

Albemarle County Planning Commission
June 26, 2018

The Albemarle County Planning Commission held a public hearing on Tuesday, June 26, 2018, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Tim Keller, Chair, Julian Bivins, Jennie More, Karen Firehock, Bruce Dotson and Bill Palmer, UVA representative. Absent was Daphne Spain and Pam Riley, Vice-Chair.

Other officials present were Chris Perez, Senior Planner; Cameron Langille, 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.

The meeting moved to the next agenda item.

The Planning Commission took a break at 7:44 p.m. and the meeting reconvened at the meeting reconvened at 7:52 p.m.

Mr. Keller called the meeting back to order at 7:52 p.m.

Public Hearing

ZTA-2017-00010 Farmers Markets

The Planning Commission will hold a public hearing on June 26, 2018 at 6:00 p.m. in the County Office Building, 401 McIntire Road, Charlottesville, Virginia 22902, 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 regulations for by right farmers' markets including prohibitions on amplified sound and lighting, limiting by right farmers' markets to twice a week, prohibiting by right farmers' markets from operating when the primary use of the property is occurring, and limiting by-right farmers' markets to properties subject to approved site plans pursuant to Section 18-32 and limiting parking to the parking areas shown on the property's approved site plan; Amend Sections 18-10.2.-1, 18-11.3.1, and 18-12.2.1 to permit farmers' markets as a by right use. 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 said in May the Board of Supervisors adopted an amendment to the ordinance clarifying and simplifying the type of plan that had to be submitted with an application for a farmers' market. During both the Planning Commission review and Board of Supervisors' review of the amendment staff has suggested that it may be appropriate to allow some farmers' markets by right. The Planning Commission did not support making farmers' markets by right at that time. The Commission did state that it may be appropriate to consider by right markets in the future and the Commission listed some issues that should be included. Those included changes to vendor definitions to ensure Albemarle

products are sold, hours, days of the week, size of structure, number of vendors, size of lot used, number of parking spaces, lighting and screening. There were other issues but those were some of the big ones.

Mr. Fritz said during the May meeting the Board of Supervisors directed staff to consider ways to allow farmers' markets by right. The Board echoed many of the same concerns raised by the Commission and the proposed amendments addressed the impacts a farmers' market may generate by limiting by right markets to those properties that have approved site plans. This is because the site plan addresses access, setbacks, screening and a variety of other issues. The ordinance also includes limitations designed to minimize those impacts, and these includes that the market is in operation for only one or two days a week and that the market is not in operation when the primary use of the property is in operation which is to prevent over intense occasion of use. There is no lighting and there is no amplified sound. The market occurs only on property with an approved site plan and the market complies with the requirements of the site plan. The last provision effectively prohibits wineries, cideries, breweries and distilleries from having by right markets because the majority do not have site plans and even if they do have site plans the market cannot be in operation when the winery, cidery, brewery or distillery is open. Both the Commission and the Board discussed strengthening the requirements that only agricultural products from Albemarle and surrounding localities be offered at farmers' markets. We were not able to identify any amendments that would be easily written or enforced. There already are regulations limiting it to Albemarle products, agricultural products and accessories or value added products. It may be possible to develop additional requirements but that would take time and delay in enacting this particular ordinance and new requirements could be developed as a separate text amendment.

Mr. Fritz said markets proposed on undeveloped sites are unaffected by this amendment and they will still be permitted by special use permit. We did receive one comment on this and staff thinks it is a very good one made by SELC (Southern Environmental Law Center) and those changes have been noted here. He said it is very clear that farmers' markets are an accessory use where there is an approved site plan and they have to comply with all the provisions of the site plan regarding the building and parking that may help to avoid some confusion. He said staff looked at it and if it helps, we can support this change. He said it also makes it very clear that farmers' markets are an accessory use when you have a site plan they are not a primary use. Again, that is what the regulations had said and the intent was so we thought it was a clarifying statement so we can support that also. He said staff is recommending approval with these changes.

Mr. Keller invited questions and comments for staff.

Mr. Bivins said he was wondering how you reconcile where it says the Board of Supervisors adopted a zoning text amendment to eliminate the requirements of a site plan required for a farmers' market, but staff's report outline says the market occurs only on property with an approved site plan. He asked staff how they reconcile those two things.

