

ACTIONS
Board of Supervisors Meeting of March 9, 2011

March 10, 2011

<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>
1. Call to Order. <ul style="list-style-type: none"> Meeting was called to order at 9:07 a.m. by the Chair, Ms. Mallek. All Board members were present. Also present were Tom Foley, Bryan Elliott, Larry Davis, and Meagan Hoy. 	
2. Work Session: FY 2011/2012 Operating and Capital Budgets. <ul style="list-style-type: none"> HELD. 	
3. Matters not Listed on Agenda. <ul style="list-style-type: none"> Mr. Foley provided Board members with an executive summary regarding a Joint Local Government School Division Budget Communication Strategy. This item will be discussed and reviewed by Board March 14th. 	
4. Adjourn. <ul style="list-style-type: none"> The meeting was adjourned at 12:02 p.m. 	

6:00 p.m., Regular Night Meeting

1. Call to Order. <ul style="list-style-type: none"> The meeting was called to order at 6:03 p.m., by the Chair, Ms. Mallek. 	
4. From the Board: Matters Not Listed on the Agenda. <u>Duane Snow:</u> <ul style="list-style-type: none"> Announced that he was appointed to VACo's Transportation Committee. Mentioned phone call from constituent regarding payment arrangements for delinquent taxes. Asked about the method of valuation used by Finance for motor vehicles. <u>Ken Boyd:</u> <ul style="list-style-type: none"> Mentioned that he has been contacted by IMPACT regarding their annual assembly which is scheduled for March 28th. This year's topic is mental health. <u>Ann Mallek:</u> <ul style="list-style-type: none"> She will be serving as Vice Chair of VACo's Agriculture and Environment Committee. <u>Rodney Thomas:</u> <ul style="list-style-type: none"> Announced that he, Ms. Mallek and Mr. Boyd attended Kohl's ribbon cutting ceremony earlier today. 	
5. From the Public: Matters Not Listed for Public Hearing on the Agenda. <u>Mary Miller and Richie Hay:</u> <ul style="list-style-type: none"> Thanked Board for its support of VSA arts. Provided Board members with copy of their 2011 calendar and 2010 VSA poetry book. Mr. Hay read a poem that he wrote. 	
6.1 Request by Qwest Communications Corporation for	

