



County of Fairfax, Virginia

MEMORANDUM

May 21, 2021

TO: Sara Morgan, Zoning Administration Division
Department of Planning and Development

FROM: Jacob L. Caporaletti, Clerk
Planning Commission Office

**SUBJECT: ZONING ORDINANCE AMENDMENT – AGRITOURISM
Countywide**

At a regular meeting held on May 19, 2021, the Planning Commission voted 10-0-1 (Commissioner Carter abstained from the vote; Commissioner Ulfelder was absent from the meeting) to **RECOMMEND ADOPTION** of Zoning Ordinance Amendment, Agritourism and Related Changes, as advertised and as set forth in the staff report dated May 5, 2021, where options are presented, the Planning Commission concurred with the staff recommendations, subject the following modifications:

- Revision of the definition of Agritourism in subsection 9103.2.A to exclude events such as corporate picnics, family reunions, farm-to-table dinners, weddings and to be read as follows:

Agritourism: Any activity accessory to an agricultural operation that allows members of the general public to view or enjoy rural activities for recreational, entertainment, or educational purposes, regardless of whether the participant paid to participate in the activity. These activities may be permitted at a property with a farm winery, limited brewery, or limited distillery subject to the limits on attendees in subsection 4102.2.C, which limits apply collectively to public or private events and activities and agritourism uses on that property. Agritourism activities include but are not limited to the following:

- a. Farm tours, including educational or entertainment programs, workshops, or demonstrations;
- b. Harvest-your-own activities;
- c. Seasonal festivals and attractions, including crop mazes or hayrides;
- d. Hiking, horseback riding, and other natural activities;
- e. Historical and cultural activities; and
- f. Other activities as determined by the Zoning Administrator.

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- Revision of Paragraph 1 and add new Paragraph 2 to subsection 4102.2.B, Agritourism, to discourage paved parking to be read as follows:
 1. Parking must be located on the same lot(s) as the agricultural operation and is not permitted within any public right-of-way. Regardless of subsection 6100.2.C.—to encourage minimal land disturbance and to discourage land cover changes, such as removal of trees or other vegetation—parking spaces are not required to be designated or located on a paved surface. For the purpose of subsection 4102.2.B, a paved surface includes asphalt, poured or precast concrete, brick, stone, or similar impervious surface, but it does not include gravel or grass pavers;
 2. In the R-C District, paved surfaces outside a building are permitted in accordance with any applicable stormwater quality and quantity requirements, and the following standards:
 - a. When in association with Tier 1 or Tier 2, paved surfaces outside a building are limited to a total of 2,500 square feet of the lot(s) comprising the agricultural operation.
 - b. When in association with Tier 3 or Tier 4, paved surfaces outside a building are limited to a total of 5,000 square feet of the lot(s) comprising the agricultural operation.
- Revision of Paragraph 3 (formerly Paragraph 2) of subsection 4102.2.B Agritourism by revising the column header to read “Tier: Acreage in Agricultural Production,” to clarify that the acreage required in each Tier is acreage devoted to agricultural production rather than lot size;
- Revision of Paragraph 5, which will subsequently be Paragraph 6, with the renumbering, and add a new Paragraph 9 to subsection 4102.2.B Agritourism, to create special exception standards for paved parking and reformat appropriately. The revisions will read as follows:
 6. The Board may approve a special exception to modify one or more of the standards as identified in the subsections below:
 - a. Subsection B(2) to exceed the land area permitted for paved surfaces in the R C District.
 - b. Subsection B(3) to allow for Tiers 1, 2, and 3 to exceed the total number of attendees per day and for Tier 4 activities to exceed the number of days per year permitted by an administrative permit.

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9. An application to exceed the paved surfaces limitation in subsection B(2) requires the applicant to demonstrate that adequate measures will be taken to address water quantity impacts and prevent water quality degradation, such as by meeting water quality requirements on-site through runoff reduction practices to the maximum extent practicable.
- That the legal advertisement be modified prior to the Board of Supervisors' Public Hearing to allow the Board to consider this recommendation and apply the paved parking restrictions in Paragraphs 2 to the R-A, R-E, and R-1 Districts with a range from 2,500 square feet to 10,000 square feet and revise Paragraph 6 to permit a special exception in the R-A, R-E, and R-1 District.

In addition, the Planning Commission voted 11-0 (Commissioner Ulfelder was absent from the meeting) to **RECOMMEND** that the document provided by staff and dated May 19, 2021 be the motion of record documented by the main motion made by Commissioner Andres Jimenez. A copy of this document is also attached.

In addition, the Planning Commission voted 11-0 (Commissioner Ulfelder was absent from the meeting) to **RECOMMEND** that the proposed Zoning Ordinance Amendment, Agritourism and Related Changes, become effective at 12:01 a.m. on July 1, 2021.

In addition, the Planning Commission voted 11-0 (Commissioner Ulfelder was absent from the meeting) to **RECOMMEND** that the Board consider prioritizing the current Priority 2 Item on the Zoning Ordinance Amendment Work Program (ZOAWP) to establish an advisory committee to, among other things, review standards and guidelines associated with special permit, special exception, and public uses in the R-C District, review maximum allowable floor area ratios; consider standards for total impervious cover and/or undisturbed one space and review combined impact of the facility footprint and total impervious surface cover, to include parking; and review the Comprehensive Plan to determine if clearer guidance is needed for special permit, special exception, and public uses in the Occoquan, which is a proposal recommended by the 2003 New Millennium Occoquan Task Force report entitled Fulfilling the Promise: The Occoquan Watershed in the New Millennium, during the next update of the ZOAWP, recognizing that this would entail a significant outlay of staff resources that will need to be considered as part of the prioritization.

A copy of the verbatim transcript is also attached.

This memorandum serves as a record of the Planning Commission's recommendation to the Board of Supervisors and not as the final approval. The amendment is still subject to final decision by the Board of Supervisors.

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Attachment (a/s)

cc: Andres Jimenez, Planning Commissioner, At-Large
Leslie Johnson, Division Director, Zoning Administration Division,
Department of Planning and Development
Case Date File May 19, 2021

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TTY 703-324-7951. Please allow seven working days to make the appropriate arrangements.

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**County of Fairfax, Virginia
Planning Commission Meeting
May 19, 2021
Verbatim Excerpt**

ZONING ORDINANCE AMENDMENT – AGRITOURISM
(Countywide)

Decision Only During Commission Matters

Commissioner Jimenez: Well, thank you, Mr. Chairman. And thank you, my fellow Commissioners. Last week, we heard a very important case on agritourism. We had a set of wonderful, invested community callers, including a former Planning Commissioner – national organizations, state organizations – showing the importance of this issue – how much they care about the area they live in, the outdoors, the impacts, and the negative impacts that major changes can have. And so after a week of discussion with Commissioners – after a week of discussion – and back-and-forth with staff, many changes were made. These changes were sent to my fellow Commissioners, including parking, acreage, attendees – that was made this evening at the last minute – was a change to exclude events that include corporate and wedding events. And so, my Planning Commissioners know, this last-minute change is an effort to help make this more helpful and better – and making sure that the impacts are lessened when it comes to the beauty of these – of these areas. So, we are not adding anything that you – that you have already not seen – that many Commissioners have looked at as being a problem. And I agree. And so, we worked with staff on those issues. So, Chairman, the way we are – I’m looking to do this tonight is, I’m going to read a motion to recommend approval. I would like to have a vote after I read my motion on the changes, followed by a full vote – on motions. So, just so you all know how I plan to proceed. Obviously, there will be time for questions and discussions from my fellow Commissioners, but I wanted to make those changes clear. I wanted to be up-front on what had been taken away and why. And now, I will be reading the motion to recommend approval. The *Code of Virginia* requires localities to permit agritourism activities as a by-right use when in conjunction with an agricultural operation. Given that localities are not able to regulate such agritourism activities unless there is a sustainable [sic] impact to health, safety or general welfare, and – measure what is considered a substantial impact, the regulations proposed –

Chairman Murphy: Hold on, a minute.

Commissioner Jimenez: I’m sorry?

Chairman Murphy: Will you hold on a minute, please?

Commissioner Jimenez: Of course.

Chairman Murphy: Do we know why he’s breaking up? The missing –

Michael Liberman, Director, Department of Cable and Consumer Service: He’s traveling and he doesn’t have the best connection?

Commissioner Jimenez: Are you not hearing me very well, Mr. Chairman?

