

**PLANNING COMMISSION
WORKSESSION MINUTES
November 19, 2009
4:00 p.m.**

PRESENT: Kitra A. Shiflett, Vice-Chairman
Wayne F. Hite
Taylor Cole
Kyle Leonard
Stephen N. Bridge

ABSENT: Thomas H. Byerly, Chairman
James W. Curd

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

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ORDINANCE REVIEW

Ms. Shiflett called the November 19, 2009 Worksession to order. She welcomed the public in attendance to the meeting and stated they were welcome to hear the discussion of the Commissioners, but there would be no opportunity for the public to speak. She turned the meeting over to Mr. Cobb.

Mr. Cobb stated the Commission would be starting their discussion with §25-133.C. on attached accessory dwelling units being allowed in Single Family Residential subdivisions. A comment was made in support of that provision. The Commission had no concerns and no action was taken.

Mr. Cobb stated that there was a request made to reduce the setback in residential subdivisions below what is proposed, down to 10' or less. The commenter would also like to be able to use the reduced setback in subdivisions in which development has already started. Mr. Cobb stated that this was a policy decision for the Commission. The draft ordinance already provides for a smaller setback in new residential subdivisions.

Mr. Wolfe displayed examples of subdivisions that have already been started where a

different setback could apply in the middle of the development, but on the same street, if the recommended change was made.

Ms. Earhart stated that Mr. Curd was unable to join the Commission for tonight's worksession but had submitted comments and this is one area that he supports the draft ordinance language but does not support reducing the setback any further.

Mr. Bridge stated he agreed with Mr. Curd's comments.

The consensus of the Commission was to leave the setbacks as drafted but clarify that an approved preliminary plat is the trigger for determining when the old setbacks must be used. Staff will work on refining the language in this section.

Mr. Cobb stated that there was a request to allow community buildings and recreational buildings to be built without limitation to the size restrictions for accessory buildings. Mr. Cobb stated this is a policy decision. Mr. Cobb stated that language could easily be added to indicate that community buildings and recreational buildings could be considered to be principal buildings on a lot and would fall under those size and setback requirements.

Mr. Bridge asked for an example where this would be applicable.

Ms. Earhart stated the community building in the middle of Shenandoah Estates Manufactured Home Park would be one example, although it could also be in a Single Family Residential Subdivision, like the new clubhouse that was built in Shannon Lea subdivision. She stated in that case it is the principal use of the property although it is accessory to the subdivision. She indicated that staff is suggesting that language could be added to the accessory use section of the ordinance to clarify the size and setback questions.

Mr. Cole asked if there would be setbacks.

Ms. Earhart replied the uses would have the setbacks.

The Planning Commission consensus was to clarify the language in the accessory use section.

Mr. Cobb stated there was a request to reduce the setback in Attached Residential Districts (§25-169) for townhouses that front on parking lots. The concern is 20' is too much which is what the draft ordinance would allow. Mr. Cobb stated staff looked at Waynesboro's ordinance and they require 25' and Staunton requires 30'. Staff recommendation is to retain the 20' proposed setback.

The consensus of the Planning Commission was to retain the 20' setback as proposed.

Mr. Cobb indicated the County received a comment asking for the new requirement for

guest parking in multi-family developments (§25-237.1) to be eliminated. Mr. Cobb indicated that it was a policy decision. He clarified that as the ordinance is drafted an additional 10% of the required number of spaces must be provided to accommodate guest and school bus parking, if applicable. He reminded the Commissioners about the recent Plan of Development for Augusta Woods Manufactured Home Park and the concerns raised by the Planning Commission about that plan.

Mr. Cole asked if the parking was for parents waiting for the school bus.

Mr. Cobb responded that was right. He reminded the Commission that the parking ordinance does allow for a waiver of this requirement by the Board of Zoning Appeals upon submission of a parking study that indicates that the amount of parking required by the County is excessive. For instance, if the development is for the elderly and you don't think you need 2 spaces per unit, much less these additional spaces, if you have a parking study to back that up, the Board of Zoning Appeals could waive that number. He indicated staff talked about the need to cross-reference that provision in this section.

Mr. Cole stated they could get that waiver until the use of the property changed such as going from an elderly complex to one for the general population.

Mr. Bridge stated that for multi-family projects if the bus pulls into an area, he feels they need to provide extra space.

Ms. Shiflett stated that this is an area where we had a lot of trouble with Augusta Woods and there should definitely be an area provided for bus pick-up.

Mr. Cole stated that nothing is cast in stone and he sees this as a challenging requirement because they may be designed for one market segment and when the market changes, the project changes.

