
Joint Meeting, Monday, September 28, 2009, at 4:30 p.m. Government Center, Verona, VA.

PRESENT: Larry C. Howdysshell, Chairman
Gerald W. Garber, Vice-Chairman
David R. Beyeler
Wendell L. Coleman
Jeremy L. Shifflett
Nancy Taylor Sorrells
Patrick J. Morgan, County Attorney
Becky Earhart, Senior Planner
Dennis Burnett, Economic Development Director
Dale L. Cobb, Director of Community Development
Doug Wolfe, County Engineer
John Wilkinson, Zoning Administrator
Michele Astarb, Subdivision Administrator
Kim Bullerdick, Associate Planner
Sandy Shifflett, Zoning Technician II
Patrick J. Coffield, County Administrator
Jessica Staples, Administrative Secretary

ABSENT: Tracy C. Pyles, Jr.

VIRGINIA: At a joint meeting of the Augusta County Planning Commission and the Augusta County Board of Supervisors, held on Monday, September 28, 2009, at 4:30 p.m., at the Government Center, Verona, Virginia, and in the 234th year of the Commonwealth....

* * * * *

Welcome and introduction was provided by Larry C. Howdysshell, Chairman of the Augusta County Board of Supervisors, and Thomas H. Byerly, Chairman of the Augusta County Planning Commission.

* * * * *

ORDINANCE REVIEW

Larry Howdysshell, Chairman of the Board of Supervisors called the Board of Supervisors to order. Thomas H. Byerly, Chairman of the Augusta County Planning Commission, called the Planning Commission to order.

Mr. Howdysshell turned the meeting over to Dale Cobb to present the review of the County's Zoning, Subdivision, and Stormwater Ordinances. Mr. Cobb briefed the Board and Commission on the background of the review. He stated the goal of the ordinance revisions was to incorporate the State Code revisions and to simplify the Zoning, Subdivision, and Stormwater Ordinances. He stated this process began in February of 2008 when the Board of Supervisors hired a consulting firm for the project. Mr. Cobb explained the first phase of the project included a series of interviews with stakeholders that included surveyors, realtors, farmers, and developers, as well as members of the Board of Supervisors and Planning Commission for their comments and concerns on the current ordinances. Based on the input received from the interviews, Mr. Cobb explained the Choices Report was created that included those issues and concerns. Mr. Cobb stated he feels most of the issues that were in the Choices Report are addressed in the proposed ordinance with the exception of traditional villages and quality of life issues that included barking dogs and a property maintenance code. He stated however if the Board wishes to address these concerns, they can go back and review these issues. Mr. Cobb stated in February 2009, the Board voted to name a Board Committee to work with staff on the revisions to the ordinances. Mr. Cobb stated the committee consisted of staff and two (2) Board members, Mr. Beyeler and Mr. Garber. Mr. Cobb stated the purpose of the committee was to follow up on the Choices Report, as well as other concerns from stakeholders and staff. Mr. Cobb stated the committee's proposed

September 28, 2009, at 4:30 p.m.

draft will be presented tonight. He stated the goal of the meeting is to determine if the Board and Commission are ready to proceed with advertising the proposed revisions for public hearing. Mr. Cobb explained at the end of each segment of the presentation, there will be an opportunity for questions, comments, and concerns.

Mr. Cobb presented the following information in a Power Point presentation. Questions, comments, and concerns from the Board, Commission, staff, and public were addressed at the end of each segment.

Under the definitions section of the revised ordinance Mr. Cobb stated intensive agriculture definitions were deleted from the Zoning Ordinance. He further stated floodplain, signs, and wireless communication definitions were removed from the definitions section and inserted in separate sections of the Zoning Ordinance. Mr. Cobb further stated the number of animal units will be reduced and only limited agriculture is being proposed to be allowed on smaller lots. He stated under the new ordinance, the committee is proposing to add flex space and opaque fencing as new definitions and the "height" and "vertical distance" definitions are being changed. He also stated it is being proposed to increase the height of buildings and structures to seventy-five feet (75') in General Agriculture, General Business, General Industrial, and Multi-family Residential Zoning Districts.

Mr. Howdysshell voiced concern regarding the reduction of animal units per acre.

Mr. Cobb explained the reason for the reduced number of animal units per acre is due in part to the number of complaints received on small lots. He stated this will only apply to those agriculture lots that are less than five (5) acres.

In regards to the limited agriculture and the number of animal units, Ms. Sorrells asked if the number of animal units was based on the fenced in portion of the parcel where the animals are being kept, or the acreage for the entire parcel.

Mr. Cobb stated the number of animal units is based on the acreage of the entire parcel.

Ms. Sorrells stated she feels this is a concern due to overgrazing and runoff. She requested the committee consider the number of animal units based on the amount of fenced in acreage as opposed to the acreage of the entire parcel.

Mr. Cobb made note of this concern.

The next item that was presented was under the major provisions section of the Zoning Ordinance. Mr. Cobb stated it is being proposed to eliminate the prohibition on split zoned lots and to modify utility lot requirements. He explained for utility lots without a building, there will be no lot requirements. However, he stated it is being proposed for lots with a building, the building must only meet setback, yard and height requirements. Also noted under this section of the ordinance was adding a requirement for sketch plans for all building permits. He explained it is proposed that the lot be staked and the plan must be done by a surveyor when the structure is within five feet (5') of a yard requirement or within one hundred feet (100') of the edge of a public or private street.

There were no comments or concerns regarding the revisions to the major provisions section of the Zoning Ordinance.

