to all events going forward – not even an annual renewal – and it is a two- or three-page application. Ms. Burbage said that a special use permit application is a more involved process, but that is only required for events over 200.

Ms. Spain asked about monitoring compliance and how staff saw that playing out.

Ms. Burbage responded that there are some new elements being introduced, such as minimum acreage, and this is being done on a complaint-driven basis, so code compliance officers would have to go out to the site. She stated that Google Earth is a very useful tool for approximating acreage, but in close-call scenarios, it might be a little trickier. She said that setbacks are standard practice in other parts of the ordinance, so she did not imagine that increasing setbacks is implying any additional burden on staff. Ms. Burbage stated that the neighbor notification would happen in conjunction with the zoning clearance application process, and there are other neighbor notification requirements associated with home occupations. She said that once the ordinance was adopted, they would need to come up with guidance to give applicants so they know what they need to be doing as far as notifying abutting property owners, but the county would spell that out.

Ms. Spain said that this does not apply to the existing 35 anyway, and Ms. Burbage confirmed this.

Ms. McCulley said just to be clear in terms of monitoring that across the board, with the exception of public health and safety concerns, staff is not proactive – and would treat this like any other matter. She said that when it is brought to their attention, staff would be responsive; and when someone applies for a zoning clearance, the new regulations grandfather existing establishments.

Ms. Firehock said that Ms. Burbage clarified that the curfew time applied to Friday and Saturday nights – not Saturday and Sunday – and asked if there was an advertising concern.

Ms. Burbage replied that the draft ordinance itself was correct and the legal ad was generated from the draft ordinance, so the mistake was in the staff report so it shouldn't affect the advertising.

Mr. Blair confirmed that it would not.

Ms. Riley stated that she has a follow-up question to the comments on the minimum road standards, noting that the Commission did get the memo from County Attorney Greg Kamptner. She stated that she appreciated the data provided that does not show a correlation between unpaved roads and accidents – but this did not address Mr. Slaughter's concern about some roads being too narrow. She asked if the staff has explored the suggestion about the county maintaining some approach to suitability of certain roads as new wineries might apply.

Ms. Burbage said that this is an issue that staff has looked at extensively and agrees that it is a good idea – but very tricky to implement, both from the enabling authority perspective, but also the applicability of any road standard, whether it is width, paved or unpaved, because you have to take into consideration which roads are serving the use. She stated that many of these roads are in remote locations that are served by several roads that may meet a minimum road width standard in some places and drop below that width standard in other places. Ms. Burbage commented that sometimes there are several ways to get to a site, so there are other parameters that come into play. She said that another issue arising from the discussion of minimum road standard is that there are quite a number of rural area uses that exist that don't have minimum road standards that generate similar traffic impacts – so applying a standard to one use but not another is not a level playing field, although public safety risks are associated with different types of uses. She said that Mr. Blair could address this, but she did not believe they can require looking at minimum road widths for allowing events.

Mr. Blair said that State enabling authority under Section 15.2-2288.3 says that “no localities shall regulate any of the following activities of a farm winery licensed in accordance with the ABC,” and it lists six activities. He stated that even taking events out of it, there is an enabling question because there is specific preemption about the activities of a farm winery – and while they can argue that they are not trying to regulate the activities, but saying a road may be too small to have a farm winery would be regulating or disallowing it. Mr. Blair emphasized that the county would be very cautious from a legal perspective in trying to regulate something, but there is a specific preemption for localities regulating those activities of a farm winery, and he did not know how they would get around saying a farm winery could not be allowed on a certain road – which in effect negates all of the activities that farm winery could engage in, which are not

supposed to be regulated by a locality. He said that is one concern obviously the substantial impact. He said that he appreciated Mr. Slaughter's comments about just leaving the idea open for "studying," but if there are events that have over 200 attendees, there would be a process they have to go through that would consider traffic management. Mr. Blair added that they could continue to look at the issue, but the State statute specifically preempts local regulation of certain farm winery activities, and he did not know if they could come out and say, "You can't locate a farm winery on this road," and just completely negate any opportunity to have those activities.

