

VIRGINIA:

At a recessed meeting of the Board of Supervisors of the County of Northampton, Virginia, held at the Board Room of the County Administration Building, 16404 Courthouse Road, Eastville, Virginia, on the 24th day of August, 2015, at 5:00 p.m.

Present:

Richard L. Hubbard, Chairman

Oliver H. Bennett, Vice Chairman

Larry LeMond

Laurence J. Trala

Granville F. Hogg, Jr.

The meeting was called to order by the Chairman.

Mr. Hogg arrived at 5:06 p.m.

County Administrator's Report:

Continued Zoning Ordinance Discussions (items #1 - #9 as listed below)

1. Mapping Issues
2. Poultry Items from Mr. Hogg
3. 15% Lot Coverage
4. FLUM
5. Town Edge Comparison Chart
6. Definitions
7. Agritourism
8. PUD
9. Chesapeake Bay Preservation Act Study

Mr. Peter Stith, Long-Range Planner, and Ms. Melissa Kellam, Zoning Administrator, led the Board through a discussion through the memorandum as shown below:

Board Review of 2015 YTD Public Comments on Proposed Zoning Code Update for August 24th 2015 Work Session

The following provides staff background on summarized issues brought forward by members of the public during the past few months since the Board completed its last review (July 27) and update of language in the draft zoning code.

(Agenda Item #1)

Item # 7: Other Mapping Issues (Follow up from previous work sessions)

Request from Mary Jane Dodson (comment #118) to zone parcels 13-23-1, 2 and 3 Agriculture and not R-5. This request was reviewed by the Board in the fall of 2014 and it was the consensus of the Board to leave these three parcels as R-5. The Board vote was split 2-2 at the June 29th work session.



It was the consensus of the Board that the three parcels in question be zoned
“Agriculture”.

Town Edge

Staff is recommending several mapping changes to the Town Edge maps presented at the June work session. The first parcel is in Exmore. Part of tax parcel 10-A-76A is located in the County and was shown as “R” on the maps provided at the June work session (map left below). Staff is recommending changing this to Town Edge as shown on the right (map right below).

June Map:



Recommended Change:

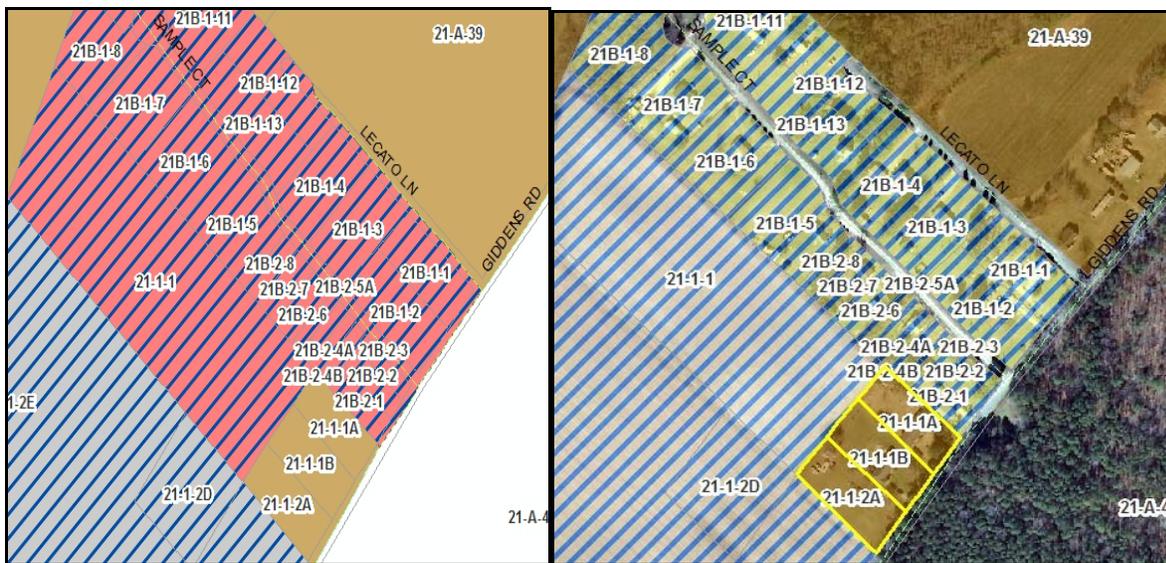


It was the consensus of the Board that the portion of parcel 10-A-76A as identified above be zoned “Town Edge”.

The second area is located on Giddens Road south of Nassawadox. These three lots (21-1-2A, 21-1-2B and 21-1-1A) were originally proposed to be R-1 and were changed to Town Edge at the June 29th meeting. The current zoning for this area is shown on the left and these three parcels are currently zoned Town Edge-1 with Existing subdivision districts on either side. These three parcels range from 0.47 - 0.55 acres in size. Staff is recommending changing these parcels back to R-1.

Current Zoning

Consensus Zoning



It was the consensus of the Board that the three lots as identified above be zoned R-1.

The third area is parcel 58A1-A-60C and is split zoned with the majority of it in the town of Eastville and a sliver of it proposed as R. Staff recommends designating the area inside the county as Town Edge.



It was the consensus of the Board that the portion of the parcel identified as tax map 58A1-A-60C as noted above be zoned “Town Edge”

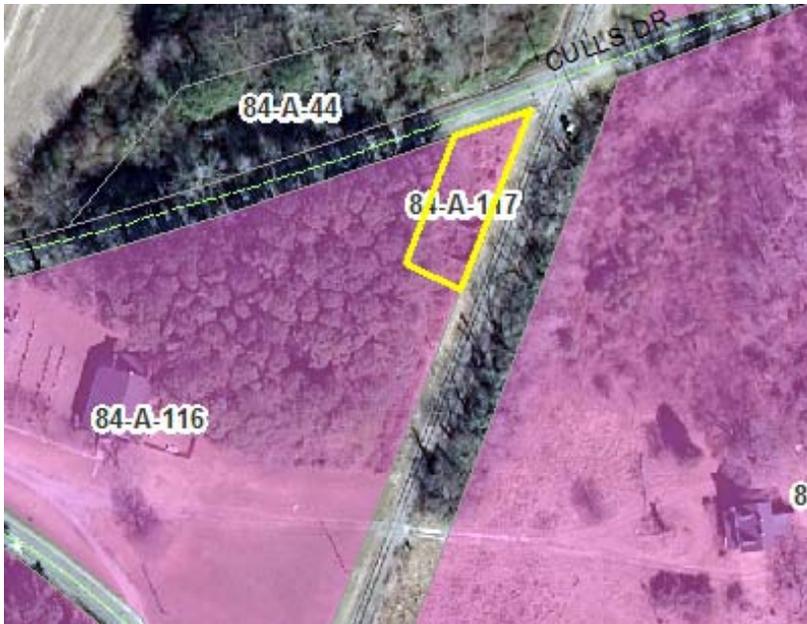
The next area is south of Eastville. Parcel 58A1-A-17 is also split zoned with part of it in Eastville and part in the county. The part of it located in the county is proposed to be zoned R. Staff recommends changing this designation to Town Edge. Parcel 58A1-A-82 is split zoned with part of it proposed to be R and part proposed to be Town Edge. Staff recommends designating the entire parcel as Town Edge.



