



**ALBEMARLE COUNTY PLANNING**  
**STAFF REPORT SUMMARY**

<b>Proposal:</b> SP201900006 The Market at Boyd Tavern	<b>Staff:</b> Tori Kanellopoulos, Planner
<b>Planning Commission Public Hearing:</b> February 4, 2020	<b>Board of Supervisors Hearing:</b> Tentative date: April 1, 2020
<b>Owner:</b> South Creek Investments, Inc.	<b>Applicant:</b> Kelsey Schlein, Shimp Engineering, on behalf of South Creek Investments, Inc.
<b>Acreage:</b> 12.49 acres (3.28 acres in C-1 Zoning District)	<b>Special Use Permit for:</b> Request for automobile service station, convenience store, and restaurant (eating establishment) per Zoning Ordinance 18-22.2.2(16)(a)(b)(c)
<b>TMP:</b> 09400-00-00-03900 <b>Location:</b> Parcel located approximately 200 feet southwest from the intersection of State Route 616 (Black Cat Road) and Mechunk Road. Parcel has frontage along State Route 616. The northern portion of the parcel is adjacent to the I-64 interchange at Exit 129.	<b>By-right use:</b> This parcel is zoned both: RA Rural Area - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots); and C-1 Commercial – retail sales and service; residential by special use permit (15 units/ acre). 3.28 acres are zoned C-1, and 9.21 acres are zoned RA.
<b>Magisterial District:</b> Scottsville	<b>Conditions:</b> Yes <b>EC:</b> Yes
<b>Proposal:</b> Proposal for new 4,000 square foot gross-floor-area-maximum auto service station with five fuel pumps under two canopies, convenience store and restaurant (food preparation and sales) on the approx. 3.28-acre portion of the site that is zoned C-1 Commercial and fronts on State Route 616 (Black Cat Road).	<b>Requested # of Dwelling Units:</b> No dwelling units proposed.
<b>DA:</b> <b>RA: X</b>	<b>Comp. Plan Designation:</b> Rural Area – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources; residential (0.5 unit/ acre in development lots).
<b>Character of Property:</b> Parcel is currently undeveloped and is partially wooded. The parcel fronts on SR 616 (Black Cat Road). There is an existing gravel travelway from SR 616 through a portion of the property.	<b>Use of Surrounding Properties:</b> The Mechunk Road single-family detached dwelling unit development is across SR 616 to the East. There are several other single-family houses across SR 616. I-64 is directly adjacent to the north, including the interchange with SR 616. The property adjacent to the south is undeveloped and wooded. The adjacent property to the west contains single-family and agricultural uses.

<b>Factors Favorable:</b> <ol style="list-style-type: none"> <li>1. Tier III groundwater study indicates that there is sufficient supply of groundwater in this area to support the proposed use.</li> <li>2. The application includes a concept plan and Architectural Standards that would create a development consistent with the Rural Area scale and design standards as described for rural uses, such as Country Stores.</li> <li>3. The application is consistent with the criteria for the issuance of a special use permit.</li> </ol>	<b>Factors Unfavorable:</b> <ol style="list-style-type: none"> <li>1. If the Board of Supervisors disagrees with the staff interpretation of the meaning and intent of the Comprehensive Plan, this application may be considered inconsistent with the Comprehensive Plan.</li> <li>2. The proposed use is not identified in the Comprehensive Plan as a recommended Rural Area use.</li> </ol>
<b>RECOMMENDATION:</b> <b>Special Use Permit:</b> Staff recommends approval of SP201900006 with conditions.	

**STAFF PERSON:** Tori Kanellopoulos, Planner  
**PLANNING COMMISSION:** February 4, 2020  
**BOARD OF SUPERVISORS:** Tentative date: April 1, 2020

**SP201900006 The Market at Boyd Tavern:**

**PETITION:**

**PROJECT:** SP201900006 Boyd Tavern Market

**MAGISTERIAL DISTRICT:** Scottsville

**TAX MAP/PARCEL:** 09400-00-00-03900

**LOCATION:** Parcel located approximately 200 feet southwest from the intersection of State Route 616 (Black Cat Road) and Mechunk Road. Parcel has frontage along State Route 616. The northern portion of the parcel is adjacent to the I-64 interchange at Exit 129.