Ms. Firehock stated that she lives on a road that has greatly varying widths and challenging curves and it is paved, so they might say that is a safe road – but there are paved roads in Albemarle that have very awkward angles and tilts that make them quite unsafe. She said that one could make the case that if a road had to be of certain standards, they would have to make a wide road so their activities could be accommodated, which Mr. Blair has indicated cannot be done. Ms. Firehock stated that she fears going down that path, coupled with the fact that they did not get accident data to substantiate that there were additional problems with places that have active wineries or breweries.

Ms. More asked if, when they talk about tasting room hours and private tasting schedules, there is a definition for the amount of hours a place is required to be open to the public – and whether there is way to incorporate into it acknowledgement of those tastings taken by appointment only.

Ms. Burbage responded that the provision is in Section C1, Number 2: "An onsite tasting room with regular hours in which it is open to public." She noted that she did not think they have a definition of "regular hours," so it would be an interpretation by the zoning administrator – and the intent is to allow maximum flexibility of what "regular" means. Ms. Burbage said that it could just be few regular hours per week, but that is in contrast to appointment-only hours where you have to call to have a tasting.

Ms. More stated that she just wants to make sure it is flexible.

Ms. Burbage said that by not defining it, it is more flexible, which was staff's intent.

Ms. Firehock commented that they have defined acreage that creates a bona fide farm-based operation, and asked if that was not enough. She said that there is already something in the ordinance that guarantees a farm is creating a product from which they are making wine, with the assumption they are selling it – and she remains unconvinced that they need to have the regular hours. Ms. Firehock added that they could be open one hour a week, so it seems like a silly argument at this point, and she would like to get rid of it. Ms. Firehock said she was less concerned about the small scale by appointment only events, which are people.

Ms. McCulley pointed out that the Commission has several options: to go with it as written; to recommend removing it entirely; or to take it from a requirement that cannot be waived to allowing it to be waived by special exception.

Ms. Firehock said that perhaps it could be done by special exception – that way they could determine if it is actually an issue. She stated that it would be harmless to do it that way.

Ms. McCulley noted that there are limits under the Sinclair Supreme Court case as to what can be done administratively by waivers.

Mr. Blair advised to have the special exception for that particular option.

Ms. McCulley said or eliminate it.

Mr. Blair agreed.

Ms. Firehock stated that the other issue is the curfew on Sunday, as they have heard from some professional operators that it would be really harmful, and from others that it would be detrimental to their quiet enjoyment of the countryside. She asked if that was something else that could be handled on a case-

by-case basis. Ms. Firehock said that part of the difficulty with this is that the landscape is very different, and the placement of a facility can have a wildly different effect as to how sound carries, depending on numerous variables – the topography, proximity to neighbors, and the behavior of guests. She suggested that instead of making a blanket statement about the Sunday, a person could come in and ask for an exception to stay open later if they have the support of neighbors and work through those issues.

Ms. Burbage clarified that this already exists as a Board special exception – but it is not an administrative waiver.

Ms. McCulley pointed out that it exists in the draft ordinance before the Commission tonight.

Mr. Lafferty asked if they could include Sundays, and then if there are neighbor complaints, thereafter they would have to get a special exception.

Mr. Blair said that he did not think that would work, as this is a legislative decision that needs to be made, with the Commission recommending and the Board adopting – and he did not think regulations can be contingent on whether there is a complaint or not.

Ms. More stated that it could set up a strange dynamic.

Mr. Lafferty said that checking the noise level is complaint-driven.

Ms. Firehock said she understood that, but there is one police officer from the top of Afton Mountain to the southern tip of Albemarle, and she did not know how they would check noise complaints.

Mr. Lafferty commented that this should not be the Commission's concern right now.

Ms. Firehock said that was the reality of it.

Mr. Blair clarified that the county enforces on a complaint basis – but what that means is if there is a complaint about somebody violating the regulation, the county would go out and investigate and enforce. He emphasized that he did not think they could craft an ordinance that says a venue can have music until 11 p.m. unless and until there are so many complaints by a neighbor.