Mr. Fritz replied that the change we actually did back in May was not to eliminate a site plan, it was to clarify what content would be on a plan when someone was applying for a new market. He said what happened was either they would have to do a full-engineered site, which is a very costly thing, or they would apply for a site plan waiver, which would have to be processed along with the special use permit application. He said basically what you are doing there is you are saying "I am going to use this property, but I am not going to do any grading so I am not going to show any proposed grading, but you

had to apply for a waiver from that.” Therefore, what we did was turn that on its head in May we said instead that the applicant has to submit a plan showing any information we request. Therefore, if you were proposing a brand new farmers’ market we would request show where the entrance is going to be, show where your parking is going to be, and show where your structures are going to be. He said this particular process, what we are doing here today, the site plan has already been approved for the property and we are essentially saying that the farmers’ market can have the benefit of that previous review.

Ms. More said that she gets that undeveloped sites still need a special use permit and that for those sites that have a site plan already in place this would become by right.

Mr. Fritz said that was correct.

Ms. More said as an example there is a new church and they want to have a farmers’ market so what would be their process.

Mr. Fritz replied that the church would go through the special use permit process as an undeveloped site and then they would get their site plan through the review process. The site plan would be where we would make sure that they have an entrance, which VDOT is okay with, they have adequate parking and any screening that needed to be done to mitigate the impact on the adjoining property is taken care of. He said it would also include the storm water, runoff and all those land development impacts have all been addressed. He said if they wanted to lease out their parking lot to have a farmers’ market on Wednesdays and Saturdays when the church is not open and in operation they could then do that provided that the farmers’ market parked in the parking lot; they only use the building that is shown on the site plan and could not build a new building. He said they could not build a new building that would be something different they would have to go through the special use permit process because what we said is that farmers’ markets are accessory to what the primary use is. He said if the church then said we want to have a big large farmers’ market here five days a week, then it would require a special use permit.

Ms. More said just adding on top of that question if there is a new church that already requires a special use permit can they ask for a farmers’ market as part of the same special use permit or does it have to be a separate process.

Mr. Fritz replied that the church could come years later after the special use permit approval provide they meet the two days a week and other requirements.

Ms. More asked if they would have to pay for that separately then, and Mr. Fritz replied no, because it would be a by right use of the property.

Ms. Firehock said the advantage of the way this is being proposed now is that there is an already a developed site and it does not necessarily trigger a full special use permit process, it is just a site plan amendment that makes it easier.

Mr. Fritz replied that there is no site plan amendment at all; they can simply use the site.

Ms. Firehock said so they come to you and say they want to do this. She said if the church was on a small lot and did not have a lot of parking so staff wants to know more about how you will provide parking.

Mr. Fritz replied if that church has a site plan they would have already been reviewed to determine whether they had adequate parking for the church use and the parking was appropriately designed, situated and located so they could then use it. If that church predated the requirement for a site plan, they would not be able to use that property for a by right farmers' market because there has been no review to determine whether or not the site is appropriate for that level of use.

Ms. Firehock said that helps a lot and so just staying with the pretend church for a moment let's say that the church is in session three nights a week and so then the farmers' market comes along as another use and not it has the other two nights a week. She noted that if she was a resident in the community and moved near a church that had three nights of church bells and people coming and going but now it is like five nights and she was trying to understand what the public review process is for that.

Mr. Fritz replied that there would be no public review process for that.

Ms. Firehock said so it just automatically gets to establish another use with people coming and going.

Mr. Fritz replied yes, and we thought about that also and there is no limit on whether or not the church would have the activities on those nights. He said so the other uses could expand to be in those same time frames and that is debatable but they certainly could. He said the two primary places we see this happening, and one we are somewhat excited about, is at the schools where the schools could make use of their property. He said the school could lease it out and we see that as a partnership and bringing together at the school property the agricultural things that we are promoting and then of course the churches. He said there really are not any other uses out there that have site plan. He said there are a few other ones, but they are somewhat scattered and too small to do anything.

