

**Worksession
November 4, 2009
6:00 p.m.**

PLANNING COMMISSION:

PRESENT: Thomas H. Byerly, Chairman
Kitra A. Shiflett, Vice-Chairman
Wayne F. Hite
James W. Curd
Taylor Cole
Kyle Leonard

ABSENT: Stephen N. Bridge

STAFF: Dale L. Cobb, Director of Community Development
Becky Earhart, Senior Planner
Doug Wolfe, County Engineer
John Wilkinson, Zoning Administrator
Jessica Staples, Administrative Secretary

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ORDINANCE REVIEW

Mr. Byerly called the November 4, 2009 Worksession to order. He thanked the public for the comments regarding the ordinance revisions. Mr. Byerly turned the meeting over to Dale Cobb.

Mr. Cobb explained the chart provided is staff comments and recommendations based on the comments and concerns received from the public hearing on October 26, 2009, the Partnering Session on October 16, 2009, as well as other comments and concerns received by the Community Development Department. Mr. Cobb explained after each section of the ordinance the Planning Commission can discuss and vote or chose to defer the decision to another worksession.

Ms. Earhart stated the revisions are a work in progress, but the chart consists of all comments received to date. She informed the Planning Commission copies of comments they had not previously received are located at each of their places.

Limiting the amount of agriculture allowed on small lots and the definition of animal units (§25-4, §25-72, and §25-122) was discussed. Mr. Cobb explained

the concerns received regarding these sections were that animal units were not equivalent weights and that the age limit of swine over six (6) months of age does not make sense. It was stated that one can have a large operation on a small amount of acreage because the pigs would be sold before they reach the age of six (6) months. Mr. Cobb explained the changes to the animal unit definition were made based on nuisance factors not weight or manure production. He explained concern has been raised by neighbors about too many animals on too little property and limits were proposed to address this concern. With regards to swine, Mr. Cobb explained the age limit on pigs was added to protect 4-H projects. Another concern raised was for limited agriculture to be based on the fenced acreage where animals are confined rather than the entire acreage of the parcel. He explained while basing it on fenced in acreage would more adequately address the concern of neighbors, it would be difficult for zoning staff to get on a person's property to measure acreage and verify a complaint. Also addressed was the opposition to limited agriculture on lots less than five (5) acres since the limit runs counter to sustainability movements of those raising their own food.

Ms. Earhart stated the definition of an animal unit was addressed based on a complaint basis. She explained Community Development has received a large number of complaints regarding "too many animals on too small of a parcel". She stated based on public input, the issue of limited agriculture seems to be the most controversial.

Mr. Cole asked for an example of a compliant issue.

Mr. Wilkinson explained numerous complaints are received from neighbors regarding the number of animals on small parcels. He stated if the parcel is zoned agriculture, under the current ordinance, it is not a zoning violation.

Mr. Leonard asked Mr. Wilkinson approximately how many of these types of complaints are received per year.

Mr. Wilkinson answered approximately five (5) to ten (10) per year.

Mr. Leonard asked how many chickens would be allowed if the ordinance uses the standard definition of an animal unit.

Ms. Earhart answered the current ordinance would allow for one hundred twenty-five (125) chickens per acre. She explained a major difference under the proposed ordinance would be the reduced number of chickens and turkeys in limited agriculture.

Mr. Leonard asked Ms. Earhart the number of swine that would be allowed under this definition.

Ms. Earhart stated two (2). She stated in order to protect the 4-H projects, the age limit was used as clarification, however, she stated property owners using swine as a business would have the pigs removed before they reach the age of six (6) months.

Mr. Cole asked the zoning of the parcels on the majority of the complaints.

Mr. Wilkinson answered General Agriculture. He stated the majority of the complaints are on small parcels.

Mr. Cole commented the issue seems to be based mainly on the size of the parcel rather than the number of animal units.

Mr. Leonard commented the issue stems from the great number of animals.

Ms. Shiflett stated the number of animal units seems restrictive for only five (5) to ten (10) complaints per year.

Mr. Leonard questioned if it would be more effective to use the definition of an animal unit used by the Extension Office.

Ms. Earhart explained the current definition and one that is consistent with Extension was used for setbacks of intensive agriculture operations. She stated it was more of a concern of restricting the number of animals on small parcels of agriculture land.

Mr. Leonard stated parcels that are less than five (5) acres are not considered to be a working farm, but more of a hobby. He explained if there is concern with the number of animal units on smaller parcels, the operation should move to larger acreage.

Mr. Cobb commented with the majority of complaints received, there is not any grass on the parcel because of the large number of animals.