It was the consensus of the Board that the entirety of both parcels as identified above be zoned “Town Edge”.

The final area is in Cheriton. Parcel 84-A-117 is located adjacent to Holmes Presbyterian Church which was changed to Hamlet at the July work session. Staff recommends designating this parcel Hamlet also.

Staff Recommendation:



It was the consensus of the Board that parcel 84-A-117 as identified above be zoned “Hamlet”.

(Agenda Item #2)

Poultry Items from Mr. Hogg

Mr. Hogg had previously provided via e-mail a list of questions relative to parcels identified for poultry operations, including identification of the nine parcels where chicken houses could be placed; the configuration and site layout used in the model to determine site availability/capability; and percentage of impervious surfaces. A spreadsheet detailing fourteen parcels with area available for intensive farming operations (although two already have conservation easements in place and one parcel no longer meets the required setbacks due to Hamlet district setbacks). Aerial maps of each identified parcel with possible location of the maximum number of 60 ft. x 600 ft. poultry houses were also provided. All of these documents are on file in the Office of the County Administrator. Mr. Stith had also prepared a new spreadsheet illustrating the maximum number of 60 ft. x 660 ft. poultry homes which could be located on each of the 14 targeted properties.

Mr. Hogg asked several questions of staff and referenced several studies on this matter which he requested be provided to the full membership of the Board.

Chairman Hubbard asked if the Board wished to consider developing prevailing wind standards or setbacks from schools and suggested inviting a representative from the Delmarva Poultry Industry to address the Board. It was the consensus of the Board to set up this meeting as soon as possible.

(Agenda Item #3)

15% Lot Coverage

Item #8: Impervious Lot Coverage – Stormwater Management

The Board of Supervisors, at their July 27, 2015 work session, requested additional information

on current, proposed and consensus regulations relating to impervious lot coverage and stormwater management. This information is presented below.

Consensus Issue – Should the Board remove lot coverage maximums from the zoning code?

At the Board of Supervisor’s meeting July 10, 2012, staff was directed by the Board to conduct an analysis and review of all Northampton County (NHCO) ordinances that may contain more restrictive provisions than are required by the State standards. During staff’s analysis and review of current 2009 Zoning Code, staff proposed the removal of the lot coverage maximums because of the impending and the subsequent adoption of the 2014 Stormwater Management Program Regulations on July 1, 2014. Staff presented to the Board the removal of lot coverage maximums in the proposed 2013 NHCO Zoning Code.

The current lot coverage maximums range from 2% to 75% depending upon the zoning district designation of a property (Attachment 1).

The new 2014 Stormwater Management Program Regulations have established runoff volumes and infiltration rates that address water quality and water quantity development impact by using environmental site design techniques along with runoff reduction methods to design best management practices (Attachment 2) which reduce runoff and increase infiltration. The reduction of impervious surfaces are key principles used to achieve compliance with these regulations. This comprehensive and enhanced approach to stormwater management is different from the previous stormwater management regulations which used methods designed to store and release stormwater away from the development site at controlled rates. The previous stormwater management program regulations did not rely on the reduction of impervious surfaces to reduce runoff volumes and increase infiltration.

Compliance with the new 2014 Stormwater Management Program Regulations can only be achieved when the reduction of impervious surfaces is used as a tool to meet the required runoff reduction and infiltration standards. The goal to limit impervious surfaces by the current lot coverage maximums is also achieved with the techniques and methods used in the 2014 Stormwater Management Program Regulations that reduce impervious surfaces, therefore, staff presented the removal of these lot coverage maximums in the proposed 2013 Zoning Code in alignment with the July 10, 2012 directive by the Board.

Current 2009 Zoning Code

Single-family Development

Involving 2,500 square feet or more, but less than 1 acre of land disturbance.

IMPERVIOUS SURFACE REGULATIONS:

- Lot Coverage

Currently impervious surfaces are limited by regulations.

*Exempt from Stormwater.

Other Development

Commercial, Industrial & Chicken Houses involving greater than 2,500 square feet of land disturbance,

and

Single-family Development

Involving 1 acre or more of land disturbance.

IMPERVIOUS SURFACE REGULATIONS:

- Lot Coverage
- Stormwater

Currently impervious surfaces are limited by overlapping regulations.

Proposed 2013 Zoning Code

Single-family Development

Involving 2,500 square feet or more, but less than 1 acre of land disturbance.

IMPERVIOUS SURFACE REGULATIONS:

- None

Proposed 2013 Zoning Code would not limit impervious surfaces, but this gap is addressed – see the consensus language below.

Other Development

Commercial, Industrial & Chicken Houses involving greater than 2,500 square feet of land disturbance,

and

Single-family Development

Involving 1 acre or more of land disturbance.

IMPERVIOUS SURFACE REGULATIONS:

- Stormwater

2014 Stormwater Management Program Regulations would limit impervious surfaces.

It was the consensus of the Board to maintain its June 2015 consensus position and remove the lot coverage maximums.

Consensus issue – Should the Board provide stormwater regulations for single-family involving 2,500 square feet or greater, but less than 1 acre of land disturbance which the State has exempted?

