

**COUNTY OF ALBEMARLE  
PLANNING STAFF REPORT SUMMARY**

<b>Project Name:</b> ZTA201400005 Resident Artist Community	<b>Staff:</b> Elaine Echols, Margaret Maliszewski, J.T. Newberry
<b>Planning Commission Work Session:</b> December 15, 2015	<b>Report to Board of Supervisors:</b> January 15, 2015
<b>Applicant's Request:</b> Continue developing the text amendment in preparation for a future public hearing and request for approval from the Board of Supervisors.	<b>Source of Request:</b> Zoning Text Amendment Request from the Virginia Center for Creative Arts and the Board of Supervisors
<b>Expected Outcomes from Meeting:</b> Direction on next steps for this ZTA.	<b>Recommendations:</b> Staff believes that there may be some conditions under which a resident artist community could be appropriate in the Rural Area as a method of historic preservation. However, given the amount of additional work that is likely needed for the text amendment and the fact that there may be other legitimate uses of historic buildings to make preservation of historic buildings more financially viable for owners, staff cannot recommend that it move forward at this time. Instead, staff recommends that the Commission ask the Board to put this use into the list of uses to consider when it authorizes staff to begin working on items related to Strategy 2b in the Historic, Cultural, and Scenic Resources Chapter of the Comprehensive Plan. (This topic has not yet been prioritized on the Community Development work program.)

**STAFF PERSONS:**  
**PLANNING COMMISSION:**

**Echols, Maliszewski, Newberry**  
**December 15, 2015**

**WORK SESSION: ZTA201400005 RESIDENT ARTIST COMMUNITIES IN THE RA**

**Background**

In June 2014, the applicant, Greg Smith, made application for a zoning text amendment (ZTA) to add artists' residencies to the list of available special uses in the Rural Area zoning district. Policy at that time directed staff to forward to the Planning Commission (PC) within 90 days a recommendation on whether or not to adopt a resolution of intent to study the topic further. In this particular case, staff was also reviewing the Commission's recommendations for the Rural Area chapter of the Comprehensive Plan with the Board of Supervisors (BOS). Because the proposed use was not supported by the Comprehensive Plan at that time, staff suggested that the applicant ask the BOS if they would be willing to consider adding statements of support to the Plan. The applicant spoke to the Board on September 9, 2014 and the Board agreed to study the topic. This item was forwarded to the PC for review and a report back to the Board.

On September 16, 2014, the Commission held its first work session and, after extensive discussion, adopted a Resolution of Intent to study this topic. The Commission emphasized the fact that they were willing to consider this topic; however, they were not making a commitment to recommend approval. The Commission held two additional work sessions on December 2, 2014 and January 27, 2015 prior to making a recommendation to the BOS for their February 10 work session. The Staff reports for these work sessions may be found at this link:

[http://www.albemarle.org/upload/images/Forms\\_Center/Departments/Board\\_of\\_Supervisors/Forms/Agenda/2015Files/0210/02.b\\_CompPlanAttachB.pdf](http://www.albemarle.org/upload/images/Forms_Center/Departments/Board_of_Supervisors/Forms/Agenda/2015Files/0210/02.b_CompPlanAttachB.pdf)

Lengthy discussions ensued at both of these work sessions and the Commission recommended that the County consider adding this use to the Rural Area zoning district under very limited conditions. Discussions of this topic at the BOS and the PC meetings are extracted and provided in Attachment A. Ultimately, this strategy was adopted into the Comprehensive Plan by the Board:

**(Rural Area) Strategy 3c:** Consider amending the Zoning Ordinance to allow for artist residencies in historic buildings, as defined in the Historic Resources Chapter of the Plan.

An artist residency is a facility where individuals are provided time and space to create art within a unique geographic and cultural context. Meals, lodging, and private studio space are provided on-site to support uninterrupted creative work lasting from a few weeks to a few months. The purpose of artist residencies is to promote art as a critical cultural and societal resource. Participation in an artist residency is by invitation only. Artist residencies are neither commercial endeavors nor tourist destinations. They may be appropriate in the Rural Area if they can meet goals for preservation of historic structures and other Rural Area goals such as natural resource conservation.