Mr. Cole asked if that was a sustainability issue.

Mr. Leonard stated he feels this definition is too generous. He asked if there was any issue with using the same definition of the Extension Office, but to allow a different number of poultry. He stated if the parcel is being farmed for sustainability, more acreage is needed.

Ms. Shiflett asked if miniature horses were included in the definitions.

Ms. Earhart stated the calculations regarding poundage can be included in the definitions.

Mr. Curd commented with regards to the complaints, it seems they are based mostly on the size of the lots as opposed to the animal unit. He stated he is concerned with the issue regarding the fenced in portion of the parcel. He stated this issue would be addressed if the size of the parcel were based on the amount that was fenced in, but he does not find it feasible for staff to measure this acreage.

Mr. Hite stated one should expect smells, noise, and other agriculture uses that are found in an agriculture zoning.

Mr. Leonard asked if there are large parcel residential subdivisions in the County that are zoned agriculture.

Ms. Earhart answered the majority of these subdivisions are zoned agriculture.

The Planning Commission requested staff to consider the definition of an animal unit could be modified similar to the definition used by the Extension Office, but to included the limitations of the amount of poultry, add miniature animals (i.e. horses, goats, etc.) to the list of animal units, and consider the amount of fenced in acreage of the parcel.

Mr. Cobb stated staff will have to meet with the County Attorney to determine how to legally enforce the standards regarding fencing.

Ms. Earhart stated 4-H projects need to be considered as the majority of these animals are raised in confinement.

Ms. Shiflett asked about the possibility of a "confinement exemption" being added to the definition.

Mr. Curd commented on the concern of over grazing. He also questioned how the definition will address species of animals that are not included in the list.

Ms. Earhart stated if the definition is based on weight and size of the animal unit, all species will be addressed.

Other definitions in §25-4 were discussed. Mr. Cobb stated a request was made to add "age restricted" as a dwelling type under the definitions section of the ordinance. Mr. Cobb explained an age restricted dwelling is not a dwelling type. He explained it could be a townhouse, a single family detached unit, etc. However, for parking purposes, a parking study could be submitted for a reduction in the number of parking spaces if that would become an issue. He stated if the Commission would decide to include this as a dwelling type, an option could be added as a type of waiver under the age restricted dwelling types.

Several Commission members questioned the process of a parking study.

Ms. Earhart stated the study is done at the time of site plan submittal.

The Planning Commission agreed to leave the ordinance as drafted.

Mr. Cobb explained these studies are generally done by large developers with big name chain stores that are familiar with the amount of required parking for that particular chain store or type of use. He further explained a waiver can be granted by the Board of Zoning Appeals with an approved parking study, if a developer feels less parking is required for age restricted dwelling developments.

A concern under §25-4 was to modify the definition of a townhouse.

Mr. Cobb stated the definition of a townhouse was consistent with the definition used by other localities.

The Planning Commission agreed to modify the definition of a townhouse to specify the entrance location could be at the front and at the side or rear of the unit.

The definition of finished grade was discussed, as well as the concerns the height needs to be increased from thirty-five feet (35') and the height of accessory buildings needs to be increased from twenty feet (20') based on the new definitions. Mr. Wolfe explained several options. The first option is to leave the definitions and heights as proposed. Mr. Wolfe explained the second option would be to keep the old definitions from the current ordinance but keep the higher height restrictions and new height limitations, Mr. Wolfe stated the building height would read, "The vertical distance from the finished grade to the top of the highest roof beams on a flat or shed roof, the deck line on a mansard roof, and the average distance between the eaves and the ridge line for gable, hip, and gambrel roofs", and finished grade would read, "The final elevation of the ground level after development". The third option Mr. Wolfe explained would be to keep the heights as they are, but to modify the definitions to measure the average grade height to match the Uniform Statewide Building Code (USBC) definitions.

Mr. Byerly asked if there was any reason for the zoning definition to read different from the definition used by the Building Inspection Department.

Ms. Earhart answered no. She stated there is concern property owners may want taller accessory buildings, but by changing the way the height is measured, that will allow for higher buildings.

Ms. Shiflett supported the third option. She stated she feels consistency is important.

The Planning Commission recommend option three (3), which is to keep the heights as they are, but to modify the definitions in order to be compatible with those used by the USBC.

Another concern under §25-4 that was discussed is to modify the definition of a shopping center. To address this concern, Ms. Earhart explained staff has recommended deleting the reference to anchor stores under this definition. She stated the revised definition would read, "A group of commercial establishments planned, constructed, and managed as a total entity, with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements, and landscaping and signage in accordance with an approved plan". Ms. Earhart further explained Michael Stoltz with Pence-Friedel Development will also be providing comments on the proposed definition.