Chairman Murphy: We're hearing okay, but it comes in broken up after a while. You – when your going along. And we're missing a couple of words there. But I don't think it can be solved.

Commissioner Jimenez: I'll turn off my video. And I will speak in hopes that will help with this. And then I'll turn it back on.

Chairman Murphy: That – that will help. I'm told that will help. Thank you very much.

Commissioner Jimenez: I apologize for that.

Chairman Murphy: No. No problem.

Commissioner Jimenez: I'm going to start off, just so that we didn't miss anything, not from the very beginning. Don't worry.

Chairman Murphy: That's okay.

Commissioner Jimenez: Just from the motion. The *Code of Virginia* requires localities to permit agritourism – when in conjunction with an agricultural operation. Given that localities are not able to regulate such agritourism activities unless there is a substantial impact to health, safety, or general welfare, and the state code does not provide criteria to measure what is considered a substantial impact, the regulations proposed with this Zoning Ordinance Amendment will create a more consistent and predictable path forward for agritourism activities in the County. Local farms will be able to – provide an economic opportunity to conserve their agricultural lands and support their agricultural businesses while providing the community with access for recreational, entertainment, or educational purposes, to view or enjoy rural activities. I will be offering an amendment to the staff proposal. My amendment is aimed at discouraging paved parking by limiting the area of paved surfaces. These standards will strengthen our committed – our commitment to protecting the Occoquan Watershed and the R-C District. The size limitations allow for approximately 10 paved parking spaces for Tiers – parking spaces for Tiers 3 and 4, depending on the parking layout. This would allow for paving associated with accessibility – accessibility parking while still protecting water quality in the environmentally sensitive area of the County. The provisions do not preclude – and I say do not preclude an – an agritourism provider from requesting additional pavement through a special exemption [sic]. The special exemption [sic] process would allow – multiple departments, including the Department of Planning and Development, the Department of Public Works and Environmental Services, and the Department of Land Development Services on mitigation measures needed to address water quantity impacts and prevent water quality degradation. For these reasons, I believe we are putting forth a recommendation to the Board that satisfies the substantial impact threshold for agritourism activities and also addresses environmental concerns. Mr. Chairman, I – BOARD OF SUPERVISORS - THE ADOPTION OF THE PROPOSED ZONING ORDINANCE AMENDMENT ENTITLED AGRITOURISM AND RELATED CHANGES, AS ADVERTISED AND AS SET FORTH IN THE STAFF REPORT DATED MAY 5TH, 2021. WHERE OPTIONS ARE PRESENTED, I MOVE THAT THE PLANNING COMMISSION CONCUR WITH THE STAFF RECOMMENDATIONS, EXCEPT THAT I MOVE THAT THE PLANNING COMMISSION ADOPT THE FOLLOWING CHANGES:

- Revise the definition of agrotourism in sub-section 9103.2.A to exclude events, such as corporate picnics, family reunions, farm to table dinners, weddings. The revision will read as following:
 - Agritourism: Any activity accessory to an agricultural operation that allows members of the public – general public to view or enjoy rural activities for recreational, entertainment, or educational purposes, regardless of whether the participant – the participant paid to participate in the activity. These activities may be permitted at a property with a farm winery, a limited brewery, or a limited distillery subject to the limited – the limits on attendees in subsection 40 – 4102.2 – to public or private events and activities and agritourism uses on that property. Agritourism activities include but are not limited to the following:
 - Farm tours, including educational or entertainment programs, workshops, or demonstrations;
 - Harvest-your-own activities;
 - Seasonal festival and attractions, including crop mazes and hayrides;
 - Hiking, horseback riding, and other natural activities;
 - Historical and – ; and
 - – determined by the Zoning Administrator.
- Revise Paragraph 1 and add new Paragraph 2 to subsection 401 – 4102.2.B, Agritourism, to discourage – discourage paved parking. The revision will read as following:
 - Parking must be located on the same lot as the agricultural operation and is not permitted within any public right-of-way. Regardless of subsection 6100.2.C. – to encourage minimal land disturbance and to discourage land cover changes, such as removal of trees or other vegetation – parking spaces are not required to be designated or located on a paved surface. For the purpose of subsection 4102.2.B, a paved surface including – includes asphalt, poured or precast concrete, brick, stone, or similar impervious surface, but it does not include gravel or grass pavers.
- In the R C District, paved surfaces outside a building are permitted in accordance with the – quantity requirements, and the following standards:
 - When in – when in association with Tier 1 or Tier 2, paved surfaces outside a building are limited to a total of 2,500 square feet of the lot comprising the agricultural operation;
 - When in association with Tier 3 or 4, paved surfaces outside a building are limited to a total of 5,000 square feet of the lot comprising – .
- Revise Paragraph 3, formerly Paragraph 2, of subsection 4102.2.B, Agritourism, by revising the column header to read, “Tier: Acreage in Agricultural Production,” to clarify that the acreage required in each Tier is acreage devoted to agricultural production rather than lot size.

- Revise Paragraph 5, which will be new Paragraph 6, with the renumbering and add a new Paragraph 9 to subsection 4102.2.B, Agritourism, to create special exemption standards for paved parking and reformat appropriately. The revisions will read as following:
 - The Board may approve a special exemption to modify one or more standards as identified in the subsections below:
 - Subsection B(2) to exceed the land area permitted for paved surfaces in the R-C District;
 - Subsection B(3) to allow for Tiers 1, 2, and 3 to exceed the total number of attendees per day and for the Tier 4 activities to exceed the number of days per year permitted by an administrative permit.
- An application to exceed the – to exceed the paved surfaces with – applicant to demonstrate that adequate measures will be taken to address water quality [sic] impacts and prevent water quality degradation, such as by meeting water quality requirements on-site through runoff reduction practices to the maximal – maximum extent practicable.

I move that the Planning Commission recommend that the legal advertisement be modified prior to the Board of Supervisors' Public Hearing to allow the Board to consider the recommendation and apply a paved parking restrictions in Paragraphs 2 to the R-A, R-E and R-1 Districts with a range from 2,500 square feet to 10,000 square feet and revise Paragraph 6 to permit – and R-1 district.

Commissioner Sargeant: How about if I just read it.

I'm sure you're all very impressed that I memorized that this evening. And so, Mr. Chairman, that is my first motion. My motion is to have this to accept these changes to the Zoning Ordinance Amendment, Agritourism and related changes. This will be first, followed by a full motion to pass the entire body of work here.

Commissioner Cortina: Second.

Commissioner Sargeant: Mr. – Mr. Chairman, could –

Chairman Murphy: Commissioner Sargeant?

Commissioner Sargeant: Thank you, Mr. Chairman. I – I'm grateful that Commissioner Jimenez sent out a – a written copy of the motion. But it did cut in and out during - during the presentation. Does everybody feel confident that they heard it correct in it its – because that will be part of your public record. Would it be – since we do have the verbatim motion – I know that's – that's part of the record – would it be helpful for somebody to re-read it so – without – who's not breaking out – you know, whose – whose communication is not breaking up?

Chairman Murphy: Yes. I think it would.

Commissioner Sargeant: Commissioner Jimenez.

Commissioner Spain: Yes, I agree. I think it should be re-read. I'm sorry that you're having internet connectivity issues. But – you know, I need to hear it again.

Commissioner Sargeant: Commissioner Jimenez, you mean I – you – you know, you did fine. It's just that the communication did not work well.

Commissioner Jimenez: I – I apologize for that. That's – what we're starting to call the Commissioner Sargeant rule of getting better communication while you're trying to do these meetings. My – my apologies for that. And I don't know, Mr. Chairman, if we want another Commissioner to read this – or if we would like staff to re-read what I just said. And again, I apologize for not as clear as I should've been.

Commissioner Sargeant: What's your pleasure, Tim? You want the staff to read it? Or do you want someone to take a whack at it where you are?

Commissioner Cortina: Commissioner?

Chairman Murphy: Commissioner Cortina?

Commissioner Cortina: Yes. Yes, I would suggest that Planning Commissioner read it. But we might need to have Commissioner Jimenez read – re-read the section about the change to the weddings, which I don't believe is in the copy that we have.

Chairman Murphy: Right. There was a whole section left out of it.

Commissioner Cortina: So, we would have just – right.

Commissioner Spain: Yeah, I agree with Commissioner Cortina. I'm concerned. But I – I didn't read that. I didn't see that part before.