Ms. Earhart stated the project should not get a waiver unless it is a case where it is funded as an elderly project and it can only be an elderly project, then it may be able to qualify for the reduction. A project that indicates that they are "marketing to" a specific clientele should not qualify for a waiver; it should be something more concrete than that.

Ms. Shiflett asked if proffers would work and if there needs to be standards for those waivers.

Ms. Earhart stated the waiver section needs to be added to the ordinance.

Ms. Shiflett stated she supports the 10% additional parking requirement with the ability of the developer to get a waiver if that is appropriate.

Mr. Leonard questioned the location of the additional parking spaces.

Mr. Bridge stated that it should be up to the developer how he lays out his development,

but he supports the 10% extra parking requirement.

The Planning Commission consensus was to retain the extra parking requirement with the waiver provisions to the Board of Zoning Appeals.

Mr. Cobb stated the next issues related to the requirement for recreation in multi-family and manufactured home park developments (§§25-229.1 and 239.1). The comments received by the County were that recreation should be provided at the discretion of the developer and not due to a county requirement. They indicate that this is expensive and will cause an increase in the rents. The comment was also made that the developer should be able to decide where to put any recreation that he does decide to provide in his development and not be required to put it in the middle of the development as the ordinance requires. Mr. Cobb stated this was a policy decision if you want to require recreation or not. If you do, there are charts that indicate how many “recreational points” are required based on the number of units in the development and what various recreational facilities are worth in terms of points. He stated that engineers don’t like our current system and have asked for this type of “menu of options” because currently the requirements for recreation are not clear. They asked for more clear-cut requirements. One of the ideas of staff had been instead of requiring all developments to have a base playground, give the playground a point value and if you don’t want to provide a playground because you don’t want to attract kids to the development, then you can provide other recreational facilities instead. He stated the ordinance was developed to accommodate the concerns raised by engineers who have worked with our current ordinance. He stated that the County is not getting any real recreation to speak of and it varies significantly from project to project.

Ms. Earhart stated that we have two multi-family projects getting ready to be submitted for site plan review and both have been able to easily meet the recreational requirements of the draft ordinance with the facilities they were already planning on building.

Ms. Earhart stated Mr. Curd agrees that the recreational requirements may be onerous and he supports the idea of giving the base playground points versus requiring it for every project. He does support modifying the points chart and allowing the recreation to be phased, but not eliminating the requirement for recreation altogether.

Mr. Cole asked what the downside of not providing playgrounds is.

Ms. Earhart stated from her perspective it is the kids are playing in the street.

Ms. Shiflett also commented that the residents are more likely to come to the County and ask for more recreation to be provided at public facilities.

Mr. Cobb stated we are putting people together on smaller lots and the need for recreation is becoming more important.

Ms. Shiflett stated she supports the idea of age appropriate recreation being provided. She indicated she felt there were plenty of age appropriate options for developers to choose from.

Mr. Bridge stated that as a “recreation person”, while he agrees with a county requirement for recreation, he does not believe, unfortunately, it will be utilized. He does not agree with cutting the requirement out completely, but based on expected usage, he supports making it a more minimal requirement.

Mr. Leonard stated he supports the options approach and stated people will not utilize recreation if it is not provided.

Ms. Earhart stated that people have asked why they can not just pay into a fund for the county to provide the recreation, but currently there is not a legal mechanism that will allow developers to do that.

Mr. Cole stated that recreation is not just for kids and cited the examples of tennis courts and swimming pools. He indicated that if we want to attract more young professionals, they may not want a playground, but they may want a tennis court. He stated he supports recreation for all age groups and likes the point system.

Mr. Leonard stated he likes the options, including useable open space.

Mr. Hite stated he supports modifying the points chart giving playgrounds a points value and eliminating the requirement that all developments have a base playground.

Mr. Leonard stated that the option should be either a playground or an activity building, but not eliminating a requirement for a base facility.

Mr. Cobb asked if the Commission would like staff to work on modifying the chart and coming back at the next meeting with revised language.

The Commission concurred.

Mr. Cobb stated the County received a request to add “flex space” to the list of permitted uses in §25-302. Mr. Cobb stated this is another policy decision. He stated the options were to add limited industrial uses to the General Business district as Special Use Permit uses; to add them as Permitted uses; or to leave the district as it is drafted and industrial uses would be required to locate in General Industrial zoning or in some cases in General Agriculture, with a Special Use Permit.