**PROPOSAL:** Proposal for new 4,000 square foot gross-floor-area-maximum auto service station with five fuel pumps under two canopies, convenience store and restaurant on the approx. 3.28-acre portion of the site that is zoned C-1 Commercial and fronts on State Route 616 (Black Cat Road).

**PETITION:** Automobile service station, convenience store, and restaurant per Zoning Ordinance 18-22.2.2(16)(a)(b)(c) on an approx. 3.28 acre portion of a parcel totaling 12.486 acres. No dwelling units are proposed.

**ZONING:** This parcel is zoned both: RA Rural Area - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots); and C-1 Commercial – retail sales and service; residential by special use permit (15 units/ acre).

**OVERLAY DISTRICT(S):** Entrance Corridor; Steep Slopes - Critical

**COMPREHENSIVE PLAN:** Rural Area – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources; residential (0.5 unit/ acre in development lots).

**POTENTIALLY IN MONTICELLO VIEWSHED:** Yes

**CHARACTER OF SURROUNDING AREA:**

The property is currently undeveloped and is partially wooded. Surrounding properties include residential and agricultural uses. The Mechunk Road single-family development is across SR 616 (Black Cat Road) to the East. I-64 is directly adjacent to the north, including the interchange with SR 616 at Exit 129. The property adjacent to the south is undeveloped and wooded. The adjacent property to the west contains single-family and agricultural uses.

## **PLANNING AND ZONING HISTORY:**

ZMA19700122: The 1970 rezoning action rezoned what is now TMP 94-38 and a portion of what is now TMP 94-39 to B-1 Business from A-1 Agricultural. These zoning districts no longer exist in the County but are comparable to C-1 Commercial and RA Rural Area. The proposed use at the time of this rezoning was 'automobile service station'.

ZMA19700146: This rezoning action added an additional approx. 0.6 acres to the C-1 zoned portion of the property that was rezoned with the ZMA1970-122 rezoning action. The same 'automobile service station' use was considered.

ZMA197900011, SP197900018, and SP197900019: The 1979 rezoning action rezoned an additional portion of the property to B-1 (approx. 0.56 acres). The two 1979 special use permits allowed an auction house within this district on this property.

County comprehensive rezoning in 1980: A portion of this property (TMP 94-39) and all of the property adjacent to it (TMP 94-38) were rezoned to C-1, Commercial in 1980 as part of the comprehensive rezoning of the County. Both properties, and others in the immediate area are within the Rural Area as designated by the Comprehensive Plan. The County has not initiated a rezoning since 1980 to rezone any properties that are outside of the Development Areas but are zoned with "urban" zoning designations. (Attachment B)

SDP20170009: An initial site plan for a proposed gas station and convenience store was conditionally approved on May 10, 2017. One condition was to obtain a special use permit for the proposed use.

SDP201800034 and SDP201800062: Two final site plans for the proposed gas station and convenience store were denied due to incompleteness, as no special use permit had been requested.

SDP201800086: An initial site plan for the proposed gas station and convenience store was conditionally approved on January 24, 2019. One condition was to obtain a special use permit for the proposed use.

## **DETAILS OF THE PROPOSAL:**

Section 18-22.2.2(16)(a-c) requires auto service stations (gas stations), convenience stores, and restaurants (eating establishments; serving and preparing food, not necessarily a sit-down formal restaurant) that are not served by public water or an approved central water supply in the C-1 Commercial zoning district to obtain a special use permit. The proposal is for a gas station with a maximum of five (5) fuel pumps with a maximum 4,000 square foot (gross floor area) market that serves food and has food and beverages for sale (Attachments C and D). Hours of operation would be between 5 AM and 10 PM.

## **COMMUNITY MEETING:**

The required community meeting was held on May 22, 2019, during a special meeting held by the Village of Rivanna Community Advisory Committee (VORCAC). The community meeting was attended by a significant number of residents. The following were the major concerns heard during the meeting:

- Groundwater: Many residents were concerned about potential water usage issues in the area, both existing and future. Residents stated that droughts and related depletion of wells has been an issue in this area.
- Traffic and noise: Many residents were also concerned with potential traffic and related noise impacts. Residents felt that SR 616 is already a busy and unsafe road, and that this use would add additional traffic conflicts and may attract larger trucks.