The Planning Commission moved to defer a decision until all comments are received regarding the definition of a shopping center.

Mr. Cobb stated that a drawing of a parking facility would be added to the ordinance to address the concerns raised in the definition section.

John Wilkinson discussed the requirements of a sketch plan for a building permit under §§ 25-22 and 23.

Mr. Leonard asked if the building will be within five feet (5') from the setback line, will the department require a survey.

Mr. Wilkinson answered yes.

Mr. Cobb explained concerns were addressed regarding the setback from a right of way. He stated the advertised ordinance required a survey if the building was within one hundred feet (100') of the front setback, but later staff realized ninety percent (90%) of the new construction would require a survey to be submitted. Staff is recommending that the requirement be lowered to within twenty feet (20') of the front setback and five feet (5') of a side or rear yard requirement.

The Planning Commission agreed with staff's recommendation.

Mr. Cobb explained the concerns and recommendations regarding the paving requirement for parking lots for businesses that are increased by more than fifty percent (50%). He explained the concern was this may eliminate business expansion. Mr. Cobb stated this decision would be a policy decision.

The Planning Commission voted to defer the decision until all the decisions on the parking ordinance were made.

Mr. Cobb addressed the comment of someone wanting to reduce a travel lane from eighteen feet (18') to twelve feet (12') or less when no vehicles are allowed to park adjacent to the lane. Mr. Cobb explained staff checked with the Fire Chief who indicated the County should require an eighteen feet (18') travel lane in case fire or emergency vehicles need to get behind the buildings. Mr. Cobb also stated if the occupant of the business were to change, the new occupant may need access and may not meet the building requirement.

The Planning Commission voted to keep the required travel lane at eighteen feet (18') in width.

The standards for access drives (§25-32.B) was discussed. Mr. Cobb explained the concern that access drives leading to parking spaces in residential districts needs to be exempt; for example alleys accessing garages.

Ms. Earhart stated the intent is to allow alleys behind garages (i.e. Stone Valley). She stated staff could clarify the language and clearly indicate that alleys are to meet the 12' construction standard as referenced in other sections of the ordinance.

The Planning Commission recommended revising the wording of the sections.

Mr. Cobb discussed §25-33B. He stated there were several concerns regarding being able to use wider sidewalks as opposed to bumper guards. The concern was bumper guards would become a maintenance issue. The suggestion was a five foot (5') sidewalk could replace the need for the bumper guard. It was suggested, that even if the car were to go over into the sidewalk, there would still be room to walk on the sidewalk. Mr. Cobb read the following suggested new language, *"All pedestrian walkways which are less than five feet (5') in width and adjacent to vehicles parked in an orientation other than parallel to the walkway shall be protected with wheel stops located in each space to prevent vehicles from overhanging into the pedestrian walkway. Wheel stops shall be defined as concrete parking blocks, landscape timbers, railroad ties, or similar devices"*.

Mr. Leonard questioned the language depending on whether or not the sidewalk is raised. He also stated whether or not a bumper is required, would theoretically change how the parking space is measured.

The Planning Commission recommended adding language to clarify the sidewalk needs to be raised, and if the sidewalk is not raised, a bumper guard would be needed.

Mr. Cobb stated there was a request for smaller spaces for parallel parking (§25-33C). Mr. Cobb stated the size of the space can be decreased. Staff recommends an 8' x 20' space.

Mr. Byerly asked staff the current size of the space.

Mr. Cobb answered 10' x 18'. He stated the current ordinance does not make provisions for parallel parking as all parking spaces are required to be 10' x 18'.

The Planning Commission recommended staff's suggestion regarding decreasing the parallel parking space size requirement.

With regards to §25-33E, Mr. Cobb stated the concern with the paving requirement was that it was overkill. It was suggested to let business owners decide whether or not they want to pave their parking lot. Another concern was the possible disconnect between reduction in impervious surface requirements by the State and the new paving requirements of the County.

Ms. Earhart addressed those concerns. She stated businesses want to be able to have one-way traffic aisles and there is very little way to mark the traffic patterns or even marking parking spaces in many configurations without the lots being paved. Ms. Earhart stated in the past three (3) years, Community Development has had nineteen (19) site plans submitted for new or expanded business or industrial uses. She explained of those submittals, fifteen (15) paved their parking lots and only four (4) did not. She stated of those four (4) that did not pave, two (2) were mini-storage lots, and one (1) was for a new building that partially paved their lot, but paved their required spaces, and one (1) was for an addition that did not increase the required parking by more than fifty percent (50%) and therefore would not have to pave. Ms. Earhart stated staff wants to be sure the wording is clarified. Aisleways was added to the requirement and facilities, driveways, and access ways, would be removed from the language. To address the concern with impervious surface, Ms. Earhart stated compacted surfaces like gravel in a parking lot and pavement are considered the same for stormwater management purposes. She stated both are impervious.