Ms. More commented that the first part of what staff provided gets to the intention of what they set out to do, which was to make sure wineries have the focus on agriculture and not just be a place that wants to have events and have that be the focus. She said that staff has done an amazing job and everyone has provided good input to get them to this point – but it seems they have wandered into trying to create more regulation with issues that have come up, such as trying to strike a balance between neighbors and those facilities operating and hosting events. Ms. More stated that she is not entirely comfortable with all of those things, but she does feel that a lot of work has been put into trying to come to common ground, and the first part addresses their intent of making sure these are bona fide operations. She emphasized that they are talking a lot about weddings, but there are a lot of other events that are key in supporting the product, which are important product-driven events that bring a lot of crowds.

Mr. Keller asked Ms. More to expand on her concerns for the areas addressed beyond the first part.

Ms. More said that they are getting into prescribing dates for curfew – Friday, Saturday and Sunday – and some wineries have self-imposed curfews, so they can move inside, but others are limited. She stated that she feels they may have wandered into some of these things in trying to strike a balance with making neighbors happy while having a facility operate without creating a situation in which they would be less attractive to certain types of events and not just weddings. Ms. More said that people have worked hard to strike a balance, but her main concern is that what was in place before was a noise ordinance method – and she did not know whether it wasn't working well, or whether this would work better for neighbors.

Mr. Lafferty commented that there were some initial complaints, but he thinks it is working well now.

Ms. Firehock noted that the zoning clearance established helped to resolve some of those potential complaints.

Ms. More asked if that was not working, and if they had to go deeper to outline days of the weeks and times.

Ms. Burbage said she could speak to the nature of complaints related to noise at wineries, and frequently the complaints were investigated and the noise was found to be in compliance with noise regulations – but was still a nuisance to the neighbor. She stated that a curfew would give a certain cutoff, after which neighbors wouldn't have to hear it anymore. Ms. Burbage said that in her work talking to rural area residents, she knows this is a real issue for people, and this ordinance would provide some relief. She emphasized that this is not a perception – it's a reality for some who live nearby on these properties.

Ms. More stated that she is assuming that most facilities would respond to their neighbors' complaints and adjust accordingly – and there are all kinds of factors in play such as acoustics on properties because of topography that might be hard to control. She pointed out they heard from people at the last public hearing where they were hearing just regular conversation between employees during the day; and, that is something that she understands is not what they want to hear but might be something hard to control. She said that the question is whether they feel this would help establish a better relationship between neighbors and facilities. Ms. More said she hoped all facilities would work with their neighbors, but she would guess that would be a reality that we might have this.

Ms. Firehock commented that this is why they have regulation in the first place.

Ms. More stated that her question is whether the regulation that was in place was not addressing those concerns, and it sounds like staff is saying for some neighbors it was not.

Mr. Keller asked if there were any other questions or discussions before a motion.

Ms. Riley said she was ready to make a motion if there was no other discussion.

Ms. Firehock said she would like to add to the motion to adopt as attachment A to keep Sunday open to the later hour of 11 p.m. by special exception for the outside curfew; and to keep the clause that requires them to maintain regular hours, but for those who are open by appointment only, to be able to request to have events by special exception. She said those are basically the two things she would like to see in the motion that one would make and said Ms. Riley may continue to make a motion, noting that they are both rural area commissioners.

Mr. Lafferty asked if that was a motion.

Mr. Blair asked if it was a motion to approve.

**MOTION:** Ms. Firehock moved to approve Attachment A for ZTA-2016-00003 Farm Winery, Brewery and Distillery Events with two changes: they be allowed to keep open one hour later with a curfew outside to extend to 11 p.m. on Sundays by special exception; and for the clause concerning the requirement that they maintain regular hours, that those were open by appointment only may also petition to have events by special exception.

Ms. McCulley said that a quick point of clarification is the first thing is already embedded in the ordinance, as the special exception is available for curfew extension – but the other is not. She said that she also understood Commissioners stating in the beginning the need to clarify that the number 200 does apply to staff of any type, including vendor or winery staff.

Ms. Firehock agreed.

Mr. Blair pointed out that he had some language: "Attendance shall not include any owner or employee of the farm winery; attendance also shall not include any employee or owner of a vendor providing service to the farm winery event, wedding, wedding reception, or other use."

Ms. Firehock said that sounded good to her and asked to include that, too, in the motion.

Ms. Spain seconded the motion.

Mr. Keller invited further discussion.