Ms. More said the farmers' market is outdoors in the parking lot typically so how do you balance the size of the market and how the site plan has said there is adequate parking if the parking lot is where they are setting up the market. She said it could be a big setup and then the parking might not be adequate for the customers.

Mr. Fritz replied there would be some obligation upon the farmers' markets because they have to comply with the site plan; they cannot be parking in areas outside the parking lot. If they say, we have 100 parking spaces and the market gets to be in all 100 of those spaces, great but there is no room for you to go so there would be some obligation upon them to organize their markets themselves also. He said we have not seen these markets that large so we do not foresee that as an issue.

Ms. More pointed out that there is nothing in here that speaks to size and would hope that would not become an issue. She said if you were managing a market, you want your people to come and go safely and just worries.

Mr. Fritz replied that one mechanism if you were concerned about that is you could propose an additional regulation to say something to the effect of not more than X percentage of the available parking shall be devoted to the vendors. He said for example you may say not more than 20%, 25%,

30% or whatever number you might think is appropriate, which would be leaving the rest available for customer parking.

Ms. Firehock noted that is hard to do without actually seeing the space and asked could we limit the number of vendors at a high number like 20 but that would keep it from getting out of hand.

Mr. Fritz replied that you could limit the number of vendors or limit the size of the parking space.

Ms. Firehock said it is already stated in the report that the Board of Supervisors did not know how to limit it to local providers. She noted there are other farmers' markets in America that have it limited and have set up protocols.

Mr. Fritz pointed out that we do have regulations that say it so some of the frustration may be not necessarily an issue with what the ordinance says but potentially an issue with enforcement of the ordinance. He said the ordinance says that it involves agricultural products, value added or accessories for people engaged in production out agriculture in Albemarle County. He noted the difficulty may be the disconnect between the Board's desire and what they are concerned about how do you know where that tomato came from.

Ms. Firehock said that she understands there is no tomato police and we are not going to genetically test it; but, for example, the Scottsville farmers' market has signs saying where everything comes from in front of that basket of blueberries or whatever. She said I would like to find some way to try to do that or at least to give more voice to that. She said at the Charlottesville farmers' market they have the big white tents that are run by people who come in from Prince William and other counties and it is really unfair competition. She said what I am seeing at other farmers' markets is that vendors are dropping off because there is one farm and they have to be in Charlottesville, Scottsville and everywhere and they don't have enough people who work for the farm to actually staff these things. She said so we have that problem locally, but if you are an outside vendor with your mystery white truck and white tent, you can send your paid employees all over the state to set up tents and unfairly compete so it defeats the purpose of our ordinance.

Mr. Fritz said the way our ordinance is written that is not permitted right now and you can see exactly why we did not touch this. He said it is not necessarily an issue of what the ordinance says as much as it might be an enforcement issue. He said by allowing the farmers' market they can just utilize sites that are scattered throughout the county instead of going to Scottsville, Nelson or the city and it might make it a little easier for those small scale farms to go to a farmers' market one day a week where it is fairly close to where they are. He said that was one of the things brought up.

Ms. Firehock said that she did not know that there would ever be a problem with having tons and tons of vendors that are overrunning an area. However, she was sensitive to small rural sites even if they have a site plan with all of sudden an influx of vendors and traffic and would be comfortable if we could limit the number of vendors at the site to make it 20.

Ms. More said I am a little reluctant to limit the number of vendors.

Ms. Firehock noted it would not be limiting them overall but it would be automatically by right or they had to go through a special use permit. She said when considering the impacts of a larger farmers'

market versus saying smaller markets are okay without having them go through all that extra review; that is my point.

Ms. More pointed out that some people sell just a few specific special things with just one little table and so she would hate to count them by vendor.

Mr. Fritz said because of the way it is written it is in the supplemental regulations so if you put a limit in there that said limit to 20 vendors and they wanted 21 vendors; it does not actually kick them into the special use permit category but into the special exception category that is a little bit faster to process and still is discretionary on the part of the Board of Supervisors.

Mr. Keller opened the public hearing and invited public comment.

