

DEPARTMENT OF
PLANNING & ZONING



PLANNING COMMISSION
BOARD OF ZONING APPEALS

To: Chair and Members, Nelson County Board of Supervisors
From: Tim Padalino | Planning & Zoning Director
Date: February 5, 2016

**Subject: Citizen's Working Group Recommendations for Zoning Ordinance Amendments
RE: "Wayside Stands" and "Farmers Markets" (off-farm agricultural retail sales)**

Issue Overview:

The Planning Commission (PC) and Board of Supervisors (BOS) have undertaken a policy review of the Zoning Ordinance (Z.O.) provisions for the **retail sale of agricultural products at locations "off the farm."** This effort included the production of (proposed) Z.O. text amendments, which were originally drafted to:

- substantially revise and improve the existing "wayside stand" provision by creating new definitions and new application procedures; and
- establish a "farmers market" definition and corresponding land use regulations.

Those proposed amendments were reviewed at a public hearing conducted by the PC on July 14, and at a public hearing conducted by the BOS on October 13. Then, at the November 12 BOS meeting, the Board directed Supervisor Bruguiere to convene a citizen's working group to review the most recent version of the proposed amendments (dated November 5th), and to identify recommendations for improving those proposed text amendments.

Updates on Working Group Activities and Recommendations:

Please review the following summary of the citizen's working group activities, which met on November 19, December 15, and January 27, and February 5:

Working Group Recommendations to Improve Farmers Market provisions:

These proposed modifications to the amendments for **"Farmers Market,"** as proposed by the citizen's working group, are intended to accomplish the following:

- **More flexibility:** Create more economic opportunity for Farmers Market vendors by allowing a wider variety of products and items to be offered for sale, and by eliminating the

requirement that the items being sold are principally cultivated, produced, processed, or created on the vendor's farm.

- **Better balance:** Create more flexibility for Farmers Market vendors, and establish an appropriate balance between:
 - Protecting the authenticity of what a Farmers Market is intended to be; and
 - Providing more economic opportunity for agricultural products to be made available to consumers, regardless of the origin of those ag products

Working Group Recommendations to Improve Wayside Stand provisions:

These proposed amendments would also modify the **FARMER** "wayside stand" provisions as follows:

- Bring clarity and consistency to the current provision (§4-11-2), which is extremely vague and which currently lacks any clear methods or criteria for applying for, reviewing, approving, or denying these types of administrative permits.
- Create two separate categories or classes for the **FARMER** "wayside stand" land use, determined by the type of road it would be located on (or accessed from).
 - This would allow for proposed **FARMER** wayside stands to be applied for, reviewed, and approved more easily (administratively) if they are located on smaller roads; and
 - This would require applicants to go through the Special Use Permit process if a wayside stand is proposed for a location associated with greater potential risk(s) to public health, safety, and welfare (such as a location on roads with higher traffic counts, higher rates of speed, or other transportation factors which inherently create more concerns regarding public safety and land use changes).
- Eliminate the **FARMER** "temporary" nature of wayside stands (and specifically eliminate the proposed limitation to 5 consecutive days), and would instead allow for a wayside stand to be operated for any duration or frequency throughout any given week, month, or year.
- Eliminate the requirement that all products offered for sale must have been produced by the seller; and allow for the sale of products obtained from other producers.
- Provide for the operation of class A and class B **FARMER** wayside stands as a by-right use in all three business districts (B-1, B-2, and SE-1); currently, wayside stands are only permissible in Agricultural (A-1) District. **FARMER**

Specifically, the citizen's working group recommends the **newly proposed modifications** are shown below.

➤ **Article 2: Definitions**

Remove the following definition:

~~Wayside stand, roadside stand, wayside market: Any structure or land used for the sale of agriculture or horticultural produce; livestock, or merchandise produced by the owner or his family on their farm.~~

Add the following definitions:

Farmers Market: Any structure, assembly of structures, or land used by **multiple vendors** for the off-farm sale or resale of agricultural and/or horticultural products, goods, and services, including value-added agricultural or horticultural products. Farmers Markets may include the sale or resale of accessory products, including arts, crafts, and/or farm-related merchandise, as long as the majority of products being offered for sale are, in the aggregate, comprised of agricultural or horticultural products.