Mr. Leonard questioned impervious surfaces. He commented on the number of concerns that were heard at the public hearing that paving would increase the amount of impervious surface on a lot.

Mr. Wolfe stated the County considers compacted gravel the same as pavement with regards to stormwater.

Mr. Cobb gave an example of a trucking business. He stated the required parking would only be for the office space.

Mr. Leonard questioned if the cost factor would prohibit businesses from expanding if they have to pave their parking lots.

Mr. Cobb stated that is why staff pulled existing site plans from the last three (3) years. He stated the majority of businesses paved their parking lots when there were no requirements.

Mr. Wolfe stated handicapped and loading spaces are required to be paved according to the USBC.

The Planning Commission recommended retaining the advertised language regarding the paving requirement.

Mr. Cobb stated there was a suggestion to give credit for providing on-street parking by reducing by ten to twenty percent (10%-20%) the amount of off-street parking required (§25-35). Also requested, is less required spaces per unit for multi-family projects with the number of spaces to be based on the number of bedrooms. It was asked if a waiver would be applicable to the number of spaces provision. There was a request to reduce the number of spaces required for multi-family developments by basing them on the number of bedrooms in the unit. Mr. Cobb stated staff has suggested rather than giving the Zoning Administrator the ability to grant the waiver, let it be a waiver granted by the Board of Zoning Appeals which could consider it at their next meeting without having to advertise. Mr. Cobb also explained a one (1) space off-street parking space for a one (1) space on-street parking space is possible through the waiver process by the Board of Zoning Appeals (BZA).

Mr. Leonard asked staff to provide an explanation of the parking credit.

Mr. Cobb gave Harshbarger Subdivision in Weyers Cave as an example. He stated there is on-street parking in the subdivision, and this becomes an issue as cars obscure the sight distance of those pulling onto the street.

The Planning Commission recommended staff's suggestion for a waiver to be considered by the Board of Zoning Appeals at their next meeting without having to advertise.

Mr. Cobb stated concerns were raised about requiring loading spaces (§25-35C). It was suggested that business owners should decide how many loading spaces are required, as there are no issues with the current regulations for loading spaces. Mr. Cobb explained, currently, at least one (1) loading space may be required for every site unless the zoning staff determines a loading space is not required, on a case by case basis. In the last three (3) years, Mr. Cobb stated of the nineteen (19) businesses and/or industrial sites where sites plan have been approved, only five (5) had loading spaces or docks. He stated in some instances where there were no loading spaces, extra spaces were provided to meet the demand. Mr. Cobb explained staff's suggestion. He stated instead of giving the Zoning Administrator the ability to grant the waiver, suggest it be a waiver by the Board of Zoning Appeals, which could consider it at their next meeting and not

require advertisement. He stated however, if there is a change of use in the building, the new use would be required to get another waiver.

Mr. Curd stated he supported the waiver option from the Board of Zoning Appeals as it would provide another option for the developer.

The Planning Commission recommended considering standards for loading spaces to minimize the number of applications for waivers from the Board of Zoning Appeals.

With regards to §25-35G, it was suggested from public comment the waiver for the number of parking spaces should be automatic if a parking study is submitted that verifies less parking is required, rather than it being left to the discretion of the Zoning Administrator. Mr. Cobb explained staff has suggested instead of giving the Zoning Administrator the ability to grant the waiver, it will be a waiver by the Board of Zoning Appeals. However, if there is a change of use in the building, the new use would be required to get another waiver.

The Planning Commission concurred with staff's suggestion.

Next, Mr. Cobb discussed the concerns with §25-38 regarding the requirement for interior landscape which included that it is too costly to implement, it will make snow removal difficult, and there is no problem with the current ordinance. Also, it was a concern that businesses with larger amounts of truck traffic need larger maneuvering areas, and landscaping does not work for those situations. It was recommended a picture of the requirements be inserted in the proposed ordinance. One comment was to require a parking island every fifteen (15) spaces if landscaping is to be required. It was stated the proposed ordinance for interior landscaping requirements was too onerous. It was stated if the County is going to require landscaping a lot with parking on both sides and an aisle in between, the four foot (4') wide islands (the minimum) cannot be one hundred square feet (100 sq. ft.) without protruding out into the aisleway. There was also a concern that the requirement for three (3) different kinds of landscaping materials in a single landscaping island is too much. There was some support from the Valley Conservation Council for interior landscaping of parking lots with more than twenty-five (25) parking spaces.