Travis Pietila, from the Southern Environmental Law Center, asked to personally thank staff for considering the comments we sent in and for proposing them tonight. He said I want us to provide some more of the rationale for why we proposed these particularly changes. "We generally support the county's efforts to identify appropriate opportunities to allow farmers' markets by right in the rural area. We believe the general approach outlined in the staff report is a reasonable one, although we do appreciate some of the questions raised by the Commission tonight. In the past, the primary concerns with allowing farmers' markets by right have been the potential impacts of large-scale markets in terms of both traffic impacts as well as the construction of large new buildings in the rural area. As we understand the proposed changes, they are intended to allow farmers' markets by right only on properties with their approved site plan in place for a primary use such as a church or a school. The market would essentially be an accessory use that is required to comply with the terms of that site plan and could only occur when the primary use is not taking place. The idea is that by fitting it into the site plan for the existing use the impacts would be no greater than what is already there. We believe these are reasonable perimeters to allow farmers' markets by right; however, we have shared a few recommendations with staff that would clarify the ordinance language to better achieve this intent. First, we recommended explicitly stating in the performance standards that the by right farmers market use must comply with the approved site plan for the primary use of the property."

Mr. Pietila said, "As originally drafted the ordinance simply stated that an approved site plan must be in place on the property. It is important to take the extra step to make that connection that the farmers' market use has to actually comply with that existing site plan. Second, the draft ordinance provides that parking shall only be allowed in the areas shown for parking on the site plan. This is helpful, but we have some concerns with only calling out this one aspect of site plan consistency. Another key elements of site plans is location of any proposed buildings or structures on the property and we recommended making it clear that a by right farmers' market must comply with this element as well. Therefore, we recommended adding a sentence that farmers' markets may only utilize buildings or structures that are shown on the approved site plan. We think this is needed to ensure compliance of the site plan and give clear guidance about what is expected for this use. Lastly, because these by right farmers' markets must be tied to a primary use of the property we recommended making it clear in the list of by right uses that these are farmers' markets as an accessory use. Without that qualifier the ordinance would simply list farmers' markets in both the by right and special use permit list making it hard to distinguish up front between the two versions of this use."

Neil Williamson, with the Free Enterprise Forum, said that first a farmers' market is a great idea; however, the language proposed tonight and asked to not over complicate it a little concerned him. He

said there have been times in Albemarle history when structures were defined as tents and let us talk a little about the reality of a farmers' market. The reality is whether it is a big white truck, my old red truck or a pop up canopy so let us make sure that canopies are not considered structures and they could use the word permanent structures. Regarding the concept of being in full compliance with the site plan he was not sure having 15 vehicles selling vegetables out of the back in a parking lot is compliant with the site plan as it was drafted since you are utilizing the parking area as a shopping area and was concerned with that real boots on the ground issue. He said this is a great idea and prevents additional asphalt. He said there is one other what if – what if we have this imaginary church with a parking lot and for whatever reason it stops having services but still owned by the church and they want to continue to hold farmers' markets. The primary use is not in use but the farmers' market is still a secondary use to a primary use that is not active but is primary use of the property. He said it is a great what if but he did not think this is going to be a huge problem and would think it would be a fabulous thing if some of the small churches and high school parking lots put up the tents every Thursday and had all of these local folks coming in. Mr. Williamson said he does not see the limitation for vendors as a positive and hopes that is a problem that we have since what we see with smaller farmers' markets is they get down to three, four or five vendors and they just can't make it. Therefore, he would strongly encourage the Commission to move forward, encourage the permanence with regard to the structures or perhaps Mr. Blair's definition that a pop up tent is not a structure.

Mr. Keller invited further public comment. Hearing none, he closed the public hearing to bring the matter back for discussion and action.

Mr. Blair asked to clarify a few things, and Mr. Keller said the Commission would be glad for you to do that.

Mr. Blair said first he would ask Mr. Fritz that he knows when we are saying by right we are saying you can go ahead and do it but there would be a zoning clearance, and Mr. Fritz replied yes a zoning clearance would be required.