- Visual impacts: Some residents stated that hours of operation should be restricted, to limit lighting impacts and protect dark skies. Some residents pointed out that Bellair Market (also Tiger Fuel) only has six (6) fuel pumps, while this proposal had 12 on its first submittal *[note: the applicant has reduced the number to five (5) with the current submittal]*.
- Character of the area: Some residents expressed that this proposed development does not seem consistent with the Rural Area as described in the Comprehensive Plan, and that they have been opposed to other proposed uses on this property.

Staff has also received both written and verbal comments from residents since the community meeting. Written comments were received in the form of emails, and verbal comments as either voice messages or phone call discussions. Staff has compiled all email comments and notes from voicemails and phone conversations. Comments from the public are included as Attachment H, and notes from the community meeting are included as Attachment G.

### **ANALYSIS OF THE SPECIAL USE PERMIT REQUEST:**

Special Use Permits are evaluated under reasonable standards, based on zoning principles which includes the proposal's compliance with the Comprehensive Plan. Any impacts caused by the proposal may be addressed through conditions and those conditions must be reasonably related to the impacts and be roughly proportional to the impacts.

The appropriateness of the C-1 Commercial zoning designation on the property is not under consideration. The property was comprehensively rezoned by the County in 1980 and no action has been taken to amend or modify the zoning of the property.

### ***Section 33.39(B) states that the Commission, in making its recommendation, shall consider the same factors found in Section 33.40 (B):***

#### ***1. No substantial detriment. Whether the proposed special use will be a substantial detriment to adjacent parcels.***

The site is reliant on well and septic systems, as public utilities are not available to the site. Residents near the proposed use expressed significant concern about water quantity and quality during the community meeting. Residents stated that they have experienced droughts in the past, resulting in issues with accessing water. The applicant submitted a Tier III groundwater study with this application. The study indicated that the proposed use would not result in a substantial detriment to adjacent properties and existing users of groundwater (Attachment F). The key findings of the study state that groundwater availability is favorable and that hydrogeological conditions are favorable to the proposed use. The study indicates that the soil types on the property are favorable for absorbing rainwater and for groundwater storage. The study states that "These numbers indicate that the proposed net use of groundwater is substantially less than naturally occurring recharge on the parcel". The Virginia Department of Health (VDH) has provided the following comment: "this office is unaware of any private well supply or quality issues in the general area of this proposed project."

Virginia State Code 12VAC5-590-690 provides daily water consumption rates for a variety of uses. Based on these rates, several by-right Rural Area Zoning District uses (including single-family residences and farm winery/brewery uses) and by-right and special use permit C-1 uses (including retail nurseries) would use more water than the proposed use. The applicant states that the proposed use would consume approximately 644 gallons per day, based on data from other Tiger Fuel locations. VDH approval is required prior to site plan approval for the proposed use. The applicant has also agreed to the condition of a water restriction device, to limit water usage to a maximum of 700 gallons per day.

The visual impact of lighting from the proposal has been identified as a potential impact by staff and area residents. Residents at the community meeting expressed concern with potential negative visual impacts of the proposed use, including lighting affecting dark skies and the number and appearance of fuel pumps. Since the community meeting, the applicant has revised the number of fuel pumps from 12 to five (5). Several conditions are intended to limit visual impacts, which include limitations on lighting, hours of operation, and the number and location of fuel pumps. Three (3) fuel pumps are relegated to the side of the building, while the other two (2) are relegated behind the building and must not be visible from the public right of way (SR 616). This is consistent with the County's regulations of Country Stores per (18-5.1.45), which restrict Country Stores Class B to six nozzles (the equivalent of three (3) pumps). Country Stores Class B are permitted by special use permit in the Rural Area zoning district.

The proposed architecture of the building and canopy is consistent with Country Stores and other Rural Area gas stations (Attachment E). The applicant has revised the design of the parking lot since the community meeting, so that no car headlights shine toward SR 616. A three-board fence and landscaping along SR 616 is also proposed by the applicant and included as a condition. The proposed grading would also site the parking lot several feet lower than SR 616. Additionally, Architectural Review Board (ARB) approval is required for a site plan for this use.