<p>Underground Right-of-Way License for facilities at Darden Towe Park.</p> <ul style="list-style-type: none"> • AUTHORIZED the County Executive to execute the Underground Right-of-Way License Agreement for Darden Towe Park requested by Qwest Communications Corporation after approval to both form and substance by the County Attorney. 	<p><u>County Attorney's office:</u> Provide Clerk with copy of fully executed document.</p>
<p>6.2 Approve and Authorize Sublease with the University of Virginia for new Ivy Fire Station.</p> <ul style="list-style-type: none"> • APPROVED the Deed of Sublease for the new Ivy Fire Station and AUTHORIZED the County Executive to sign the Sublease and associated documents after approval to both form and substance by the County Attorney. 	<p><u>County Attorney's office:</u> Provide Clerk with copy of fully executed document.</p>
<p>6.3 Request from the Reentry Steering Committee to Underwrite the 2011 Prisoner Re-Entry Summit.</p> <ul style="list-style-type: none"> • AUTHORIZED the appropriation of \$3,000 from the FY2011 Board Reserve fund to fund the 2011 Prisoner Reentry Summit to be held in April 2011. 	<p><u>OMB:</u> Proceed as approved.</p>
<p>6.4 Fiscal Year 2011 County of Albemarle and State Health Department Local Government Agreement.</p> <ul style="list-style-type: none"> • APPROVED the Fiscal Year 2011 County of Albemarle & State Health Department Local Government Agreement and AUTHORIZED the County Executive to execute that Agreement. APPROVED reallocating \$20,431 previously designated as local matching funds to the TJHD's food safety program; however, the TJHD's total appropriation shall remain \$551,444 for FY11. 	<p><u>OMB/Finance:</u> Proceed as approved.</p> <p><u>County Attorney's office:</u> Provide Clerk with copy of fully executed document.</p>
<p>7. <u>Public Hearing: SP-2010-00020. Century Link Verizon Wireless Tier III PWSF (Signs #50&52).</u></p> <ul style="list-style-type: none"> • APPROVED SP-2010-00020, by a vote of 6:0, subject to nine conditions. 	<p><u>Clerk:</u> Set out conditions of approval. (Attachment 1)</p>
<p>8. <u>Public Hearing: SP-2010-00027. Nichols/Peck Crossing (Sign #5).</u></p> <ul style="list-style-type: none"> • APPROVED SP-2010-00027, by a vote of 6:0, subject to five conditions. 	<p><u>Clerk:</u> Set out conditions of approval. (Attachment 1)</p>
<p>9. <u>Public Hearing: SP-2010-00033. Four Seasons Learning Center (Signs #73&74).</u></p> <ul style="list-style-type: none"> • APPROVED SP-2010-00033, by a vote of 6:0, subject to 11 conditions. 	<p><u>Clerk:</u> Set out conditions of approval. (Attachment 1)</p>
<p>10. <u>Public Hearing: SP-2010-00048. Music Festival (Sign #75).</u></p> <ul style="list-style-type: none"> • APPROVED SP-2010-00048, by a vote of 6:0, subject to 16 conditions. 	<p><u>Clerk:</u> Set out conditions of approval. (Attachment 1)</p>
<p>11. <u>Public Hearing: SP-2010-00043. Brown Collision Center (Sign #6).</u></p> <ul style="list-style-type: none"> • APPROVED SP-2010-00043, by a vote of 6:0, subject to three conditions. 	<p><u>Clerk:</u> Set out conditions of approval. (Attachment 1)</p>
<p>12. <u>Public Hearing: ZTA-2010-00008. Farm Winery Outdoor Amplified Music.</u></p> <ul style="list-style-type: none"> • ADOPTED, by a vote of 6:0, the attached ordinance. 	<p><u>Clerk:</u> Forward copy of signed ordinance to County Attorney's office and Community Development. (Attachment 2)</p>
<p>13. From the Board: Matters not Listed on the Agenda.</p> <ul style="list-style-type: none"> • There were none. 	

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| 14. Adjourn. <ul style="list-style-type: none">• The meeting was adjourned at 10:10 p.m. | |
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/ewj

Attachment 1 – Conditions of Approval on Planning items

Attachment 2 – Ordinance - Farm Winery Outdoor Amplified Music

CONDITIONS OF APPROVAL

SP-2010-00020. Century Link Verizon Wireless Tier III PWSF (Signs #50&52).

1. The tower shall not be increased in height;
2. All antennae, dishes and their replacements attached to the tower shall be used for personal wireless service providers;
3. Not more than six (6) satellite or microwave dishes may be attached to the tower at one time, and only as follows:
 - a. The existing six (6) foot diameter grid dish that is subject to this request may be replaced by the specified six (6) foot diameter High Performance dish at a height that is not more than 95.5 feet;
 - b. Other existing satellite and microwave dishes may be replaced on the tower by the same type of dish, provided that the diameter of the replacement dish does not exceed the diameter of the dish being removed, and the color of the replacement dish matches the tower;
 - c. Other existing satellite and microwave dishes may be replaced on the tower by a different type of dish if the mounting height is not more than one (1) foot above that of the dish being removed. The lowest microwave dish located at a height of forty-six (46) feet above ground level can be replaced and mounted at not more than twenty-nine (29) feet above its current location on the tower. The diameter of the replacement dish does not exceed that of the dish being removed, and the color of the replacement dish matches the tower;
 - d. Other existing satellite and microwave dishes may be replaced by a different type of dish if the proposed mounting height of the replacement dish does not satisfy the height requirements of condition 4c with the written approval of the Zoning Administrator. This approval shall only be granted after the submission of a microwave path survey indicating that the proposed replacement dish will be mounted at the lowest possible height that allows the system to function. In such a case, the path survey shall demonstrate the reason(s) why the proposed height is the lowest possible height;
 - e. All replacement satellite or microwave dishes shall be mounted as close to the face of the pole as structurally and mechanically possible and, in no case, shall the distance between the back of the dish and the face of the pole be greater than eighteen (18) inches; and
 - f. Prior to the issuance of a building permit for replacing a dish, the applicant shall provide engineered drawings demonstrating the dimensions of the existing dish to be removed and its replacement dish, and additional information demonstrating the mounting distance between the pole and the dish to the Department of Building Code and Zoning Services.
4. The current owner and any subsequent owners shall submit a report to the Zoning Administrator once (1) per year, by not later than July 1 of that year. The report shall identify each user of the tower and that each user is a personal wireless communications service provider;
5. The permittee shall comply with Section 5.1.12c of the Zoning Ordinance; and
6. The facility shall be disassembled and removed from the site within ninety (90) days of the date its use for personal wireless communications services purposes is discontinued. If the Zoning Administrator determines at any time that surety is required to guarantee that the facility will be removed as required, the permittee shall furnish to the Zoning Administrator a certified check, a bond with surety satisfactory to the County, or a letter of credit satisfactory to the County, in an amount sufficient for, and conditioned upon, the removal of the facility. The type of surety guarantee shall be to the satisfaction of the Zoning Administrator and the County Attorney.
7. All work shall be done in general accord with what is described in the applicant's request and site construction plans, entitled "Collocate Monopole Tower", with an issued elevation view drawing submittal date of 10/15/2010; and
8. The following shall be submitted to the agent after installation of the antenna and microwave dishes is completed and prior to issuance of a certificate of occupancy: (i) certification by a registered surveyor