Ms. Bullerdick stated the current draft adds a provision for “flex space” in General Industrial districts by Administrative Permit with standards. Staff is proposing that “flex space” also be added to the General Business districts, with the same standards as are listed for General Industrial, with a 75/25 split – 75% of the building utilized for business uses and no more than 25% of the building utilized for industrial uses. She stated if the

applicant does not like the 75/25 split requirement they can appeal this to the Board of Zoning Appeals for a 50/50 or 35/65 split, for example. She also stated the draft ordinance already opens up industrial districts to allow more industrial uses by-right and it would be another option to apply for a Special Use permit for an industrial use in a business zoned district.

Mr. Cobb asked whether Planning Commission wanted to add “flex space” with limited industrial uses allowed in the General Business district and if they had any suggestions or questions regarding the standards proposed. He suggested if the Planning Commission likes the flex space concept staff can put together more information both on this and for the other option of a Special Use Permit for industrial uses in the General Business district.

Ms. Earhart stated she reviewed this issue with the County Attorney who advised that if the Commission wants to add industrial uses to the General Business district, it will require readvertisement. The Commission can certainly work on it, but it could not be acted upon with the rest of the ordinance without readvertisement.

Mr. Leonard asked what advantage this would give to the General Business district. What businesses would utilize this provision.

Mr. Wilkinson indicated that sheet metal shops, light industrial uses, overnight package and postal services would be examples. He indicated that it gave a property owner more options when it comes to renting a building.

Mr. Leonard stated there are plenty of areas for industrial now; it is not because there is not enough land available.

Ms. Earhart stated it could result in better utilization of existing buildings.

Mr. Cole stated that he likes the concept since you will not have as much sprawl with people going out and building new buildings. He stated that this will allow underutilized buildings to be used. He voiced support for the concept in General Business districts.

Mr. Cobb stated the County does not have a lot of existing buildings where light industrial uses are permitted. The County has vacant land, but not a lot of existing buildings available for rent. This is a way for the existing buildings to be used instead of the Board of Zoning Appeals approving new buildings out in agriculture areas for small start up industries. If this concept is something the Planning Commission wants to support, he indicated that staff can work on a list of potential uses and a list of existing buildings where this may be applicable.

The Planning Commission consensus was to defer this topic until the December meeting and let the staff draft some options.

Mr. Cobb stated concerns were raised about the large setbacks now being required for

Special Use Permit uses in General Business districts. The standards listed in §25-304. F. and G. would have to be met in order to even apply for Special Use Permits. Mr. Cobb stated the 1000' setback from residentially zoned properties is required 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 businesses- travel plazas and truck stops. The comment was made that the setback should be left to the discretion of the Board of Zoning Appeals. Mr. Cobb stated currently the BZA can require a 1000' setback unless the BZA is satisfied that the soundproofing and other factors are sufficient and then the BZA can reduce the setback. He indicated what the draft ordinance is proposing is to take out the option for a smaller setback and have a mandatory setback established by the County and the BZA can establish a larger setback if they want.

Ms. Earhart reviewed with the Commission the list of uses that require a mandatory setback and asked for their recommendations on each use individually.

Mr. Curd's comments were read that indicated that he thought the setbacks should be established by the Planning Commission and the Board of Supervisors in the Ordinance and not by the Board of Zoning Appeals on a case by case basis. He did not indicate what the setback should be; just that it should be established in the Ordinance.

Mr. Cobb stated the advantage to letting the Board of Zoning Appeals decide the matter on a case by case basis is each request is different and they can look at the individual circumstances and decide.

Mr. Leonard stated he believes the 1000' setback from residential areas is needed.

Ms. Shiflett stated she agrees. She indicated that she was not sure 200' for a slaughter house or animal product processing plant was enough.

Ms. Earhart stated none of these uses are allowed by right, all require Board of Zoning Appeals approval the only question is at what point can someone apply for a Special Use Permit.

Mr. Cobb stated the way it works now, if someone wants one of this uses, Mr. Wilkinson takes a Special Use Permit application and you have to prove to the Board of Zoning Appeals why you don't need the 1000' setback. If the Ordinance goes in as drafted, John will not take an application if they cannot meet the minimum standards, but the Board of Zoning Appeals can require an even larger setback.

Ms. Shiflett asked if we have any businesses meeting the 1000' setback or are they all appealing that setback.

Mr. Wilkinson stated we have not had one of these uses in awhile, but the Board of Zoning Appeals has required larger setbacks in the past for some of the uses in the General Industrial districts.

Mr. Leonard asked if it was the building, parking or the operations that have to meet the setback.

Ms. Earhart stated the building and all the operations have to meet the 1000' setback.

Ms. Shiflett stated the County does not really have much General Industrial land adjacent to residential zoning.

Ms. Earhart indicated there was some concerns raised that existing sites cannot meet this standard, for instance the industrial park in Weyers Cave.