Mr. Blair said just to allay some concern there still would be a zoning clearance required before the use could commence. He said Mr. Dotson had asked me and he thinks this is very interesting about our current definition but beyond the current definition, there are a couple other elements at play here when we get to Ms. Firehock's question about vendors and their location. The current definition of farmers' markets requires that each vendor selling the products and merchandise is engaged in production agriculture in Albemarle County and that is for farmers' market. Now farm stand, which is the smaller aspect of this agricultural sales question, deals with the sale of local agricultural products. He said local agricultural products are defined as those products grown or produced in Albemarle County or its abutting localities. Mr. Blair said he understands Ms. Firehock in there are a number of markets that advertise where people are from and he has seen with the little signs beyond Scottsville in another farmers' market in Virginia where each booth they seemed to recognize the location of the farm. However, it is important that in our own ordinance there are two ways in the sale of agriculture products that we have looked at the farmers' market requires production in Albemarle requires that the vendor be engaged in production agriculture in Albemarle County and it is vendor based. He said the farm stand is product based and that is grown in the county or its abutting counties. He said maybe that helps, but maybe it does not and he just wanted to make it clear that this issue as Mr. Fritz has explained it, it has been vetted before and there are distinctions within our own ordinance when it comes to the sale of farm products.

Mr. Keller thanked Mr. Blair and invited further discussion.

Mr. Dotson said that he was trying to think of on the ground kinds of questions. In the case of a school, property and Mr. Blair just clarified that the farmers' market would still go through a zoning clearance. An application usually requires the property owner sign the application.

Mr. Fritz replied the owner would sign either the application or something authorizing someone to sign the application.

Mr. Dotson said but probably that is not a blank check authorization; it is well you cannot do it on these days because we have planned events and we are having a soccer tournament on these days and the church is having something. He asked does that put us in a position of enforcing those owner stipulations.

Mr. Fritz replied no, what we would be doing when the zoning clearance came in was ask what site or property it is; we would make sure that it had an approved site plan, do you have permission from the owner or are you the owner to do it; and make them aware these are your limitations. He said they would be given a copy of the ordinance and what it says not more than twice a week and we may not even ask them what days of the week they are going because it might be Mondays and Tuesdays in the spring and Thursdays and Fridays in the fall for whatever reason. Therefore, we would simply say you are limited to two days a week.

Mr. Dotson said so that is between the property owner and the applicant for any of those kinds of stipulations. Mr. Dotson said that he liked the suggestions made by the Southern Environmental Law Center and just asking the question about calling farmers' markets an accessory use. He asked do we define accessory uses as customary because he did not know that we have that custom yet and maybe it should be secondary use or some other terminology.

Mr. Blair said that was a very good question and he had been sitting here thinking kind of along similar lines and did not want to turn this into a planning seminar. He said part of this also gets back to the old question can a parcel have more than one primary use and he brings that up because you are right the way we define an accessory use it says, "a subordinate use, building or structure customarily incidental to and located upon the same lot occupied by the primary use. He said is a farmers' market truly customary to a school or a church.

Mr. Dotson said that it might be nice someday if it was and agreed with the spirit of it.

Mr. Fritz said we could make sure that we clarify that to use the appropriate or right term.

Mr. Dotson said that was fine and that his other question was just the terminology by right farmers' market and was thinking of the person who does not customarily deal with our zoning ordinance would something like joint use, collocated or just some other terminology. Mr. Dotson said the point of by right is to say other than a zoning clearance there is no additional approvals, which was something to think about.

Mr. Fritz said when we have a by right use that is subject to additional regulations we always put that reference to the supplemental regulations behind it and we do that throughout the ordinance. He asked Mr. Dotson if that answered what he was asking.

Mr. Dotson replied that he was splitting hairs here but if the vocabulary is by right farmers' markets and then we look in the RA district, yes it is under by right but then it says farmers' markets and the naïve mind may say I could go ahead and start a farmers' market and not pick up on the nuances. He asked to take it back since he was splitting hairs.

Ms. More said she would sweep back through to address some questions that were brought up by the public comment and asked would the pop up tents not be considered a structure.

Mr. Fritz replied that there is a size where they are considered a structure, but the pop up tents you see at a farmers' market would not be considered a structure.

Ms. More pointed out in Nellysford they set up one giant tent; and Mr. Fritz replied that would be a structure.

Ms. More said so we would not allow something like that.

