

Albemarle County Planning Commission
July 11, 2017

The Albemarle County Planning Commission held a public hearing on Tuesday, July 11, 2017, at 6:00 p.m., at the County Office Building, Room #241, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

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

Other officials present were Will Cockrell and Wood Hudson (Charlottesville/Albemarle – MPO), Francis MacCall, Senior Planner; Bill Fritz; Manager of Special Projects; Andrew Gast-Bray, Assistant Director of Community Development/Director of Planning; Sharon Taylor, Clerk to Planning Commission; and John Blair, Deputy County Attorney.

Call to Order and Establish Quorum

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

ZTA-2017-00004 Farmer's Markets.

The Planning Commission will hold a public hearing on July 11, 2017 to receive comments on its intent to recommend adoption of the following ordinance changes to the Albemarle County Code: amend Section 18-5.1.47 to establish sketch plan regulations for farmers' markets that address access, on-site parking, outdoor lighting, signage, and minimum yards; amend Sections 18-10.2.1 and 18-10.2.2 to establish farmers' markets as a by-right use in the Rural Areas zoning district; amend Sections 18-12.2.1 and 18-12.2.2 to establish farmers' markets as a by-right use in the Village Residential zoning district; and amend Section 18-35.1 to establish that fees for farmers' markets are matters considered by the zoning administrator or other officials rather than fees for a special use permit. A copy of the full text of the proposed ordinance amendments 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. (Bill Fritz)

Mr. Fritz reported that this zoning text amendment for farmer's markets has two components to it – the first is to change the site plan or sketch plan submittal requirements, and currently what's required is a site plan, with an applicant asking for relief from the full details of that plan through the review process. He stated that this requires it to go before the site review committee even if they do not need it. Mr. Fritz said that most of the farmer's markets are in the rural areas, and the service authority did not need to review them.

Mr. Fritz explained that the recommendation with this ZTA is for the County to stipulate to the applicant what needs to be on the plan, and a plan with that information is

submitted. He stated that this allowed for the right information at the right site, and if there is a site requiring a comprehensive site plan, staff could require that – and if it's a site that already has a parking area and nothing needs to be done to the site, then a simple sketch plan to document what's there now is all that would be needed. Mr. Fritz said there is a "one-size-fits-all" solution now in trying to make the site plan work out, and this is something the County already uses for a variety of things in the ordinance, and it works very well.

Mr. Fritz stated that staff did not have a recommendation for making farmer's markets a by-right use in the rural areas and village residential areas. He said that was somewhat supported by the Comprehensive Plan because it encourages a rural economy; however, it had not gone through the full formal review process for a ZTA. Mr. Fritz explained that this was put before the Commission and Board because there was some interest in doing this expressed while they were working on the other component of the farmer's market ZTA. He stated that there are no size limits, so the only limitation or protection would be through the site plan provisions; there are also no hour limits, parking size limits, etc.

Mr. Fritz said that because this has not gone through a thorough review, staff has no recommendation of support or opposition to making it by right. He stated that the Commission could keep it as a use by special use permit; could support it becoming a use by right; or could direct staff to do some additional work on it – including public outreach – to address provisions for by-right farmer's markets. Mr. Fritz said if they were to choose the last option, it would be rolled into the workload that currently has 27 or 28 other ZTAs, so it would not be immediate.

The Chair opened the public hearing.

Ms. More asked if, for the first part of the request for the site plan submittals, staff would stipulate specifically what an applicant needed.

Mr. Fritz responded that staff would indicate what information was needed and at what level of accuracy, as sometimes, an amateur drafter can do it but sometimes an engineer is needed.

Ms. More asked if they would take the proximity near a road as a consideration.

Mr. Fritz replied that they take a lot of things into account, including the grade, the entrance location, how complex installing an entrance might be, relationship with adjoining properties, streams, slopes, etc.

Ms. More asked if this would apply to a site that already had a farmer's market in operation and wished to expand.