Ms. Earhart explained the requirement of one hundred square feet (100 sq. ft.) will work on lots where there are two (2) rows of parking abutting each other. However, to make it easier for the single rows, staff recommends reducing the minimum size of an island to seventy square feet (70 sq. ft.) and reducing the amount of landscaping materials to two (2) different kinds. She further stated it is a policy decision for the Planning Commission to decide whether or not to require landscaping in parking lots.

Mr. Cobb added per the committee's request, pictures of the required standards will be added into the proposed ordinance

Mr. Curd asked if the Better Models for Development was being utilized.

Ms. Earhart stated yes.

Concern was raised that §25-38F which requires that parking lot landscaping be maintained was "over kill". Mr. Cobb explained if the ordinance does not require the landscaping to be maintained and the County to provide oversight of the requirement, there is no reason for the requirement.

Mr. Curd questioned the amount of time for staff to implement and enforce these requirements.

Mr. Wilkinson stated initially it would require a great deal of staff's time to implement the landscaping requirements.

Mr. Curd voiced concern with the cost and time for these requirements. He asked if this should be market driven.

Mr. Cole stated he can sympathize with the cost for the landscaping for developers and cost for issues such as snow removal. Mr. Cole stated with the Better Models for Development, not only will it impact the development, but surrounding neighborhoods. He stated requirements should be market driven, but the problem is the impacts of these developments is not a "here and now" situation. It impacts everyone. He stated these requirements make an attractive presentation. He pondered finding a "happy medium" for developers and standards. With regards to time and cost for staff to implement these requirements, Mr. Cole stated many localities have committees that enforce and inspect these standards.

Mr. Curd stated he is concerned these standards are overkill.

Mr. Cole stated that may be true now, but as the area becomes more developed, these standards will have a greater impact on the area.

Mr. Byerly stated he supports the concept of raising the bar for future business development and stated these concepts are "contagious."

Ms. Shiflett recommended deferring a decision which was agreed to by the Planning Commission.

Ms. Earhart stated staff will provide a sketch of the requirements as well as provide detailed cost estimates from local landscaping businesses. She further stated staff will provide requirements from neighboring localities.

Mr. Leonard asked staff how the number twenty-five (25) was determined.

Ms. Earhart stated this was based on research from other localities.

There were suggestions under §25-41 to reword the definition of a sign. Mr. Cobb read the following revised definition, "Any exterior display of any letter, words, numerals, figures, devices, emblems, pictures, or any parts or combinations thereof, by any means whereby the same are made visible for the purpose of making anything known, whether such display be made on, attached to, or as part of a structure, surface, or any other thing, including, but not limited to vehicles, buildings, barns, the ground, any rock, tree, or other natural object, which display is primarily intended for visible beyond the boundaries of the parcel of land on which the same is located".

The Planning Commission recommended staff's suggestion for the revised definition of a sign.

Mr. Cobb explained there was a concern that a height limit was not established in the sign ordinance (§25-42). He stated a height limit could be established if desired. It was pointed out that a height limit of seventy-five feet (75') was permissible in business and industrial for structures. Mr. Cobb explained the Ordinance Review Committee discussed establishing a height limit, but by raising the allowable heights in business districts to seventy-five feet (75') and considering the costs of signs, it was decided that a height limit would not have a significant impact.

Mr. Curd asked if there were any complaints regarding the height of particular signs.

Ms. Earhart stated staff does receive some complaints regarding the height of certain signs (i.e. Cracker Barrel). She stated while staff does not hear many complaints, the majority of the concerns are that the County does not have any restrictions.

The Commission agreed not to recommend a height limitation for signs.

Mr. Cole asked if signs would be permitted for a rural home business.

Ms. Earhart stated the proposed ordinance will allow two (2) signs per lot, up to thirty-two square feet (32 sq. ft.) per sign, and no more than seventy-five feet (75') in height.

Mr. Cole voiced concern with no height restriction for signs in rural home businesses.

Ms. Earhart recommended discussing the sign regulations for rural home businesses when the rural home business section was discussed.

The Planning Commission deferred discussion regarding rural home business sign regulations.