Mr. Lafferty said that he agreed with the Sunday, but did not agree with eliminating the tasting. He stated that he thinks the tastings serve as a mechanism of getting the public there and showing the product, and also thinks it has an economic impact.

Mr. Keller pointed out that the tasting is there by right.

Ms. Burbage noted that it is the tasting room that Mr. Lafferty is referencing, and Ms. Firehock is not saying to get rid of that.

Ms. Firehock clarified that she was saying that if you had that, you could come in by special exception and request a waiver – so you are not automatically getting that. She said that this would just allow someone to come in and make the case as to why they don't have regular hours, etc. She said the county is not saying that they can, they are just saying they are letting someone come in and make their case.

Ms. Spain added that this pertained if they have appointment only.

Ms. Firehock agreed.

Mr. Keller noted that the Commission has heard from some folks that is going to be a trend in the industry, then just as we are amending now, the industry will come back to us and ask us to amend the legislation.

Mr. Lafferty said he would certainly go along with it, but he thinks if they are going to build a tasting room, they would want to advertise their product to the general public.

Ms. Firehock said it's possible they may be working to save up enough to eventually afford the money to build a tasting room, and then they would be in compliance quite easily.

Mr. Keller invited further discussion.

Ms. More said she would ask to keep talking about the limitation on the noise, but it seems Ms. Firehock's motion did not specifically outline Sunday because it is embedded in it.

Ms. Firehock explained she was saying that someone can already ask for that exception.

Ms. More asked for confirmation that a person could ask for an exception on any day of the week and make a case for needing extra hours, and it is more advisable to have a limitation of 10 p.m. and have somebody ask for more – and then the county could say 11 p.m.; then if that is not working, try to change it.

Mr. Blair replied that this is their prerogative, and obviously the Commission could recommend 11 p.m.

Ms. More said that is what she thought we said before, and she did not want to nitpick about it, but just wanted to be sure that she understands what she is voting for. She stated that she is willing to go along with having the special exception, and she does not know under what circumstance someone wants to be up and being really loud at 11 p.m. on a Tuesday night – but maybe they have a good reason.

Ms. Firehock posed a scenario in which it was the night before the Fourth of July, which falls on a Tuesday, and the neighbors don't mind that it is later, etc.

Mr. Keller asked if they could go around and say whether they would be comfortable with Sunday at 11 p.m., stating that he is comfortable with having Sunday at 11 p.m. along with Friday and Saturday.

Mr. Lafferty said he has already expressed that.

Ms. Spain agreed.

Ms. Riley said she prefers the recommendation of the staff as it is written in the ordinance.

Mr. Dotson said he prefers Sunday at 10:00 p.m.

Ms. Firehock said she prefers Sunday at 10 p.m. because that is a work night for many people.

Ms. More said she was comfortable with it being 11:00 p.m., but she was asking for clarification that whatever it is there would be a special exception for any day.

Mr. Keller noted that there were four Commissioners who said they were comfortable with 10 p.m., and that is why he just wondered what that set was, and so he thinks it is up to whether anybody that was interested in that would want to make a friendly amendment because that simplifies this whole issue. He said that if not, they can let it stay the way it is, but there has to be a special exception.

Mr. Lafferty replied no, he would be comfortable with 11 p.m., stating that in the outlined dates there was Friday, Saturday and Sunday.

Mr. Keller asked if he wanted to make a friendly amendment to that point, because right now it is 10 p.m.

Mr. Blair noted that it adds Sunday.

Mr. Lafferty said that he realized that it was 10 p.m., but they still have the noise ordinance that should prevail.

Mr. Lafferty said he would make the amendment that Friday, Saturday and Sunday should be allowed to go to 11 p.m.

Mr. Keller asked if there is a second.

Ms. More seconded the amendment.

Mr. Keller invited discussion.

Ms. Firehock stated that she did not think it was irrelevant that the county doesn't have enough police officers to enforce the ordinance, but she does not think it is irrelevant, because it is reality. She emphasized that she is trying to represent rural constituents who have contacted her and told her of actual issues that they are experiencing. She stated that she would like to be able to have a guarantee that on Sunday evenings, people can go to bed and get up on Monday for work with a reasonable expectation that we are not disturbed. Ms. Firehock said that as the representative of a largely rural district, she would really like to allow these uses to occur in harmony – and people can still come to Albemarle County and ask for 11 p.m. She stated that they could have a conversation with them and the residents around them to determine why there is a disturbance and whether there are measures to make it less obnoxious. Ms. Firehock said that it could then be handled on a case-by-case basis, but she did not want a blanket provision against her rural network of people and say that it should be 11 p.m. off the bat. She asked why they would do that instead of solving it.