Chairman Murphy: Right. Neither did I.

Commissioner Sargeant: Mr. Chairman, the wedding section – how long is that, Commissioner Jimenez? Roughly –

Commissioner Jimenez: Not too long.

Commissioner Sargeant: Okay. Where – and just exactly where does that fall within that – within the overall motion?

Commissioner Jimenez: Let me pull that right up, but I just sent you the language, Commissioner Sargeant, with that language.

Commissioner Sargeant: Okay. Does – is that within – is that contained within the entire –

Commissioner Jimenez: It's – it's towards the –

Commissioner Sargeant: Okay. But that – is that included in your –

Commissioner Jimenez: It's in the first paragraph.

Commissioner Sargeant: Alright. Okay. So, let me just make sure we've got – is – and part of this is just making sure the public can hear. I see there are – this one includes deletions. And it's within the first paragraph regarding weddings. Is it – am I looking at the first paragraph of the section regarding weddings?

Commissioner Jimenez: Correct. It is at the bottom of the first paragraph where is a bunch of lines stricken.

Commissioner Sargeant: Okay.

Commissioner Jimenez: The second – the second part of this –

Leslie Johnson, Zoning Administration Division (ZAD), Department of Planning and Development (DPD): Mr. Chairman?

Chairman Murphy: Yes.

Ms. Johnson: This is Leslie Johnson, the Zoning Administrator, may I...

Chairman Murphy: Yes, Leslie. Go ahead.

Ms. Johnson: Staff is sending to the whole Planning Commission a copy of the motion that Mr. – that Commissioner Jimenez was reading. So, you should be receiving that – like now. And I would note that the part about the weddings – all you need to do is read – is read that intro paragraph because it says – to revise the definition of agritourism in section 9103.2.A to exclude events, such as corporate picnics, family reunions, farm-to-table dinners, weddings. So, you don't need to say the whole definition. That would be enough to – to move forward that idea.

Commissioner Sargeant: Well, we – okay, I – okay, I think we've just received the motion.

Ms. Johnson: Okay. It's on page two.

Commissioner Sargeant: Alright. I just received it from Sara, I think. And the section regarding weddings, Leslie, is where now?

Ms. Johnson: It's on the top of page 2.

Commissioner Sargeant: On top of page 2, okay.

Ms. Johnson: They don't – I don't think you need to – I don't think you need to repeat Commissioner Jimenez's preamble and rationale. We just wanna repeat the actual motion.

Commissioner Sargeant: Yeah. Okay, so – that's –

Ms. Johnson: It starts at the bottom – it starts at the bottom of page 1.

Commissioner Sargeant: Yeah. Yeah. I – I see it. Alright, I’m just reading this in – if it – Mr. Chairman, if this okay with everybody, including Commissioner Jimenez, I will – my purpose here is to clearly read this into the record, on behalf of Commissioner Jimenez, so we all have – we all have it. Is that acceptable?

Chairman Murphy: Yeah. Are there portions of this that was in the copy that I pulled off today dated May 19th, 2021? Is that the document we’re following?

Commissioner Jimenez: We’re following all of that document, Mr. Chairman, except for the one change that was made this evening, which is where we’re taking out the weddings and corporate events. That was the only thing that was taken out of the language that was sent over to all of the Commissioners beforehand.

Chairman Murphy: Okay.

Commissioner Jimenez: And I believe someone just mentioned that the language with that being stricken has been sent around to all Commissioners, so –

Commissioner Sargeant: Yes.

Commissioner Jimenez: So I’m hoping that you now have that in your inboxes. And now that I – I’ve re-established connection. I’m happy to – to re-read anything that wasn’t clear. I believe, unless I’m told differently, this is sounding a little bit better.

Mr. Liberman: Mr. Chairman, this is Michael Liberman in Conference Room 11.

Chairman Murphy: Yes.

Mr. Liberman: Commissioner Jimenez has reconnected using a different device here. This connection seems more stable. And it might be advisable to have him try and re-read his motion to see if we’re able to have a better connection here.

Chairman Murphy: Okay.

Commissioner Sargeant: Mr. – Mr. Chairman, I suggest that Commissioner Jimenez just start with the motion itself, as opposed to the preamble.

Commissioner Jimenez: Okay. So –

Commissioner Sargeant: Is that okay?

Commissioner Jimenez: Yeah. I can start at the top of the motion and then just go through it again. Is that – is that what’s recommend now that we have a better connection?

Chairman Murphy: After the caption – motion to recommend approval – is that we’re you’re going to start again?

Commissioner Jimenez: If that’s what you would like – yes, I’m happy to do so. I’ll just start reading and let’s – let’s go from there.

Chairman Murphy: Okay.

Commissioner Jimenez: The *Code of Virginia* requires localities to permit agritourism activities as a by-right use when in conjunction with an agricultural operation. Given that localities are not able to regulate such agritourism activities unless there is a substantial impact to health, safety, or general welfare – welfare and the state code does not provide criteria to measure what is considered a substantial impact, the regulations proposed with this Zoning Ordinance amendment will create a more consistent and predictable path forward for agritourism activities in the County. Local farms will be able to continue engaging in these activities that provide an economic opportunity to conserve their agricultural lands and support their agricultural business while providing the community with access, for recreational, entertainment, or educational purposes to view and enjoy rural activities.

Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE ADOPTION OF THE PROPOSED ZONING ORDINANCE AMENDMENT ENTITLED AGRITOURISM AND RELATED CHANGES, AS ADVERTISED AND SET FORTH IN THE STAFF REPORT DATED MAY 5TH, 2021. WHERE OPTIONS ARE PRESENTED, I MOVE THAT THE PLANNING COMMISSION CONCUR WITH THE STAFF RECOMMENDATIONS, EXCEPT THAT I MOVE THAT THE PLANNING COMMISSION ADOPT THE FOLLOWING CHANGES:

- REVISE THE DEFINITION OF AGRITOURISM IN SUBSECTION 9103.2.A TO EXCLUDE EVENTS SUCH AS CORPORATE PICNICS, FAMILY REUNIONS, FARM-TO-TABLE DINNERS, WEDDINGS. THE REVISION WILL READ AS FOLLOWS:
 - AGRITOURISM: ANY ACTIVITY ACCESSORY TO AN AGRICULTURAL OPERATION THAT ALLOWS MEMBERS OF THE GENERAL PUBLIC TO VIEW OR ENJOY RURAL ACTIVITIES FOR RECREATIONAL, ENTERTAINMENT, OR EDUCATIONAL PURPOSES, REGARDLESS OF WHETHER THE PARTICIPANT PAID TO PARTICIPATE IN THE ACTIVITY. THESE ACTIVITIES MAY BE PERMITTED AT A PROPERTY WITH A FARM WINERY, A LIMITED BREWERY, OR A LIMITED DISTILLERY, SUBJECT TO THE LIMITS ON ATTENDEES IN SUBSECTION 4102.C,2.C [sic], WHICH LIMITS APPLY COLLECTIVELY TO PUBLIC OR PRIVATE EVENTS AND ACTIVITIES AND AGRITOURISM USES ON THAT PROPERTY. AGRITOURISM ACTIVITIES INCLUDE, BUT ARE NOT LIMITED TO THE FOLLOWING:
 - FARM TOURS, INCLUDING EDUCATIONAL OR ENTERTAINMENT PROGRAMS, WORKSHOPS, OR DEMONSTRATIONS;
 - HARVEST-YOUR-OWN ACTIVITIES;
 - SEASONAL FESTIVALS AND ATTRACTIONS, INCLUDING CROP MAZES OR HAYRIDES;
 - HIKING, HORSEBACK RIDING, AND OTHER NATURAL ACTIVITIES;
 - HISTORIC – HISTORICAL AND CULTURAL ACTIVITIES; AND
 - OTHER ACTIVITIES AS DETERMINED BY THE ZONING ADMINISTRATOR.

