Worksession, Wednesday, January 6, 2010, at 1:00 p.m. Government Center, Verona, VA.

PRESENT: Larry C. Howdyshell, Chairman
David R. Beyeler
Wendell L. Coleman
Tracy C. Pyles
Jeremy L. Shifflett
Nancy Taylor Sorrells
Patrick J. Coffield, County Administrator
Patrick J. Morgan, County Attorney
Dale L. Cobb, Director of Community Development
Becky Earhart, Senior Planner
Doug Wolfe, P.E., County Engineer
John Wilkinson, Zoning Administrator
Kim Bullerdick, Associate Planner
Jessica Staples, Administrative Secretary

ABSENT: Gerald W. Garber, Vice-Chairman

VIRGINIA: At a worksession of the Augusta County Board of Supervisors held on Wednesday, January 6, 2010, at 1:00 p.m., at the Government Center, Verona, Virginia, and in the 234th year of the Commonwealth....

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ZONING ORDINANCE – ORDINANCE AMENDMENT

Continue discussion of the Planning Commission recommendations, public comments received at the October 26, 2009 Public Hearing as well as written comments received after the public hearing regarding an ordinance to amend Chapter 25 of the Code of Augusta County, Virginia.

Chairman Howdyshell turned the meeting over to Dale Cobb to present the review of the County's Zoning Ordinance. For the purpose of the worksession, staff and the Board referred to "Attachment A".

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§25-133.C. Public comment was in support of attached accessory dwelling units in Single Family Residential districts. No action was necessary.

§25-138.A.2 and other residential setback sections were discussed. Mr. Cobb stated public comment was in support of smaller setbacks for residential lots on subdivision or local streets. The comment was a request for the streets to be reduced to ten feet (10') or less. Also requested was an option to use the reduced setbacks in existing subdivisions that have not been developed. Mr. Cobb stated the Planning Commission has recommended keeping the new twenty foot (20') setback for new private or local streets in subdivisions where a preliminary plat is approved after January 1, 2010. Mr. Cobb stated the date was chosen as a simple benchmark recordation date. He further explained it was recommended to add the following additional language to read: *§25-138A.2. No building or other structure shall be erected, altered, located, or reconstructed, or enlarged nearer to the right-of-way of any private street or any street identified by the Virginia Department of Transportation as a local street than twenty feet (20'). On lots in subdivisions where a master plan or preliminary plat was approved prior to January 1, 2010, no building or structure shall be erected, altered, located,*

reconstructed, or enlarged nearer to the right-of-way line of any public or private street than thirty-five feet (35').

Ms. Sorrells asked if were feasible to reduce the setback if the developer provides off-street parking. She asked the setback on the Old Trail development in Crozet.

Mr. Cobb stated the setbacks for the Old Trail development are at least twenty feet (20').

Chairman Howdyshell asked staff what comments had been received from the Augusta County Service Authority regarding easements for water and sewer lines.

Mr. Cobb explained the Service Authority requested a twenty foot (20') easement plus an additional twenty foot (20') setback from that easement, totaling forty feet (40'). He stated the current ordinance only requires a thirty-five foot (35') easement now, and by increasing the setback, the ordinance would not be meeting the goal of more compact development in the County's Urban Service Areas.

Mr. Beyeler stated the current twenty foot (20') easement is feasible for the Service Authority's water and sewer lines.

The Board of Supervisors consensus was to support the recommendation made by the Planning Commission.

§25-169. Mr. Cobb explained staff received a request from the Partnering Session to reduce the front setback in Attached Residential Districts for lots that front on a parking lot as it was a concern twenty feet (20') is too much. Mr. Cobb explained the City of Waynesboro requires twenty-five feet (25') excluding parking lots and the City of Staunton requires a thirty foot (30') setback. Mr. Cobb stated staff has recommended to retain the twenty foot (20') proposed setback and the Planning Commission supports staff's recommendation.

The Board supports the recommendation regarding §25-169.

§25-237.1. Mr. Cobb explained the proposed requirement for extra parking is a new provision in Multi-family Residential districts. He stated public comment was to not have a requirement for extra parking in Multi-family for school bus pick-up or guest parking and to clarify the language as to whether the ten percent (10%) is a total or it is 10% each for guests and school pick-up. He stated it is a policy decision on whether or not to require guest and school bus parking. He stated as drafted, the ten percent (10%) is the total amount of required parking that must be added for guest and school bus parking. Mr. Cobb gave the example of the Augusta Woods Manufactured Home Park. He explained the extra required parking would be for school buses picking up and dropping off children as well as for the recreational areas. Mr. Cobb stated the Planning Commission recommended leaving the language as drafted requiring an additional ten percent (10%) of the total amount of required parking for guest and school bus parking and to add a provision for a waiver to the Board of Zoning Appeals (BZA) for projects where that amount of parking is not needed based on a submitted parking study.

The Board of Supervisors supports the recommendation made by the Planning Commission.

§25-239.1. Mr. Cobb stated there was concern with the location of recreation facilities. It was suggested the location of the facilities should be left up to the developer. Mr. Cobb stated staff has suggested to either leave the language as drafted or to reword the requirement to read, *"For all multi-family projects, recreation facilities shall be designed and improved so that they are accessible and useable by persons living in the development."* He stated the Planning Commission recommended the amended

language.

The Board supports the recommendation made by the Planning Commission regarding §25-239.1.

§25-239.1.B and C. Mr. Cobb explained developers have commented the requirement for recreation is over-regulation. He explained the ordinance revision committee felt developers needed some type of guidance regarding recreation. Mr. Cobb briefed the Board of Supervisors on the matrix of a points value system for recreational amenities. He explained the Planning Commission has recommended deleting the mandatory requirement for a “base playground” for all multi-family developments and to add playgrounds to the list of recreational facilities and assign it to a point value of twenty-five (25). The Planning Commission also recommended adding the requirement for projects which are required to have twenty (20) or fewer recreation facility points at least two (2) different types of recreation must be provided.

Mr. Pyles sated he agrees with public concern that the proposed recreation requirements are over-regulation. He stated requiring recreation for developments would ultimately be too costly and does not support the goal of affordable housing in the county.

Mr. Beyeler questioned the point system and asked if it was fair.

Mr. Cobb explained if recreation is going to be required, the point system would be the simplest way of providing some type of guidance for developers. He stated the values of each recreational facility can certainly be modified based on the Board’s recommendations.