Mr. Fritz responded that it could, and staff could request just a small amount of additional detail to show what the expansion might be – or they might request a lot more

detail if there were concerns. He stated that each application would be addressed separately, but that level of detail is currently requested anyway.

Mr. Keller opened the public hearing.

There being no further public comment, Mr. Keller closed the public hearing.

Ms. Firehock stated that at this point, she is very much in support of the proposal put forward by Mr. Fritz for staff to determine the level of detail needed, regardless of whether it was a complex site. She mentioned that Shimp Engineering had donated their time to do a site plan for the new farmer's market at Red Hill, a site that has a gently sloping field with plenty of good access and visibility. Ms. Firehock said she would have some concerns with by-right farmer's markets, and if were by-right, she would like to see a cap put on the number of vendors and the square footage it could occupy. She commented that the rural areas have a lot of small lots interspersed throughout, so it would be possible to have a farmer's market in a rural area that caused quite a burden – especially if it was successful. Ms. Firehock stated that she is in support of farmer's markets, but in the right place at the right scale, and she did not know if they had enough good information to get to the by-right recommendation. She said that this needed more analysis, but she was thinking of a possible 20-vendor limit, not to exceed an acre. Ms. Firehock stated that she was looking for more language in terms of what the by-right use would entail.

Mr. Fritz responded that staff was currently dealing with a lot of ZTAs and wanted to keep them all moving forward, and they realized that if they were to do a thorough amendment, it would delay the more straightforward component.

Ms. Firehock said that even getting it to a sketch point whereby staff could help the applicant determine what was required would make the process easy enough that it wouldn't be daunting, and she did not feel it needed to be a by-right process.

Mr. Lafferty agreed.

Ms. Spain said that she also concurred.

Mr. Dotson stated that he would support the sketch plan approach, and there is the safety valve of an appeal, which he assumed would be available to the other instances where a sketch plan was used.

Mr. Fritz responded that staff did not find an appeal provision and planned to come back and fix that issue, as it was not covered by the ROI that they had.

Mr. Dotson said that he agreed there was very little analysis offered for making this by-right, and his opinion is "if it ain't broke, don't fix it." He noted that there were several farmer's markets in the community – downtown, Crozet, Garth Road, Stonefield, Red Hill, etc.

Mr. Keller added that there was also one in Scottsville.

Mr. Dotson commented that it didn't seem the system was impeding the use, and if they were to go into it, they may want to go in a bit further, because in looking at the existing ordinance, it concerns him that the only requirement is for the two vendors to be farmers in Albemarle – but they could be selling things from any place. He said that he was not enthusiastic about fixing it, because it did not seem broken.

Ms. More stated that she had no issue with the site plan submittals, and someone must think it is worth bringing it to the Commission to consider provisions for by-right use, so she would be open to that. She said that with the example of the Red Hill site benefitting from an engineer donating time, it would be unfortunate for another applicant who did not have someone to offer pro bono work – and she would like to see how many markets in operation might have been under a threshold where anything above that required a special use permit.

Ms. Riley stated that she supports the change to the site plan requirements and the sketch plan, and she agreed that not enough analysis had been done for the by-right approach. She said she also concurred with Mr. Dotson that it doesn't need fixing if it is not broken.

Mr. Lafferty agreed, stating that he agrees with the comments made, particularly in terms of the by-right proposal.

Mr. Keller concurred, stating that he would like fellow Commissioners to provide input on his list of parameters for this: the hours it is open, the calendar for when it is open, the building size, the market size, the site area, the parking size and number of spaces, the number of vendors. He stated that there were always issues with smaller lots in terms of setbacks and relationship to adjacent properties, especially if the markets were in villages within the rural area. Mr. Keller said that one of the Supervisors had spoken about longer hours and a year-round calendar, which would affect the need for lighting. He added that there were also screening and access issues, as well as concerns for site hydrology. Mr. Keller said that staff could come back to the Commission and Board with an idea of some by-right, and the threshold point for special use permits is the expansion question and how it would be addressed for an existing unit.