Developers want to be allowed to post signs which are within one hundred feet (100') of residential lots (§25-42). It was stated this is especially important for real estate tract signs when the road frontage lots may be sold and the signs will then become off-premise advertising signs. Mr. Cobb stated real estate tract signs are permitted "on premise" and would need to be moved to a lot that is still owned by the developer if the front lots are sold.

Mr. Curd asked if permission from the landowner was required. He stated he could not understand why a developer could not place a sign on a lot with the landowner's consent.

Mr. Wilkinson answered the current ordinance does not allow property owners consent to override an ordinance requirement. He stated it would be considered an off-premises sign and real estate tract signs are only allowed on premises.

It was also suggested under §25-42K that the ordinance state which signs require a building permit. Mr. Cobb stated the intention was to make the County's website more "user friendly" to the public, especially large companies looking on the internet, by making them aware of the need to check with Building Inspection to determine the requirements. If the County were to put the requirements in the Zoning Ordinance, the ordinance would have to change every time the requirements change.

The Planning Commission recommended retaining the existing language for real estate signs and the building permit reference in the advertised draft.

The concern for government exemption under §25-43H was addressed. Mr. Cobb stated the ordinance should read, "Government and Public Use signs" in the exempt category. Ms. Earhart stated the purpose of this exemption is that the County is not going to regulate the street name signs, campaigning signs, etc.

Mr. Curd asked staff to clarify the language regarding government uses which was agreed to by the Planning Commission.

With regards to §25-47A, the request is for banners and temporary signs larger than four square feet (4 sq. ft.) to be allowed in residential subdivisions. Mr. Cobb explained the Cities of Staunton and Waynesboro's ordinance regarding temporary signs in residential districts. He stated the proposed definition of temporary signs includes banners and they can be displayed for up to sixty (60) days. Staff has recommended clarifying the chart to indicate that banners are

temporary and as such, are permitted in residential districts with those limitations. The Planning Commission concurred with this recommendation.

Comments under the accessory use section (§25-54A.2) were to modify the language in accessory uses in platted residential subdivision section which requires a one hundred foot (100') setback for recreation facilities. It was stated as the ordinance is drafted, walking trails around the edge of the subdivision would not be allowed.

Mr. Cobb explained it was not the intent of the ordinance to require a trail to have a one hundred feet (100') setback from the edge of the subdivision. He stated staff recommends making the one hundred feet (100') setback requirement for active recreation facilities.

The Planning Commission recommends staff's suggestion.

The next comment addressed was under §25-54.1.C relating to the screening of inoperable vehicles. The concern was a citizen who opposes regulating race cars, demolition derby cars, pulling trucks, or mud bogging vehicles as inoperable vehicles as they bring revenue into the County. It was stated old farm equipment is just as much of an eye sore.

Mr. Cobb stated staff feels this decision is a policy decision and has no recommendation.

Mr. Wilkinson stated the current ordinance allows one (1) inoperable vehicle per acre, up to five (5) and those have to be screened from public view.

Mr. Leonard asked if the zoning office currently receives complaints for these types of vehicles.

Mr. Wilkinson answered yes.

Ms. Shiflett asked if the complaints were based on the number of vehicles.

Mr. Wilkinson stated the zoning office will receive complaints even if it is just one (1) inoperable vehicle. He explained many individuals do not see the difference with farm equipment.

The Planning Commission recommended including race cars, demolition derby cars, pulling trucks, or mud bogging vehicles as inoperable vehicles.

§25-54.N.1 with regards to tractor and trailers in residential neighborhoods was discussed. There is opposition to the prohibition on tractor and/or trailers in residentially zoned districts. It was stated citizens put too much investment into the trucks to park them where they are not safe. It was also a concern this

prohibition will hurt small business owners. Mr. Cobb stated this is a policy decision.

Mr. Hite asked staff if they receive complaints about tractor and trailers in residential neighborhoods.

Mr. Cobb answered yes. He stated many complaints are regarding the trailer being parked on the street.

Ms. Shiflett asked if there were any complaints regarding the noise of the tractors, especially when they are started early in the morning.

Mr. Cobb answered yes.

Ms. Shiflett stated she is concerned if these are prohibited in residential neighborhoods, the impact it would have on the small business owners. She stated driving is a way these individuals make a living, but she does not know of any alternative.

Ms. Earhart stated part of the ordinance revisions is to encourage developments to offer parking for these tractors and/or trailers, but it would need to be shown on the plan during the beginning stages of development. She explained the proposed definition. She stated the definition allows for one (1) commercial vehicle that has to be owner operated, parked off street, and in no case shall it be a tractor and trailer.

Mr. Curd asked staff if it were possible under the new definition to not permit parking the trailers on the street.