Next, Mr. Cobb addressed highlights of the revisions for off-street parking. He stated staff has viewed businesses at different times during the day and it has been determined which businesses are not utilizing the current required amount of parking spaces. Therefore, Mr. Cobb stated it is being proposed the number of spaces required

September 28, 2009, at 4:30 p.m.

be reduced in many cases. He also noted a provision be added for required parking on lots zoned General Business, General Industrial, and Multi-family Residential to be paved. For existing parking lots that are being increased by at least fifty percent (50%), Mr. Cobb stated the parking must meet the new standards. He stated garage spaces will count towards required parking spaces under the proposed provisions. For lots with twenty-five (25) spaces or more, Mr. Cobb stated internal landscaping will be required with a combination of at least three (3) materials. He explained the developer will have the option of choosing these materials from a list provided in the ordinance.

In regards to off-street parking, Ms. Sorrells questioned whether or not parking across a road or highway can be included in the number of spaces for required parking.

Mr. Wilkinson answered it is proposed the required parking spaces be within four hundred feet (400') of the building.

Mr. Coleman noted the proposed ordinance will require less parking. He gave an example of a strip mall. The property owner wanted to change the use, but was not able due to the amount of required parking.

Mr. Cobb stated yes. He stated it was determined parking was not utilized in the case of retail businesses. He stated in most cases, parking was being utilized in the fast food businesses. Mr. Cobb explained a developer can add more parking than what the ordinance requires if they feel it necessary. He also explained a developer can request to reduce the amount of required parking if they feel the ordinance is requiring too much for a particular site. He explained most large developers have done parking studies in the past to determine the necessary amount for that particular business and most have done similar sites all over the country and already have requirements to meet. In order to reduce the number of required spaces, Mr. Cobb stated the developer will have to submit a copy of the study to the Zoning Administrator for approval. He stated the provision was added for flexibility.

Mr. Cobb stated definitions relating to signs were moved to a separate proposed sign ordinance section. He explained the current ordinance does not limit the number of directional signs for a site, as it is up to the discretion of the Zoning Administrator. As this has become a problem within the County, Mr. Cobb stated the new ordinance limits the number of off-premise directional signs to four (4). In regards to the size of these signs, he stated they will be limited to four square feet (4 sq. ft.) in residential zoned districts and eight square feet (8 sq. ft.) per sign in all other zoning districts. In regards to pylon signage, Mr. Cobb stated in the proposed ordinance there will be no limit in business and industrial districts, however, he explained there will be a limit of one (1) per entrance in agriculture and residential districts. Mr. Cobb explained real estate lead-in signs in residential developments will be replaced by a single "Houses for Sale" sign at the intersection.

Mr. Leonard asked if each real estate company will be allowed to put up a lead in sign.

Mr. Cobb answered no. There will be one generic lead in sign at the main intersection. He stated each house for sale, will then have the company's real estate signs placed on the individual lot.

Ms. Sorrells asked who would be responsible for removing the sign once all the homes in a particular neighborhood were sold.

Mr. Wilkinson explained it will be the responsibility of the company that owns the sign. He stated most likely, once the house is sold, the agent will remove their directional sign, and it would then be up to the other companies to put up a new directional sign if there are remaining homes for sale in the development.

Mr. Coleman asked how the new ordinance will address directional signage for businesses that do not have road frontage.

September 28, 2009, at 4:30 p.m.

Mr. Cobb explained the new ordinance will allow for the business without road frontage to have a pylon sign.

Ms. Earhart stated if the business does not have road frontage, the space for the pylon sign will have to be leased from the landowner.

Mr. Wilkinson explained the current ordinance does not allow for directional signs. He explained the proposed revisions would allow for businesses that do not have road frontage to have signs directing customers to the business. He stated this may be in the form of a pylon sign, or a sign that is on the lot of another property owner with their permission.

Mr. Coleman asked the potential number of signs on a particular property.

Mr. Wilkinson stated it is a maximum of four (4). He explained this could also include a pylon sign.

Mr. Leonard asked the size limitations for pylon signs.

Mr. Wilkinson stated there is no size limitation for pylon signs for properties that are zoned Business or Industrial. He stated the total sign area for properties zoned Business or Industrial is based on the amount of public road frontage. Mr. Wilkinson stated the limitation for a single sign for a business located on a secondary or primary road is eight hundred square feet (800 sq. ft.).

Mr. Cobb explained if this becomes an issue after the ordinance is adopted it can certainly be revised.

Mr. Cobb further explained it is being proposed under the new sign ordinance to prohibit vehicles and trailers from being used as signs.

Ms. Sorrells asked if there was any discussion regarding signs delineating designated agricultural and forestal districts as this is prohibited under the current ordinance.

Mr. Wilkinson explained there was a provision included in the proposed ordinance that permits signs for these designated areas as well as towns, farms, etc.

Mr. Cobb asked Mr. Wilkinson to confirm this issue is clearly addressed under the proposed ordinance.

Mr. Cobb stated corn mazes, bunkhouses, and wineries were added in the agriculture section of the ordinance under accessory uses. Also added under accessory uses were race cars, demolition derby, and mud bogging vehicles to be included under the inoperable motor vehicle restrictions. He explained residential districts will be allowed one inoperable vehicle and it has to be in an enclosed building. In agriculture districts, Mr. Cobb stated the ordinance will allow one inoperable vehicle per acre, with a maximum of five (5) and they have to be fully screened from public view. All fences, walls, and hedges regulations will be deleted from the single family residential districts section. Mr. Cobb discussed business vehicles in the residential districts. He explained the proposed ordinance will limit each dwelling to no more than one commercial vehicle and the vehicle must be parked off-street. Mr. Cobb stated a commercial vehicle for the purpose of this ordinance is being defined as, "Any vehicle that sits on at least two (2) axles and designed to carry freight, merchandise, or more than ten (10) passengers". However, vehicles such as tractors and trailers and dump trucks will be prohibited in residential districts.

September 28, 2009, at 4:30 p.m.

Mr. Beyeler requested the number of axles on a permitted commercial vehicle be increased from two (2) to three (3) axles.

The Board and Commission did not have any issues regarding this change.

Ms. Sorrells asked if school buses were included.

Mr. Cobb answered yes.