During the Board’s review of the proposed 2013 Zoning Code and subsequent development of revisions to this document called the draft 2014 Consensus Zoning Code, the Board was made aware of language added to the new 2014 Stormwater Management Program Regulations at the last moment prior to its adoption on July 1, 2014 which exempted (Attachment 3) single-family residences separately built and disturbing less than one acre of land and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures, however the 2014 Stormwater Management Act states, “localities subject to the provisions of the Chesapeake Bay Preservation Act may regulate these single-family residences where the land disturbance exceeds 2,500 square feet”. The State has given NHCO a choice whether or not they wish to regulation stormwater management in their Chesapeake Bay Act regulations for single-family land disturbance involving 2,500 square feet or more, but less than one acre. By regulating stormwater management on these single-family land disturbing activities the NHCO regulations would be more restrictive than the state, but the state is providing for each locality to make this decision. At the June 29, 2015 work session the Board agreed by consensus to propose regulations in the NHCO Bay Act ordinance to regulated stormwater management on these exempted single-family land disturbance activities by including the following language in NHCO’s Bay Act ordinance:

“except that single-family residences separately building and disturbing less than one acre and not part of a larger plan of development or sale, including additions or modifications to existing single-family detached residential structures shall be exempted as long as when this development or redevelopment exceeds 16% lot coverage, a best management practice (BMP) mitigating for the percentage exceeding 16% shall be installed on the same lot as the development or redevelopment. Completion of such BMP installation shall be required before the issuance of a certification of occupancy, letter of completion or passing final inspection.”

This language comes from the previous stormwater management program regulations handbook worksheet 1 first edition 1999 (Attachment 4). This worksheet establishes a threshold of 16%. If the development is 16% or greater, a best management practice must be implement to address development impacts. The 16% threshold regulation was a standard historically used from the previous stormwater management regulations incorporated in the NHCO Bay Act ordinance by reference which has not been used since July 1, 2015. The 16% threshold was a separate regulation and was in addition to the maximum lot coverage regulations currently in the 2009 Zoning Code. Staff is recommending that the historical 16% threshold language be used to regulate impervious surfaces on the single-family land disturbance activities that have be exempted by State because it is a standard that was developed as part of the initial Bay Act

Program Regulations to address water quality impacts of development, the standard is already very familiar to the NHCO developers involved in the construction of single-family homes and is enforceable through the NHCO's existing development process. The proposed 16% threshold consensus language would provide for limits on impervious surfaces that were historically in place with the previous stormwater regulations, but would no longer exist for this one specific single-family land disturbance activity if the lot coverages were removed for the 2009 Zoning Code.

Current 2009 Zoning Code

Single-family Development
Involving 2,500 square feet or more, but less than 1 acre of land disturbance.

IMPERVIOUS SURFACE REGULATIONS:

- Lot Coverage

Currently impervious surfaces are limited by regulations.
*Exempt from Stormwater.

Other Development
Commercial, Industrial & Chicken Houses involving greater than 2,500 square feet of land disturbance,
and

Single-family Development
Involving 1 acre or more of land disturbance.

IMPERVIOUS SURFACE REGULATIONS:

- Lot Coverage
- Stormwater

Currently impervious surfaces are limited by overlapping regulations.

**Proposed 2013 Zoning Code
Including Consensus Revisions**

Single-family Development
Involving 2,500 square feet or more, but less than 1 acre of land disturbance.

IMPERVIOUS SURFACE REGULATIONS:

- NHCO Bay Act ordinance

Consensus language is proposed to be added into the NHCO Bay Act ordinance which requires a BMP be installed for lot coverage 16% or more for single-family which is exempt from Stormwater and under the Proposed 2013 Zoning Code will not have lot coverage maximums.

Other Development
Commercial, Industrial & Chicken Houses involving greater than 2,500 square feet of land disturbance,
and

Single-family Development
Involving 1 acre or more of land disturbance.

IMPERVIOUS SURFACE REGULATIONS:

- Stormwater

2014 Stormwater Management Program Regulations would limit impervious surfaces.

It was the consensus of the Board to maintain its June 2015 consensus position and to provide stormwater regulations for single-family development involving 2,500 square feet or greater, but less than 1 acre of land disturbance through the Chesapeake Bay Act ordinance regulations.

All of the attachments referenced above are on file in the Office of the County Administrator.

(Agenda Item #4)

FLUM

Mr. Hogg had previously provided via e-mail a request for a series of maps including the Future Land Use Map as adopted in 2009, the 2009 Zoning Map, and the proposed Zoning Map.

These maps were provided to the Board.

The following memorandum from the County Administrator was shared with the Board:

MEMORANDUM

TO: Board of Supervisors
FROM: Katie H. Nunez, County Administrator
DATE: August 20, 2015

- I.** Supervisor Hogg recently asked for a statement with the “information of the group recommending the change in zoning and a statement reflecting the considerations/rational for the changes within the county but specifically at Bayview”.

The Board of Supervisors, at your meeting of July 10, 2012, directed staff to review all county ordinances, including the zoning ordinance, against state authority and verify that the ordinances are no stricter than provided by state regulations. I have attached a copy of the memorandum that was sent to all County departments regarding that Board directive.

The staff presented this initial review (attached is only the Zoning Ordinance Review addressing this specific Board charge) at the Board’s November 20, 2012 meeting and it was scheduled for further discussion and direction by the Board at your February 25, 2013 work session. From that meeting, staff was directed to utilize previous comments from Board members for review of the zoning ordinance, to solicit staff input, and to work with counsel to propose a more streamlined zoning ordinance that was user friendly, easier for a resident or property owner to utilize their property, examine and recommend how to simplify the use charts and limit the SUPs to uses that truly require greater public examination. Since that time, staff has been working under that Board direction in the development of a proposed ordinance for the Board’s consideration. The proposed zoning maps have been provided to the Board of Supervisors, the Planning Commission, mailed to every property owner, available on the County website and included in the Eastern Shore News as a legal advertisement.

The proposed zoning ordinance is not a staff initiative but it is a Board of Supervisors’ initiative.

- II.** In addition, Mr. Hogg posed several questions regarding the individual or group that generated the Proposed Future Land Use Map and who has reviewed said map. I am not clear which map he is referring to. The County has an adopted Future Land Use Map (FLUM) which is part of the 2009 Comprehensive Plan. This FLUM was developed by Planning & Zoning Staff, the Planning Commission, and the Citizens Advisory Committee which was created to assist with the now adopted 2009 Comprehensive Plan. It was and is available on the County website, multiple legal notices were placed in the

Eastern Shore News and the map was mailed to every property owner in the County pursuant to Code of Virginia §15.2-2225 and 15.2-2204. The FLUM (& Comprehensive Plan) were adopted by the Board of Supervisors, pursuant to Code of Virginia §15.2-2226.