Mr. Lafferty asked in those cases that you got complaints did you report it to zoning.

Ms. Firehock responded that these complaints that I received were specifically from residents in response to this ordinance for tonight, so no - she did not initiate a zoning police action. She said she was simply responding to what they would like to see in the ordinance, and they are capable and have talked to the facilities that have caused disturbance to them. Ms. Firehock emphasized that this was not her job here tonight, and her job was to try to set up a scheme that would ensure that residents would have some reasonable guarantee of quietude on Sunday evenings – and it is that simple. She said that if someone wants to come in and ask for an exception, they can do that and they can even have a conversation with staff – who the Commission has heard are incredibly helpful – to suggest ways that they could perhaps make their use less noxious, and maybe then they can stay open to 11 p.m. She emphasized that she would rather that this be decided individually, because the landscape is quite different, sounds carries differently, and enforcement capacities are different closer into the urban ring than they are in the county. Ms. Firehock said that was all she is going to say.

Mr. Keller asked if there were any other points before voting on the amendment.

Ms. More asked if they were voting on the 11 p.m. item.

Mr. Keller replied that it was changing the curfew to 11 p.m. on Sunday night.

Mr. Blair replied yes, it was changing the curfew to 11 p.m.

Mr. Keller asked for a roll call vote.

Mr. Lafferty voted aye.

Ms. Spain said she has been convinced by Ms. Firehock's argument, and voted no.

Mr. Keller voted no since he has been convinced by Ms. Firehock's argument.

Ms. Firehock voted no.

Mr. Riley voted no.

Ms. More voted no.

Mr. Dotson voted no.

The motion for a friendly amendment failed by a vote of 1:6.  
(Spain/Firehock/Keller/More/Riley/Dotson voted nay.)

Mr. Keller suggested that Commission go back to the proposal with the modifications and that has been accepted, and asked if there was any further discussion before voting on that. Hearing none, Mr. Keller said they were ready to call it again.

The motion passed by a vote of 7:0.

Mr. Keller thanked the constituency groups that have spent so much time on this, staff and Commissioners for thinking about this in a thoughtful manner. He asked the Commission take a second for the audience members who are leaving, and then move on to other comments from the public.

### **Other Public Comments.**

Mr. Keller invited other public comments.

Mr. Neil Williamson, with Free Enterprise Forum, stated that he thought the Commission had planned to look at the attendance portion of that ordinance, but what they looked at did not include normal by-right uses. He said that what he thought they wanted to do was to mitigate and limit to 200 the number of people at the event. Mr. Williamson stated that what the ordinance currently reads is that they can only have 200 people at your farm winery. He said that if they have an event with 200 people and have a by-right tasting going on, they would have to either close their tasting room or limit the number of people they think would be coming to the tasting room. He said that he is concerned that they may be getting into some constitutional concerns with the by-right use being limited by the event use, and encouraged them – as you move this forward to the Board – to examine that specific question of whether they are looking to limit the number of events, which is much easier to manage. He emphasized that the wineries now are doing a really good job, and he has seen people turned down for larger weddings because they don't fit the ordinance. He urged them not to limit the number of people at the winery, but instead to limit the number of people at the event in the way that you put it together. Mr. Williamson thanked the Commission very much for their thoughtful comments this evening.

Mr. Keller said that his understanding was if there were multiple entities at one site and the events, and they were just talking about the event with this.

Ms. Firehock noted it says “events” throughout.

Mr. Blair said that he would be happy to speak to Mr. Williamson about this, because he has a different interpretation – as he thinks the 200 solely applies to the events, and not the totality of the winery. He stated that he would be happy to talk to Mr. Williamson and see whether more language is needed to clarify that point.

Mr. Keller said that they all seem to be in agreement and thanked Mr. Blair for following through on the matter.