He further explained the proposed ordinance clarifies that for inoperable motor vehicle impoundment yards, the vehicles awaiting service for more than thirty (30) days must be in an area screened from public view.

Mr. Cobb stated a lighting ordinance was adopted five (5) years ago and there are a few changes proposed in this draft. He explained standards for adopting a photometric plan are proposed. He also stated under the current ordinance, the lighting plan must be certified by a certified lighting engineer. He explained there are very few certified lighting engineers in the state of Virginia. Mr. Cobb explained, therefore, the proposed ordinance eliminates the requirement for certification that the lighting, as installed, meets the ordinance requirement. Rather he stated, certification will be determined by County staff during the final inspection. Mr. Cobb stated athletic facilities will be exempt from the lighting ordinance.

Wireless communication will be a new ordinance section in the Zoning Ordinance. Mr. Cobb stated it is being proposed cell towers will be permitted by either an Administrative or Special Use Permit in General Agriculture, General Business, and General Industrial Zoned Districts. He explained if the request is a co-location on an existing tower, alternative structure, or a new tower that is not lighted and is less than one hundred ninety-nine feet (199') in height the tower will be permitted by an Administrative Permit. Mr. Cobb stated if the request is a new tower over one hundred ninety-nine feet (199') in height and/or is lighted, or any tower that does not meet the Administrative Permit standards, the applicant will be required to apply for a Special Use Permit.

Mr. Cobb stated wind energy will be another proposed section in the Zoning Ordinance. Mr. Cobb explained wind towers will be permitted by an Administrative or Special Use Permit in General Agriculture, General Business, and General Industrial Zoned Districts. Mr. Cobb explained wind towers will be permitted by an Administrative Permit provided there are no more than two (2) unlighted systems, or they are no more than eighty feet (80') in height. A Special Use Permit would be required if there are no more two (2) systems, over eighty feet (80') in height, or if objections from adjacent property owners are received from the Administrative Permit process. Mr. Cobb stated the towers may be lighted with a Special Use Permit. A Public Use Overlay (PUO) would be required if the operation is defined as a wind farm, three (3) or more towers, or the energy produced from the towers would be sold to the electric companies.

Mr. Coleman asked if there was a height requirement for the towers to be lighted.

Mr. Cobb stated the Federal Aviation Administration (FAA) requires the towers to be lighted if they are over one hundred ninety-nine feet (199') in height.

Mr. Wilkinson stated the FAA can also require the towers to be lighted if they are near an airport or located in a flight path.

Ms. Sorrells asked if the ordinance requirements make it easier for the applicant to apply for cell tower locations under an Administrative or Special Use Permit, would this discourage the request for co-locations.

Mr. Wilkinson stated the proposed ordinance will encourage co-locations as the requirements will be in writing rather than by Special Use Permit or policy as currently

September 28, 2009, at 4:30 p.m.

exists. Mr. Wilkinson stated this will encourage the applicant to co-locate rather than going through the Special Use Permit process.

Ms. Sorrells asked if adjacent property owners were required to be notified of any new cell tower requests.

Mr. Wilkinson answered yes. He stated the request would go through the Administrative Permit process, allowing adjacent property owners to notify staff of any concerns or objections. Mr. Wilkinson stated if there were any objection to the request within the required amount of time, the applicant would then have the opportunity to apply for a Special Use Permit.

Mr. Cobb stated General Agriculture has the most proposed changes under the Zoning Ordinance. Mr. Cobb explained the Exclusive Agriculture District will be eliminated from the Zoning Ordinance, transitioning those properties into General Agriculture. For agriculture lots that are less than five (5) acres in size, as discussed earlier, Mr. Cobb stated limited agriculture will be permitted, which is defined as one (1) animal unit per acre. He stated limited agriculture will consist of one (1) head of beef or dairy cattle, two (2) calves less than one (1) year old, one (1) buffalo, llama, horse, or mule, five (5) sheep or goats over six (6) months of age, two (2) swine over six (6) months of age, two (2) deer, ten (10) chickens, five (5) turkeys, one (1) ostrich, or ten (10) rabbits.

The requirements for accessory buildings in agriculture are also proposed to change. Presently, the ordinance does not restrict the size of accessory buildings in agriculture. Mr. Cobb explained the new ordinance will limit the size of accessory buildings based on lot size. He stated lots less than one (1) acre will be restricted to an aggregate area of nine hundred square feet (900 sq. feet) and no more than twenty feet (20') in height. There will be no limits on the size or height of buildings for lots that are greater than one (1) acre in size. Currently, the ordinance allows for detached accessory dwelling units over a detached garage. It is being proposed to allow for detached accessory dwellings to be attached to any detached accessory building, in a barn, attached to a garage, etc. He explained this will also be permitted in Rural Residential and Planned Residential by Administrative Permit. It is being proposed that attached accessory dwellings will be allowed in Rural Residential, Single Family Residential, and Planned Residential by an Administrative Permit.

He stated currently there is one Home Occupation Permit that is similar to the proposed Class A Home Occupation Permit. Mr. Cobb stated the revised ordinance is proposing to have several types of home based businesses. He explained the proposed Class A and Class B home occupation permits in chart format. The different class of home based business is based on several factors including the size of the lot, the amount of employees and/or equipment, and the size of the business. Class A businesses are permitted in Agriculture, Single Family Residential, Multi-family Residential, Attached Residential, Manufactured Home Park, and Planned Residential Zoned Districts. The Class B Home Occupation Permit is only permitted in Agriculture, Rural Residential, General Business, and General Industrial Zoned Districts.

Ms. Sorrells asked if there were any regulations on the number of customers per day.

Mr. Cobb answered yes. He stated there is a limit of ten (10) trips per day. He stated a trip consist of coming and going.

Ms. Sorrells asked the requirements for road frontage and eligibility for applying for a Special Use Permit.