- REVISE PARAGRAPH 1 AND ADD NEW PARAGRAPH 2 TO SUBSECTION 4102.2.B, AGRITOURISM, TO DISCOURAGE PAVED PARKING. THE REVISIONS READ AS FOLLOWING:
 - PARKING MUST BE LOCATED ON THE SAME LOT(S) AS THE AGRICULTURAL OPERATION AND IS NOT PERMITTED WITHIN ANY PUBLIC RIGHT-OF-WAY. REGARDLESS OF SUBSECTION 6100.2.C. – TO ENCOURAGE MINIMAL LAND DISTURBANCE AND TO DISCOURAGE LAND COVER CHANGES, SUCH AS REMOVAL OF TREES – OTHER VEGETATION – PARKING SPACES ARE NOT REQUIRED TO BE DESIGNATED OR LOCATED ON A PAVED SURFACE. FOR THE PURPOSE OF SUBSECTION 4102.2.B, A PAVED SURFACE INCLUDES ASPHALT, POURED OR PRECAST CONCRETE, BRICK, STONE, OR SIMILAR IMPERVIOUS SURFACE, BUT IT DOES NOT INCLUDE GRAVEL OR GRASS PAVERS;
 - IN THE R-C DISTRICT, PAVED SURFACES OUTSIDE A BUILDING ARE PERMITTED IN ACCORDANCE WITH ANY APPLICABLE STORMWATER QUALITY AND QUANTITY REQUIREMENTS AND OTHER STANDARDS:
 - WHEN IN ASSOCIATION WITH TIER 1 OR TIER 2, PAVED – PAVED SURFACES OUTSIDE A BUILDING ARE LIMITED TO A TOTAL OF 2,500 SQUARE FEET OF THE LOT COMPRISING THE AGRICULTURAL OPERATION;
 - WHEN IN ASSOCIATION WITH TIER 3 OR 4, PAVED SURFACES OUTSIDE A BUILDING ARE LIMITED TO A TOTAL OF 5,000 SQUARE FEET OF THE LOT COMPRISING THE AGRICULTURAL OPERATION.
- TO REVISE PARAGRAPH 3, FORMERLY PARAGRAPH 2, OF SUBSECTION 4102.2.B, AGRITOURISM, BY REVISING THE COLUMN HEADER TO READ, “TIER: ACREAGE IN AGRICULTURAL PRODUCTION,” TO CLARIFY THAT THE ACREAGE REQUIRED IN EACH TIER IS ACREAGE DEVOTED TO AGRICULTURAL PRODUCTION RATHER THAN SIZE LOT;
- REVISION 5, PLUS – WHICH WILL BE NEW PARAGRAPH 6 WITH THE RENUMBERING AND ADD A NEW PARAGRAPH 9 TO SUBSECTION 4102.2.B, AGRITOURISM, TO CREATE SPECIAL EXCEPTION STANDARDS FOR PAVED PARKING AND REFORMAT APPROPRIATELY. THE REVISION WILL READ AS FOLLOWING:
 - THE BOARD MAY APPROVE A SPECIAL EXCEPTION TO MODIFY ONE OR MORE OF THE STANDARDS AS IDENTIFIED IN THE SUBSECTIONS BELOW:
 - SUBSECTION B(2) TO EXCEED THE LAND AREA PERMITTED FOR PAVERS SUCH – PAVED SURFACES IN THE R-C DISTRICT;

- SUBSECTION B(3) TO ALLOW FOR TIERS 1, 2, AND 3 TO EXCEED THE TOTAL NUMBER OF ATTENDEES PER DAY AND FOR TIER 4 ACTIVITIES TO EXCEED THE NUMBER OF DAYS PER YEAR PERMITTED BY AN ADMINISTRATIVE PERMIT.
- AN APPLICATION TO EXCEED – AND THE PAVED SURFACES LIMITATION IN SUBSECTION B(2) REQUIRES THE APPLICANT TO DEMONSTRATE THAT ADEQUATE MEASURES WILL BE TAKEN TO ADDRESS WATER QUANTITY IMPACTS AND PREVENT WATER QUALITY DEGRADATION, SUCH AS BY MEETING WATER QUALITY REQUIREMENTS ON-SITE THROUGH RUNOFF REDUCTION PRACTICES TO THE MAXIMUM EXTENT PRACTICABLE.

I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE LEGAL ADVERTISEMENT BE MODIFIED PRIOR TO THE BOARD OF SUPERVISORS' PUBLIC HEARING TO ALLOW THE BOARD MEMBERS – TO ALLOW THE BOARD TO CONSIDER THIS RECOMMENDATION AND APPLY THE PAVED PARKING RESTRICTIONS IN PARAGRAPH 2 TO THE R-A, R-E AND R-1 DISTRICTS WITH A RANGE FROM 2,500 SQUARE FEET TO 10,000 SQUARE FEET AND REVISE PARAGRAPH 6 TO – TO PERMIT A SPECIAL EXEMPTION IN THE R-A, R-E AND R-1 DISTRICT. Mr. Chairman, I would like to move that we vote on these changes before voting on the full case. And hopefully, everyone was able to hear me a bit clearer. I don't know if my voice would stand another – a third reading of this, this evening. So, thank you.

Commissioner Cortina: Second.

Chairman Murphy: Seconded by – I'm missing a lot of the words in the papers I pulled off today from five o'clock tonight when I got it – got home. Is that – is everybody in the same boat about weddings and all that? I don't have any of that. Is that one of the revisions that you're adding to this?

Commissioner Jimenez: We're taking away, Mr. Chairman – so the only thing that has changed from the materials that the Commission – Commission – that the full Commission received is that weddings and corporate events have no been stricken. So the only thing – nothing has been added. Only one thing has been stricken and that goes straight to taking out the weddings and corporate events part of this.

Commissioner Niedzielski-Eichner: Mr. Chairman?

Chairman Murphy: Yes. Commissioner Niedzielski-Eichner, please.

Commissioner Niedzielski-Eichner: I'm not quite sure how to move this, but it seems to me that the most assured – assured way for us to get the final language that Mr. Jimenez has generated is to substitute the written motion and discussion that Commissioner Jimenez read and have that be the motion. Because there were – I noticed during either – either reading there were – you know, slight changes that were, I'm sure, unintentional. It's just that the – just reading it as quickly as – trying to read it quickly – my – my – my belief is that the written word – the written motion that was provided by the staff at 8:02 p.m. by email should stand as the motion for us to act on. And that will assure that there is a complete record based on what Commissioner Jimenez has put

forward. So, one way to do that, perhaps, is to – to make a substitute – a motion to substitute the written motion for the oral motion made by Commissioner Jimenez. Is that overly complicated?

Commissioner Jimenez: I don't think it's overly complicated, Commissioner. I would like to ask staff if what I – would like to see where I –

William Mayland, Zoning Evaluation Division, DPD: Commissioner Jimenez, this is William Mayland – Planning and Development – and – can you all hear us?

Commissioner Niedzielski-Eichner: Yes.

Mr. Mayland: You're muted right now.

Commissioner Niedzielski-Eichner: I'm sorry.

Mr. Mayland: I don't think they can hear us.

Chairman Murphy: We weren't getting the email. That's why I was confused. Who – who wants to be recognized?

Commissioner Lagana: This is Commissioner Lagana. I – I had a – you know, a point of order – for point of information. I – I don't know.

Chairman Murphy: Go ahead.

Commissioner Lagana: Which is more appropriate. So, what we are voting on is the proposed changes. Then, we're going to vote on the full recommendation to the Board of Supervisors. Do I understand that?

Commissioner Strandlie: Hi. This is – this is Commissioner Strandlie, the Parliamentarian. That is my understanding that – the motion that we are – we are trying to hear is the language that is the substitute for what was previously presented. And then, if that passes, we will vote. Or it doesn't pass. Then, we will take another vote.

Commissioner Sargeant: But – but – question, Mr. Chairman?

Chairman Murphy: Please.

Commissioner Sargeant: This is Commissioner – typically, we read the full motion of what we're – of the whole of what we are supposed to do to consider – i.e. the agritourism – the proposed Zoning Ordinance Amendment: Agritourism. And within that are the – are the proposed amendments or – or changes or whatever. The concern is here, from a – and staff's welcome to correct, but I'm not – I'm not sure of this one. But the concern here is that we – we would be substituting, separate from the actual agritourism motion, I think – we're proposing amendments that are – we're not sure where they are within the document.

Chairman Murphy: Yeah.

Commissioner Sargeant: I mean, it does identify that. It does identify, you know, certain areas within this. But aren't we, in essence, either moving to adopt the agritourism amendment as a whole with these proposed changes within it? I'm not quite sure how we're – why we're doing this separately and then adopting the agritourism amendment.