Mr. Byerly stated he empathizes with the drivers.

Mr. Cole asked how many complaints staff receives.

Mr. Wilkinson stated a lot. He stated especially during the winter when the trucks are warming up early in the mornings. He stated trailers being parked in the street becomes a safety issue. Mr. Wilkinson stated currently the zoning office does not enforce these complaints. He stated those complaints are forwarded to the Sheriff's Department.

Mr. Byerly stated Augusta County is a trucking area. He stated truckers pay a lot of taxes to the County and the ordinance should not be so restrictive as to hurt their business. He stated however he is concerned with the tractors and trailers being parked in the street.

Mr. Cole stated some subdivisions have their own restrictions.

Mr. Leonard voiced concern with the safety of tractors and trailers being parked on the street.

Ms. Shiflett stated many subdivisions do not have the space to accommodate these large operations and does not support parking on the street. She also stated concern with private owners not having the option to leave the tractors and/or trailers parked on safe, guarded lots.

Mr. Leonard requested staff to research Rockingham County's Zoning Ordinance and how these issues are handled.

The Planning Commission deferred a decision on §25-54.N.1 regarding tractor trailers.

§25-58 and other Administrative Permits throughout the Zoning Ordinance were reviewed. There was objection to the Zoning Administrator determining if a use will have "an undue adverse impact" on the surrounding neighborhood. It was stated that standards should be standards, not subjective criteria. It was stated decisions appealable to the Board of Zoning Appeals won't work since the "BZA works for the Zoning Administrator". Another concern was the fact that "Conformity with the Comprehensive Plan and policies", and "Impact on the neighborhood" have been deleted from the general standards section for all Administrative Permits and should be put back in the ordinance.

Mr. Cobb stated staff feels this is a policy decision. He explained staff has submitted several suggestions. First, retain the draft language as it is; second, retain the old language but keep the standards that reference the Comprehensive Plan and list the impacts on the neighborhood as consideration; third, make all Administrative Permits Special Use Permits and let the Board of Zoning Appeals decide after a public hearing is held; and lastly, make all the uses permitted uses with standards that must be either met, with no judgment calls from the Zoning Administrator.

Ms. Shiflett feels there needs to be some decisions made by the Zoning Administrator.

Mr. Curd stated he prefers the second option. He stated it would be impossible to have standards for all the uses.

Mr. Byerly recommended deferring the decision.

The Planning Commission voted to defer the decision regarding Administrative Permits.

With regard to §25-67 a citizen stated support for the change in the Lighting Ordinance with elimination of the lighting engineer certification.

With regard to the wireless communication facility ordinance (§25-68), the ordinance clearly exempts amateur radio from the regulations.

Also under §25-68, there was concern regarding allowing wireless facilities by Administrative Permit, but supports the standards and if there is objection from neighbors, the requirement that the facility will require approval by the Board of Zoning Appeals.

Mr. Cobb explained this again is a policy decision. He explained staff has suggested several options. To allow some towers by Administrative Permit or to allow all tower requests to require a Special Use Permit as the current ordinance requires.

Mr. Wilkinson stated the industries are supportive of the three (3) processes including co-locations, Administrative Permit, and Special Use Permits.

The Planning Commission supports the advertised draft which allows wireless facilities by Administrative Permit, but if there is any objection by adjacent property owners, to require a Special Use Permit.

There were concerns with §25-Article VIII with the elimination of the Exclusive Agriculture District.

Mr. Cobb again stated staff feels this is a policy decision, but offered some suggestions to the Planning Commission. The options would be to leave Exclusive Agriculture as a district, eliminate the district and make all Exclusive Agriculture parcels zoned General Agriculture, also recommend that the district be tracked for a certain amount of time to determine its impact and if it is not working as desired, possibly create another agriculture district based on soil type, or some other type of criteria. He explained when the Exclusive Agriculture District was originally created in 1995 no criteria was established to determine what would be Exclusive Agriculture and what would be General Agriculture. He explained the district was based on property owners' requests and individual Board of Supervisors' preferences. Mr. Cobb stated Exclusive Agriculture had fewer "non-agriculture" uses, but smaller setbacks for intensive agriculture. In recent years, Mr. Cobb explained farmers have asked for more "options" and some have had to rezone their property to General Agriculture in order to apply for Special Use Permits.

Mr. Hite stated he supports creating the one district and then tracking the district for two (2) years.

Mr. Cole stated he has heard many concerns regarding the changes in the agriculture districts and in particular, allowing certain types of businesses in Exclusive Agriculture. He explained citizens in Exclusive Agriculture have a

perception of protection and if that protection is taken away, it will open the area up for development.