Mr. Hogg may be referring to proposed zoning maps and they have been developed as part of the Board's directive from July 10, 2012.

While the Planning Commission is undertaking a review of the Comprehensive Plan which will include a review of the Future Land Use Map, I do not believe that any proposed Future Land Use Map has been forwarded from the Planning Commission to the Board of Supervisors at this time.

- III.** Lastly, Mr. Hogg asked who composed the staff report regarding the PUD that was included in the 7/27/2015 Board agenda packet. Generally, when multiple individuals are consulted on matters and a staff report is developed, it does not list a singular author but is the result of several staff members discussing the matter. This is the case in point for this particular report. As indicated at the 7/27/2015 Board meeting, counsel did not review the staff report before it was included in the agenda packet. Counsel will be in attendance at our August 24, 2015 meeting to answer any question you may have regarding the proposed PUD language.

* * * * *

Mr. Hogg said that there appears to be a major increase in the density of the village districts. Ms. Nunez noted that district densities have been reviewed by the Board and if the Board has questions or wishes to review those densities again, it needs to bring that matter back to the table for review. All of the Supervisors other than Mr. Hogg indicated that consensus had already been reached with regard to the density charts and they did not see the need to revisit that topic again.

Mr. Hogg said that he was not in favor of allowing accessory dwelling units by right and it was the consensus of the Board to review the proposed Section 154.1-309 Performance Standards for Accessory Dwellings and Additional Single Family Dwellings on One Lot.

(Agenda Item #5)

Town Edge Comparison Chart

An 11-page chart comparing all uses in the current Town Edge zoning district with the proposed Town Edge zoning district was provided to the Board. Additionally, a two-part “Appendix B – Densities, Lot Sizes and Dimensions” chart, showing the comparison between the current Town Edge zoning district and the proposed Town Edge zoning district was also provided. These documents are on file in the Office of the County Administrator.

Board consensus votes are shown below for the items that were flagged by staff as needing additional Board input:

Page 1, items #7 (Greenhouse sales, retail with outdoor storage and accessory goods/services); and #8 (Greenhouse sales, wholesale with outdoor storage). These uses will be allowed in the proposed Town Edge zoning district with a special use permit. A new category must be created to fit these two uses.

Page 1, items #11 (Irrigation pond, excavated/impounded); and #12 (irrigation well [over 300,000 gallons]). These uses will not be allowed in the proposed Town Edge zoning district.

Page 1, item #20 (packing shed, commercial). This use will be allowed with a special use permit.

Page 3, item #7 (appliance repair shop – no outside storage). This use will not be allowed.

Page 3, item #21 (bed and breakfast). This use will be allowed in the proposed Town Edge zoning district and permitted as a “Bed and Breakfast”.

Page 5, item #16 (museums, public or commercial, with accessory goods/services): This use will not be permitted in the proposed Town Edge zoning district.

Page 6, item #32 (telecommunications facilities – radio, tv, microwave, cellular telephone

antennas and towers): This use will be allowed with a special use permit.

Page 6, item #34 (waste collection center, public [local government operated]): A new use category will be created for this and it will be allowed by right.

Page 7, item #29 (fertilizer blending and distribution), and item #30 (fertilizer/pesticide bulk storage for wholesale): These two uses are proposed to be allowed in the Town Edge zoning district and permitted as “Agriculture support business”; however, upon questions by the Board, it was the consensus that staff analyze all of the “Agriculture support business” uses to see if this category needs to be split into two groups or possibly all such uses should be allowed with a special use permit.

Page 8, item #19 (fish packing houses [with no processing]): This use is proposed to be allowed in the Town Edge zoning district and permitted as “Fishing, commercial”. It was the consensus of the Board that all uses permitted as “Fishing, commercial” allowed in the Town Edge zoning district should be through a special use permit.

(Agenda Item #6)

Definitions

New Item - Definition Review

At the request of the Board, staff is providing a review of the following general use definitions to determine in what zoning districts these general uses have been designated in the draft 2014 Consensus Zoning Code and how the specific use "gas station" relates to these general use definitions.

1. Commercial services. A business use that renders services to other businesses, groups and individuals on a fee or contract basis such as, but not limited to, building systems, laundries, copy shops, printing services, package and postal services, photo processing, janitorial services, and similar uses. Commercial services shall not include vehicle services. Each district may be further restrict this use by size and / or design.

This general use category would not permit the specific use “gas station”.

2. Sales, retail convenience. Any retail establishment offering for sale a limited line of groceries and household items intended for the convenience of the neighborhood. An accessory use may include **the sale of fuel**. Each district may be further restrict this use by size and / or design.

This general use category would permit the specific use “gas station” but limited to the sale of fuel. It would not permit any other servicing of vehicles.

3. Sales, retail general. Establishments that are **retail operations** that carry an assortment of merchandise from **all the other categories**. Such establishments may include but are not limited to department store, discount store, farm store, and similar establishments. Each district may be further restrict this use by size and / or design.

This general use category would permit the specific use “gas station” but limited to sales related to vehicles. It would not permit any servicing of vehicles.

4. Vehicle services. A business whose primary function is the **service and repair of vehicles**. Each district may be further restrict this use by size and / or design.

This general use category would permit the specific use “gas station” and other vehicle services.

It was the consensus of the Board to approve the four definitions as noted above.

Additionally, two days’ previous, Mr. Hogg had provided three pages’ of other definitional concerns. There was insufficient time for staff review and given the lateness of the hour, this matter will be added to the next zoning work session.

(Agenda Item #8)

Agritourism

It was noted that the Planning Commission has finished its review of the Agritourism legislation and has provided language for the Board to consider as presented in the following memorandum:

MEMORANDUM

TO: Northampton County Board of Supervisors
FROM: Peter Stith, AICP

Long-Range Planner

SUBJECT: Planning Commission recommendation on Agritourism

DATE: July 22, 2015

The Planning Commission has completed its review of the agritourism language in response to the memo dated September 23, 2014. The Commission has reviewed the state legislation adopted in 2014 and proposed new language for insertion into the Northampton County Zoning Ordinance. In addition to the state code, the commission also reviewed a publication by the Virginia Cooperative Extension and text from the Virginia Beach code on Agritourism, both of which are included in this packet as background information. The pertinent state code sections are below as well as the proposed language for the Board's consideration.