Commissioner Lagana: This is – this is Commissioner Lagana. I – I did want to follow up on that. That's where I was going. I'm sorry the connection on my phone may be a little inadequate. But I – I – where I – it seems procedurally that if we are – we are considering changes to a motion – to the proposal – the – the main motion, if you will, is going to be the – is going to be the agritourism. So, therefore, it seems that – I would – I would – my – my sense is that we would – we'd – that we move on it – on the – on the main motion and then we move to amend that with these proposed changes, as we have discussed. And that – we would vote on the amendment. Then, we would vote on the – the motion. Is that – I think procedurally – I think that's how it's supposed to go. But I defer.

Commissioner Spain: So, this is Commissioner Spain. So again, just for my clarification – so we're – it's two – two things that we're going to approve, right? If I'm hearing Commissioner Lagana. The amendment and the actual proposal, right? I – so, if you agree with one, then does it automatically assume that – what if you disagree with the amendment? But then, you go on ahead to vote on the actual proposal. Then, what happens then? How – how is that handled?

Ms. Johnson: Chairman Murphy? This is Leslie Johnson again from the Zoning Administrator. Can I – maybe, from a point, just clarification, if I may.

Chairman Murphy: Please.

Ms. Johnson: So, what Mr. – what Commissioner Jimenez read and what you have in your 8:02 email – he moved that the Planning Commission recommend to the Board approval of the Zoning Ordinance Amendment – the entire Zoning Amendment, as advertised and as set forth in the staff report – that's the last paragraph of the first page. And then, he goes on to say – and this is similar to what we did with zMOD – where options are presented, I move that the Planning Commission concur with the staff options and the staff recommendation, except that he made that one change to the weddings, which was what was previously provided. And then, he made revisions to existing paragraphs that were in the text of the current staff report. So, in – as I see it, if the Planning Commission were to vote on what he read, then that would suffice as approval of the motion because it references the section numbers that were changed and all of the language that was supposed to be modified. Now, if the Planning Commission wants to do a substitute motion for any other change – well, that would be fine. But I think the motion, as currently read, captures all of the changes that are being proposed for the estimate. And I – I think it is clear in that regard. If they wanted – if you wanted to clarify and then, as Commissioner Sargeant said, further move that it's in accordance with the written motion submitted to the Planning Commission at 8:02 a – p.m., May 19, then that would be just further clarification. Does that – does that clarify things for folks?

Commissioner Cortina: It does. Yes.

Commissioner Niedzielski-Eichner: Mr. Chairman. Just to – could I ask for Ms. Johnson – so, just to be sure I understand what she was suggesting – you're suggesting that the motion made Commissioner Jimenez is sufficient for – for the vote. There doesn't need to be a second vote on

– on the ordinance itself – or the – you know, the amendment to the ordinance itself. Are you – is that what you’re saying?

Ms. Johnson: That’s – that’s correct.

Commissioner Niedzielski-Eichner: All right. So, one vote is all that’s necessary. And then, I also heard you say that if we want to ensure that the language that – that Commissioner Jimenez has put together in the – on the – in the 8:02 version that – of today – an email that staff sent at 8:02 today. That – you know, follow-on motion simply to – to have that be the – the motion of record, so to speak – to ensure that all the language is consistent with what Commissioner Jimenez had intended.

Ms. Johnson: That’s correct. That – that would be like direction to – that way, the clerk knows what he read and makes it clear.

Commissioner Niedzielski-Eichner: Thank you. I support that approach, Mr. Chairman.

Commissioner Cortina: Mr. Chairman, this is Commissioner Cortina.

Chairman Murphy: Please.

Commissioner Cortina: I support that methodology as well. And just, as a recap, to what Leslie said. We are adopting the agritourism with the staff recommendations and, where the options were presented, we’re going with the staff recommendations with the exception and tonight, this was something new that I wasn’t aware of – that we are excluding the events and the corporate picnics, family reunions, etc. And – but I was aware of the parking limitation on impervious. And I just wanted to point that out and – and thank staff for being flexible and listening to the testimony that was presented by the public and by Fairfax Water and the Occoquan Monitoring Lab because – really, these agritourism uses are by-right and we needed to limit the paving over of these farms with large parking lots. And I really think that this language gets to the heart of the matter across all the uses. And I know it’s a cumbersome motion, but it – it carves out this issue of the imperviousness. And I hope that people will understand that when they finally see it. And I appreciate, also, that – you know, that the staff supported this approach and Supervisor Smyth, as well. And, as the chair of the Land Use Committee, because we have to re-advertise the amendment. Had we been able to work out a lot of these issues prior to the advertisement, then perhaps it would go smoother tonight. But – but I think there were some legitimate issues raised in the public hearing and we’re being responsive to that, which does make for something a little more complicated at the end, but – but addresses a lot of the concerns. So, I just want to thank Commissioner Jimenez and – and the staff, in particular, for working on this and – and for the people that came up to testify and help make this better. I was okay with the weddings, but I understand that others might not have been. I was really concerned about the imperviousness. So, thank you. That’s all I have to say on this.

Commissioner Strandlie: Mr. Chairman, this is Commissioner Strandlie.

Chairman Murphy: Please.

Commissioner Strandlie: I believe – Commissioner – can you hear me?

Chairman Murphy: Yes.

Commissioner Jimenez: I can hear – I can hear you. Yes.

Commissioner Strandlie: Thank you. Because, I talked before and I didn't think – came through. Commissioner Jimenez made a motion. We need a second so we can go into the discussion on the motion. And I didn't hear a second.

Commissioner Cortina: I had seconded.

Commissioner Niedzielski-Eichner: Commissioner Cortina seconded.

Commissioner Spain: Cortina did. She did, Commissioner.

Chairman Murphy: Commissioner Cortina seconded the motion.

Commissioner Strandlie: Okay. I did not hear that with everything going on.

Chairman Murphy: Okay.

Commissioner Strandlie: Thank you.

Chairman Murphy: Alright. So, is there discussion of the motion?

Commissioner Carter: Yes, I have a – a point to make – Commissioner Carter.

Chairman Murphy: Commissioner Carter, please.

Commissioner Carter: This is the – it goes to the substance of this. I was concerned about these the bed and breakfast uses that – that were not mentioned. And I – I think that was a good idea to eliminate the weddings, although I know that they're very popular in some of these rural settings. But I think bed and breakfast may also not be appropriate and it didn't seem to be mentioned – particularly since there's no public water or sewer. And – you're having bed and breakfast in places where we're raising pigs, milking cows, running tractors, and harvesting crops. That may – but not be appropriate for a – bed and breakfast operations. And I would think they would have a direct impact on the health and welfare. So I wonder if that couldn't be a good addition to this. I don't know why – why they weren't included. It seems like that would be more impactful, if that's a word, than weddings. Does anybody want to comment on that? No.

Commissioner Sargeant: Could we –

Chairman Murphy: Staff? Doesn't staff have any comments on Commissioner Carter's suggestion?

Sara Morgan, ZAD, DPD: This is Sara Morgan with Zoning Administration Division. The bed and breakfasts are limited to a single family dwelling and only allowed to have five guest rooms. It would need to be owner or operator occupied. And they wouldn't be allowed to have any additional events. They would only be allowed to have the events or the activities, rather, that are

permitted through the agritourism provisions. So, staff believes that this minimizes the impact to the surrounding community and we support the motion to include it.

Mr. Mayland: We – we – staff did have an option – this is William Mayland – of administrative permits, as opposed to by-right, for bed and breakfast. So, that is an option that was presented in the staff report. Our recommendation was by-right. It is when you have 20 acres or more for agricultural operation and, as Sara says, five rooms within a house. So, there is another option out there to an administrative permit first purchased by-right.

Commissioner Carter: But the staff didn't support that.

Mr. Mayland: Correct. We felt the by-right option was appropriate.

Commissioner Carter: Okay. Then, my next one is the – the size of the parcels. I asked this last time. But I got some – some more comments from people from the Sully – Sully District. This is the notion that at 5 acres, in terms of growing plants, there are 1,134 parcels that would be eligible. But if you reduced that to 7 acres, it goes down to 62. Was there any comments from the staff on that? I – I know that the Supervisors wanted us to look at that range and I'm not sure we have done that with sufficient breadth.

Ms. Morgan: We did look into the data. I would note that those are the exact parcel sizes. That doesn't account for smaller parcels that can be combined by common ownership that creates that acreage size. So, that is a representation of what is out there. But that isn't exactly what could happen if you increase the acreage from 5 acres to 7 acres.