An increase in traffic and related noises is another potential impact and was a significant community concern. The property is located adjacent to the SR 616 and I-64 interchange. SR 616 (between Route 250 and I-64) has an AADT of 8,300. The applicant states that the proposed use would pull from existing traffic. The applicant also states that the design of the fuel canopy and travelways would limit larger trucks from using the gas station. VDOT approval is required for a site plan for this use and would include review and approval of entrance design and location. The applicant would need to comply with all VDOT regulations, including sight distances, turn lane, and ingress/egress requirements, during review and approval of a site plan. VDOT has no objection to the proposed Special Use Permit. Proposed conditions limiting hours of operation are consistent with other County regulations intended to limit noise, lighting, traffic, and other impacts on residential properties. For example, drive-throughs adjacent to residential properties must close by 10 PM (18-5.1.60).

Transportation Planning Staff has reviewed the application and has the following information:

- Applicant provided Estimated Traffic Generation based on ITE Trip Generation Manual:

			AM			PM		
Use Description	ITE	Qty	In	Out	Total	In	Out	Total
Gas/Convenience	945	4000 SF	171	165	336	195	196	391

- Based on rural location of this particular site and estimated ADT of Black Cat Road (8,300 vehicles/day) it is likely that this location will generate a lower level of traffic than the ITE estimate.
- A roadway segment such as Black Cat Road can be expected to see approximately 20% of its daily traffic occur during peak hour so approximately 1660 trips each peak hour.
- Pass by trips for convenience store/gas stations tend to be estimated (using ITE) at approximately 70%-90% of total estimated trips to the site or approximately 10% of the adjacent streets' peak hour traffic. Based on these calculations it can be assumed that very few new trips will be generated by this use and nearly all estimated trips to the site will be pass-by trips.
- Proposed right and left turn lanes will reduce potential for delay to traffic on Black Cat Road
- Review of historical crash data shows no identified safety issues in the area.

- Review of modeled regional congestion compiled through the C-A MPO Long Range Transportation Plan shows no identified congestion issues in the area. However, it is recognized that peak hour congestion in the vicinity of the interstate ramps and the US 250/Black Cat Road does exist.
- Overall, based on the information above, staff concludes that traffic impacts from the proposed development will be negligible to non-existent

Therefore, based on the above analysis, staff finds that the proposed use, with the proposed conditions, would not be a substantial detriment to adjacent properties.

***2. Character of the nearby area is unchanged. Whether the character of the adjacent parcels and the nearby area will be changed by the proposed special use.***

The 3.28 eastern-portion of this property has been zoned C-1, Commercial, since 1980, and has been zoned with the previous designation of B-1 Business since 1970. The County approved the rezoning in 1970 and the rezoning in 1979 (and two special use permits the same year) for commercial uses on the property. Attachment B shows the zoning of nearby property. This property is the only commercially-zoned property in the vicinity, with the next closest commercially-zoned property approximately two miles to the west on Route 250. This property is one of several that were comprehensively rezoned by the County in 1980, and its zoning has not changed since then.

The surrounding area consists of a rural subdivision development (Mechunk Acres), several single-family houses, several undeveloped parcels, farmland, and I-64 and its Exit 129 interchange. There have been Country Stores with fuel sales operating near this area in the past, including the Boyd Tavern Market, which is approximately half a mile southeast of this property. The conditions for the proposed use intend to reflect the scale and design of a Country Store, which is considered a rural-character use and is permitted by special use permit in the Rural Area zoning district. The proposal is consistent with the supplementary regulations for form and scale for Class B Country Stores. Additionally, the use is located adjacent to the I-64 interchange. While the Comprehensive Plan does not highlight this interchange as one for development, the existing zoning allows for commercial development. Therefore, staff finds that commercial development, as permitted by the zoning district, should reflect rural scale and design to the extent possible. Other conditions including landscaping, lighting restrictions, and hours of operation intend to hold the use to a more rural character.

***3. Harmony. Whether the proposed special use will be in harmony with the purpose and intent of this chapter,***

Section 18-22 of the Zoning Ordinance outlines the intent of the C-1 Commercial zoning district: *“C-1 districts are hereby created and may hereafter be established by amendment to the zoning map to permit selected retail sales, service and public use establishments which are primarily oriented to central business concentrations. It is intended that C-1 districts be established only within the urban area, communities and villages in the comprehensive plan.”*

The proposed use is consistent with the uses described in the intent of the zoning district. It is not consistent with the intent that these districts be established only in the Development Area of the Comprehensive Plan. However, this property has been zoned C-1 since 1980 and was rezoned to B-1 (a previous commercial district) in 1970.