VA CODE SECTIONS:

§ 15.2-2288.6. Agricultural operations; local regulation of certain activities.

A. No locality shall regulate the carrying out of any of the following activities at an agricultural operation, as defined in § 3.2-300, unless there is a substantial impact on the health, safety, or general welfare of the public:

- 1. Agritourism activities as defined in § 3.2-6400;*
- 2. The sale of agricultural or silvicultural products, or the sale of agricultural-related or silvicultural-related items incidental to the agricultural operation;*
- 3. The preparation, processing, or sale of food products in compliance with subdivisions A 3, 4, and 5 of § 3.2-5130 or related state laws and regulations; or*
- 4. Other activities or events that are usual and customary at Virginia agricultural operations.*

Any local restriction placed on an activity listed in this subsection shall be reasonable and shall take into account the economic impact of the restriction on the agricultural operation and the agricultural nature of the activity.

B. No locality shall require a special exception, administrative permit not required by state law, or special use permit for any activity listed in subsection A on property that is zoned as an agricultural district or classification unless there is a substantial impact on the health, safety, or general welfare of the public.

C. Except regarding the sound generated by outdoor amplified music, no local ordinance regulating the sound generated by any activity listed in subsection A shall be more restrictive than the general noise ordinance of the locality. In permitting outdoor amplified music at an agricultural operation, the locality shall consider the effect on adjoining property owners and

nearby residents.

D. The provisions of this section shall not affect any entity licensed in accordance with Chapter 2 (§ [4.1-200](#) et seq.) of Title 4.1. Nothing in this section shall be construed to affect the provisions of Chapter 3 (§ [3.2-300](#) et seq.) of Title 3.2, to alter the provisions of § [15.2-2288.3](#), or to restrict the authority of any locality under Title 58.1.

2014, cc. [153](#), [494](#).

§ 3.2-300. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agricultural operation" means any operation devoted to the bona fide production of crops, or animals, or fowl including the production of fruits and vegetables of all kinds; meat, dairy, and poultry products; nuts, tobacco, nursery, and floral products; and the production and harvest of products from silviculture activity.

"Production agriculture and silviculture" means the bona fide production or harvesting of agricultural or silvicultural products but shall not include the processing of agricultural or silvicultural products or the above ground application or storage of sewage sludge.

1981, c. 384, §§ [3.1-22.28](#), [3.1-22.29](#); 1991, c. 293; 1994, c. [779](#); 2007, c. [444](#); 2008, c. [860](#).

§ 3.2-6400. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agricultural products" means any livestock, aquaculture, poultry, horticultural, floricultural, viticulture, silvicultural, or other farm crops.

"Agritourism activity" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

"Agritourism professional" means any person who is engaged in the business of providing one or more agritourism activities, whether or not for compensation.

"Farm or ranch" means one or more areas of land used for the production, cultivation, growing, harvesting or processing of agricultural products.

"Inherent risks of agritourism activity" mean those dangers or conditions that are an integral part of an agritourism activity including certain hazards, including surface and subsurface conditions; natural conditions of land, vegetation, and waters; the behavior of wild or domestic

animals; and ordinary dangers of structures or equipment ordinarily used in farming and ranching operations. Inherent risks of agritourism activity also include the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in the agritourism activity.

"Participant" means any person, other than an agritourism professional, who engages in an agritourism activity.

2006, c. [710](#), § 3.1-796.137; 2008, c. [860](#).

PROPOSED ZONING TEXT AMENDMENTS TO COMPLY WITH HB 268 AND HB 1089

1. The following definition are proposed to be added to § 154.003 Definitions.

Agricultural operation. Any operation devoted to the bona fide production of crops, or animals, or fowl including the production of fruits and vegetables of all kinds; meat, dairy, and poultry products; nuts, tobacco, nursery, and floral products; and the production and harvest of products from silviculture activity and aquaculture.

Production agriculture, aquaculture and silviculture. The bona fide production or harvesting of agricultural or silvicultural products but shall not include the processing of agricultural or silvicultural products or the above ground application or storage of sewage sludge or disposal of nonagricultural excavation material, waste and debris if the excavation material, waste and debris are not generated on the farm, subject to the provisions of the Virginia Waste Management Act.

Agricultural products. Any livestock, aquaculture, poultry, horticultural, floricultural, viticulture, silvicultural, or other farm crops.

Agricultural-related products. Hand crafted agricultural theme items sold in conjunction with agricultural products and value added agricultural products at a farm market hand crafted by the owners or operators of the agricultural operation. Additional items may be displayed or sold as long as the display of these additional items does not exceed ten percent (10%) of the floor area of the farm market.

Agritourism activity. Any activity carried out and compliant with § 154.117 (A) Standards for certain Agricultural Uses of the NCC on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities, or natural

activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity. An agritourism activity shall not be deemed an agritourism activity solely by the reason of its taking place on a farm or ranch.

Agritourism professional. Any person, including the land owner, who is engaged in the business of providing one or more agritourism activities, whether or not for compensation.

Farm or ranch. One or more areas of land used for the production, cultivation, growing, harvesting or processing of agricultural products.

Farm market. A seasonal or year round business selling agricultural products, value added agricultural products and agricultural-related products from a permanent structure or building.

Farm stand. A seasonal business selling agricultural products and value added agricultural products. A farm stand shall not be a permanent structure or building, shall not be permanently affixed to the ground, shall comply with all applicable building codes and includes structures such as canopy tents and stands. Farm stands shall also include vehicles and mobile carts properly registered and licensed by the Virginia Department of transportation.

Value added agricultural products. Any product that is produced as an incident of an agricultural operation and made using an agricultural product(s) such as honey, maple syrup, breads, jams, jellies, preserves, relishes, juices, cider, milk, ice cream, peanut butter and cheese.