Mr. Mayland: To – I would also say, during our process, we went out to the community. We did have an option to increase the acreage to 10 in the R-1 District. And I would say, for the most part, that was not supported by the community that we went out to. The concerns was, people that may have purchased property at 5 acres and we increase it to 10 would no longer be able to do any agricultural operations. So there was a significant concern about that, as well as the cost being confused with 10 acres for the agricultural operation. So, you know – 7 was presented late in the process. But that was a requested for the Board to add it in. But we did spend a lot time with the community with this – a 10-acre option in an R-1 District. And I don't know – I don't remember any real support for making that change.

Commissioner Carter: And then my last was – this – reducing – potentially reducing the imperviousness in these parking areas. Does that that only apply to the R-C District. And if so, why?

Ms. Morgan: It was drafted to be for the R-C specifically. But there is a – inclusion at the end of Commissioner Jimenez's motion. So, we're gonna – sought all of the districts – R-A, R-E, and R-1 – if the Board like to include that, as well. The reason the R-C was included, specifically, is because of the watershed and the downzoning conversations that we had at the public hearing.

Commissioner Carter: So, I – I'm – I'm not sure I understand what you're saying. So, is the staff proposal now to apply to all the districts or just to R-C?

Ms. Morgan: Just to R-C and as written in his motion. But the advertisement would allow the Board to consider all of the districts if they wanted to.

Commissioner Carter: Is there a reason why we wouldn't add that? Why – why – is it – the staff just not supporting that? Is that the reason?

Ms. Morgan: It would. We were asked look at it specifically in the R-C District because of the Occoquan Watershed concerns and the quality of the water in that specific area. And we were asked to draft it in that way.

Ms. Johnson: Commissioner Carter, this is Leslie Johnson, Zoning Administrator, again.

Commissioner Carter: Yes.

Ms. Johnson: If the Planning Commission wanted to recommend to the Board that they expand that into the R-E, R-1, and R-A Districts, you can make that motion. You can make that part of it. It doesn't have to be just – that's part of the legal ad. You could make that recommendation if the – if the Planning Commission concurred with that.

Commissioner Carter: I was particularly concerned with – Dranesville District, which is also the drinking water for some of our areas on the Potomac. Okay. I get it.

Commissioner Cortina: Commissioner – Chairman, this is –

Chairman Murphy: Yes. Commissioner Cortina.

Commissioner Cortina: Yes, just to speak to that. I really did press many times on the R-C from the health, safety, welfare – it is true that reducing the impervious everywhere would be beneficial. But from my point of view, I really prioritize the R-C because of its function as the – you know, the – the water supply for the Occoquan. And I understand that there are issues with Potomac River, as well. But the Occoquan is – is very bound by the land use that's immediate next – immediately next to it. And so – so, I really advocated for that first and foremost. But I would not be opposed to expanding that. I just wouldn't want it all to go to down in flames at the Board of Supervisors. And really make sure that the R-C is the priority. But I can support the other, as well.

Chairman Murphy: Okay. Is there further discussion?

Commissioner Niedzielski-Eichner: Mr. Chairman –

Commissioner Spain: Yes.

Chairman Murphy: Yes. Commissioner Spain.

Commissioner Spain: Commissioner Spain here. I am in agreement with the impervious surface concerns that we have. But I'm still not convinced on the elimination of the weddings and corporate events. Is there any type of wording or restrictions we could put around? Because it seemed like there were concerns about noise around neighboring properties. So, is there any possibility of maybe putting some restrictions around the time of day that these events could occur like – major in the weekend or during a middle of the – I – I'm just still a little – I was just taken aback with the removal of those events, having not had a chance to speak on it earlier.

Ms. Morgan: Commissioner Spain, this is Sara Morgan again with Zoning Administration. The noise concerns would be addressed through the existing provisions of the noise ordinance.

Commissioner Spain: I'm sorry. Would you say that again please, Sara? I'm sorry.

Ms. Morgan: It's okay. The concerns about the noise could be addressed through the existing provisions of the noise ordinance and impact today.

Commissioner Spain: Yes, if – if they were concerns about the noise, that would be addressed. So – but what were the other reasons for taking away those type of events that could happen in the agritourism arena?

Mr. Mayland: So it – this is William Mayland. We were responding to the comments that came out of the public hearing where – at least from our perspective, the two main concerns related impacts to the water quality and the impacts related to wedding events – or wedding venues. So, it was the concern that we saw through the testimony that was written, as well as at the meeting – primarily related concerns about activities that were related to – those were at Number 4, which was weddings, the corporate events, and feeling that they did not directly relate to agritourism. And it was noted – is that, under the state code, what is – is not specifically listed as an agritourism event – there are some jurisdictions that allow – some that specifically do not allow. We took the – a point of, specifically, allowing it. And that was the – the contention – their concern that was raised by a member of the public. So that's what's the recommendation today to – to remove that specific allowance of it. So, it's something that – it's with – you know, it's – call out of state code as weddings as an event for agritourism.

Commissioner Spain: Okay. Thank you.

Commissioner Strandlie. This is Commissioner Strandlie. I – I just wanted comment on the weddings and corporate events and family reunions. And I – I appreciate that being removed from the definition of agritourism. So thank you, Commissioner Jimenez, for doing that. I spent a lot of time looking back at the General Assembly discussion of adding weddings to the definition of agritourism and – weddings, corporate events, and family reunions are not within agritourism. There was a lot of discussion and opposition. It failed during the committee hearings. The two firefighter associations opposed adding weddings to the definition of agritourism. And the bill was offered by Delegate Knight to allow farms to enjoy, as he said, the liability limits. There's a lot of questions out there about how this would interact with the state code on the liability limits and beyond. There's also issues with traffic in the areas for adding these events. And the – pretty much the entire Fairfax County delegation voted against that bill that was considered, except for one member. So, I strongly support removing the definition – from the definition – weddings, family reunions, and corporate events. So, I – I appreciate that. I did have one question about other activities, as determined by the Zoning Administrator. And, if I could ask Leslie Johnson, would that be a claw-back to include weddings? Because I would be concerned about that.

Ms. Johnson: This is Leslie Johnson, Zoning Administrator. I think the the only one that I had a real concern about with believing that is like – farm-to-table events because that really is kind of an agritourism activity, more so than perhaps a wedding – although, you know, many agritourism areas do have weddings. And – and our farm wineries today – Paradise Springs, Bull Run Winery, Whitehall Farms – all have weddings. And we did do a determination for Whitehall

Farms, and also Paradise Springs and Bull Run Winery back in the 2016/2017 timeframe, which allowed for weddings. So, you know – if the Board – if the Board were to say no weddings, then – based on that, I think I would be hard pressed to then say weddings under the other activities. So, I mean – but again, I – you know – that’s – it really, kind of, I think the farm-to-table would be the only activity out of that group that we listed that was going to be deleted in that paragraph for the definition that I think, probably, could be problematic. I don’t know that that – specifically answers your question. But I think, at that point, if the Board were – if the Board were

Commissioner Strandlie: It’s helpful. It’s okay.

Ms. Johnson: I mean the Board is the legislative authority and if they say that these activities shouldn’t be weddings or what have you, then I don’t feel that it’s my place to overrule that in other – in under the heading, other activities as determined by the Zoning Administrator.

Commissioner Strandlie: Thank you.

Commissioner Sargeant: Mr. Chairman?

Chairman Murphy: Yes, Commissioner Sargeant.

Commissioner Sargeant: Question for staff to – as we consider this motion for – for the Zoning Ordinance, are there parallel tracks within Comprehensive Plan language that will come into conflict with this?

Ms. Johnson: This is Leslie Johnson. I don’t think so. No. What? For, in conflict with –

Commissioner Sargeant: Language regarding environmental policy or language regarding uses? The question really is to make sure that the – what we’re doing here – if there are inconsistency with what policy or area plan language has that – are we accounting for that? So that you have two documents that are in tandem and consistent with each other.

Ms. Johnson: Commissioner Sargeant, this is so – this is very narrowly focused just to agriculture – agritourism activities and in conjunction with agriculture. So, while there may be some inconsistency to a certain extent – because agricultural operations are already exempt from local regulation, I don’t think we’re going to run afoul of that. I mean, it’s very narrow focused to just this – this activity. Now, I know that Commissioner Jimenez might be making a follow-on motion that would address all of the other issues, but – more broader – a broader look, if you will, at the R-C District. But I – I don’t think there is a conflict.