Additions, alterations, and construction of additional buildings may be approved for artist residencies, provided that the architectural and historic integrity of buildings and the site is retained. New construction should be compatible in appearance with the historic buildings, and the site should not be overwhelming in size, scale, and massing. New construction for residence halls is not appropriate as it would prevent reversion to a by-right use in the Rural Area. Artist residencies should only be available by special permit and consideration should be given to locations in or near crossroads communities or Development Areas.

Since the adoption of the Comprehensive Plan on June 10, at the request of the applicant, staff has been working on concepts for a potential text amendment for the Commission's review and decisions on next steps. Staff requested input from the Historic Preservation Committee (HPC) on the text amendment because of the relationship of the use to historic buildings and sites. Staff discussed the concept with the HPC at their last three meetings, the minutes of which are provided in Attachment B. Staff notes that the HPC did not have a quorum at its last meeting on November 23, 2015 so the minutes for that date and October 21 are still in draft form.

While staff was working on the ZTA for resident artist communities, a second zoning text amendment related to historic buildings and sites was submitted by Clifton Inn. Because both ZTAs would allow for modifications to historic buildings where such modifications are currently not allowed, staff asked the HPC for input on both. Owing to the difficulty the HPC had in providing any consensus support for resident artist communities in historic structures at their first two meetings and the lack of Comprehensive Plan support for lodging in excess of that which is allowed by right in B&Bs in the Rural Area, staff felt it important to provide a recommendation for the HPC at their last meeting. In keeping with the following strategy for historic resources,

**(Historic, Cultural, and Scenic Resources) Strategy 2b:** Continue to find ways for preservation of historic structures and sites to be financially viable for property owners.

Rehabilitation, restoration, and maintenance of historic structures can be costly. These high costs combined with limited options for using historic properties, particularly in the Rural Areas where the majority of the County's historic buildings are located, threaten these valuable resources. A greater variety of allowable uses for historic buildings and sites could encourage historic property owners to spend the money required to maintain, rehabilitate and restore these buildings. Objective 5 in the Rural Area Chapter provides guidance for use of restaurants and artist residencies in the Rural Area. Additional uses that can be accommodated in older buildings and sites while maintaining conformity with Rural Area goals, objectives, and strategies should be considered.

staff recommended that both topics be discussed in the future in the context of uses for historic structures and sites, rather than as two items separate from all other possible uses for historic structures and sites in the Rural Area. Staff noted that goals for resident artist communities and Transient Lodging were both prioritized on the Community Development work program after a dozen or more other topics, potentially after 2018 or as staffing became available, with Strategy 2b not yet on the work program.

After discussing both ZTAs, the HPC disagreed with staff's recommendation. The HPC said it could support the second ZTA in relation to allowing building changes to historic landmarks, provided that the building changes did not interfere with the historic status of the resource. The HPC said that they could not yet support the first ZTA because if the use was allowed at all in the Rural Area, it should not be restricted to just historic structures. This conclusion is contrary to the Commission's recommendations and Board adopted statements indicating that the only way resident artist communities might be appropriate in the Rural Area is if they helped to preserve historic structures.

### **Purpose for this Work Session**

The purpose of this work session is to report to the Commission on the status of the ZTAs, ask questions for clarity, obtain feedback on whether or not to continue studying the ZTA, and get input on next steps. Staff will provide this status update and Commission's recommendation to the BOS on

February 3, 2016. If the Commission wishes to study either ZTA further, the Board needs to advise the PC on how the text amendments fit with the Board's existing priorities and work program for Community Development.

### **The Comprehensive Plan**

The Rural Area chapter of the Comprehensive Plan provides support for finding alternative uses to help prevent residential development. Of most importance is finding Rural Area uses that preserve environmental, scenic, cultural, and historic resources as well as fit in with the agricultural, forestal, and rural community. The Comprehensive Plan emphasizes the importance of new uses to:

- Relate directly to the Rural Area and need a Rural Area location in order to be successful, (e.g., a farm winery has to be located in the Rural Area and would be unlikely to succeed in the Development Areas);
- Be compatible with and have a negligible impact on natural, cultural, and historic resources;
- Not conflict with nearby agricultural and forestal uses;
- Reflect a size and scale that complements the character of the area in which they will be located
- Be reversible so that the land can easily return to farming, forestry, conservation, or other preferred rural uses;
- Be suitable for existing rural roads and result in little discernible difference in traffic patterns;
- Generate little demand for Fire/Rescue and Police service;
- Be able to operate without the need for public water and sewer;
- Be sustainable with available groundwater; and
- Be consistent with other Rural Area policies.