2. The following definition are proposed to be deleted from § 154.003 Definitions.

~~Agricultural products. Any livestock, poultry, horticultural, floricultural, viticulture, silvicultural, or other farm crops.~~

~~Agriculture. The use of land devoted to the bona fide production of crops, animals, or fowl for food or fiber, including the production of fruits and vegetables of all kinds; meat, dairy, and poultry products; nuts, nursery, and floral products; and the production and harvest of products from silviculture and viticulture activity.~~

~~Agritourism. Any activity carried out on an operational farm that allows members of the general public, for recreational, entertainment, or educational purposes, to view or experience rural activities, including, but not limited to, farming, wineries, historical, cultural, or harvest your-own activities, with or without a fee.~~

~~Farm. A parcel of five acres or more which is used for agricultural purposes.~~

3. The following new section is proposed to be added.

§ 154.117 Standards for certain Agricultural uses.

(A) *Minimum standards for agritourism activities shall be as follows:*

- (1) *Agritourism activities associated with an agricultural operation shall be conducted upon an active agricultural operation owned or operated by the agritourism professional.*
 - (2) *Comply with Chapter 98: Noise of the NCC.*
 - (3) *Agritourism activities shall provide recreation, entertainment and education through activities that usually and customarily occur on and are directly associated with Virginia agricultural operations which includes, but are not limited to, the following activities: agricultural museum and displays, barn dances, biking trails, bird watching, micro-breweries, canning produce demonstrations, canoeing, corn mazes, cut flowers (picking, arranging, and planting), cut-your-own Christmas tree and evergreens, farm cooking contests, farm festivals, farm related “how-to” clinics, farm scavenger hunts, farm tours for children and families, farm visits (a day or a week on the farm: living, working, enjoying), fee-fishing pond (fishing, cleaning, and cooking), flower arranging workshops, haunted barns, hay wagon rides, heirloom plant and animal exhibits, herb walks, heritage trails, hiking paths (walking, identifying vegetation, determining a tree’s age, picnicking), historic reenactments (associated with farm life), jam- and jelly-making demonstrations, meeting barnyard animals (participating in educational programs focusing on each animal: shear the sheep, milk the “demonstration” cow, or participate in “cattle college”), orchards and pick-your-own (picking, sitting, picnics under the trees), oyster shucking contest, plant a garden, pony and horseback riding, pumpkin patch (picking, painting, carving, and buying), quilting/weaving exhibitions, sorghum milling, stargazing, storytelling/story swaps, straw bale maze, vegetable contests, Virginia Standards of Learning and the farm, winemaking and tasting and wineries.*
 - (4) *Parking and loading needs generated by the agritourism activities shall be met on the same lot or parcel where agritourism activities are being conducted or otherwise provided for in a manner consistent with public safety.*
 - (5) *Vehicular parking shall not be allowed on any public streets or within one hundred (100) feet of any residence, except for a residence located on the property of the agritourism activities.*
 - (6) *Traffic generated by agritourism activities shall comply with the Virginia Department of Transportation standards and regulations.*
 - (7) *Signage associated with agritourism activities shall comply with §154.190 et seq. Signs.*
 - (8) *It shall be the responsibility of the agritourism professional to maintain and post required signs specified by the Code of Virginia § 3.2-6400 et seq.*
 - (9) *It shall be the responsibility of the agritourism professional to comply with all applicable state and federal regulations which specifically include, but are not limited to the following: Code of Virginia § 4.1 – 200 et seq. of the Alcoholic Beverage Control Act, Code of Virginia § 3.2 – 5100 et seq. Food and Drink, Code of Virginia Title 58.1Taxation and Code of Virginia.*
- (B) *Minimum standards for the sale of agricultural products.*

- (1) *Sale of agricultural products from a farm market or private resident shall be permitted as an integral part of an active agricultural operation owned or operated by the same person or entity conducting the sale of agricultural products.*
- (2) *Sales of agricultural products from farm stands shall be permitted as a separate use in other zoning districts as designated in the list of permitted uses provided for each zoning district and are not required to be an integral part of an active agricultural operation owned or operated by the same person or entity conducting the retail sales of agricultural products from the farm stand.*
- (3) *Sale of agricultural products may include the sale of value added agricultural products and agricultural-related products when sold from a farm market. Sale of agricultural products may include value added agricultural products when sold from a farm stand.*
- (4) *Parking and loading needs generated by the sale of agricultural products shall be met on the same lot or parcel where agricultural products are being sold or otherwise provided for in a manner consistent with public safety.*
- (5) *Vehicular parking shall not be allowed on any public streets or within one hundred (100) feet of any residence, except for a residence located on the property of the agritourism activities.*
- (6) *Traffic generated by the sale of agricultural products shall comply with the Virginia Department of Transportation standards and regulations.*
- (7) *Signage associated the sale of agricultural products shall comply with §154.190 et seq. Signs.*
- (8) *It shall be the responsibility of the owners or operators of the agricultural operation to comply with all applicable state and federal regulations which specifically include, but are not limited to the following: Code of Virginia § 4.1 – 200 et seq. of the Alcoholic Beverage Control Act, Code of Virginia § 3.2 – 5100 et seq. Food and Drink, Code of Virginia Title 58.1 Taxation and Code of Virginia.*

****END PROPOSED TEXT – THE FOLLOWING REPRESENT CHANGES TO THE USE CHARTS****

4. Add the following uses to Appendix A Category 1 Agricultural Uses as shown on the attached charts and described below:

- a. ***Agritourism activities*** – allow by right in the A/RB, V1, WV1, WVWC, TE1 districts, by minor special use in C, H and WH and not allowed in all other districts
Allow by right in ES-A1 but not in any other ES districts (amend the 2000 Zoning Ordinance Category 1: Agriculture Uses, “***Agritourism activities***”)
- b. ***Preparation, processing or sale of food products associated with an agricultural***

operation - allow by right in all districts,

- c. ***Sale of agricultural products from a farm market*** – not allowed in V2 or WV2 but allowed by right in all other districts and allow by Special Use Permit in ES-A1 district and not allowed in any other ES districts (amend the 2000 Zoning Ordinance Category 1: Agriculture Uses, “***Sale of agricultural products from a farm market***”)
- d. ***Sale of agricultural products from a farm stand*** - allow in all districts by right.

5. Delete the following uses in Appendix A Category 1 Agricultural Uses as shown on the attached charts and described below:

- a. Produce sales from mobile unit, owner's production,
- b. Produce stand, off-premise production with accessory goods/services and
- c. Produce stand, owner's production (seasonal).

6. Revise the following use in Appendix A Category 1 Agricultural Uses as shown on the attached charts and described below:

- a. In the use “Greenhouse sales, retail with outdoor storage and accessory goods / services” under the agricultural district allow by right.
- b. Re-number all uses appropriately.