FARMER
Wayside Stand: Any use of land, vehicle(s), equipment, or facility(s) used by a **single vendor** for the off-farm sale or resale of agricultural and/or horticultural products, goods, and services, including value-added agricultural or horticultural products. Wayside Stands may include the sale or resale of accessory products, including arts, crafts, and/or farm-related merchandise, as long as the majority of products being offered for sale are, in the aggregate, comprised of agricultural or horticultural products. The majority of products being offered for sale by the Wayside Stand operator must have been cultivated, produced, processed, or created on an agricultural operation owned or controlled by the operator or operator's family. ~~Wayside stands are a temporary (non-permanent) land use.~~

FARMER **FARMER** **ACCESSES**
Wayside Stand, Class A: A Wayside Stand which **is located on** a Local or Secondary road, or other road which is not functionally classified (as defined by the Virginia Department of Transportation).

FARMER **FARMER** **ACCESSES**
Wayside Stand, Class B: A Wayside Stand which **is located on** a Minor Collector, Major Collector, Minor Arterial, Principal Arterial, or other road which is functionally classified (as defined by the Virginia Department of Transportation), or located within three-hundred (300) feet of an intersection with any such road.

USE "NEAR" OR "VDOT SPACING"

➤ **Article 4: Agricultural District (A-1)**

Revise the following provision in Section 4-11 "Administrative Approvals:"

The Zoning Administrator may administratively approve a zoning permit for the following uses, provided they are in compliance with the provisions of this Article.

FARMER
4-11-2 ~~Wayside Stands.~~ **Wayside Stand, Class A,** which provides one (1) year of approval. **An approved Class A Wayside Stand may be renewed annually; no renewal fee or site plan resubmission shall be required with any request for annual renewal unless the**

layout, configuration, operation, vehicular ingress/egress, and/or scale is substantially modified.

No Class A ~~FARMER~~ Wayside Stand permit may be approved or renewed unless the Planning and Zoning Director reviews and approves the following operational details regarding the safety and appropriateness of the proposed Wayside Stand:

~~FARMER~~ (i) Signed affidavit declaring that the majority of products offered for sale at the Wayside Stand are cultivated, produced, processed, or created on an agricultural operation owned or controlled by the operator or operator's family.

(ii) ~~Proposed frequency and duration of Wayside Stand operations, which must be compliant with the following restrictions:~~

- a. ~~may not exceed 5 consecutive days~~
- b. ~~limited to a weekly maximum of 5 days per week total~~

(ii) Location and type of proposed ~~FARMER~~ Wayside Stand equipment or facility:

- a. All Wayside Stand structures or facilities must be located outside of VDOT right-of-way ~~FARMER~~
- b. All permanent Wayside Stand structures must comply with the required front yard setback areas of the applicable zoning district

(iii) ~~Location~~ and details of proposed signage: ~~(OUTSIDE R/W)~~

- a. Maximum of one sign allowed, which may be double-sided
- b. Maximum of twelve (12) square feet of signage

(iv) Sketch site plan, including accurate locations and dimensions of:

- a. property boundaries and right-of-way
- b. proposed location of Wayside Stand equipment and/or facility(s)
- c. proposed signage ~~FARMER~~
- d. proposed layout and provisions for safe vehicular ingress, egress, and parking
- e. lighting plan and lighting details (for any Wayside Stand request involving any proposed operation(s) after daylight hours) ~~FARMER~~

(v) Review comments from Virginia Department of Transportation:

- a. VDOT review comments must include a formal "recommendation for approval" by VDOT before a Class A Wayside Stand permit can be approved by the Zoning Administrator ~~FARMER (A AND B)~~

"SUBJECT TO THE FOLLOWING CONDITIONS"