Preserving historic structures is especially important in the Rural Area where most of the County's historic structures and sites exist.

**(Rural Area) Strategy 3a:** Promote reuse of historic structures that support agricultural and forestal uses in the Rural Area.

While valued by residents and tourists alike, historic buildings and sites can sometimes pose challenges for owners. Large farmhouses and historic mansions can be expensive to maintain and, at times, additional income is needed to ensure that historic buildings do not fall into disrepair. Historic buildings and sites can be maintained for their original use, such as a home, or converted to income producing properties, such as a restaurant at a crossroad community or a bed and breakfast. Care is needed when a building converts from one use to another to ensure that the historic integrity of a site is retained.

**Strategy 3b:** Consider amending the Zoning Ordinance to allow for restaurants in historic buildings, as defined in the Historic Resources Chapter of the Plan, in crossroads communities.

Restaurants, as a rule, are most appropriate in the Development Areas where public water and sewer is available and streets and parking lots can handle traffic generated by a successful business. However, in the Rural Area, a small restaurant in an existing historic building may be appropriate in a crossroads community to serve the nearby community. Expansion of a historic building for such a use may be acceptable if the size and scale of the addition retains the integrity of the historic resource and will not generate demands for

public water and sewer. Building new structures for restaurants is not considered appropriate in the Rural Area.

### **Description of ZTA for Resident Artist Communities**

From the applicant's requested ZTA and the Comprehensive Plan recommendations, staff developed the following conceptual requirements and factors to be considered with a special use permit request for a Resident Artist Community. These were discussed with the HPC:

Definitions:

**Resident Artist:** An individual invited to a resident artist community (as defined by this chapter) for a limited time following a competitive, peer-reviewed application process for the purpose of producing creative art work and networking with other artists.

**Resident Artist Community:** A site operated by a not-for-profit organization that primarily provides meals, lodging and studio workspace for resident artists (as defined by this chapter) by invitation only. The site may also contain additional accessory structures necessary to support operation of the use such as offices, storage, and residential space for employees and volunteers working on behalf of the use.

Staff suggested the following parameters:

- **Number of Resident Artists:** Up to 30 (could be modified by Special Exception).
- **Site Eligibility:** A site must have at least one of these 3 factors:
  - Contain at least one historic resource listed on the National or State historic registers, or;
  - Contain at least one contributing structure to a National or State historic register, or;
  - Contain at least one historic resource eligible for the National or State historic districts.
- **Special Events:** A maximum of four with up to 150 people permitted per year.
- **Uses prohibited:** Residence and restaurants.
- **Resident Manager:** Required.
- **Plan Required:** Site plan (or site plan waiver).

### **Additional factors to be considered during special use permit review:**

- Whether the proposed use will allow a historic site to be maintained, rehabilitated or restored.
- Whether any proposed additions, alterations or new construction negatively impact the architectural and historic integrity of existing buildings and other historic resources on the site.
- Whether the size and scale of the use and buildings are compatible with buildings and uses on nearby and adjacent properties.

- Whether any proposed additions, alterations or new construction would allow for reversion to uses permitted by-right in the Rural Areas district.
- The extent to which natural resources, agricultural, and forestal resources are preserved. The extent to which fragmentation of habitat is prevented.
- The proximity of the proposed use to public transportation and designated crossroad communities.

These items would be considered in conjunction with the bulleted list of items on page 4.

The HPC considered the parameters suggested by staff; however, they concluded that there was not a rational relationship between the use and historic preservation. If the use were to be allowed, they said that properties that were only “eligible” for listing on a national or state register should not be allowed to have the use. They wondered who would ensure that changes to a site were in keeping with standards for listing on national or state registers. They asked questions about minimum sizes of properties and whether adding 30 bedrooms and bathrooms to a historic house would be reversible. Staff noted at the meeting that having an example scenario of how the parameters might play out could be a useful tool to help answer questions.