Ms. Firehock noted that the Nelson County Farmer's Market has music, and the market is located in a big field so it is not really affecting neighboring properties – but she did not want to know if Albemarle should address the issue of amplified/non-amplified music.

Mr. Keller commented that when this type of issue has arisen before, the Board comes back and says there is a noise ordinance.

Mr. Fritz noted that this discussion was intended to develop a list of things like that to discuss.

Ms. More stated that part of the consideration should be the market schedule, as some may want to do a mid-week time in addition to a weekend market.

Ms. Spain said that they should consider the number of times per week and whether it is a seven-day market, because it could turn into a perpetual flea market.

Mr. Dotson added that they should revisit the definition to explore the question of some portion of what is sold actually originates in the County.

Mr. Keller commented that this relates to what they have already been doing with wineries, breweries, and distilleries – so there is some precedent for that.

Ms. Firehock stated that they do not currently have requirements that it has to originate in the County, and in Scottsville's market, they have standardized signs that note the origins of the produce – but there are no rules about percentages.

Mr. Keller asked Mr. Fritz if he could suggest wording for the third alternative.

Mr. Fritz responded that he hears consensus for a motion to recommend the changes to Section 5.1.47, and that the County consider a ZTA review process to potentially make them by-right, but with the limitations discussed today and perhaps others. He stated that staff could summarize the Commission's statements and convey them into a better recommendation for the Board of Supervisors. Mr. Fritz clarified that the Commission's opinion is that there may be some circumstances under which a farmer's market could be done by right, but that needs to be investigated in detail.

Mr. Dotson said it sounded like two motions.

MOTION: Mr. Dotson moved to recommend ZTA-2017-00004 for the first part of the motion to amend Section 5.1.47 relieving the site plan requirement for farmer's markets and instituting a sketch plan as a substitute, with the ordinance as mentioned by staff proceeding to the Board of Supervisors. Ms. More seconded the motion, which passed unanimously (7-0).

Mr. Keller asked Mr. Dotson if he would also make the second motion.

Mr. Dotson responded that he would not, as he favors tabling it until something provides the impetus to look into it, as it sounded to him to be complicated and time consuming.

Mr. Fritz stated that even if they were to suggest to the Board that staff work on this, the reality is it would be a while before they get to it. He said that there is a list of items for further discussion, and staff could add this to the list and revisit it when appropriate.

Ms. Firehock agreed with Mr. Dotson, stating that there was not an existing problem needing to be fix – and the biggest issue was creating a site plan for a few vendors with trucks in a field. She stated that she felt staff had addressed this, and she did not see that there were hundreds of farmer’s markets clamoring to spring up.

Ms. More concurred.

Ms. Riley also agreed.

Mr. Fritz stated that staff would express the Commission’s opinion to the Board.

Mr. Keller asked Mr. Gast-Bray if he was amenable to this approach.

Mr. Gast-Bray confirmed that he was, noting that the Commission’s input is logged and ready for use at a future point in time.

Mr. Keller stated that he listened to the Board’s discussion on this matter and they have different views, and this is a good first step to answer some of their concerns.

Ms. More said the primary message to convey to the Board is that the Commission was not in support of the markets becoming a by-right use without any other information or safety measures in place.

Mr. Fritz suggested a motion that would recommend denial of the changes that would make farmer’s markets by right.

Mr. Dotson said that language to table it indicates that the issue exists and would be monitored, and if problems emerge then staff has noted all the concerns expressed and would factor those into any analysis.

Mr. Keller asked Ms. More if she wanted to proceed with a motion.

Ms. More stated that they would be recommending denial of this becoming a by-right use, unless the need for further study arose.

Ms. Firehock suggested that it say “unless there was a demonstrated need.”

MOTION: Ms. More moved to recommend denial of farmer’s markets becoming a by-right use in the rural areas unless there was a demonstrated need to revisit the issue. Mr. Dotson seconded the motion, which passed unanimously (7-0).

Mr. Keller noted the meeting would move to the next item.

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