Commissioner Sargeant: Okay.

Commissioner Niedzielski-Eichner: Mr. Chairman?

Chairman Murphy: Yes. I think we skipped over you. I’m sorry. Commissioner Niedzielski-Eichner.

Commissioner Niedzielski-Eichner: Well, thank you. I just – from my vantage point, the way I am interpreting this proposal is that it conforms with the state requirement in that – what this says – speaks to is the health, safety, and welfare of – of the Occoquan reservoir. And – though

the – health, safety, and welfare of the peoples supplied by the Occoquan welfare – reservoir – and that the – this motion, by virtue of its intent to impervious surfaces of the parking and the potential impervious impact of these other events is protective. And therefore, I – I think it – it does. At least my interpretation would be that it – it satisfies that requirement the state has imposed – that it be – that we regulate – we can – only regulate if there are health, safety, and welfare impacts.

Chairman Murphy: Okay, thank you. Let – let me just throw one question in. I – I’m reading from the letter I received and what all received from Fairfax Water. And they have two really specific recommendations. Let me just read the – the two recommendations to the staff and to the Commissioner in charge here. And I – I just wanna ask one question. Is – is this motion and all parts of this motion addressing these suggestions? Number one – rigorously maintain the integrity of the Occoquan downzone. And two – continue the County’s commitment to the successful strategy for water quality protection in the – of the Occoquan reservoir that was established through the comprehensive zoning actions that were taken in 1982. Is that – are those two goals addressed and successfully addressed in this amendment? This motion, I should say. Staff?

Ms. Morgan: Are you asking staff?

Chairman Murphy: Can you comment on that?

Ms. Morgan: Yes, we believe that it does.

Chairman Murphy: Okay. Alright, thank you.

Commissioner Cortina: Mr. Chairman?

Chairman Murphy: Yes, Commissioner Cortina.

Commissioner Cortina: Commissioner Cortina. Responding to both your question and Commissioner Sargeant’s, in terms of the Comprehensive Plan, I think we should recognize that agritourism uses are an expansion the use in the R-C. And that is not something that we – you know, even if we might say – well, we can’t adopt it and we just leave it as is – it’s a state code requirement that we allow agritourism uses. And so, it does put us in a bit of a bind with this Comprehensive Plan, which sought to keep out commercial uses, which a farm has – it’s not a commercial use. It is a – agricultural use. But it is a business. And it was intended that those kinds of business type uses with big parking lots, et cetera, be at the edges of the R-C, not in heart. But you cannot do that with a farm. We can’t say – well, the farms all have to be along Route 29. And I think we would run afoul of the state intent of the law. And so, therefore, it is – what do we do about it? And – and I think that what we have done about it and, in terms of what Commissioner Jimenez and the staff put forward in limiting the – the imperviousness does address the intent of the R-C Zoning, as well as the Comprehensive Plan, but not particularly to the letter of the location of the farm, which would really almost be impossible to do. So, I just have those comments. And – and in that light, I think there is a follow-on motion that the – Commissioner Jimenez plans to make to look at this issue and make sure that we are not damaging it for the long-term sustainability of – of, you know, everybody that lives here. Thank you.

Chairman Murphy: Well, thank you. That was the kind of answer I was looking for. Thank you. Are there any other questions?

Commissioner Carter: Another question, Commissioner Carter.

Chairman Murphy: Yes.

Commissioner Carter: Are there – are there any areas within the R-C District that are not in the Occoquan watershed?

Ms. Morgan: This is Sara Morgan with Zoning Administration again. There are some areas of the R-C that are outside of the Occoquan watershed, but the majority of it is within.

Commissioner Carter: But the – this – this would apply those areas, as – as well as the areas within the watershed.

Ms. Morgan: Yes. It would apply to all of the R-C Districts.

Commissioner Carter: Okay.

Chairman Murphy: Is there further discussion of the motion. All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Anyone opposed? Any abstentions? Motion carries.

Commissioner Carter: Commissioner Carter abstains. Commissioner Carter abstains.

Chairman Murphy: Commissioner Carter abstains. Okay, thank you very much. Unanimous, except Commissioner Carter's abstention. Mr. Jimenez?

Commissioner Niedzielski-Eichner: Mr. Chairman, if I could make a – just a quick motion – consistent with what we discussed, relative to the written document being the – the motion of record. I MOVE THAT THE DOCUMENTS PROVIDED BY STAFF IN THE EMAIL DATED MAY 5TH, [sic] 2021, AND TIME STAMPED 8:02 P.M. BE THE MOTION OF RECORD DOCUMENTED COMMISSIONER JIMENEZ'S MAIN MOTION.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by –

Commissioner Sargeant: Commissioner Sargeant.

Chairman Murphy: Commissioner Sargeant. Is there a discussion of that motion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Abstentions? Motion carries.

Commissioner Jimenez: Well, thank you, Mr. Chairman. Before I go on to the follow-on motion, I'd like to thank everyone for their patience. I did – my intentions were not to make this evening longer, but I appreciate your – the conversation – the candid conversation and the passing in the end. Everyone's, again, being very patient with me this evening. I'd like to thank the staff members that were involved in the drafting of this amendment since working on this first began July 2019. Thank you, Sara Morgan, William Mayland, Leslie, and Laura Gori. Mr. Chairman, I now have a follow-on motion. May I proceed?

Chairman Murphy: Please.

Ms. Johnson: Mr. Chairman? This is Leslie Johnson. Before Commissioner Jimenez proceeds, I wanna make sure that the reference that was made to the email that was sent – we sent – was dated for tonight, which would be May 19th and not May 5th.

Commissioner Niedzielski-Eichner: That's – that's a friendly amendment. I don't know why I said the 5th. Yeah, the 19th. I apologize. And I –

Ms. Johnson: Thank you.

Commissioner Niedzielski-Eichner: And – Mr. Chairman, you probably should make that – so, I MOVE CHANGE THAT MOTION TO MAY 19TH, AS OPPOSED TO MAY 5TH.

Chairman Murphy: Without objection? Go ahead.

Commissioner Niedzielski-Eichner: Thank you.

Chairman Murphy: Go ahead, Andres.

Commissioner Jimenez: Well, thank you again, Mr. Chairman. I'm going to present the –

Commissioner Strandlie: Excuse me. Commissioner – I have one question. And please correct me, we've had a lot of conversations. Commissioner Jimenez, did you read – so the public could hear about – I move the Planning Commission recommend the legal advertisement? Did you read that part? Because, normally we vote on each part separately. So, I think we just voted on your main motion. And now, you need to do the legal advertisement and then the effective date.

Mr. Mayland: So –

Commissioner Jimenez: I – I – go ahead, sorry.

Mr. Mayland: Yes, you read the – advertisement part of the motion. And that was voted on. But we have not done the effective date portion.

Commissioner Strandlie: Okay.

Commissioner Jimenez: And I will do that right now.

Commissioner Strandlie: Thank you.

Commissioner Jimenez: Thank you. Finally, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE AMENDMENT BECOME EFFECTIVE AT 12:01 A.M., ON JULY 1ST, 2021.

Chairman Murphy: Is there a second?

Commissioner Cortina: Second.

Chairman Murphy: Seconded by Commissioner Cortina. Is there a discussion of the motion? All those in favor of the motion, as articulated by Commissioner Jimenez, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries unanimously.

Commissioner Jimenez: Thank you for that, Commissioner Strandlie. I'm now going to proceed with the follow-on motion. The current Priority 2 Zoning Ordinance Work Program includes a proposal recommended by the 2003 New Millennium Occoquan Task Force report entitled, Fulfilling the Promise: The Occoquan Watershed in the New Millennium, to establish an advisory committee to, among other things, review standards and guidelines associated with special permits, special exemptions, and public uses in the R-C District, review maximum allowable floor area ratios – consider standards for total impervious cover and/or undisturbed open space, and review combined impact of the facility footprint and total impervious surface cover, to include parking – and review the Comprehensive Plan to determine if clearer guidance is needed for special permits, special exemptions, and public uses in the Occoquan. I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD CONSIDER THIS ITEM FOR PRIORITIZATION DURING THE NEXT UPDATE OF THE ZONING ORDINANCE AMENDMENT WORK PROGRAM, RECOGNIZING THAT THIS WOULD ENTAIL A SIGNIFICANT OUTLAY OF STAFF RESOURCES THAT WILL NEED TO BE CONSIDERED AS PART OF THE PRIORITIZATION.