Section 18-1.5 of the Zoning Ordinance states that an intent of the Ordinance is to *“implement the policies, goals and objectives of the comprehensive plan.”* Staff has used the scale and appearance of Country Stores to analyze the proposed use. The Country Store use permits gas, food, and retail sales. During the review of this application and at the community meeting, staff has received comments from the public which may be generalized as a comment that the

development is not appropriate due to its proximity to residential development and rural uses and because it is not located within the development area. Staff agrees that designating this property for commercial activity is not consistent with the adjacent residential area or the Comprehensive Plan. However, the property has been rezoned for commercial use since 1970, upheld in 1980. The use is consistent with the intent of the C-1 Zoning District. The scale and form of the use, along with the proposed conditions, are consistent with a Country Store use as permitted in the Rural Area Zoning District.

***a. with the uses permitted by right in the district,***

The intent of the C-1 zoning district, stated in section 18-22.1, is that C-1 districts “*be established only within the urban area, communities and villages in the comprehensive plan.*” The designation of this property as C-1 commercial is not consistent with the locational intent of the district. However, the decision to zone this property commercially was made in 1970 and upheld in 1980, and no action has been taken by the County to amend the zoning. The proposed use is consistent with uses permitted in the C-1 zoning district. Given that this site is not served by public water, other C-1 uses (such as retail and commercial) would also require a special use permit, if consuming more than 400 gallons per acre per day. The development is consistent with the uses in the C-1 Commercial district.

***b. with the regulations provided in Section 5 as applicable,***

The proposed use will need to meet the regulations of 18-5.1.20 for fuel sales during site planning. Preliminary review shows the application plan meets the criteria, including no storage tank closer than 100 feet from any lot line.

***c. and with the public health, safety, and general welfare.***

Public health, safety, and welfare comments are provided above in the first factor section: “*No substantial detriment. Whether the proposed special use will be a substantial detriment to adjacent parcels.*” Based on this analysis and proposed conditions, staff’s opinion is that the development is consistent with public health, safety, and general welfare.

***4. Consistency with the Comprehensive Plan. Whether the proposed special use will be consistent with the Comprehensive Plan.***

The zoning of this property, C-1 Commercial, is inconsistent with the Comprehensive Plan land use recommendation which directs development into the Development Areas. However, as has been previously stated, the decision to zone this property C-1 Commercial has been made and the County has initiated no action since 1980 to change the zoning designation.

Strategy 1a of Chapter 3 (Growth Management) reads in part: “*Only approve new development proposals in the Rural Area that are supported by Rural Area goals, objectives, and strategies.*”

The scale and design of this proposal has been analyzed for consistency with the Rural Area chapter of the Comprehensive Plan and with the scale and design of similar rural uses, especially Class B Country Stores. The following analysis focuses on the Rural Area Chapter and includes other relevant sections.

**Chapter 7: Rural Area**

The preferred land uses in the Rural Area are agricultural and forestry uses. Other uses should be supportive either of agricultural and forestal uses, or of existing residents in the Rural Area. New structures and uses in the Rural Area, when permitted, should be of appropriate scale and character for the Rural Area. The Comprehensive Plan and Zoning Ordinance do not have design standards specific to commercial uses (or, more specifically, gas stations and convenience stores) in the Rural Area. Staff has used Class B Country Stores (18-5.1.45) for partial guidance on the appropriateness of the proposed scale and building and site design.

Scale: The maximum building footprint for Class B Country Stores per 18-5.1.45 is 4,000 square feet, which is included for the proposed use as a condition. The Zoning Ordinance also limits Class B Country Stores to one fuel dispenser with six (6) nozzles. Staff finds that this is equivalent to three (3) fuel pumps (as fuel pumps generally have one nozzle on each side, equating to two total nozzles). Therefore, only three (3) fuel pumps are permitted to be visible to SR 616, and must be relegated to the side of the building.

Although this proposal is not located in a crossroads community, the scale of the proposal should be consistent with the scale called for in this section of the Comprehensive Plan and with existing comparable uses and developments in the County. Country stores are considered *“small-scale, supportive uses in designated crossroads communities”*. Supportive uses in the Rural Area are intended to provide services for residents in the immediate area. The proposed conditions for this use limit the use to a scale consistent with Class B Country Stores and with a scale intended to serve both nearby residents and existing traffic on this road. There is not another gas station, convenience store, or similar use in close proximity to this area.