Mr. Beyeler stated he does not agree with the point value system. He gave an example of a baseball field that had a point value of eight (8) and a volleyball court that had a point value of twelve (12). Mr. Beyeler stated a baseball field would be more “costly” to a developer in Multi-Family Residential as it takes up a great deal of acreage.

Mr. Coleman noted his service on the Parks and Recreation Commission. He stated he supports providing recreation and has been working with the Parks and Recreation Commission on developing parks for the community. Mr. Coleman explained he is struggling requiring recreation and would prefer a “happy medium”. He explained providing parks are costly for the taxpayer, and requiring recreation would ultimately be costly to the home buyer.

Mr. Beyeler noted many developers include recreation in their plans without a requirement. He noted it would be beneficial to everyone if the money spent for recreation in the private developments be spent on public facilities such as parks and ball fields. He asked if it were possible to “transfer” point values to funding for public recreational facilities.

Mr. Morgan stated he would research the legality of the ability to transfer the funding.

Ms. Sorrells stated agreement with Mr. Beyeler. She questioned if it were possible to provide other types of recreation more compatible with certain types of developments such as retirement communities. Ms. Sorrells commented a ball field would be more appropriate on public land such as in a park or on school property as it is a more organized sport.

Chairman Howdyshell stated concern with the cost and time associated with the upkeep and maintenance of private recreational facilities.

Mr. Pyles stated providing recreational facilities should be at the discretion of the developer.

Mr. Coleman stated he has come full circle on this topic and feels that the market should decide what amenities the developer needs to provide. Mr. Coleman recommended the County Attorney and staff look at whether or not it would be feasible for developers to provide funding for public recreational facilities in place of recreational facilities in private developments.

Mr. Shifflett agreed with Mr. Coleman. He explained recreational facilities within developments should be market driven and a decision left up to the developer.

Ms. Sorrells asked staff if recreation was required by surrounding localities. She stated she could support requiring a recreation component, but the restrictions should be modified.

Mr. Beyeler stated he does not foresee required recreational facilities with private developments and subdivisions being utilized. He noted the cost associated with maintaining these facilities.

The Board of Supervisors agreed to not require recreation in Multi-family zoning districts. It was a consensus to have the County Attorney and staff to determine whether or not it would be feasible for developers to provide funding for public recreational facilities in place of building recreational facilities in private developments.

Mr. Coleman stated for the record he supports recreation and referred to Parks and Recreation's Master Plan, however at this time, he feels it is not feasible to make developers provide it as part of their projects.

§25-229.1 and §25-239.1. Mr. Cobb explained a request from a developer who wants to be able to phase in recreation and bond the phase accordingly. Mr. Cobb stated however, with the Board consensus on not requiring recreation in private multi-family developments, this would not be an issue.

§25-302. Mr. Cobb explained it was requested for flex space to be permitted in business districts. Mr. Cobb stated the Planning Commission has recommended adding flex space as a new category to the Special Use Permit section in General Business Districts which will allow flex space buildings. Mr. Cobb stated the modified text would read, *Flex Space. Buildings designed to accommodate a flexible mixture of uses permitted in the General Business District. Only the industrial uses listed in §25-382 may be permitted within flex space buildings, however, no industrial use that creates noise, smoke, dust, or other hazards shall be permitted".* He stated the amended language would further state, "*Flex space buildings may be permitted by Special Use Permit provided:*

1. Not more than twenty-five percent (25%) of the gross floor space of each building shall be used for industrial uses. At least seventy-five percent (75%) of the gross floor space of each building shall be used for business purposes; and

2. Dock doors and loading bays shall not be located in front yards; and

3. No outdoor storage is permitted."

Mr. Cobb explained "Attachment J". He explained the proposed ordinance permits flex space in industrial and business zoned districts.

Mr. Coleman stated it was a new concept but based on comments at the public hearing that it won't be useful he does not support the concept of flex space. If the developers won't use it, why add it to the ordinance?

Frank Root, Countryside Development, 28 Imperial Drive, Staunton, stated as a developer he has been requesting the County to permit flex space for years. He stated it is ideal for businesses that have an office and an industrial component. However, he explained he does not support the percentage amount as this would restrict business/building expansion as well as the types of future businesses that would be permitted to use the building. He stated having a restriction on how much of the building is used for industrial or business use defeats the purpose of flex space. Mr. Root stated he prefers the Board to remove the required percentages and the dock door limitations. While he appreciated the effort, there is no reason to add flex space as drafted.

Mr. Cobb explained flex space in other localities is based more on building design that would permit multiple uses. He gave an example of the Factory Antique Mall in Verona that is owned by Mr. Root. Mr. Cobb stated the building would be an ideal example of flex space. He explained staff is suggesting a Special Use Permit to be required which would allow the Board of Zoning Appeals to review the issue on a case by case basis. Mr. Cobb stated if flex space were to be allowed in industrial districts, the price of industrial land would rise and in turn would not attract industries to the county.

Mr. Pyles stated the concept of flex space is something that should be considered as more large buildings are becoming empty.

Mr. Cobb explained that is the reason why staff and the Planning Commission have recommended the Board of Zoning Appeals review the requests on a case by case basis as the buildings and uses are unique.

Ms. Sorrells suggested allowing flex space in General Business and Industrial with a Special Use Permit to allow the Board of Zoning Appeals to review, and to remove the language that restricts no more than twenty-five percent (25%) of the gross floor space of each building to be used for industrial uses and at least seventy-five percent (75%) of the gross floor space of each building to be used for business purposes.

Mr. Cobb stated concern of allowing industrial uses in business districts as this would cause the price of industrial land to rise.

Mr. Coleman stated this is not an idea of the county. He stated the idea came from the private sector and now has been modified. Mr. Coleman stated the Board is aware that a significant developer does not support these modifications. He further noted concern with the amount of “work load” that is being put on the Board of Zoning Appeals under the proposed ordinance revisions.

Mr. Howdyshell stated if the restricted percentages are removed and the requests are reviewed by the Board of Zoning Appeals on a case by case basis would flex space be feasible.

Mr. Beyeler stated concern with over regulating, especially with today’s economy.

Mr. Coleman stated he agrees with Mr. Beyeler. He stated the Board of Zoning Appeals does not treat each case on an individual basis as they are required to adhere strictly to the Zoning Ordinance.