7. Remove the following Appendix A Category 2 Low-Impact Agritourism Uses as shown on the attached charts.

8. Remove the asterisk from Appendix A Category 7 Recreational Uses, use number 28 – Guide / outfitter services* with accessory goods / services as shown on the attached charts.

* * * * *

APPENDIX A: USE REGULATIONS

	Category 1 Agricultural Uses	Village							Waterfront Village					Town Edge				
		C	A	H	WH	1	2	NB	1	2	NB	WC	ECC	1	2	NB	CG/EB/C-1	E1
1	Agri-business office, on-site	M/S	R	R	-	R	-	-	R	-	-	-	-	R	-	-	-	R
2	Agriculture research facility	M/S	R	-	-	M/S	-	-	M/S	M/S	M/S	M/S	M/S	M/S	-	M/S	M/S	-
3	Agritourism activities at an agricultural operation	M/S	R	M/S	M/S	R	-	-	R	-	-	R	-	R	-	-	-	-
34	Forestry and forestry product harvesting	R	R	R	R	R	R	R	R	R	-	-	R	R	R	R	R	-
45	Grain storage facility, commercial	-	R	-	-	S	-	-	S	-	-	-	-	-	-	-	-	R
56	Grain storage facility, private	M/S	R	S	S	M/S	-	-	S	-	-	-	-	M/S	-	-	-	R
67	Grain/soybean production	R	R	R	R	R	R	R	R	R	R	-	-	R	R	R	R	R
78	Greenhouse sales, retail with outdoor storage and accessory goods/services	-	M/S R	S	-	S	-	R	S	-	M/S	-	-	S	S	R	R	R
89	Greenhouse sales, wholesale with outdoor storage	-	R	-	M/S	R	-	R	R	-	M/S	-	-	R	-	-	R	-
910	Horse barn, private* (one per acre)	-	R	M/S	-	R	M/S	-	M/S	-	-	-	-	R	M/S	-	-	-
1011	Horse boarding/training, commercial* with accessory goods/services	-	M/S	M/S	-	S	-	-	S	-	-	-	-	S	-	-	-	-

1112	Irrigation pond, excavated/impounded	S	R	M/S	-	M/S	-	-	M/S	-	-	-	-	M/S	-	-	-	-
1213	Irrigation well (over 300,000 gallons per month)	-	R	M/S	-	M/S	-	-	M/S	-	-	-	-	M/S	-	-	-	-
1314	Landscape contractor - design and maintenance	-	R	R	M/S	R	M/S	M/S	R	M/S	M/S	-	-	R	M/S	M/S	R	R
1415	Livestock - domestic/private use (traditional farm-based livestock husbandry)	R	R	M/S	M/S	R	M/S	M/S	R	M/S	M/S	-	M/S	R	M/S	M/S	-	-
1516	Livestock production - intensive	-	R	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
1617	Migrant labor camp	-	M/S	-	-	M/S	-	-	M/S	-	-	-	-	S	-	-	-	-

APPENDIX A: USE REGULATIONS

Category 1 Agricultural Uses	Village				Waterfront Village					Town Edge							
	C	A	H	WH	1	2	NB	1	2	NB	WC	ECC	1	2	NB	CG/EB/C-1	E1
1718 Orchard/vineyard with accessory goods/services	-	R	R	R	R	R	R	R	R	-	-	R	R	R	R	S	-
1819 Ornamental plant nursery with greenhouses (less than 20 acres) with accessory goods/services	-	R	-	-	R	R	M/S	R	-	-	-	-	R	R	-	-	R

1920	Ornamental plant nursery with greenhouses (greater than 20 acres) with accessory goods/services	-	R	-	-	R	-	-	R	-	-	-	-	M/S	-	-	-	M/S
2021	Packing shed, commercial	-	R	M/S	-	M/S	-	-	M/S	-	-	-	-	M/S	-	-	-	R
2122	Packing shed, private on farm	M/S	R	R	-	R	-	-	R	-	-	-	-	R	-	-	-	R
23	Preparation, processing or sale of food products associated with an agricultural operation	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
22	Produce sales from mobile unit, owner's production	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
23	Produce stand, off-premise production with accessory goods/services	-	M/S	M/S	M/S	M/S	M/S	R	M/S	M/S	R	M/S	M/S	M/S	M/S	R	R	R
24	Sale of agricultural products from a farm market	R	R	R	R	R	-	R	R	-	R	R	R	R	R	R	R	R
25	Produce stand, owner's production (seasonal) Sale of agricultural products from a farm	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R

	stand																		
2526	Traditional animal husbandry	-	R	-	-	M/S	-	S	-	-	-	-	-	-	-	-	-	-	-
2627	Use of structure accessory to a farming operation	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
2728	Vegetable production	R	R	R	R	R	R	R	R	R	R	-	R	R	R	R	R	R	R
2829	Wildlife impoundment ponds, seasonal	R	R	R	R	R	-	-	R	-	-	-	-	R	-	R	-	-	-
2930	Winery, production, with accessory goods/services	-	R	R	-	R	-	M/S	R	-	M/S	-	M/S	R	-	M/S	M/S	M/S	R

R - By Right S - Special Use Permit M/S - Minor Special Use Permit E - Exempt from Zoning Clearance * Appears in more than one category.
 Aquaculture Uses are included in Category 6, Marine-Related Uses

APPENDIX A: USE REGULATIONS																			
Category 2 Low Impact Agritourism Uses					Village			Waterfront Village					Town Edge						
	C	A	H	WH	1	2	NB	1	2	NB	WC	ECC	1	2	NB	CG/EB/C-1	E1		
1	Agritourism: Agricultural education programs	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
2	Agritourism: Agricultural museum and exhibits	S	R	M/S	M/S	R	M/S	R	R	M/S	R	M/S	S	R	M/S	R	R	R	R