Mr. Cobb stated under the current ordinance an applicant must have public road

September 28, 2009, at 4:30 p.m.

frontage in order to have a Special Use Permit for a home based business. He explained under the proposed ordinance, one will be permitted to have a business that once may have only been allowed by Special Use Permit even if they do not have frontage on a public road. However, he stated the business is restricted to the ten (10) trips per day.

In regards to the number of trips per day for a home based business, Mr. Coleman asked if it was the responsibility of the property owner in terms of burden of proof.

Mr. Cobb explained if a business is in violation of their permit, it would be the Zoning Office's responsibility to investigate, if a violation is determined, Mr. Cobb stated it may then be handled legally.

Pat Morgan explained the violation would have to be proven beyond a reasonable doubt.

A third type of home occupation proposed is a rural home business. Under a rural home business, the business owner must live on site and no retail or wholesale trade except what is made on site shall be conducted on site. A rural home business does not include sludge treatment sites, garbage and trash collection businesses, kennels, race tracks, shooting ranges, batching plants, junkyards, landing strips, storage of bulk fuel and/or the extraction of rocks, gravel, sand, and similar operations. Mr. Cobb explained the proposed rural home business permits will reduce the amount of Special Use Permit requests.

Mr. Leonard asked why Special Use Permits were required for dog kennels as opposed to other types of businesses.

Mr. Wilkinson stated because of the nuisances they create for the adjacent property owners.

Mr. Cobb explained the proposed ordinance separates and sets specific standards for Special Use Permits. Some examples of uses requiring a Special Use Permit are landing strips and helipads, junkyards and demolition facilities, kennels, vehicle repair shops, and campgrounds. Also, provided under the Special Use Permit is an option to use manufactured homes, trailers, storage containers, buses, and similar vehicles for storage on a lot without having to be screened. The proposed ordinance deletes the requirements regarding intensive agriculture operations and facilities.

Mr. Cobb stated there is a new option under the proposed ordinance that establishes a cluster residential subdivision as a by-right development option. He stated there are certain requirements for the cluster residential subdivision. He stated they will only be permitted in Rural Conservation and Agriculture Conservation Areas as designated in the Comprehensive Plan. Mr. Cobb stated subdivisions are required to be a minimum of fifty (50) acres and seventy percent (70%) of the land must be preserved for agricultural and/or forestal uses. Mr. Cobb explained the density is based on the lot frontage and there will be no minimum lot size for the residential lots. He stated lots can be served by private or small community water and sewer systems. There will be a one hundred foot (100') setback from existing public streets, fifty feet (50') perimeter setback and five hundred feet (500') setback from all Agricultural and Forestal Districts. He further explained the lots in the subdivision must access new private streets and the maintenance of these streets will be the responsibility of a Home Owner's Association. Mr. Cobb also stated no more than twenty-five percent (25%) of the land in the residential lots can contain prime farmland soils.

Ms. Sorrells asked if there was a lot size requirement on the cluster residential subdivisions.

Mr. Leonard asked staff to explain the state requirement for allowing this type of development.

September 28, 2009, at 4:30 p.m.

Ms. Earhart explained localities have to allow a certain required percentage of land in the County for cluster developments by right. She stated the County can establish standards for this type of development. She further explained these standards comply with the state regulations, but do not necessarily encourage development in the agriculture districts.

Mr. Leonard asked if a developer would be able to purchase a tract of land and develop a subdivision.

Ms. Earhart answered yes, but the developer would be required to follow the standards set forth under the proposed ordinance.

Ms. Sorrells explained the concept of a cluster subdivision. She stated the idea is to have residential development contained in specific areas within agriculture districts as opposed to smaller lots and residences broken up and scattered throughout these districts. She stated ultimately this concept of clustering will use less prime agricultural land. This is ideal if the land being developed is not working agriculture land, therefore she stated standards are set. Ms. Sorrells stated cluster subdivisions are a state requirement. However, the County can regulate these types of developments by setting certain standards.

Mr. Cole commented on the fact that Agricultural and Forestal Districts are not permanent. He asked if there was any consideration given to requiring setbacks from land with conservation easements.

Ms. Earhart answered it will be considered.

Mr. Leonard asked staff if there was a need to include under the requirements of a Special Use Permit, the option to use manufactured homes, trailers, storage containers, buses, and similar vehicles for storage on a lot without having to be screened.

Mr. Beyeler answered there are certain areas within the County that this type of storage is not an issue with regards to being screened from public view and those applicants would have the option of applying for a Special Use Permit. He explained these requests will be reviewed on an individual basis.

Mr. Cobb stated language needs to be included in the ordinance to state that for this type of storage, it will be at the discretion of the Board of Zoning Appeals to determine whether or not the manufactured homes, trailers, storage containers, buses, and similar vehicles to be used for storage will need to be screened.

The group recessed for a short dinner break and resumed the meeting.

Mr. Wolfe explained the concept of the VDOT Functional Classification road system. He explained all residential subdivisions must access internal streets or an existing subdivision street. Mr. Wolfe stated the current ordinance defines "designated thoroughfares", as traveled roads or highways that were predicted to be improved or widened in the future and required a greater setback. Mr. Wolfe explained during the ordinance review process, it was determined rather than update the map of designated thoroughfares, it made more sense to adopt the VDOT functional classification system as there were only two (2) areas in the County that are defined as a designated thoroughfares that VDOT treated as smaller roads. Therefore, the County can adopt the VDOT functional classification system for setbacks. Any structure must be fifty feet (50') from an arterial or collector street and twenty feet (20') from a local or private street. Mr. Wolfe displayed a map of these designations within the County.

September 28, 2009, at 4:30 p.m.

In Rural Residential Districts, Mr. Cobb explained there will be only limited agriculture permitted on lots five (5) acres or greater. He stated this will not include poultry or swine. With regards to accessory buildings, Mr. Cobb explained the permitted size of the buildings is being proposed to be increased and be based on lot size. He explained for lots less than five (5) acres accessory buildings with an aggregate area of up to twelve hundred square feet (1200 sq. ft.) and no more than twenty feet (20') in height are permitted. He explained for lots five (5) acres or greater there will be no limit on the size or height of the accessory building. Also permitted under this zoning classification Mr. Cobb explained will be the two (2) types of home occupations and attached and detached accessory dwellings as discussed earlier.