Ms. Sorrells commented parameters could be set for flex space if the percentage requirements were removed to provide guidelines to the Board of Zoning Appeals. She asked Mr. Root if that would be flexible.

Mr. Root stated he would be willing to make his case to the Board of Zoning Appeals if it were to be considered on a case by case basis.

Mr. Cobb suggested deferring a decision regarding §25-302 until comments and concerns have been received by all local developers.

Mr. Beyeler noted many comments received regarding flex were from a number of private developers.

The Board of Supervisors concurred to defer any decisions regarding §25-302 regarding flex space until the next worksession after staff and the ordinance review committee have met with developers to receive additional comments and concerns.

§25-304.F. and G. Mr. Cobb stated staff received objection to the mandatory one thousand foot (1,000') setback from residentially zoned properties for business support businesses- storage of bulk fuels, freight and truck terminals, wholesale businesses, warehouses, and distribution centers where goods are not normally sold and transportation related business- travel plazas and truck stops. It was suggested from public comment to let the Board of Zoning Appeals decide the setback and not be hampered by a mandatory one thousand foot (1,000') setback.

Mr. Wilkinson explained the Board of Zoning Appeals can require a one thousand foot (1,000') setback now for business support businesses unless they are satisfied the proposed soundproofing and other barriers will adequately protect neighbors from noise, light, dust, odor, and vibrations and the Board can require a larger setback when necessary to protect neighboring properties.

Mr. Cobb explained the proposed draft removes the language that allows the option for a reduced setback and establishes a setback distance to be decided by the Board of Supervisors. Mr. Cobb stated this change is consistent throughout the ordinance. He explained staff recommended the setbacks should be established by the Planning Commission and the Board of Supervisor in the ordinance rather than the Board of Zoning Appeals on a case by case basis. He further stated if a reduced setback is desired, staff suggests that should be the ordinance standard. Mr. Cobb explained staff also recommended a second option to modify the list of uses and not require larger setbacks on some uses – wholesale businesses and warehouses not exceeding a certain number of square feet. It was suggested possibly smaller uses could go into a separate category or be under the permitted uses section of the ordinance. Mr. Cobb stated the Planning Commission recommended deleting the mandatory one thousand foot (1,000') setback from residentially zoned areas for business support businesses and transportation related businesses allowed by Special Use Permit in Business Districts. The Commission recommended retaining the current language that requires a one thousand foot (1,000') setback unless the Board of Zoning Appeals is satisfied the proposed soundproofing and other barriers will adequately protect neighboring properties from noise, light, dust, odor, and vibrations.

§25-384.C, D, E and F. Mr. Cobb stated objections were also received to the mandatory one thousand foot (1,000') setback from residentially zoned properties for the manufacture, processing, or storage of explosives or hazardous substances, extraction of minerals, rock, gravel, sand, or similar materials, and batching plants. Mr. Cobb referred the Board to Attachment K. It was suggested to let the Board of Zoning Appeals determine the setback. Concern was the term "hazardous" includes paint, cleaners, solvents, and many other chemicals and is too broad for such a large mandatory setback. There was also objection to the two hundred foot (200') setback for slaughterhouses. Mr. Cobb stated it would appear these uses are uses that the Board and staff would want away from residential districts. He stated staff has suggested instead of the category being "manufacture, processing, or storage of explosives or hazardous substances", it would read, "manufacture, processing, and storage as a principal use" to eliminate any possibility of concern that industries that store "hazardous substances" in their plants would fall into this category. Staff has also

suggested the unlikelihood that a small operation slaughterhouse will set up in industrial zoning, but if that would happen, it is does not appear that a two hundred foot (200') setback is excessive. However, like in General Business, Mr. Cobb explained if the Planning Commission and the Board of Supervisors does not agree the setback can be changed. Mr. Cobb stated the Planning Commission has recommended deleting the mandatory two hundred foot (200') setback from all property lines and the one thousand foot (1,000) setback from residentially zoned areas for "all junkyards, facilities that manufacture, process, or store explosives or hazardous substances, extraction of minerals, rocks, gravel, sand, and similar materials, and batching plans for asphalt, cement, or concrete and the two hundred foot (200') mandatory setback from all property lines form slaughterhouses and animal product processing plants". The Planning Commission has also recommended all buildings, structures, and operations will be set back one hundred feet (100') from all property lines unless the Board of Zoning Appeals determines that greater setbacks are necessary to adequately protect neighboring properties.

Mr. Beyeler questioned the need for requiring a one thousand foot (1,000') setback. He gave the example of ASR which is adjacent to a subdivision.

Ms. Sorrells noted support for reverting back to the way the current ordinance is worded.

Mr. Cobb explained all requests have to go before the Board of Zoning Appeals. He stated the decision for the Board of Supervisors is to decide whether or not a standard minimum setback should be set.

Mr. Coleman stated he supports not requiring a thousand foot (1,000 ft.) mandatory setback, but to allow the applicant the option to apply for a Special Use Permit, and not "tie the hands" of the Board of Zoning Appeals by setting a standard requirement.

Chairman Howdyshell commented a one thousand foot (1,000') setback is a great distance. He stated from the list of uses provided, explosives would be the only use he would consider to require a one thousand foot (1,000') setback.

Mr. Coleman stated it is the Board of Supervisors' responsibility to protect the residents of the county. He stated it is easy to say that a one thousand foot (1,000') setback is an extremely large requirement when we do not live next to the use ourselves. He stated the County allows individuals to live there (i.e. Ivy Ridge) and he feels that the County should allow the Board of Zoning Appeals the flexibility to consider the situation. Mr. Coleman stated public attitude is the Board of Supervisors has permitted residential and industrial adjacent to one another, therefore he supports requiring the one thousand foot (1,000') setback unless the Board of Zoning Appeals is satisfied the proposed soundproofing and other barriers will adequately protect neighboring properties from noise, light, dust, odor, and vibrations.

Mr. Pyles stated the zoning of the property would offer some protection.

Ms. Sorrells agreed with Mr. Coleman. She supports setting a standard, but allowing modification through the Special Use Permit process.

Mr. Beyeler suggested a minimum setback of one hundred feet (100').

Mr. Shifflett stated he would prefer to have a medium. He noted every situation is unique.

Mr. Pyles asked staff what would guide the Board of Zoning Appeals' decision regarding

the setback.