Building and site design: Planning and ARB staff provided comments to the applicant on the design of the building (convenience store), indicating that the building should have the character of a country store, including a porch. The applicant has provided Architectural Standards for the proposed convenience store and the canopy over the fuel pumps. Mechanical equipment must also be screened from SR 616. There will be a three-board fence with a landscaping buffer to screen parking and contribute to a more rural character. ARB staff have provided the following comment on the proposed design of this use: *“The pitched roof, metal roof matching the color of the convenience store roof, the barn style accents, and the brick bases for the posts of the fuel pump canopy as shown on sheets 2 and 3 of the “Architectural Design Details Guidelines” are expected to have an appropriate appearance for the surrounding area.”*

Natural resources: Objective 2 of this Chapter is: *“Protect and preserve natural resources, which include mountains, hills, valleys, rivers, streams, groundwater, and retain continuous and unfragmented land for agriculture, forestry, biodiversity, and natural resource protection.”* Other than critical slopes, which are on a small portion of the property and are not affected by the proposed use, there are no known natural resources on the property. There are no mountain resources or stream buffers. As previously stated in this staff report, Health Department staff have no objection to the findings in the Tier III groundwater study, which found that the proposed use would not negatively affect groundwater for other properties. There are no agricultural/forest districts, conservation easements, or open space agreements affecting this property.

Rural Interstate Interchanges: This Chapter of the Comprehensive Plan includes the following for interstate interchanges: *“Interstate interchanges are included in this Section because they have the capacity to both reflect and detract from the rural nature of the County. For travelers on Interstate 64, views from the interstate may provide the only visitor experience and memory of the County... interstate interchanges in the Rural Area should not be used as tourist destinations or tourist “stops” along Interstate 64.”* The proposal is located at the SR 616 interchange, at Exit 129 of I-64. ARB approval will be required for the view of this use from I-64. The conditions for the proposed use are intended to limit the use to a scale consistent with Country Stores and to a scale intended to serve both nearby residents and existing pass-by traffic. This is the only parcel zoned commercially at this interchange (along with adjacent TMP 94-38, part of the same rezonings and previous actions), and has been since 1970, as previously noted.

## **Chapter 5: Historic, Cultural, and Scenic Resources**

Objective 5 of this Chapter is to *“Help protect Monticello’s Viewshed.”* This property is within the Monticello Viewshed. Liz Russell of the Thomas Jefferson Foundation has



provided the following comment on this proposal: “At over 6 miles away, surrounding tree canopy, and in the location just off I-64 I have no viewshed concerns at this parcel.”

Objective 11 of this Chapter is to *“Protect the dark sky of Albemarle County as one of the many natural, scenic, scientific, and cultural resources for the benefit of residents, visitors, and the larger scientific community.”* Condition 2 limits outdoor lighting to be on only during hours of operation, which Condition 4 limits to between 5 AM and 10 PM. Condition 2 also limits the maximum allowable foot candles and requires all lighting to be full cutoff. These conditions are intended to limit potential negative impacts to nearby residential and rural properties, and to protect dark skies.

### **DISCUSSION OF PROPOSED CONDITIONS**

There is one condition that differs from the applicant’s proposal. The applicant is proposing that fuel sales be permitted 24 hours per day, which would likely necessitate some lighting overnight for the fuel pumps and generate some level of traffic during that period. The applicant finds the hours of operation for the store to be acceptable but is requesting that fuel sales and some lighting be permitted outside of hours of operation.

Staff’s recommended condition is the following (4): “The hours of operation must be between 5 AM and 10 PM.” A portion of condition (2) is also applicable: “all outdoor lighting shall be turned off outside of hours of operation.” The ending time of 10 PM is consistent with other rural uses and uses adjacent to residential and rural districts. County Code 18-5.1.57(e)(4) prohibits amplified music for farm brewery events (rural use) after 10 PM during weekdays and after 11 PM on weekends. Farm wineries have the same regulation (18-5.1.25(e)(4)). This is to limit potential negative impacts on nearby and neighboring residential and rural properties. Per 18-5.1.60, drive-through windows that are within 50-100 feet of a residential or rural district must be closed by 10 PM. Limiting hours and lighting to 10 PM is also consistent with Objective 11 in Chapter 5 of the Comprehensive Plan: *“Protect the dark sky of Albemarle County as one of the many natural, scenic, scientific, and cultural resources for the benefit of residents, visitors, and the larger scientific community.”*

Staff believes it is important to maintain a scale and design consistent with Rural Area uses, using Country Store Class B regulations for reference. Staff finds that the extended hours of operation are not consistent with these characteristics. Staff recommends no change to Conditions 2 and 4. Staff and the applicant will welcome Commission guidance regarding this issue.