Chairman Murphy: Seconded Commissioner Murphy. Is there a discussion of the motion? All those –

Commissioner Cortina: Yes, this is Commissioner Cortina.

Chairman Murphy: Yes.

Commissioner Cortina: I would just like to add that this is a zoning matter for the zoning work plan, but I would also ask that there be coordination with the Environment Committee on the Board. Because this is a broader environmental impact and it goes to the sustainability, the climate change in resiliency, and that we consider in that light, as well.

Chairman Murphy: Without objection?

Commissioner Carter: I'd like – I'd like to make a comment. Commissioner Carter.

Chairman Murphy: Yes, Commissioner Carter.

Commissioner Carter: I'm sorry to prolong this. I strongly support this notion. I – I think we should do planning before we do zoning. I – I – I think that's why sometimes, these – these don't go quite as well smoothly as they could. Planning is a process. The zoning is the actual implementation. If – if we would do stronger planning at the beginning, perhaps these would – these zoning text amendments, when they affect countywide issues, I – I think things would run smoother. Thank you.

Chairman Murphy: Point well taken. Thank you very much. Can we vote? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries unanimously. Thank you very much.

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The first motion carried by a vote of 10-0-1. Commissioner Carter abstained from the vote. Commissioner Ulfelder was absent from the meeting.

The second motion carried by a vote of 11-0. Commissioner Ulfelder was absent from the meeting.

The third motion carried by a vote of 11-0. Commissioner Ulfelder was absent from the meeting.

The fourth motion carried by a vote of 11-0. Commissioner Ulfelder was absent from the meeting.

JLC

Proposed Zoning Ordinance Amendment Re: Agritourism and Related Changes

MOTION TO RECOMMEND APPROVAL

The Code of Virginia requires localities to permit agritourism activities as a by-right use when in conjunction with an agricultural operation. Given that localities are not able to regulate such agritourism activities unless there is a substantial impact to health, safety or general welfare, and the state code does not provide criteria to measure what is considered a substantial impact, the regulations proposed with this Zoning Ordinance amendment will create a more consistent and predictable path forward for agritourism activities in the county. Local farms will be able to continue engaging in these activities that provide an economic opportunity to conserve their agricultural lands and support their agricultural business while providing the community with access, for recreational, entertainment, or educational purposes, to view or enjoy rural activities. ~~There was significant discussion related to specially allowing weddings and corporate events. It is my understanding that these uses are already being conducted and, while not specifically required to be allowed by the State Code, the proposal codifies existing practices.~~

I will be offering an amendment to the staff proposal. My amendment is aimed at discouraging paved parking by limiting the area of paved surfaces. These standards will strengthen our commitment to protecting the Occoquan Watershed and the R-C District. The size limitations allow for approximately ten paved parking spaces for Tiers 1 and 2 and 20 parking spaces for Tiers 3 and 4, depending on the parking layout. This would allow for paving associated with accessibility parking, while still protecting water quality in this environmentally sensitive area of the county. The provisions do not preclude an agritourism provider from requesting additional pavement through a special exception. The special exception process would allow the Board to receive input from staff from multiple departments, including the Department of Planning and Development, the Department of Public Works and Environmental Services, and the Department of Land Development Services, on mitigation measures needed to address water quantity impacts and prevent water quality degradation. For these reasons, I believe we are putting forth a recommendation to the Board that satisfies the substantial impact threshold for agritourism activities and also addresses environmental concerns.

Mr. Chairman, I move that the Planning Commission recommend to the Board of Supervisors the adoption of the proposed Zoning Ordinance amendment entitled "Agritourism and Related Changes," as advertised and as set forth in the Staff Report dated May 5, 2021. Where options are presented, I move that the Planning Commission concur with the staff recommendations, except that I move that the Planning Commission adopt the following changes:

Revise the definition of Agritourism in subsection 9103.2.A to exclude events such as corporate picnics, family reunions, farm-to-table dinners, weddings. The revision will read as follows:

Agritourism

Any activity accessory to an agricultural operation that allows members of the general public to view or enjoy rural activities for recreational, entertainment, or educational purposes, regardless of whether the participant paid to participate in the activity. These activities may be permitted at a property with a farm winery, limited brewery, or limited distillery subject to the limits on attendees in subsection 4102.2.C, which limits apply collectively to public or private events and activities and agritourism uses on that property. Agritourism activities include but are not limited to the following:

1. Farm tours, including educational or entertainment programs, workshops, or demonstrations;
2. Harvest-your-own activities;
3. Seasonal festivals and attractions, including crop mazes or hayrides;
4. Hiking, horseback riding, and other natural activities
5. Historical and cultural activities; and
6. Other activities as determined by the Zoning Administrator.

Revise Paragraph 1 and add new Paragraph 2 to subsection 4102.2.B Agritourism to discourage paved parking. The revisions will read as follows:

1. Parking must be located on the same lot(s) as the agricultural operation and is not permitted within any public right-of-way. Regardless of subsection 6100.2.C.—to encourage minimal land disturbance and to discourage land cover changes, such as removal of trees or other vegetation—parking spaces are not required to be designated or located on a paved surface. For the purpose of subsection 4102.2.B, a paved surface includes asphalt, poured or precast concrete, brick, stone, or similar impervious surface, but it does not include gravel or grass pavers.
2. In the R-C District, paved surfaces outside a building are permitted in accordance with any applicable stormwater quality and quantity requirements, and the following standards:
 - a. When in association with Tier 1 or Tier 2, paved surfaces outside a building are limited to a total of 2,500 square feet of the lot(s) comprising the agricultural operation.
 - b. When in association with Tier 3 or Tier 4, paved surfaces outside a building are limited to a total of 5,000 square feet of the lot(s) comprising the agricultural operation.

Revise Paragraph 3 (formerly Paragraph 2) of subsection 4102.2.B Agritourism by revising the column header to read “Tier: Acreage in Agricultural Production,” to clarify that the acreage required in each Tier is acreage devoted to agricultural production rather than lot size.

Revise Paragraph 5, which will be new Paragraph 6 with the renumbering, and add a new Paragraph 9 to subsection 4102.2.B Agritourism to create special exception standards for paved parking and reformat appropriately. The revisions will read as follows:

6. The Board may approve a special exception to modify one or more of the standards as identified in the subsections below:
 - a. Subsection B(2) to exceed the land area permitted for paved surfaces in the R-C District.
 - b. Subsection B(3) to allow for Tiers 1, 2, and 3 to exceed the total number of attendees per day and for Tier 4 activities to exceed the number of days per year permitted by an administrative permit.
9. An application to exceed the paved surfaces limitation in subsection B(2) requires the applicant to demonstrate that adequate measures will be taken to address water quantity impacts and prevent water quality degradation, such as by meeting water quality requirements on-site through runoff reduction practices to the maximum extent practicable.

I move that the Planning Commission recommend that the legal advertisement be modified prior to the Board of Supervisors’ Public Hearing to allow the Board to consider this recommendation and apply the paved parking restrictions in Paragraphs 2 to the R-A, R-E and R-1 Districts with a range from 2,500 square feet to 10,000 square feet and revise Paragraph 6 to permit a special exception in the R-A, R-E and R-1 district.

Finally, I move that the Planning Commission recommend that the amendment become effective at 12:01 am, on July 1, 2021.

I’d like to thank the staff members that have involved in the drafting this amendment since work first began in July 2019. Thank you, Sara Morgan, William Mayland, Leslie Johnson, and Laura Gori.

POTENTIAL FOLLOW-ON MOTION

The current Priority 2 Zoning Ordinance Work Program includes a proposal recommended by the 2003 New Millennium Occoquan Task Force report entitled Fulfilling the Promise: The Occoquan Watershed in the New Millennium to establish an advisory committee to, among other things, review standards and guidelines associated with special permit, special exception, and public uses in the R-C District, review maximum allowable floor area ratios; consider standards for total impervious cover and/or undisturbed open space and review combined impact of the facility footprint and total impervious surface cover, to include parking; and review the Comprehensive Plan to determine if clearer guidance is needed for special permit, special exception, and public uses in the Occoquan.

I move that the Planning Commission recommend that the Board consider this item for prioritization during the next update of the Zoning Ordinance Amendment Work Program, recognizing that this would entail a significant outlay of staff resources that will need to be considered as part of the prioritization.