Mr. Wilkinson answered the Board would make the decision based on the location of the property and the type of request.

Ms. Earhart stated staff has suggested offering the Board of Zoning Appeals guidance on the minimal setback, with the ability to be modified. She stated if the Board of Supervisors requires a minimum setback requirement of one hundred feet (100’), it can be predicted one hundred feet (100’) would be the common denominator requested by the businesses the majority of the time.

Mr. Wilkinson stated the setback can be different depending on the use.

Mr. Beyeler questioned if the Board requires a five hundred feet (500’) setback with the language to modify the setback to one hundred feet (100’), why not make the setback one hundred feet (100’). He stated if the applicant does not like the decision, he can always come back to the Board of Supervisors.

Mr. Coleman stated concern with lowering the minimum setback to one hundred feet (100’). He supports having the Board of Zoning Appeals having the ability to require more or less, and the option to reduce to one hundred feet (100 ft.) with a medium setback of five hundred feet (500’).

Ms. Sorrells stated the five hundred feet (500’) setback protects businesses and residences.

The Board of Supervisors consensus was to require a five hundred foot (500’) setback from residentially zoned areas for business support businesses and transportation related businesses allowed by Special Use Permit in Business Districts unless the Board of Zoning Appeals is satisfied the proposed soundproofing and other barriers will adequately protect neighboring properties from noise, light, dust, odor, and vibrations and in no case shall the setback be less than one hundred feet (100 ft.).

§25-306.2 and §25-390. Mr. Cobb explained a request was made for a lot frontage reduction for lots that front on a cul-de-sac in Business and Industrial. There was a question as to why there is a frontage requirement of any size required if there is frontage on a private street or interparcel travel way where there is no access to a public street. It was requested if a setback were to be required, it be no more than twenty feet (20’). Mr. Cobb explained the reason for a frontage requirement is to ensure access to the business establishment and to the parking. He stated staff recommends reducing the lot frontage on lots in Business and Industrial to one hundred feet (100’) for most lots and no more than fifty feet (50’) if the lots have curb and gutter and share a joint entrance and fifty feet (50’) for lots on private streets or travel ways. Mr. Cobb explained the County Attorney has advised making this change would increase the density in General Business and Industrial, and such a change will require advertisement for another public hearing. Mr. Cobb stated the Planning Commission recommends reducing the lot frontage on lots in Business and Industrial Districts to one hundred feet (100’) for most lots and down to fifty feet (50’) if the lots have curb and gutter and share a joint entrance and making no change in frontage requirements for lots on private streets or travel ways, which will remain fifty feet (50’).

Ms. Sorrells confirmed with staff changing the setback would require advertisement and another public hearing.

Ms. Earhart stated reducing the lot frontage would require another public hearing.

Mr. Beyeler asked the Board to consider leaving the language as written and review all the revisions suggested after the Board goes over the entire ordinance to determine if

there are other sections which will require readvertisement.

The Board concurred.

§25-307.A.1. Mr. Cobb stated comments regarding this section were in support of the requirement for smaller setback if parking is not in front. Another comment received was a request to clarify where the “limits of parking” line is for corner lots when there is not parking in front of one “front” streets, but there is parking in front of the other street. A picture was suggested. Mr. Cobb stated staff suggested modifying the language to clarify the intent of providing reduced building setbacks when parking is not located in the front of a building. He explained the Planning Commission agrees with staff’s recommendation. The modified language would read, *“In General Business Districts the following yard and setback requirements are imposed: A. Front lot lines. No building or other structure shall be erected, altered, located, reconstructed, or enlarged nearer to the right-of-way of a public street identified by the Virginia Department of Transportation as an arterial or collector street than fifty feet (50’). A. A building or other structure may qualify for a twenty foot (20’) building setback if there is no parking within fifty feet (50’) of any public or private street. 2. No building or other structure shall be erected, altered, located, reconstructed, or enlarged nearer to the right-of-way line of any other public street than thirty-five feet (35’). A. A building or other structure may qualify for a fifteen foot (15’) building setback if there is no parking within thirty-five feet (35’) of any public or private street. 3. No building or other structure shall be erected, altered, located, reconstructed or enlarged nearer to the right-of-way line of any private street or interparcel travel way than twenty feet (20’). a. A building or other structure may qualify for a ten foot (10’) building setback if there is no parking within twenty feet (20’) of any public or private street. 4. In the absence of proof to the contrary the width of a public street shall be presumed to be thirty feet (30’), and the setback may be measured by adding fifteen feet (15’) to the required setback and measuring from the center of the general line of passage. 5. If a lot, tract, or parcel fronts on two ore more streets, the foregoing minimum setbacks shall be required on all streets.*

The Board of Supervisors concurs with the Planning Commission’s recommendation.

§25-308 and §25-307. Ms. Bullerdick explained the current requirement regarding buffer yards. She explained comments received by staff stated the current requirements are too onerous. Ms. Bullerdick stated the Planning Commission has recommended modifying the ordinance to provide less costly buffering alternatives. She explained the alternatives would be as follows: *Alternative One (1): ten foot (10’) wide: six foot (6’) opaque, vinyl privacy fence, wall, berm, or a combination thereof. Alternative Two (2): twenty foot (20’) wide: two (2) evergreen trees, two (2) canopy trees, two (2) understory trees, and twenty-four (24) shrubs (per one-hundred feet).* Ms. Bullerdick stated the Planning Commission has also recommended modifying §25-308.D.2 to read: 2. Where berms are placed within any required buffer area: *a. A berm or combination of materials such as a berm and a fence shall be a minimum of six feet (6’) in height. b. Berms shall have slide slopes of not less than three feet (3’) horizontal for each one foot (1’) vertical. c. slopes in excess of three feet (3’) horizontal for each one foot (1’) vertical may be permitted if sufficient erosion control methods are taken and deemed by the Zoning Administrator to be maintainable.* Also recommended by the Planning Commission, Ms. Bullerdick explained was adding to §25-308.F. and §25-387.F. additional examples of when the buffer requirement may be modified. Mr. Cobb stated these examples include: *1. There is a separate business or industrial lot between you and the non-business or industrial lot. 2. There is existing vegetation either on this lot or the adjacent lot to provide the required buffer benefits. 3. There is a residential use on the adjacent lot, but it is not within five hundred feet (500’) of the proposed business or industrial use.* Ms. Bullerdick stated under the recommendation, the Planning Commission also suggested to change *§25-308.F. and §25-387.F. to require the modification to be granted by the*

Board of Zoning Appeals, rather than the Zoning Administrator.