Mr. Fritz replied that it would not be on a site that had a site plan for the primary use.

Ms. More said that would not go in a parking lot because they have to stake it in.

Mr. Fritz replied that it could be done; it is just more complicated.

Ms. Firehock asked would they ask for a special use permit to have the tent.

Ms. More said that we are not eliminating them, but a pop up market tent would be allowed and we do not need to clarify to say permanent.

Mr. Fritz replied no, this was developed with the zoning administrators and we talked about those kinds of things and how they obviously would want to do that because it gets hot.

Ms. More said along the lines of the church that closes and then not saying secondary use because there may be already two uses on a church that has a preschool. She asked how that would work.

Mr. Fritz replied that it would still be permitted because the property would have had a site plan for an approved primary use so if the use is no longer there it has one. He said the key here is that the property has a site plan approved and that you are not using it at the same time as a primary use on the property even if the primary use is different from what that site plan that had originally been approved.

Mr. Keller asked Mr. Blair to read the definition of the farmers' market again.

Mr. Blair replied sure that a farmers' market is, "the sale of agricultural products, value added products and accessory merchandise either outdoors or within a temporary or permanent structure by two or more vendors in the rural areas district or by one or more vendors in any other zoning district where the use is allowed where each vendor selling the products and merchandise is engaged in production of agriculture in Albemarle County regardless of whether it is on or not on the lot on which the farmers' market is located."

Mr. Keller said that he thinks we all have been to a farmers' market where there is a craft component that people develop at home that is not necessarily value added but might actually add an interesting component to a variety of sales that occur. Therefore, one could stretch it and say a person who makes leather products like belts and purses are getting their product from agriculture somewhere along the line if they are using real leather. If they were making jewelry, it might be stones, teeth or bones that come from agriculture; but there might be other things that are not. He said my question is in the spirit of one of our speakers who would like it to be more open and more representative of what sales could be does the way this is written preclude the sale of items, which are a real stretch to have come from agriculture. He said his second question is about the lack of design review of a structure that is being repurposed as a secondary structure and he was thinking about places all over the country where there have been these little villages and farms that have been sort of recreated. He said if somebody wanted to come in and do an Austrian Alp kind of look and redesign, and since there is no design review if this is by right.

Mr. Fritz replied that it is not because they do not have a site plan approved for it already.

Mr. Keller asked what if they had the site plan approved for the building and structure just the way it is and they want to add that façade to everything there. He asked if they would need ARB or staff review.

Mr. Fritz said that he would try to put it into a potential real world scenario. He said if you have a church that has been sold that had an approved site plan and someone wants to now use that as a farmers' market and redesign that church to look like something it is not. He said it is highly unlikely that a farmers' market that can only be in operation twice a week would do that, but could they – potentially yes. It would be interesting because it would be a site plan amendment and we would have to decide what is the use you are amending this plan for. If they said it was for a farmers' market we would not approve that because the farmers' market is not the primary use, it is an accessory use and we approve site plans for the primary use. Mr. Fritz said we would have to look at it and he cannot give you a definite answer right now but he could say the likelihood of somebody doing that is low for a market that is only allowed to be in operation twice a week.

Mr. Keller said he would assume that we have no way that staff could turn to the ARB if there was a question.

Mr. Fritz replied that is a completely issue since the county's ability to regulate the appearance of the structures is limited to Entrance Corridor districts exclusively unless we have an historic district. He said our ability to put in Entrance Corridor districts and historic districts is limited and the basic answer is if someone wanted to come in right now and design a church to look like an Alpine Village.

Mr. Blair said to Chair Keller's question about the different goods that farmers' markets are limited to the sale of agricultural products, value added products and accessory merchandise, but our Code does in fact define accessory merchandise and so here is what is included in that definition. He said it is not agricultural merchandise that is subordinate and customarily incidental to agricultural products sold at a farm sales use or farmers' market such as pottery, baskets, canning jars, pumpkin carving kits, wreath making supplies, floral arranging supplies, garden accessories, hand tools for gardening and handmade crafts.

Mr. Keller said so they are all there.