3	Agritourism: Bicycle trails and rentals	M/S	R	R	R	R	M/S	R	R	M/S	R	R	M/S	R	M/S	R	R	R
4	Agritourism: Camps, day or overnight	M/S	M/S	S	S	R	M/S	R	R	M/S	R	M/S	M/S	R	M/S	R	M/S	M/S
5	Agritourism: Concerts and special events (reg. scheduled)	M/S	M/S	S	S	M/S	-	M/S	M/S	M/S	M/S	M/S						
6	Agritourism: Corn maze	M/S	R	R	-	R	M/S	R	R	M/S	R	-	-	R	M/S	R	R	R
7	Agritourism: Educational demonstrations	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
8	Agritourism: Event venue (e.g., weddings, receptions)	S	M/S	S	M/S	S	M/S	R	R	M/S	R	M/S	M/S	S	M/S	R	R	R
9	Agritourism: Farm cottages (for short-term stays—not for permanent dwelling; max. 12 units)	-	M/S	M/S	-	S	M/S	M/S	S	M/S	M/S	-	-	S	M/S	M/S	S	S
10	Agritourism: Festivals and fairs	M/S	M/S	M/S	S	M/S	S	-	S	M/S	-	M/S	S	M/S	M/S	-	-	-
11	Agritourism: Fishing	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
12	Agritourism: Guest ranch/lodge up to 12 rooms	S	M/S	M/S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
13	Agritourism: Guide/outfitter operation*	R	M/S	M/S	M/S	M/S	M/S	R	M/S	M/S	R	S	-	M/S	M/S	R	R	M/S
14	Agritourism: Hiking trails	R	R	R	M/S	R	R	R	R	R	R	R	R	R	R	R	R	R

15	Agritourism: Holiday and seasonal events	M/S	M/S	M/S	M/S	R	M/S	-	R	M/S	-	-	M/S	R	M/S	R	R	R
16	Agritourism: Horseback riding with stables	-	R	M/S	-	R	S	S	R	-	S	-	S	R	S	M/S	-	M/S

APPENDIX A: USE REGULATIONS																		
	Category 2 Low-Impact Agritourism Uses					Village			Waterfront Village					Town Edge				
		€	A	H	WH	1	2	NB	1	2	NB	WC	ECC	1	2	NB	CG/EB/C- 1	E1
17	Agritourism: Horseback riding without stables	M/S	R	M/S	M/S	R	M/S	M/S	M/S	M/S	M/S	-	M/S	R	M/S	M/S	-	M/S
18	Agritourism: Hunting	R	R	-	-	R	M/S	M/S	R	M/S	M/S	M/S	S	M/S	M/S	M/S	-	S
19	Agritourism: Hunting dog, working dog trials/training	M/S	R	M/S	M/S	R	-	M/S	R	-	M/S	-	S	R	-	M/S	M/S	M/S
20	Agritourism: Kayak/canoe rentals (on-site use)	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
21	Agritourism: Organized tours	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
22	Agritourism: Paintball course, outdoor or indoor	S	R	-	-	M/S	-	M/S	M/S	-	M/S	-	-	M/S	-	R	R	R
23	Agritourism: Petting zoo	-	M/S	M/S	-	S	S	M/S	S	-	M/S	-	S	S	-	M/S	M/S	M/S
24	Agritourism: Picnicking facilities, with on-site catering (Health Dept. approval required)	-	R	M/S	S	R	S	R	R	S	R	-	M/S	R	M/S	R	R	R

25	Agritourism: Picnicking facilities, no catering	M/S	R	R	R	R	R	R	R	R	R	R	-	M/S	R	M/S	R	R	R
26	Agritourism: Plein Aire events	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
27	Agritourism: Sales, agriculture related handcrafts, food products, gifts	M/S	R	R	M/S	R	M/S	-	R	M/S	R	R	R	R	R	M/S	R	R	R
28	Agritourism: Skeet, clay and trap shooting	M/S	M/S	-	-	R	-	-	R	-	-	-	-	M/S	-	-	-	-	-
29	Agritourism: U-pick harvest operations	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
30	Agritourism: Wagons and hay rides	M/S	R	R	M/S	R	M/S	R	R	M/S	-	-	-	R	R	R	R	R	R
31	Agritourism: Wildlife viewing and photography	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
32	Agritourism: Winery and winery tours	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R

R—By Right S—Special Use Permit M/S—Minor Special Use Permit E—Exempt from Zoning Clearance * Appears in more than one category. Note: All uses in this category may provide accessory goods and/or services.

APPENDIX A: USE REGULATIONS																			
Category 7 Recreational Uses					Village			Waterfront Village					Town Edge						
	C	A	H	WH	1	2	NB	1	2	NB	WC	ECC	1	2	NB	CG/EB/C-1		EI	
28	Guide/outfitter services* with accessory	M/S	M/S	M/S	M/S	M/S	-	R	M/S	M/S	R	S	-	M/S	M/S	R	R		M/S

goods/services																			
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Additionally, two days' previous, Mr. Hogg had provided two pages of comments relative to Agritourism. There has not been sufficient opportunity for staff to review those comments.

It was the consensus of the Board that this topic be discussed further with the Northampton County Planning Commission.

Given the lateness of the hour, the remaining zoning ordinance amendment agenda discussion items (#8 – PUD), (#9 – Chesapeake Bay Act Study) will be postponed until the next zoning work session.

10. County Properties – Uncertain Dispositions

Given the lateness of the hour, the discussion relative to certain county-owned properties will be held at later date.

Closed Session

Motion was made by Mr. Bennett, seconded by Mr. LeMond, that the Board enter Closed Session in accordance with Section 2.2-3711 of the Code of Virginia of 1950, as amended:

(A) Paragraph 3: Discussion or consideration of the condition, acquisition, or use of real property for public purpose, or of the disposition of publicly held property.

Drummond Property
Eastville Inn

(B) Paragraph 7: Consultation with legal counsel and briefings by staff members, consultants, or attorneys pertaining to actual or probable litigation, and consultation with legal counsel employed or retained by the Board of Supervisors regarding specific legal matters requiring the provision of legal advice by such counsel.

All members were present and voted “yes.” The motion was unanimously passed.

After Closed Session, the Chairman reconvened the meeting and said that the Board had entered the closed session for those purposes as set out in paragraphs 3 and 7 of Section 2.1-3711 of the Code of Virginia of 1950, as amended. Upon being polled individually, each Board member confirmed that these were the only matters of discussion during the closed session.

Adjourn

Motion was made by Mr. Trala, seconded by Mr. Bennett, that the meeting be adjourned. All members were present and voted “yes.” The motion was unanimously passed.

The meeting was adjourned.

_____CHAIRMAN

_____ COUNTY ADMINISTRATOR