Mr. Beyeler stated a buffer should not be required if a business or industrial use is adjacent to a lot that is proposed to be business or industrial and the property owner of the adjacent parcel does not object.

Ms. Earhart stated a standard could be added referring to the Comprehensive Plan, as to whether or not a buffer would be required.

Ms. Sorrells suggested adding language if a property is adjacent to a parcel that is proposed to be business or industrial in the Comprehensive Plan, the buffer requirement may be modified.

Mr. Cobb stated the most intrusive would be an industrial or business use adjacent to a subdivision. He stated residential neighborhoods need to be protected.

Mr. Shifflett noted concern of impacting the proposed business. He stated there needs to be a happy medium. The problem he stated is outside of the Urban Service Areas.

Mr. Beyeler stated he feels if the business or industry is adjacent to a parcel that is proposed to be business or industrial in the Comprehensive Plan, a buffer should not be required so as long as the adjacent property owner does not object.

Mr. Morgan stated while that may work initially, there is a difficulty in enforcing that requirement, especially if the property changes hands.

Ms. Sorrells recommended adding an option to the Planning Commission's recommendation for parcels that are proposed to be business or industrial in the Comprehensive Plan. The language would read as follows: §25-308.F. and §25-387.F. Alternative Compliance. Additional examples of when the buffer requirement may be modified: *1. There is a separate business or industrial lot between you and the non-business or industrial lot. 2. There is existing vegetation either on this lot or the adjacent lot to provide the required buffer benefits. 3. When an adjacent parcel is proposed business or industrial in the Comprehensive Plan.*

The Board of Supervisors concurred with the Planning Commission's recommendation in addition to the modification a buffer may not be required if "*an adjacent parcel is proposed business or industrial in the Comprehensive Plan".*

§25-308 and parking ordinance. Ms. Earhart stated concern was raised at the Partnering Session as to whether or not the screening and buffering requirements in the parking ordinance, which requires a four foot (4') wall and the business and industrial districts requiring a six foot (6') fence contradictory. Ms. Earhart stated staff has consulted with the County Attorney who has indicated the height of the walls in the parking ordinance can be raised to six feet (6') in order to be consistent with the Business and Industrial district regulations and the change would not require readvertisement. Ms. Earhart stated the Planning Commission has recommended requiring the screening and buffering of parking lots in the parking ordinance (§25-38.D.1) to be changed from four feet (4') to six feet (6') in order to be consistent with the buffering requirements contained in the Business and Industrial District regulations.

The Board of Supervisors concurred with the Planning Commission's recommendation.

§25-411-419. Ms. Earhart explained the comment received was to make more changes to the Planned Unit Development District. It was recommended to make the district more like the Planned Residential District with less information required during the beginning stages. Specifically: §25-414.A.4. Add "Proposed recreation facilities consistent with §25-430.2.C are encouraged. §25-415.D.3. Add "Community facilities

may be outlined using the point system in accordance with Planned Residential District, §25-430. §25-415.D.6. Delete the requirement for a building plan and require only that the areas where trees are to be planted and where trees and landscaping are to be removed be shown on the plan. §25-415.D.7. Add a reference to a "study as required by VDOT". §25-415.D.10. Add "Document that outlines specific ordinance provisions or clearly delineate which Augusta County ordinance sections to apply with all additions, amendments, and deviations underlined. Ms. Earhart stated staff spent very little time looking at the Planned Unit Development Ordinance. She explained instead, all time was spent concentrating on a Planned Residential option. She explained the goal of the Planned Residential District was to create a district to implement the Comprehensive Plan. With regards to §25-415 and §25-430.2, Ms. Earhart explained comment was received requesting to give more points for high quality open space for environmental resources and passive recreation. She explained the draft concentrates on the provision of recreational facilities. She stated another option would be to allow more points to be obtained from open space. Ms. Earhart stated the Planning Commission recommended leaving the ordinance as drafted with regard to recreation.

For the purpose of this segment of the worksession, the Board of Supervisors referred to "Attachment M".

§25-421. Ms. Earhart stated concerns have been raised that the current draft of Planned Residential is not attractive to developers. Ms. Earhart stated suggestions were raised at the Partnering Session to provide workable solutions and staff and the Ordinance Review Committee met with developers at a separate meeting to discuss this topic in more depth.

In response to public concerns, the Planning Commission has recommended the following: 1. Modify the ordinance to allow for a "chunky" zoning plan. However, clearly indicate that more than one (1) dwelling type can be permitted in a pod; 2. Delete the provision that restricts Multi-Family Residential and Town House buildings from being adjacent to one another; 3. Allow no more than six (6) townhouses to be in a single building and no more than eight (8) apartments to be in a single building; 4. Limit the size of a parking lot to no more than eighteen (18) spaces and require at least forty feet (40') of non-paved or non-graveled surface between parking lots; 5. Limit the overall project to no more than thirty-five percent (35%) of the dwelling units being multi-family and townhouse units; 6. Any change would require a rezoning to allow adjacent property owners and residents already living in the community an opportunity to comment; 7. With regard to recreation, leave the language as drafted to require recreation for the entire neighborhood; 8. Delete the language that requires recreation to be in the center of the development, but require it to be shown on the concept plan and accessible to all residents; 9. Leave language as drafted with required front setbacks; 10. With regards to the concern about Home Owners' Associations, with "chunky" style zoning, it would not be an issue. No action is required; 11. Staff has recommended a height reduction from fifty feet (50') to thirty-five feet (35') to make the buildings more "residential in nature" the Planning Commission supports staff's recommendation for reducing the allowable height to thirty-five feet (35') consistent with the Single Family Residential districts.

Ms. Earhart displayed an example of what a Planned Residential subdivision would look like. She explained the goal of the district is to increase density, but still have a "community feel" with private streets and a "chunky style" zoning. She explained if the Board prefers, more time can be spent looking at the Planned Unit Development District after the first of the year. Another option she explained would be to see how the Planned Residential District works, and make adjustments to the districts as needed. Ms. Earhart noted the County Attorney has advised that changes to the Planned Unit Development ordinance will require readvertising. Ms. Earhart stated the Planning

Commission has recommended leaving the ordinance as drafted. She stated the Commission has further recommended waiting to see how the Planned Residential works prior to making changes in the Planned Unit Development regulations. If the Planned Residential does not work, the Commission has recommended making changes to both the Planned Unit Development and Planned Residential Districts accordingly.