Ms. Firehock said that she still has heartburn with this idea of farmers' markets as an accessory to the primary use as a church or a school and unless the school is engaged in some kind of agricultural program, where the children have a greenhouse. Ms. Firehock said she does not mind if a farmers' market is added to a school, but does not think it meets the definition as being accessory.

Mr. Fritz replied that he thinks that is correct and we would work on that to have it be secondary or some appropriate term to make it now.

Ms. Firehock asked was a site plan approved for the farmers' market we approved on 29 South with the fishing pond.

Mr. Fritz replied no, they were the ones that generated the desire to amend the ordinance because they had to do a site plan or request the site plan waiver, and you may have remembered that a local engineer volunteered his services. So they flipped that on its head and instead of saying you have to ask for relief from it instead the zoning administrator said this is what your plan needs to show and we have the opportunity to raise it all the way up to a level of a site plan depending on how complex the market. He pointed out what they May amendment did it lets us match the complexity of the site plan to the complexity of the project.

Ms. Firehock said that was a very simple site and the poor people had to do a lot of work to get us a plan for a field.

Mr. Fritz replied that is true and was what generated that text amendment.

Mr. Bivins asked if he is to understand that there is no way that if he wanted to establish a farmers' market that he could not have that as a seven day a week use.

Mr. Fritz replied that you could if you had a property that had a site plan and you asked to be there seven days a week and to be in operation while the primary use is in operation you could go before the Board of Supervisors and ask for a special exception. He said the Board would hold a public hearing on that; however, right now staff would probably not support that which means it would come to the Planning Commission and then to the Board of Supervisors.

Mr. Bivins said to follow up on that if we were willing to quarter off a parking lot because of size why we would not also be willing to look at quartering off a parking lot at a winery or at some other part. He said that he does not particularly care for the point to point shopping so if you tell me I can go to Henley's Orchard on White Hall Road and get my peaches, apples and also get some vegetables at the same time that makes a lot of sense to me. However, if I have to go there one day and there another day most of the time I am not going to do either because I am going to go to Whole Food because I get a prime discount. He asked why it has to be related to be able to quarter off some space.

Mr. Fritz pointed out that they could ask for the special exception and the Board could set aside that provision here. He said farm sales or farmers' markets at the wineries, which is a separate issue, was discussed with the zoning administrator and because they are an agricultural operation they do not get site plans, but they can have special events that are associated with them and there are some limitations on that. He said one of the things we talked about is they may already be able to have some farm market type sales associated with the winery.

Mr. Bivins said that he was concerned that if they ever do the Water Street project and they put a permanent farmers' market that will preempt a bunch of opportunities and would hope we are thinking about a place in the county where if someone wanted one that there would be a way to do facilitate that.

Mr. Keller noted that Fluvanna has a very successful one right now.

Mr. Dotson asked are farmers' markets a permitted use in commercial, and Mr. Fritz replied it would just be retail sales and so it would be permitted by right.

Ms. More said what we are discussing would not preclude any of that, but would just have a separate process.

Mr. Fritz replied that was right if you wanted to find a vacant site and build a farmers' market with a permanent building it would require a special use permit. He said to your point about a church that had a lot of surplus parking and they wanted to be in operation the same day they are having the church event they could go before the Board of Supervisors for a special exception. He said so there are public processes to do more than what is in here. He said staff tried to come up with a minimum threshold that if you do this you are probably not going to have adverse impacts but if you want to do, more you can do it but there is going to be maybe more than one route to get there. He said there are going to be routes that involve public participation.

Mr. Keller asked what does the application for a special exception cost.

Mr. Fritz replied that it was much less around \$140 and were much easier to schedule. He said farmers' markets are often done time sensitive.

Mr. Keller asked staff if they have a recommended motion.

Mr. Fritz replied staff recommends approval of the zoning text amendment with the changes that we have shown you this evening with the correction of the accessory to a more accurate term.

Mr. Dotson said that he would so move.

Ms. More seconded.

Mr. Keller asked if there was further discussion. Hearing none, he asked for a roll call.

The motion was approved by a vote of 5:0 (Riley, Spain absent).

Mr. Keller thanked staff and noted ZTA-2017-00010 would be forwarded to the Board of Supervisors to be heard on a date to be determined.

The meeting moved to the next item.