Mr. Cobb explained the permitted uses under the Single Family Residential Zoning District. The permitted size of accessory buildings will be increased and be based on the size of the lot. Mr. Cobb explained accessory buildings for lots less than one (1) acre in size will be permitted to have an aggregate area of nine hundred square feet (900 sq. ft.) and be no more than twenty feet (20') in height. Lots that are one (1) to five (5) acres in size will be permitted to have accessory buildings with an aggregate area of up to twelve hundred square feet (1,200 sq. ft.) and no more than twenty feet (20') in height; there will be no size or height limitation for lots five (5) acres or greater. This zoning will only allow for a Class A Home Occupation Permit. He explained the new ordinance will add options for an attached accessory dwelling unit, a SUP for farms on properties five (5) acres or larger, and a SUP for a boarding house. The zoning will also establish a requirement for public water and a minimum lot size for lots on private sewer of one (1) acre.

Mr. Cobb stated Attached Residential Zoning will be a proposed new district and will eliminate the existing Duplex and Townhouse Residential Districts. Under this zoning classification he explained duplexes and townhouses will be permitted on individual lots. The zoning will only allow for a Class A Home Occupation Permit. He explained the proposal is to increase the lot width requirement to twenty feet (20') in order to accommodate the requirement of the width of two (2) parking spaces. He explained this zoning will also allow for lots to front on a public street, a private street, or a parking lot. He stated the lots are required to have curb, gutter, and sidewalks or a trail. He stated the maintenance of the private streets or parking lots will be the responsibility of the Home Owner's Association.

The Multi-family and Manufactured Home Park Zoning Districts remain largely unchanged. Mr. Cobb explained a requirement will be added for guest parking in an amount equal to ten percent (10%) of the required parking spaces for the units. He further stated the Plan of Development process will be eliminated and be replaced with the site plan process. Mr. Cobb also stated a minimum amount of recreation will be required in these districts and will be based on the number of units in the development. However, he stated the actual type of facilities will be determined by the developer. Mr. Cobb displayed a chart of the recreational facilities that could be used based on a point value system.

Mr. Coleman noted that Ron Sites, Director of Parks and Recreation, worked with staff in determining these standards of point values for recreation.

In Business and Industrial Zoned Districts, Mr. Cobb explained the proposed ordinance will establish smaller building setbacks if parking is not located adjacent to public roads. He also explained lot width and frontage will be based on type of road, curb and guttering, and utilization of joint entrances.

Mr. Cobb stated the proposed ordinance deletes the Limited Business Zoning District. In General Business Zoning outdoor display will become a permitted use without having to apply for a Special Use Permit if the merchandise is in working order and ready for sale and if the items are placed in front of building, they can project out no more than twenty feet (20'). Limited outdoor storage will be permitted by an Administrative Permit. The

September 28, 2009, at 4:30 p.m.

items can be kept in the side or rear yards only and cannot exceed twelve feet (12') in height. The items must be screened from view from the road, parking areas, and adjacent residential areas. He explained general outdoor storage will require a Special Use Permit and would be defined as anything that does not qualify as outdoor display or limited outdoor storage. General Business zoned lots will require a landscaped buffer yard between business and industrial uses when they are adjacent to non-business and industrial uses.

Call centers, computer centers, contractors' offices and shops, labs, and sales and service of motor vehicles, trucks, heavy equipment, and farm equipment will be added to the list of permitted uses under General Industrial Zoning. Mr. Cobb explained flex space which was discussed earlier, will be added under the proposed ordinance under General Industrial. As discussed in General Business zoning, landscaped buffer yards between business and industrial uses when adjacent to non-business and industrial uses will be required.

Mr. Cobb stated Planned Residential Districts will be a new district added to the Ordinance and he feels this district will be widely used. He explained this district is very flexible and will allow for a mixture of residential uses only. He explained business and industrial uses are restricted. The district will permit single family, two-family, duplexes, townhouses, and multi-family homes. He stated the overall density is based on the Comprehensive Plan Land Use Designation. Mr. Cobb explained a conceptual plan will be required to be submitted to the County that will identify the location of dwelling types, the number of units in each area, and the setbacks and yard requirements. The maximum amount of multi-family and townhouse units is no more than twenty-five percent (25%). He explained if the development is ten (10) acres or less, it must have at least two (2) or more different dwelling types. If the development is more than ten (10) acres, the development will require at least three (3) different dwelling types. Mr. Cobb stated this zoning district will also allow for private streets. The development will require public water and sewer, curb, gutter, and sidewalks/trails as well as recreation identical to that required in the Multi-Family Residential District.

Ms. Sorrells asked if the different housing types can be scattered throughout the development.

Mr. Cobb answered it will be an ordinance requirement.

Ms. Sorrells asked if there would be required setbacks.

Ms. Earhart stated there will be no required setbacks within the development. She explained there will be setbacks around the perimeter of the development. Ms. Earhart explained when the development is being proposed for rezoning, adjacent property owners will have an opportunity to learn the setbacks, dwelling types, etc. proposed for the development.

Mr. Leonard asked the advantage or desire of having different dwelling types within a single development.

Mr. Cobb explained developers prefer to develop subdivisions where they can market to the largest variety of buyers.

Mr. Leonard stated under these requirements, the developer is being mandated to construct various dwelling types within one development.

Ms. Earhart explained if the developer wishes to have one dwelling type they would go through the rezoning process to have the property zoned Single Family Residential.

September 28, 2009, at 4:30 p.m.

However, under Planned Residential Districts, the development would have to include a mixture of residential uses. She explained this will be a flexible district where the development would not be required to have a separate zoning ordinance, restrictions, etc.