stating the height of the antenna and microwave dishes, measured both in feet above ground level and in elevation above mean sea level, using the benchmarks or reference datum identified.

SP-2010-0027. Nichols/Peck Crossing (Sign #5).

1. The applicant shall obtain approval from FEMA for changes to the floodplain, and update the FEMA maps;
2. The applicant shall obtain County Engineer approval of plans for the bridges and abutments;
3. The applicant shall obtain Program Authority approval for an erosion and sediment control plan, and obtain a land disturbance permit according to the Water Protection Ordinance requirements, regardless of whether the project exceeds the minimum disturbance limits;
4. The applicant shall obtain all necessary federal and state agency approvals prior to construction (Army Corps of Engineers, Department of Environmental Quality, etc.); and
5. The applicant shall obtain Program Authority approval of a mitigation plan, and provide mitigation according to the Water Protection Ordinance.

SP-2010-00033. Four Seasons Learning Center (Signs #73&74).

1. This permit is approved for an office or nursery school and day-care center. The concurrent use of the property for a nursery school/day care center and an office use is prohibited;
2. The site shall be in general conformity with the Minor Site Plan Amendment dated June 26, 2000 prepared by Aubrey Huffman, approved July 18, 2000 by the Department of Planning and Community Development and later approved by Letter of Revision dated December 5, 2000 with the exception that thirteen (13) parking spaces are required and are provided on-site and on the allowable street frontage of the site. There shall be one (1) business sign located as shown on the Minor Site Plan Amendment which shall not exceed eight (8) square feet in size;

Conditions #3 – #7 below apply to the nursery school and day-care center:

3. The number of children occupying the nursery school and day care center shall not exceed fifty-four (54) or the number approved by the Department of Social Services, whichever is less, at any time;
4. A minimum twenty (20) foot separation between the building and the property line of TMP 61X1-AA-8 shall be maintained;
5. The concurrent use of the property for a nursery/day care center and a residential use is prohibited;
6. All employees of the day care center, including owners and directors, shall park on-site or in other off-street spaces approved by the Zoning Administrator;
7. The maximum number of employees, including owners and directors, on-site during hours of operation shall be limited to eight (8);

Conditions #8 - #10 below apply to use of facility as offices:

8. The maximum number of employees shall be ten (10);
9. A minimum twenty (20) foot separation between the building and the property line of TMP 61X1-AA-8 shall be maintained;
10. The concurrent use of the property for an office and a residential use is prohibited;

Condition #11 below applies to any use of the property:

11. The small evergreen tree on the Four Seasons Drive frontage at the corner of the parking shall be relocated toward the building, as recommended by VDOT, a sufficient distance to prevent future line-of-sight problems.

SP-2010-00048. Music Festival (Sign #75).