### **SUMMARY:**

#### **Staff finds the following factors favorable to this request:**

1. Tier III groundwater study indicates that there is sufficient supply of groundwater in this area to support the proposed use.
2. The application includes a concept plan and Architectural Standards that would create a development consistent with the Rural Area scale and design standards as described for rural uses, such as Country Stores.
3. The application is consistent with the criteria for the issuance of a special use permit.

#### **Staff finds the following factor(s) unfavorable to this request:**

1. If the Board of Supervisors disagrees with the staff interpretation of the meaning and intent of the Comprehensive Plan, this application may be considered inconsistent with the Comprehensive Plan.
2. The proposed use is not identified in the Comprehensive Plan as a recommended Rural Area use

**RECOMMENDED ACTION for SP201900006:**

Based on the findings described in this report and factors identified as favorable, **staff recommends approval of special use permit application SP201900006 with the following conditions** (below).

**CONDITIONS:**

1. Development of the use shall be in general accord with the Conceptual Plan titled "Special Use Permit Concept Plan: Boyd Tavern Market," prepared by Shimp Engineering, with the latest revision date of January 16, 2020, and narrative title "Project Narrative: Boyd Tavern Market", with the latest revision date of December 10, 2019, as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the Conceptual Plan, development shall reflect the following major elements within the development essential to the design of the development and as described in the Narrative and the Conceptual Plan:
  - a. Location of the proposed building.
  - b. Location of parking area.
  - c. The location and number of fuel pumps, with a maximum of five (5) fuel pumps, on-site, and a maximum of three (3) fuel pumps may be visible from the public right of way. Fuel pumps shall not be closer to the right of way than the primary structure.
  - d. Location and type of proposed landscaping and fencing. The landscaping buffer must be a mixture of deciduous and evergreen plantings, to the satisfaction of the Planning Director.
  - e. Proposed canopy and building architecture, as referenced in the "Architectural Design Details Guidelines" with the latest revision date of January 16, 2020. The maximum height of the gas canopy shall be 14'6" measured to the bottom of the fascia.
2. The following restrictions to lighting must apply: all fixtures must be full cutoff; lighting is limited to 20 foot-candles at the ground; all outdoor lighting shall be turned off outside of hours of operation; and the canopy fascia must not be illuminated.
3. The maximum gross floor area of the building is four thousand (4,000) square feet.
4. The hours of operation must be between 5 AM and 10 PM.
5. The applicant shall conduct an archaeological survey to show boundaries and extent of the burial area prior to any grading activities.
6. All mechanical equipment must be fully screened from the view of adjacent properties and adjacent public streets.
7. The applicant shall install and maintain a tamper-proof, flow restriction device limiting water flow to not more than seven hundred (700) gallons per day.

**POSSIBLE PLANNING COMMISSION MOTION- SP201900006:**

A. Should the Planning Commission **choose to recommend approval** of this special use permit:

**Move to recommend approval of SP201900006, The Market at Boyd Tavern, with conditions as stated in the staff report.**

B. Should the Planning Commission **choose to recommend denial** of this special use permit:

**Move to recommend denial of SP201900006, The Market at Boyd Tavern. Should a commissioner motion to recommend denial, he or she should state the reason(s) for recommending denial.**

## **ATTACHMENTS**

**Attachment A** – Vicinity Map

**Attachment B** – Map showing zoning of surrounding area

**Attachment C** – Project Narrative, dated December 10, 2019

**Attachment D** – Concept Plan, dated January 16, 2020

**Attachment E** – Architectural Design Details, dated January 16, 2020

**Attachment F** – Tier III Groundwater Study

**Attachment G** – Notes from Community Meeting on May 22, 2019

**Attachment H** – Comments Received from the Public