Mr. Byerly stated he has received mixed comments. He explained farmers feel as if they are giving up protection of agriculture land, but would like to have more options on their properties. He also noted the time and money farmers have spent to “jump through the hoops” of certain restrictions in Exclusive Agriculture.

Mr. Leonard discussed the concept of full time farmers utilizing the opportunity to supplement their income, but a concern for some taking advantage of lack of the restrictions and using the opportunity to create development and businesses in agriculture areas.

Mr. Cobb stated in 1995 poultry houses were booming in Augusta County. He stated the main difference between the Exclusive Agriculture and General Agriculture is the setbacks and a sense of protection from intrusion of non-ag uses. However, Mr. Cobb explained that protection does not give those zoned Exclusive Agriculture the option to apply for a Special Use Permit. In order to obtain a permit for many business uses, the property must be rezoned.

Mr. Byerly stated it is a case of a fear of the unknown. He also stated a lot of the time neighbors make it difficult for the full time farmer.

Mr. Hite asked what advantage does a farmer whose parcel is zoned Exclusive Agriculture have that they would not have if the parcel was zoned General Agriculture.

Ms. Earhart stated the property owners only have protection if they are completely surrounded by Exclusive Agriculture zoning, allowing very few business uses around the parcel. She stated the opportunities in General Agriculture would create increased traffic, noise, etc.

Ms. Shiflett discussed the protection her own property had being in an Agriculture/Forestral district and being zoned Exclusive Agriculture. She discussed the concept of having some sort of criteria for the district. Ms. Shiflett stated she felt the soils map is not an option as it does not have a “common thread”.

Ms. Earhart recommended the Planning Commission discuss the Rural Home Business first, because if there are changes made to the Rural Home Business option, it may affect the recommendation regarding the Exclusive Agriculture District.

The Planning Commission recommended deferring the decision until the Rural Home Business option is discussed.

The goal section of the General Agriculture district (§25-71) was discussed with regards to forestry. Public comment was to add wording to the purpose section mirroring the goals of the Comprehensive Plan, including private forests and wildlife instead of public forests and to mention the preservation of scenic, historic, and cultural resources in the purpose statement, and to tie the Comprehensive Plan goals of no more than ten percent (10%) of the development to occur in the Rural and Agriculture Conservation Areas. It was also stated to add the, “significant environmental services (such as clean air, water, and soil, flood control, and natural habit) and sustain the historic, cultural, and scenic assets that provide the basis for tourism and related economic development” to the purpose statement. Also suggested under this Section was the “right to practice forestry” added to the “right to farm” statement in the purpose.

In response to the above suggestions, Mr. Cobb stated staff has suggested the language in the purpose statement to read:

- A. The General Agriculture District is intended to allow an area to be devoted to agriculture use; to conserve, protect, and encourage the development, improvement, and preservation of agriculture land for the production of food and other agriculture products; to retain major areas of natural ground cover for conservation purposes; to preserve the scenic, historic, and cultural resources in these areas, and to retain forests and wildlife areas.

Ms. Earhart explained trying to tie the Comprehensive Plan Policy Area goals to the agriculture districts is more difficult. She stated the County is not ready to rezone all of the agriculture land in the Urban Service Areas and Community Development Areas to another zoning other than agriculture, so the purpose of the General Agriculture District cannot be limited to achieving the goals of these policy areas.

Mr. Cole stated a lot of the comments and concerns he has received were concerning the Comprehensive Plan being taken out as the goal of the proposed ordinance. He explained the perception agricultural residents have is very important and the concern is for the ordinance to carry out the goals of the Comprehensive Plan.

Ms. Earhart discussed tying the goals of the Comprehensive Plan to the policy districts. Ms. Earhart stated it was easier to tie the goals from the Comprehensive Plan to Planned Residential in the ordinance, but tying the goals of no more than ten percent (10%) of the development to General Agriculture was more difficult because of development patterns and the amount of land still zoned General Agriculture.

Mr. Byerly stated the purpose of the Comprehensive Plan is to serve as a “guide book” but the ordinance is not subject to the recommendations offered in the Comprehensive Plan.

The Planning Commission recommended staff’s suggestions regarding the purposes and uses sections (§25-71 and §25-72).

Discussion regarding the ordinance revisions will continue at the Planning Commission’s next regularly scheduled meeting on November 10, 2009. Discussion will begin at 4:00 pm followed by the regularly scheduled meeting and then more discussion regarding the ordinance revisions.

There being no further business to come before the Commission, the worksession was adjourned.

Chairman

Secretary