Ms. Sorrells stated this type of district will bring back the traditional villages.

Mr. Leonard voiced concern regarding the amount of multifamily and questioned the difference between this district and a traditional subdivision.

Ms. Earhart stated there is a maximum percentage of multi-family and townhouses which can be no more than twenty-five percent (25%) of the development. She explained this district will allow for a "walkable" community with a diversity of housing types.

Mr. Leonard asked how the location of this district will be decided.

Mr. Cobb stated the request will be required to be located in an Urban Service Area and the developer will come before the Planning Commission and Board of Supervisors as they would for a traditional rezoning.

Mr. Byerly stated public water and sewer availability needs to be taken into consideration at the time of the request.

Mr. Cobb stated with this type of rezoning several acres may be multi-family, several acres may be zero lot line, and several acres may be single family. Mr. Cobb explained the Board and the Commission will need to look closely at what is being required in the ordinance, because at the time of the request, they may only see a conceptual plan.

Mr. Leonard stated this is advantageous to developers.

Ms. Earhart stated the Choices Report that was prepared by the consultants discussed the need for affordable housing within the County. She explained this district will facilitate those goals.

Mr. Coleman questioned developments where there would be several parcels zoned Business to allow for residents to walk to the bank, doctor's office, etc.

Mr. Cobb explained if developers would want areas to be zoned business, they would apply for a separate rezoning request for the business zoned parcels and then submit the rezoning for the Planned Residential District.

The Floodplain Overlay District was discussed. Mr. Cobb explained the Federal Emergency Management Agency (FEMA) has revised a map dated January 6, 2010. By adopting the proposed ordinance, Mr. Cobb explained this revision will correct a map error by FEMA during the 2007 map revision. Under the Flood Plain Overlay District, he explained floodpool areas upstream of flood control and water supply dams will be added to the regulations.

Mr. Wolfe gave Todd Lake as an example of a floodpool area.

Ms. Sorrells asked if the state requires localities to show the flood inundation zones.

Mr. Wolfe stated the flood inundation zones will be addressed in the Subdivision Ordinance.

Mr. Cobb stated development in Floodplain Overlay (FPO) is prohibited unless you qualify as exception. He explained the exceptions. He stated streets and driveways where no access exists outside of the floodplain will be an exception. He stated it would be an exception if the lot was created prior to January 1, 2010 and no portion of the lot

September 28, 2009, at 4:30 p.m.

is larger than nine thousand square feet (9,000 sq. ft.) and out of the floodplain. He also stated it will be an exception if the development by its nature is customarily located in the floodplain (i.e. treatment plants, docks, boat ramps, etc.). Mr. Cobb explained the process for development in the flood plain. He explained first it will be determined if the development is within one hundred feet (100') of the FPO. If it is not then staff would simply issue the building permit. He explained if development is within one hundred feet (100') it will need to be determined if there is a problem with the FEMA maps. If there is no obvious problem with the maps, you proceed to step two. He explained if the maps are incorrect and there is no way the development is in the floodplain (i.e. the development is located on a cliff), a waiver and building permit will be issued. Mr. Cobb explained step two. He stated if the development is within one hundred feet (100') of the FPO, a floodplain development plan drawn by an engineer/surveyor needs to be submitted to the Community Development Department. If it is determined after the development plan is submitted the development is not within one hundred feet (100') of the FPO, a building permit can be issued. If it is determined the development is within one hundred feet (100') of the district, but not in the district, a building permit can be issued using the floodplain boundary as an exterior lot boundary for setback purposes (i.e. setback from floodplain). Mr. Cobb displayed an example of how the setback would be measured from the floodplain area. If the plan shows the development is in the floodplain district, Mr. Cobb stated you proceed to step three. He explained under step three, if the development is definitely in the floodplain, a permit can be issued only if the applicant can qualify for one of the exceptions discussed previously. He explained the structure will be required to be elevated at least one foot above the base flood elevation for the floodplain and in floodpool areas. Once this requirement is met, a building permit can be issued. The applicant must provide compensatory storage. For example, he explained if an area is filled in, another area will need to be excavated. In conclusion, Mr. Cobb stated the goal of these steps is to make the process easier for the public when applying for building permits in these floodplain districts.

Mr. Cobb discussed the proposed changes to the Urban Service Overlay Districts (USO). He stated the larger intensive agriculture setbacks will be deleted. He explained there will be changes in the street classification system to match the VDOT system. Mr. Cobb stated under the current ordinance, it is a mandatory requirement to provide restroom facilities for any development in a Business or Industrial District. He stated this requirement will be reduced under the proposed ordinance. Mr. Cobb explained the proposed ordinance will allow for shared facilities (within 400') with a written agreement from the adjacent property owner. However, he stated this ordinance precludes the use of "portable toilets" to meet the restroom requirement. Mr. Cobb stated the current Urban Service Overlay boundaries are based on the 1994 Comprehensive Plan. This ordinance will make all Urban Service Areas from the 2007 plan part of the Urban Service Overlay District. Maps were provided at the worksession for review.

Mr. Cobb discussed the proposed changes to the permit and amendments section. He explained the proposed ordinance will require the property owners' consent for all Administrative Permits. He stated the ordinance will also clarify the language under Special Use Permits in regards to minimum acreage. Mr. Cobb stated when there is a minimum acreage requirement in the standards it means the total acreage owned by the same person or corporation. With regards to rezonings, Mr. Cobb stated the review of a Traffic Impact Analysis Study (TIA) will be added to the list of things to be covered in the presubmittal conference. Another major change with regards to rezonings in the proposed ordinance is the proffer process which will reflect the State Code which allows proffers to be submitted up to the time of the BOS' public hearing and some modifications during the hearing.

Ms. Sorrells asked if the modifications to the proffers can be changed to be less restrictive.

September 28, 2009, at 4:30 p.m.