§25-421. In addition to the Partnering Session suggestions listed in Attachment M, Ms. Earhart stated it was suggested a density ceiling be established at the rezoning, but units can be modified administratively. Ms. Earhart explained while this provides flexibility for the developer, it does not protect the neighbors however she stated it can be done. The Planning Commission she stated has recommended leaving the language as drafted. Also suggested from public comment, is to either eliminate the maximum on townhouses or raise the requirement to no more than fifty percent (50%) of the project. Ms. Earhart stated staff has questioned if a project is going to have up to fifty percent (50%) townhouses, can it be done with conventional rezoning. Ms. Earhart stated the Planning Commission has recommended retaining Multi-Family Residential as an option and raise the allowable percentage to thirty-five percent (35%).

Ms. Earhart explained the draft language states no townhouse or multi-family building can be adjacent to another townhouse or multi-family building. She explained if “chunky style” zoning is supported, this would not be feasible. She stated the Planning Commission has recommended eliminating the requirement.

The Board concurs with the Commission’s recommendation.

Ms. Earhart explained the proposed draft language states no multi-family or townhouse building may have more than six (6) dwelling units per building. She explained the goal of the district is to keep buildings small enough to retain the residential neighborhood feel. She stated staff has suggested retaining the limit of no more than six (6) townhouse buildings and limit the number to no more then eight (8) multi-family units which would allow for four (4) apartments on the bottom floor and four (4) apartments on the top floor. The Planning Commission recommends no more than six (6) townhouses in a single building and no more than eight (8) multi-family units.

The Board concurs with the recommendation of the Planning Commission.

Ms. Earhart noted there was a suggestion not to require three (3) different dwelling types on projects ten (10) acres or larger. Ms. Earhart commented if a diversity of dwelling types is not required, it would appear that conventional zoning could be used. Ms. Earhart stated the Planning Commission has recommended leaving the ordinance as drafted.

Mr. Beyeler requested the different dwelling types to be specified.

Ms. Earhart stated the language can be clarified.

The Board of Supervisors concurs with the recommendation of the Planning Commission.

Ms. Earhart stated the current draft language states no parking lot shall contain more than six (6) parking spaces and there must be at least forty feet (40’) of non-paved or not graveled surface between parking lots. Ms. Earhart explained again, the goal of the district is to create a “community feel”. She stated this is not achieved with large parking lots. She stated staff has suggested the possibility of raising the limit to sixteen (16) or eighteen (18) spaces, which would allow the parking for each townhouse or apartment building to be in one lot, but would not allow all the parking for all the apartment buildings and townhouses to be in a single lot. She stated the Planning Commission has

suggested raising the limit to no more than eighteen (18) spaces in a single lot and require a separation between lots.

The Board concurs with the Planning Commission's recommendation.

Ms. Earhart explained public concern was to be able to shift types of dwellings around without additional approval from the Board of Supervisors. She explained it was suggested to establish a density ceiling at rezoning approval and give developers the ability to move density and dwelling types around within the development to meet market demands and as along as the overall density of the development is not exceeded, a rezoning would not be required. Ms. Earhart stated staff has suggested allowing the intensity of the dwelling units to go down (i.e. townhouses to single family) without additional approval from the Board, but anything that would increase the density would require a rezoning, notification of adjacent property owners, etc. She explained the Planning Commission has recommended any change would require a rezoning to allow adjacent property owners and residents already living in the community an opportunity to comment.

The Board concurs with the Planning Commission's recommendation.

With regard to open space and required recreation, Ms. Earhart stated staff had suggested requiring the same amount as what is required in Multi-Family Residential, however since the Board has voted to not require recreation, the ordinance can retain the same requirements as the Planned Unit Development.

Mr. Beyeler stated the importance of having affordable housing. He stated he does not support a lot of recreation and open space in multi-family residential developments in an effort to keep the costs of the homes within these developments at a minimum.

Ms. Sorrells stated some open space or recreation should be required because a higher density will be allowed in these types of developments.

Mr. Beyeler noted private street developments allow for affordable housing.

Ms. Earhart stated private streets do not necessarily make affordable housing an option since the costs of street maintenance transfer to the Home Owners Association instead of VDOT.

Mr. Beyeler stated the amount of open space in many cases depends on the layout of the land within the development.

Ms. Sorrells commented in developments and areas where there is higher density, the trade off is not all properties in the subdivision will have large yards.

Mr. Beyeler stated a large amount of open space is costly to the developer, resulting in higher costs of the lots.

Ms. Sorrells stated if the development is a high density area, the developer could be creative. She stated she supports requiring ten percent (10%) recreation within the development. Ms. Sorrells explained the open space could be a stormwater management area. She stated open spaces are visually pleasing and better for the environment.

Mr. Beyeler stated he does not support mandating recreation and open space in a multi family residential development. He is in support of affordable housing.

Mr. Shifflett stated he does not support requiring recreation and/or open space as the entire development will not be “buildable” thus allowing some open space without the requirement. He supports allowing the market to determine the requirement.

Chairman Howdyshell commented he too supports letting the market and economy drive the decision regarding recreation. He stated many developments will meet the ten percent (10%) even without the requirement.

Ms. Sorrells and Mr. Coleman support the recommendation of requiring recreation in Planned Residential developments.

Mr. Beyeler, Mr. Shifflett, Chairman Howdyshell, and Mr. Pyles do not support the recommendation requiring recreation in Multi-Family Residential developments.

Ms. Earhart stated there was suggestion to delete the required front yard setback if adjacent to something other than an arterial or collector street. Ms. Earhart explained the current draft language states all lots shall have at least twenty foot (20 ft.) of frontage on a new internal public street; a private street; or a parking lot. She explained there are also a fifty foot (50 ft.) setback from an arterial or collector street and a thirty-five foot (35 ft.) setback from any other public or private street external to the development. She explained staff has stated it is a policy and can be modified if desired. Ms. Earhart stated the Planning Commission recommended checking the front setbacks for multi-family residential developments in Crozet. Ms. Earhart stated the minimum setbacks in Crozet are at least twenty feet (20 ft.).