Using a randomly selected property in the County’s Rural Area, staff has provided a possible scenario for the PC. (See Attachment C.) This scenario uses a very large, 240-acre property. While that property may have as many as 15 division rights, use of only 5 division rights for residential units is proposed. The site has public road access and is near a crossroads community. It has 4 existing houses and one is historic. The only eligible places for bedrooms for the resident artists are in houses. Construction of an additional house is shown to help achieve sufficient bedrooms for the requested use. (While preventing residential development is a goal of the Rural Areas, single-family dwellings do offer potential for reversion to a by-right use.) It would be expected that, for the duration of the resident artist community use, none of the additional development rights would be used. A commitment could be made by an owner to put the land not needed for the resident artist community use into a conservation easement.

The HPC did not have the benefit of a possible scenario. Nevertheless, because of the number of issues that the HPC raised from a resource preservation standpoint and the major policy changes that would impact historic structures, staff needs PC input before moving forward with the request.

### **Issues and questions:**

1. Does this ZTA have merit to move forward into ordinance development?

*Staff does not believe that the ZTA has merit to move forward at this time and that it should be studied within the broader context of uses for historic buildings in the Rural Area. The Commission and Board correctly determined that, in and of itself, the use does not advance the goals for agriculture, forestry, natural resource preservation, or community life at crossroads communities. The only way that the Commission or Board could consider supporting the use was within the context of historic preservation. The HPC does not believe that historic preservation is a valid way to allow for the use, which makes it difficult to develop parameters for the preservation aspect. The HPC said that more work would be needed for them to provide a recommendation related to preserving buildings and sites.*

2. If the ZTA has merit to move forward, should it be discussed as a single use to be added to the list of Rural Area special use permits, or should it be discussed within the broader context of uses that can help preserve historic buildings?

*Given the difficulty experienced by the HPC in looking at this use as a legitimate form of historic preservation, staff believes that a more comprehensive look at possible uses of historic structures in the Rural Area would make it easier to analyze this request. Some uses that have been discussed for consideration include: using historic houses for commercial recreational uses, using historic houses for small offices for conducting business related to agriculture and forestry, and allowing for small repair shops that relate to tourism-type uses such as bicycle repair. Special uses already available in the Rural Area that potentially could help preserve historic resources include: community centers; churches; day care; group homes for developmentally disabled persons; veterinary services; Class B country stores; gift, craft, and antique shops; agricultural museums, and historical museums.*

*Please note that a comprehensive look at possible uses of historic structures in the Rural Area is not current scheduled to be undertaken in the department's Work Program as reviewed and accepted by the Board of Supervisors in November.*

3. If the PC believes that this ZTA has merit to move forward, are the parameters staff has placed around the use the appropriate ones?

*The parameters for the use are described in an earlier section, with the exception of allowing for a historic building to only be "eligible" for listing. Staff has tried to honor the Comprehensive Plan's policy for reversibility of uses in the Rural Area and find an alternative use that helps promote historic preservation and natural resource conservation. If the Commission believes this ZTA should advance to the next step, should any of the parameters identified by staff change? Staff notes that there are some questions for which answers are still needed. These include:*

- *whether there is a minimum area of land needed for the use*
- *what types of uses would be appropriate in newly constructed buildings*
- *whether such a use should expect to have a central water and sewer system*
- *how the historic resource's listing on a national or state register can be maintained and monitored*
- *identification of the person or entity who can judge whether the change is appropriate to preserve the resource and its listing. While the Virginia Department of Historic Resources provides comments (and judgements) from time to time, they cannot necessarily be relied on to provide this service whenever asked. At present, neither the HPC nor the ARB is constituted for this duty.*

## **Recommendations**

Staff believes that there may be some conditions under which a resident artist community could be appropriate in the Rural Area as a method of historic preservation. However, given the amount of additional work that is likely needed for the text amendment and the fact that there may be other legitimate uses of historic buildings to make preservation of historic buildings more financially viable for owners, staff cannot recommend that it move forward at this time. Instead, staff recommends that the Commission ask the Board to put this use into the list of uses to consider when it authorizes staff to begin working on items related to Strategy 2b in the Historic, Cultural, and Scenic Resources

Chapter of the Comprehensive Plan. (This topic has not yet been prioritized on the Community Development work program.)

**Attachments**

**Attachment A:** Discussions of Resident Artist Community at PC and BOS Meetings  
**Attachment B:** Minutes of Historic Preservation Committee Meetings  
**Attachment C:** Theoretical Scenario