Mr. Morgan answered the applicant has the right to make minor modifications.

Mr. Cobb discussed the major changes to the site plan process. He explained site plans will be required for all cemeteries (except those on private property), any utility lot involving a building, any change or enlargement of a use, building, or structure where a site plan is not currently on file (this is the current policy), any new structure permitted by Special Use Permit or required by the Board of Zoning Appeals, wind energy systems, and wireless telecommunications facilities. Mr. Cobb explained the proposed changes will eliminate the pre-submittal conference. He explained if the site plan meets the technical requirements of the ordinance, it will be approved. He stated if the site plan does not meet the technical requirements, a site plan meeting will be held with the property owner, engineer, and staff. He stated if there are minor changes that can be made during the meeting the site plan can be approved at that time. Mr. Cobb stressed the importance of departments having the proper staff attend so decisions on the plan can be made at the meeting. If the changes cannot be made during the meeting, a resubmittal of the site plan will be required. With regards to the site plan contents, for consistency with current policy, additions were made which require calculations to be provided for parking, recreational facilities, and landscaping, boundaries of overlay districts and dam break inundation zones, distances between property lines and street right-of-way lines, rezoning proffers, and Special Use Permit conditions, and existing and proposed buildings and parking spaces to be labeled as such. To conform to new VDOT requirements, Mr. Cobb stated a TIA Worksheet is now required to determine whether a full TIA is necessary.

Mr. Coleman reiterated the importance of communicating and having the proper staff attending the site plan meetings that can make the important decisions on the site plan.

Ms. Earhart stated it is also important to have the property owner attend the meeting because they have the ability to make important decisions.

Mr. Cobb stated the purpose of this process is to save time and money.

Mr. Cobb gave a briefing on the transition process for the proposed ordinance. He explained Exclusive Agriculture will change to General Agriculture effective January 1, 2010. He stated parcels zoned Duplex Residential where development has begun will remain Duplex Residential and those where development has not begun will change to Attached Residential effective January 1, 2010. Mr. Cobb further stated Townhouse Residential zoning will change to Attached Residential and those parcels that are presently zoned Limited Business will remain Limited Business.

Mr. Leonard asked what the Board of Zoning Appeals would do if a property owner owned several tracts of land and applied for a Special Use Permit with the minimum acreage requirement and then sold several of the parcels.

Mr. Cobb stated the property owner would then be in violation of the Special Use Permit because they would not have the minimum amount of acreage required.

Mr. Cobb discussed proposed changes to the Subdivision Ordinance. He stated all public and private streets have to line up, provide turnarounds, and provide connectivity to other subdivisions and/or sites. Mr. Cobb stated this requirement will also be required for mixed zoning. He stated an example would be requiring residential to business connectivity. Included in the Subdivision Ordinance will be a limit of one hundred (100) users on a single road entrance. He stated a boulevard entrance will be permitted in lieu of a second entrance for up to two hundred (200) users. For minor subdivisions, Mr. Cobb explained the Deed of Trust policy. He stated this policy is used by Rockingham County and gave an example of a property owner that owns a farm and wants to build a house, instead of going through the minor subdivision procedure, a Deed of Trust can be drawn on that particular tract of land so the entire farm will not have to be put up as collateral. Mr. Cobb also explained the concept of a partition in kind. He gave the

September 28, 2009, at 4:30 p.m.

example if a property owner dies the parcel can be subdivided among the children as the will requests as opposed to the current ordinance requirement of one lot per year. He explained the plat requirements. He stated the plat has to show buildings within fifty feet (50') of new property lines for zoning compliance. He also stated the new requirement will need to show floodplain and inundation zones on minor plats and indicate familial relationships for Family Member Exception (FME) divisions. Mr. Cobb discussed the process for major subdivision approval. He explained if the preliminary plat meets the technical requirements and is approved by staff it will not have to go before the Planning Commission and Board of Supervisors for approval. He stated any plat that was valid January 1, 2009 will be valid until July 1, 2014. Mr. Cobb stated a preliminary plat is now valid for five (5) years from the date of latest final plat approval. And further, he stated open space, recreation, and inundation zones will be required to be added as a preliminary plat requirement.

Ms. Sorrells stated the inundation zones are currently not on maps.

Mr. Wolfe stated the zones will eventually be mapped due to new code requirements. He explained the ordinance states developers will be required to display inundation zones on the preliminary plats that are on file in Richmond and in the County. He explained the majority of the inundation zones are publicly owned and will be mapped.

Mr. Cobb briefed the Board and Commission on other minor changes to the Subdivision Ordinance. He stated with regards to a final plat, for bonds, from adoption until July 14, 2014, the administrative allowance will be ten percent (10%) instead of twenty five percent (25%). He explained for all bonds, the cumulative release will be increased up to ninety percent (90%) of the bond amount rather than the current eighty percent (80%). Also, like preliminary plats, inundation zones and buildings within fifty feet (50') must be shown on the final plat.

Mr. Cobb explained there are several minor changes to the Stormwater Ordinance in order to bring it into compliance with the state code. He explained the proposed ordinance will codify the current policy for retroactive stormwater management in cases of incremental development. An example he explained would be several nine thousand square feet (9,000 sq. ft.) additions over a period of years. He stated agricultural development is exempt from this requirement. He stated the proposed ordinance will require SCS Methodology for basins greater than twenty (20) acres in size, in order to be consistent with VaDCR guidance. Currently, this is required only for greater than two hundred (200) acres. Mr. Cobb stated §18-5 discourages SWM facilities in floodplain, §18-5 will allow Low Impact Development without requiring a waiver from the Board of Supervisors, §18-5 will require amended soils and/or underdrains in basin bottoms under certain conditions, and §18-5 will require an aquatic bench or fence for facilities with a permanent pool. Mr. Wolfe displayed an example of the aquatic bench. With regards to pipes and channels, Mr. Cobb stated §18-6 will codify the current policy and state code requirement that designs shall preserve natural channel characteristics to the maximum extent practicable. He further stated §18-6 will require analysis of the one hundred (100) year storm to indicate anticipated impacts. Mr. Cobb discussed the maintenance of the facilities. He stated §18-7 will clarify the requirement for a maintenance agreement for all Stormwater Management (SWM) facilities. He further stated §18-7 will require SWM facilities to be located on a single lot instead of having multiple lot owners with maintenance responsibilities. The County will perform all maintenance, both routine and extraordinary for basins in residential subdivisions over 15,000 cubic feet and located on a single lot dedicated to the County.