Ms. Earhart stated the current ordinance states a height limitation of fifty feet (50 ft.). She explained trying to retain the community feel, staff recommends a height limitation of thirty-five feet (35 ft.) which would be consistent with the height limit in other single family districts. She stated the Planning Commission has recommended staff’s suggestion.

The Board concurs with the recommendation of a thirty-five foot (35 ft.) height limitation.

§25-421 it was suggested to allow the bonding to be done in phasing in order to keep costs affordable. Ms. Earhart stated staff has suggested phasing of recreation could be added to be consistent with the other Planned Unit Development ordinance and bonding only be required for what is platted. She stated the Planning Commission has recommended modifying §25-430.4 Phasing to read: *Nothing in this article shall prevent a developer from developing a planned residential development in phases or sections; provided, that the following conditions are met; and provided further, that any phase or section is part of an approved Concept Development Plan: 3. Any phase or section of a planned residential development shall be in substantial compliance with the Concept Development Plan. 4. At any stage of development, the recreational amenities required in §25-430.2 of this chapter are satisfied.*

The Board referred to “Attachment A” for the remainder of the worksession discussion.

§25-422. Ms. Earhart stated it was suggested from public comment to add a provision for stormwater management facilities and recreational vehicle parking lots if recreational vehicle parking is restricted on residential lots. She stated this provision is covered in the accessory use sections 25-52 and 54. No action was required.

§25-676. Mr. Cobb explained the suggestion was to extend the timeframe for plats ten (10) years and site plans and final plats for five (5) to ten (10) years. He explained the Code of Virginia states five (5) years, but also allows for the time period to be extended. He explained the current draft states that at the time of plat approval, the applicant may request a longer period of time, though this approval would require action from the

Board of Supervisors. Mr. Cobb stated the Planning Commission has recommended adding the following language to §25-676, *"Site plans are good for five (5) years and add the following editor's note: The Code of Virginia was amended effective March 27, 2009, (§15.2-2209.1 Extension of approvals to address housing crisis) and provides that any site plan valid under §15.2-2260 and outstanding as of January 1, 2009 (sic) shall remain valid until July 1, 2014, or such later date provided for by the terms of the locality's approval, local ordinance, resolution or regulation, or for a longer period as agreed to by the locality."*

The Board of Supervisors concurred with the recommendation of the Planning Commission.

Another concern under §25-676 is the erosion of individual property rights and an unprecedented vesting of power in non-elected staff. Mr. Cobb stated the concern is many of the changes are unnecessary and burdensome. It was suggested to take more time to consider these changes.

Mr. Morgan stated the appeals of the Zoning Administrator must go to the Board of Zoning Appeals and can't go to the Board of Supervisors.

Mr. Beyeler stated he recommends the elected body making the decisions on waivers of the Zoning Ordinance requirements.

§25-35. Mr. Cobb stated the parking requirement for warehouses was left out of the drafted ordinance. He stated staff has suggested leaving the parking requirement for warehouses at five (5) spaces. The Planning Commission agrees with staff's recommendation.

The Board of Supervisors concurs with the recommendation from staff and the Planning Commission to add the parking requirement for warehouses back into the ordinance at five (5) spaces.

§25-35. Mr. Cobb stated the number of parking spaces required for restaurant, fast food, was inadvertently changed. It was stated this is a category upon site inspection by staff that needs the current amount of required parking. Mr. Cobb explained staff has suggested changing the number of spaces required from one (1) for every seventy-five square feet (75 sq. ft.) back to one (1) for every fifty square feet (50 sq. ft.). He stated the Planning Commission recommends requiring one (1) space for every fifty square feet (50 sq. ft.) for fast food restaurants.

Mr. Beyeler asked staff if the parking requirement for restaurants within shopping centers was included in this figure.

Mr. Cobb answered the shopping center will have its own parking requirement in which individual restaurants' parking requirements will be included.

The Board of Supervisors concurs with the Planning Commission's recommendation.

Regarding corner lots, Mr. Cobb stated it was proposed to allow the owner of a parcel to choose their front yard. Mr. Cobb explained, currently, this change has only been made in the definitions section of the ordinance. He stated staff and the Planning Commission have recommended making the change to all applicable text sections.

The Board of Supervisors concurs with the Planning Commission's recommendation.

Mr. Wolfe stated the proposed height requirement has been increased to seventy-five

feet (75') in Multi-Family Residential, General Agriculture, General Business and General Industrial districts. However, he stated concern is the impact on neighboring properties could be significant. Mr. Wolfe stated in order to mitigate the impact on adjacent properties from the increased height limits staff has suggested requiring an increased setback for buildings that want to take advantage of the increased height. He explained the Planning Commission has recommended retaining the seventy-five feet (75') height limit, but for every foot over thirty-five feet (35') up to fifty feet (50'), require an additional foot of side and rear setback. For buildings over fifty feet (50') and up to the seventy-five foot (75') limit, the Planning Commission has recommended requiring an additional two feet (2') of setback for every foot of increased height.

Mr. Wolfe displayed an example of a tall building on a small lot. He explained the suggestion was larger/taller buildings need to be set back from the property line in order to be less imposing on neighbors.

Ms. Earhart stated there are certain exemptions (i.e. steeples, silos, etc.) to the height limitations in the ordinance.

Mr. Root asked if the setback included "usable" space.

Mr. Cobb stated yes. He explained it is distance from the property line however the setback would not include parking lots, etc.

Mr. Beyeler stated he does have an issue with the requirement.

The Board of Supervisors concurs with the Planning Commission's recommendation.

§25-38.C.1. Mr. Cobb stated public comment was the language "parking or circulation area" is confusing. He explained the language now requires a ten foot (10') landscape strip along front lot lines parallel to any public or private street when the parking or circulation area abuts such street or alley. He stated staff has recommended changing parking or circulation area to parking facility. Mr. Cobb stated no comment was made by the Planning Commission as concern was raised by staff after the Planning Commission's worksession.

The Board of Supervisors concurred with staff's recommendation.

Items that were not included on "Attachment A" were also addressed.

Ms. Earhart stated under §25-16.H regarding the setback from interstates, the current language refers to structures and buildings. The recommendation is for the fifty foot (50') setback to apply just to buildings.

The Board consensus was to make this change.

§25-122.C. with regards to limited agriculture in Rural Residential districts, Ms. Earhart asked the Board if they wished to use the existing language for limited agriculture in the Rural Residential district.