Add the following provisions to Section 4-1-a "Uses – Permitted by Special Use Permit only:"

- ~~FARMER~~ 4-1-46a Wayside Stand, Class B
- 4-1-47a Farmers Market

➤ **Article 8: Business District (B-1)**

Add the following provisions to Section 8-1 "Uses – Permitted by right:"

- ~~FARMER~~ 8-1-25 Wayside Stand, Class A and B
- 8-1-26 Farmers Market

➤ **Article 8A: Business District (B-2)**

Add the following provisions to Section 8A-1 "Uses – Permitted by right:"

8A-1-15 ~~Wayside Stand, Class A and B~~
^{FARMER}

8A-1-16 Farmers Market

➤ **Article 8B: Service Enterprise District (SE-1)**

Add the following provisions to Section 8B-1 "Uses – Permitted by right:"

8B-1-4 ~~Farming~~ Agricultural Operations

8B-1-25 ~~Wayside Stand, Class A and B~~

8B-1-26 Farmers Market

Conclusion:

Thank you for your attention to these recent modifications to the proposed Z.O. text amendments regarding "wayside stands" and "farmers markets." These modifications are presented to you for your review/consideration and possible enactment. Please contact me with any questions you may have regarding any of the information contained in this packet.

24VAC30-50-10. Waysides and Rest Areas.

- A. Waysides identified by name and without lights shall be open from 8 a.m. to one hour after sunset. Areas having security lighting will be open at all times.
- B. When an area is posted for limited parking, the operator of each vehicle may be required to sign a register setting forth the time of arrival.
- C. When posted, parking shall be limited to the period specified.
- D. No overnight parking will be permitted.
- E. Camping is not permitted at any time.
- F. Sleeping in any section of the rest area building is not permitted at any time.
- G. No vehicle shall be parked in such manner as to occupy more than one marked parking space.
- H. No domestic animals shall be permitted to go at large. Dogs must be kept on leash and shall not be taken into any shelter or other building; guide, hearing, or service dogs as defined by the Code of Virginia are an exception to this rule.
- I. No person shall pick any flowers, foliage, or fruit, or cut, break, dig up, or in any way mutilate or injure any tree, shrub, plant, grass, turf, railing, seat, fence, structure, or anything within this area; or cut, carve, paint, mark or paste on any tree, stone, fence, wall, building, monument or other object therein, any bill, advertisement, or inscription whatsoever.
- J. No person shall disturb or injure any bird, birds' nests or eggs, or any squirrel or other animal within this area.
- K. No person shall dig up or remove any dirt, stones, rock or other thing, make any excavation, quarry any stone or lay or set off any blast, or cause or assist in doing any of said things within this area without the special order or license of the commissioner.
- L. No threatening, abusive, boisterous, insulting or indecent language or gesture shall be used within this area. Nor shall any oration, or other public demonstration be made, unless by special authority of the commissioner.
- M. No person shall offer any article or thing for sale within this area except by permission of the Commonwealth Transportation Board.

N. No person shall bathe or fish in any waters within this area, except in such places and subject to such regulations as the commissioner may, from time to time, specially designate by a public notice set up for that purpose within the same.

O. No person shall light, kindle or use any fire within this area, except at fireplaces designed and built for such purposes and the person or persons building a fire therein will be responsible for having it completely extinguished before leaving it.

P. No person shall discharge or set off within this area, any firearms, firecrackers, torpedoes, rockets, or other fireworks, except by permit from the commissioner.

Q. No bottles, broken glass, ashes, waste paper, or other rubbish shall be left within this area, except at such places as may be provided for the same.

R. No automobile or other vehicle shall be taken into or driven upon this area, except upon such drives and subject to such regulations as the commissioner may, from time to time, designate by a public notice set up for that purpose within the same.

S. Any person violating any of the preceding rules and regulations shall be guilty of a misdemeanor and, upon conviction, be fined not less than five dollars nor more than \$100 for each offense.