Mr. Leonard asked the benefit of requiring the County to assume all maintenance responsibilities for the SWM basins.

September 28, 2009, at 4:30 p.m.

Mr. Cobb stated it is believed if the basins are the responsibility of the County, they will be better maintained. He further stated this type of benefit needs to be provided to the residents in Urban Service Areas to encourage growth in these areas.

Mr. Leonard questioned the financial responsibility.

Mr. Cobb stated currently, developers maintain the basins until the development is eighty percent (80%) complete at which time it is turned over to the Home Owner's Associations. He stated at this time the County is fortunate to utilize inmate work crews, but he stated this will be the financial responsibility of the County.

Mr. Leonard asked staff to provide an example of a stormwater management basin large enough to be required to be maintained by the County.

Mr. Wolfe stated there is a large stormwater management facility in the middle of Forest Springs Estates. He explained multiple lot owners own the facility and are responsible for mowing their portion. He explained there have been issues in the past with the property owners not maintaining their portion and the County having to send them mowing reminders. Mr. Wolfe stated under the proposed ordinance, if there are large facilities similar to the one in Forest Springs, the County will mow and maintain the basin. As of now, the County is responsible for the major repairs to the facilities, but the landowners are responsible for the mowing.

Mr. Leonard asked how the maintenance will be funded.

Mr. Coffield explained the funding will be the responsibility of the County. He stated these services need to be provided in the Urban Services Areas as a benefit to encourage development in these designated areas.

Ms. Sorrells asked if the new ordinance would allow the County to maintain those basins that are maintained by the private property owner under today's ordinance.

Mr. Wolfe stated the proposed ordinance will not cover that issue. He stated he feels that will need to be a decision of the Board.

Mr. Morgan stated the language would need to be included in the proposed ordinance.

Mr. Cobb stated there are several changes and additional language under the nuisances section of the ordinance. He stated owners of lots zoned agriculture that are one acre or less will be required to mow grass over fifteen inches (15") in height. For parcels that are zoned Rural Residential that are less than five (5) acres the grass cannot exceed fifteen inches (15") in height. He explained in residential areas, if the lot is zoned Single Family Residential the property owner will be required to mow if the grass is higher than ten inches (10") in height. For all other Residential (AR, PR, MFR, and MHP) zonings, the grass cannot exceed fifteen inches (15") in height. For Business and Industrial Zoned lots if the lots are platted, the grass will need to be mowed if it is higher than fifteen inches (15") in height. In all other Residential, Business, and Industrial areas, Mr. Cobb explained if the parcel is adjacent to a residential, business, or industrial structure, a three hundred feet (300') strip of land needs to be mowed if the grass is over fifteen inches (15") in height.

Mr. Howdysshell discussed the concern for cutting hay on smaller lots.

Mr. Cobb stated language could be added in the proposed ordinance that would allow for more time for the property owner to cut the parcel for hay.

Mr. Howdysshell stated he would like that to be considered.

In conclusion, Mr. Cobb asked the Board's and Commission's decision with regards to the next phase of the ordinance revision. He explained the next phase will be based on

September 28, 2009, at 4:30 p.m.

comments and changes from tonight's worksession. The decision will determine how to proceed regarding advertising and future worksessions on the draft ordinance.

Mr. Coleman stated based on the comments from tonight's worksession, he feels the proposed ordinance can go to public hearing scheduled for October 26, 2009. He stated he feels the committee can review the comments and make the appropriate minor changes. He moved for the ordinance revision project to be advertised for public hearing with an effective date of January 1, 2010.

Mr. Beyeler seconded the motion.

The motion carried 6-0.

Mr. Howdysshell thanked staff and the ordinance review committee for their time and effort in the revisions.

Mr. Cobb stated the ordinance review committee will meet at which time the comments and changes to the revisions will be made. He stated the Board and Commission will receive the changes sometime next week pending the revisions.

Ms. Earhart asked the Board and Commission to keep their ordinance notebooks. She stated the members will receive an addendum regarding the changes made from the comments from tonight's meeting. She explained the notice of the ordinance revisions will be advertised in the newspaper and notices will be sent to county residents attached to their tax tickets. She stated the tax tickets will be sent the second week in October.

Ms. Sorrells asked what the advertisement would entail.

Mr. Morgan stated based on a Supreme Court hearing in Spotsylvania County, the court expects a fairly detailed explanation of the proposed changes. He stated the ad will be a fairly large and detailed ad.

Ms. Earhart stated the property owners' notice will consist of a four (4) page letter.

Ms. Sorrells asked where the ordinance revisions will be available.

Ms. Earhart stated copies will be available in the libraries, on the County's website, as well as in the Community Development Department after the comments and concerns are reviewed and changes made based on tonight's meeting.

Mr. Beyeler moved, seconded by Mr. Garber, that the worksession be adjourned. The motion passed. Mr. Byerly then adjourned the Planning Commission.

September 28, 2009, at 4:30 p.m.

ADJOURNMENT

There being no other business to come before the Board, Mr. Beyeler moved, seconded by Mr. Garber, that the Board adjourn subject to call of the Chairman.

Vote was as follows: Yeas: Howdyshell, Sorrells, Garber, Beyeler,
Shiflett and Coleman

Nays: None

Absent: Pyles

Motion carried.

* * * * *

Chairman, Board of Supervisors

County Administrator