Chairman Howdyshell stated agriculture is the backbone of Augusta County and he is concerned with the adverse impact of limiting agriculture anywhere in the County.

Mr. Beyeler stated many rural residential lots have deed restrictions regarding agriculture.

Ms. Sorrells asked staff the percent of land in the county that is zoned Rural Residential.

Mr. Cobb answered there are approximately twenty (20) rural residential subdivisions where this provision might be applicable.

Mr. Coleman stated he envisions it becoming a problem in the future if agriculture is permitted in rural residential zoning.

The Board consensus was to continue to allow only Limited Agriculture as it is currently defined in Rural Residential districts.

§25-302. General Business permitted uses. Ms. Earhart clarified adding shopping centers to the list of uses. She stated this will include individual retail stores.

§25-304. Outdoor storage. Mr. Wilkinson stated language will be added to consider topography when outdoor storage is required to be shielded from "public view". He explained language can be added to allow the Board of Zoning Appeals to determine whether or not the site is required to be shielded.

The Board of Supervisors concurs with the above recommendations made by staff.

Mr. Wolfe presented items of concern regarding the Subdivision Ordinance.

§21-9.1A.3. Mr. Wolfe stated public concern was streets do not always line up. He explained in some situations topography or other site specific constraints are present. Mr Wolfe stated staff has recommended adding "when feasible" or other language to add some ability to make site specific decisions. He explained the Planning Commission has recommended adding the language "when feasible" to the section.

The Board concurs with the recommendation made by the Planning Commission.

§21-9.1.C. Mr. Wolfe stated the comment was this section is a workable regulation in most cases, and suggestion was to add "unless an exception is granted by the Board of Supervisors". Mr. Wolfe explained no revision of the language will be required as the Board of Supervisors can issue a variance under §21-62. The Planning Commission recommended leaving the language as drafted.

The Board concurs with the recommendation of the Planning Commission.

§21-33.D, E, F, G. Mr. Wolfe explained the request was made to extend the time frame for plats to ten (10) years and site plans and final plats from five (5) to ten (10) years. He explained the Code of Virginia states five (5) years, but also allows for the time period to be extended. Mr. Wolfe stated the current draft states that at the time of plat approval the applicant may request a longer period of time, though this approval would require action by the Board of Supervisors. Mr. Wolfe stated the Planning Commission has recommended leaving the ordinance as drafted with the addition to §25-676, "*Site plans are good for five (5) years and add the following editor's note: The Code of Virginia was amended effective March 27, 2009, (§15-2209.1. Extension of approvals to address housing crisis) and provides that any site plan valid under §15.2-2260 and outstanding as of January 1, 2009, (sic) shall remain valid under July 1, 2014, or such later date provided for by the terms of the locality's approval, local ordinance, resolution or regulation, or for a longer period as agreed to by the locality.*"

Mr. Morgan stated that the Planning Commission or agent can approve the extension.

The Board consensus is to have the approval by the Planning Commission or agent for the extended period of time.

§21-36.A. and §25-240.1. Mr. Wolfe stated it was suggested for bonds to make the ten percent (10%) overage the permanent policy. Mr. Wolfe explained it was a policy decision, with a combination of ninety percent (90%) reduction (which is permanent) and only ten percent (10%) administrative addition, it is not likely there will be sufficient funds if a bond were needed to be called. He explained it is not likely to happen until several years after plat approval, as in typical times, costs increase with time. He stated the Commission has recommended leaving the language as drafted.

In reference to the placement of monuments, several comments were received if the specific distance between monuments could be deleted and replaced with the intervisibility standard. Mr. Wolfe stated staff and the Planning Commission have both recommended making that change.

The Board of Supervisors agrees with the recommendations of the Planning Commission set forth above.

Mr. Wolfe reviewed the concerns received regarding the Stormwater Ordinance.

§18-3.F.1, 2. Mr. Wolfe stated concern was raised with the calculation methods. He stated the comment received was “Why not just let engineers practice engineering?” Mr. Wolfe explained the rational method is not appropriate for detention design; modified rational may seriously underestimate storm volume; SCS methodologies are better able to predict actual site conditions. He explained these facts are well published and the draft ordinance compromises by allowing use of simpler methods for small sites less than twenty (20) acres. Mr. Wolfe further stated the ordinance also allows other methodologies to be approved. He explained staff and the design professional can consider the methodologies on a site specific basis.

Mr. Hylton stated he was not aware of any problems with the Rational Method or detention policy for sites more than twenty (20) acres.

The Board concurred with staff’s recommendation.

§18-3.F.1, 2. Mr. Wolfe stated a question arose as to whether or not the SCS calculation method can be used for sites less than twenty (20) acres and if the HEC-1 or other methods based on SCS can be used. Mr. Wolfe answered yes all of those methods will be accepted.

§18-5.D. with regard to this section, Mr. Wolfe stated concern was raised with allowing the county the right to disapprove a system. The comment received was to allow engineers to practice engineering. Mr. Wolfe explained the section is designed to protect the county and public from the use of experimental, unproven or otherwise potentially costly measures when the facilities are intended for public maintenance.

§18-6.F. Mr. Wolfe stated there was a concern that one would not have to design a channel/pipe for the twenty-five (25) year storm if the basin was just for water quality and not stormwater management. Mr. Wolfe responded by stating the language can be clarified.

§18-5.G. A comment was made that detention facilities with amended soils are a good idea, however, they questioned why underdrains would be required. Mr. Wolfe responded the ordinance provides for either/or, he stated staff and the design professional can consider the requirement on a site specific basis.

§18-5.H. Maintenance. The suggestion was the county should assume maintenance as the aquatic bench will create a swamp and fences are unattractive. Mr. Wolfe stated with regards to the aquatic bench and safety fence, the ordinance could remain quiet on the matter. He stated §18-5.A. requires construction IAW the VA SWM Handbook,

which recommends an aquatic bench for wet basins with a surface area over twenty thousand square feet (20,000 sq.ft.) Mr. Wolfe stated there have been concerns regarding Harshbarger Subdivision. The staff recommendation is to leave the requirement as drafted.

The Board concurred with staff's recommendations on these items.

Further discussion regarding the ordinance revisions will continue at the Board of Supervisors' next worksession scheduled for January 13, 2010 from 1:00-3:00 pm.

The worksession was adjourned.

_____ _____

Chairman County Administrator

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