1. The use shall conform to any existing applicable special use permits, including but not limited to SP-1994-30, whose terms are hereby incorporated by reference;
2. Development of the use shall be in conformity with the Concept Plan entitled Misty Mountain Camp Resort SP-2009-16 Music Festival, prepared by Albemarle County Office of Geographic Data Services, and signed by Mike Leo and dated August 6, 2009, (hereinafter, the "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator;

To be in conformity with the plan, development shall reflect the following central features within the development essential to the design of the development:

- location of temporary parking areas 1, 2, and 3
- location of temporary stage

All activities related to the music festival shall take place within the area of the site bound by the Rockfish Gap Turnpike, Misty Mountain Road, Stockton Creek and the western parcel boundary. Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance;

3. A music festival special event shall be permitted once every twelve (12) month period, for a maximum of three (3) consecutive days consisting of one (1) week day and two (2) weekend days. Any increase in the number of special events shall require an amendment to this special use permit;
4. A maximum of fifteen (15) vendors shall be allowed to operate on any given day during the music festival;
5. Written approval from the Police Department, Fire and Rescue, and the Health Department shall be required each year prior to the issuance of a zoning clearance to allow the special event use;
6. No tree removal, grading, or disturbance shall take place within the driplines of the trees as shown on the Concept Plan prepared by Mike Leo, and dated March 25, 2009. Any grading or disturbance within ten (10) feet of any dripline shall necessitate submittal of a "Tree Protection Plan" in accord with section 32.7.9.4 of the Zoning Ordinance. No grading or disturbance within ten (10) feet of any dripline shall be permitted until: a) a survey and fencing have been completed and b) the Planning Director approves a plan which shows the grading or disturbance and the surveyed dripline of the existing trees;
7. Hours of operation for the music event shall be between 12:00 p.m. and 10:00 p.m.;
8. Off-site parking shall not be permitted except in authorized parking lots from which people are transported to the special event by shuttle or comparable vehicles;
9. The maximum number of people allowed on the site for the special event on each day shall not exceed five hundred (500) persons;
10. The maximum number of vehicles allowed to be parked on the site for the special event on each day shall not exceed two hundred twenty four (224);
11. A minimum of twenty (20) private security, parking, and traffic control staff members shall be required on site each day of the music festival;
12. Overnight camping outside the designated camping areas shall be prohibited;

13. All outdoor lighting shall be only full cut-off fixtures and shielded to reflect light away from all abutting properties. A lighting plan limiting light levels at all property lines to no greater than 0.3 foot candles shall be submitted to the Zoning Administrator or their designee for approval;
14. The maximum level of noise shall not exceed sixty-five (65) dBA as measured from an adjacent property;
15. The applicant shall reseed and restore the parking area site(s) as required by the zoning administrator within thirty (30) days of the last day of the special event; and
16. The site shall be restored and cleared of all trash, debris, and temporary structures associated with the special event within two (2) days after the final day of the special event.

SP-2010-00043. Brown Collision Center (Sign #6).

1. There shall be no storage of parts, materials or equipment except within an enclosed building;
2. No vehicle awaiting repair shall be located on any portion of the property so as to be visible from any public road or any residential property, and shall be limited to locations designated on the approved site plan; and
3. The site plan (SDP2010-62, Sheet 1 of 1, dated 8/2/10, and prepared by Daggett & Grigg Architects) shall be amended with a Letter of Revision to update the parking space labels and to show all of the previously approved/required landscaping on the plan, and to show the relocated area where vehicles awaiting repair are kept from public view.

ORDINANCE NO. 11-18(3)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE II, BASIC REGULATIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article II, Basic Regulations, is hereby amended and reordained as follows:

By Amending:

Sec. 5.1.25 Farm winery

Chapter 18. Zoning

Article II. Basic Regulations

Sec. 5.1.25 Farm winery

Each farm winery shall be subject to the following:

- a. *Uses permitted.* The following uses, events and activities (hereinafter, collectively, “uses”) are permitted at a farm winery:
 - 1. The production and harvesting of fruit and other agricultural products and the manufacturing of wine including, but not limited to, activities related to the production of the agricultural products used in wine, including but not limited to, growing, planting and harvesting the agricultural products and the use of equipment for those activities.
 - 2. The sale, tasting, including barrel tastings, or consumption of wine within the normal course of business of the farm winery.
 - 3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title 4.1 of the Virginia Code and the regulations of the Alcoholic Beverage Control Board.
 - 4. The sale and shipment of wine to the Alcoholic Beverage Control Board, licensed wholesalers, and out-of-state purchasers in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.
 - 5. The storage, warehousing, and wholesaling of wine in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.
 - 6. Private personal gatherings of a farm winery owner who resides at the farm winery or on property adjacent thereto that is owned or controlled by the owner, provided that wine is not sold or marketed and for which no consideration is received by the farm winery or its agents.
- b. *Agritourism uses or wine sales related uses.* The following uses are permitted at a farm winery, provided they are related to agritourism or wine sales:
 - 1. Exhibits, museums, and historical segments related to wine or to the farm winery.
 - 2. Farm winery events at which not more than two hundred (200) persons are in attendance at any time.

3. Guest winemakers and trade accommodations of invited guests at a farm winery owner's private residence at the farm winery.
 4. Hayrides.
 5. Kitchen and catering activities related to a use at the farm winery.
 6. Picnics, either self-provided or available to be purchased at the farm winery.
 7. Providing finger foods, soups and appetizers for visitors.
 8. Sale of wine-related items that are incidental to the sale of wine including, but not limited to the sale of incidental gifts such as cork screws, wine glasses, and t-shirts.
 9. Tours of the farm winery, including the vineyard.
 10. Weddings and wedding receptions at which not more than two hundred (200) persons are in attendance at any time.
 11. Other uses not expressly authorized that are agritourism uses or are wine sales related uses, which are determined by the zoning administrator to be usual and customary uses at farm wineries throughout the Commonwealth, which do not create a substantial impact on the health, safety or welfare of the public, and at which not more than two hundred (200) persons are in attendance at any time.
- c. *Agritourism uses or wine sales related uses; more than 200 person at any time; special use permit.* The following uses, at which more than two hundred (200) persons will be allowed to attend at any time, are permitted at a farm winery with a special use permit, provided they are related to agritourism or wine sales:
1. Farm winery events.
 2. Weddings and wedding receptions.
 3. Other uses not expressly authorized that are agritourism uses or wine sales related uses which are determined by the zoning administrator to be usual and customary uses at farm wineries throughout the Commonwealth.
- d. *Information and sketch plan to be submitted with application for a special use permit.* In addition to any information required to be submitted with an application for a special use permit under section 31.6.2, each application for one or more uses authorized under section 5.1.25(c) shall include the following:
1. *Information.* Information pertaining to the following: (i) the proposed uses; (ii) the maximum number of persons who will attend each use at any given time; (iii) the frequency and duration of the uses; (iv) the provision of on-site parking; (v) the location, height and lumens of outdoor lighting for each use; and (vi) the location of any stage, structure or other place where music will be performed.
 2. *Sketch plan.* A sketch plan, which shall be a schematic drawing of the site with notes in a form and of a scale approved by the director of planning depicting: (i) all structures that would be used for the uses; (ii) how access, on-site parking, outdoor lighting, signage and minimum yards will be provided in compliance with this chapter; and (iii) how potential adverse impacts to adjoining property will be mitigated so they are not substantial.

- e. *Sound from outdoor amplified music.* Sound generated by outdoor amplified music shall be subject to section 4.18, shall not exceed the applicable maximum sound levels in section 4.18.04, and shall not be deemed to be an exempt sound under section 4.18.05(J).
- f. *Yards.* Notwithstanding any other provision of this chapter, the minimum front, side and rear yard requirements in section 10.4 shall apply to all primary and accessory structures established after May 5, 2010 and to all tents, off-street parking areas and portable toilets used in whole or in part to serve any use permitted at a farm winery, provided that the zoning administrator may reduce the minimum required yard upon finding that: (i) there is no detriment to the abutting lot; (ii) there is no harm to the public health, safety or welfare; and (iii) written consent has been provided by the owner of the abutting lot consenting to the reduction.
- g. *Uses prohibited.* The following uses are prohibited:
 - 1. Restaurants.
 - 2. Helicopter rides.

(§ 5.1.25, 12-16-81, 1-1-84; Ord. 98-20(1), 4-1-98; Ord. 01-18(6), 10-3-01; Ord. 10-18(3), 5-5-10)