Mr. Leonard stated that he is in favor of the standards as presented in the ordinance.

Mr. Hite stated he would prefer to leave it as it is currently in the Ordinance that means the Board of Zoning Appeals can decide if a lesser setback is acceptable. He indicated that he does not see a need for all the uses listed to have a 1000' setback. He cited a small wholesale business as an example of something that does not need a 1000' setback. He does not see it as a hardship for the Board of Zoning Appeals to look at these uses on a case by case business.

Mr. Bridge stated he thinks it is difficult to go through each use and determine an appropriate setback; it depends on the magnitude of each of those uses.

Ms. Shiflett asked if the Planning Commission wanted to set any minimum standards for the setbacks which would have to be met in order for someone to apply for a Special Use Permit.

Mr. Leonard stated he would like to see some of the setbacks for the General Industrial uses increased, but indicated that for some of the uses in General Business, the setbacks may be too large.

The Planning Commission deferred action on this topic.

Mr. Cobb stated that there was a request made to reduce the lot frontage requirement for cul-de-sac lots in the General Business and General Industrial districts (§§25-306.2 and 390). He stated that there was also a suggestion that there be no frontage requirement if a lot had no direct access to a public street. He indicated that the reason for a frontage requirement is to control access to the street from the business lots. He indicated the staff is recommending that the frontage requirements for lots could be reduced down to 50' if the lots have curb, gutter, and share a joint entrance and could be 50' for lots on private streets and travelways.

Ms. Earhart indicated there have been instances where the frontage requirement created problems. She stated, however, that such a change would require readvertisement of the ordinance since it could increase the density of development in

these districts.

Ms. Shiflett asked if there were cases where this has been an issue.

Mr. Wolfe drew a picture and indicated the current language would only allow 2 lots to be created on the cul-de-sac, due to the size of the cul-de-sac; they had to move the lot lines around in order to get the correct amount of road frontage. This change may facilitate better design of the business lots.

Mr. Bridge stated he supported the change.

Mr. Cole stated he too supported the change.

The Planning Commission's consensus was to recommend changing the lot frontage requirement in the General Business and General Industrial districts.

Mr. Leonard asked what the disadvantage would be to making that change.

Mr. Wolfe stated in terms of ensuring access to a parcel, staff felt that 50' was as small as you would want to go.

Planning Commission concurred with making no change to the frontage requirement for lots on private streets or travelways.

Mr. Cobb stated there was some confusion over §25-307. A. 1. in terms of the "limits of parking" as it pertains to landscaping. Mr. Cobb stated pictures would be added to clarify the meaning of the ordinance requirements.

Mr. Cobb stated there were several comments received about the proposed requirements for buffer yards in §§25-308 and 387. The comments indicated the costs are too burdensome and questioned the need for so much land if you put up a fence. Comments were also received that if the business is adjacent to something planned for business or industrial, but not yet zoned, a buffer should not be required. There was also a request made to take into account the type of business or industrial use going on the lot, as well as what it is adjacent to. A question was raised about the need to buffer adjacent to various types of roads and also what is required if you are developing only a small part of a much larger acreage, is buffering still required. Mr. Cobb distributed additional information to the Commission on the buffer yard requirements. He stated the staff had provided estimates for each of the 3 alternatives proposed in the draft ordinance. He called on Ms. Bullerdick to explain some additional alternatives for consideration by the Commission.

Ms. Bullerdick stated in addition to the 10', 20', and 40' wide buffers with fence and landscaping components, staff indicated that a revised alternative 1 could be a 10' buffer yard with a fence, wall, or berm only, which would reduce the cost of that alternative down to approximately \$2,900 per 100 linear feet. A revised Alternative 2

could be a 20' buffer yard with landscaping only and reduce the required plantings. The estimated cost of revised Alternative 2 is \$2,200 per 100 linear feet.

Ms. Earhart stated that the existing ordinance requirement is for a 25' buffer yard with no landscaping or fencing requirement, so both of these revised alternatives require less land dedication than the current ordinance. She indicated with revised Alternative 1 in essence you reduce the land dedication and trade that for a fence. In the second one you have 5 feet less land, but a landscaping component. From staff's perspective the 25' open land requirement currently does not provide much "buffer" between different land uses. She stated this is an issue the Commission frequently addresses in rezoning applications and the problem is that properties are not treated consistently, since not all new business development requires a rezoning. She stated that once the Commission decides what to require, the other issues of where and the exceptions can be dealt with.

Mr. Bridge stated he feels that 25' of just grass is not enough. He would like to see more protection for neighbors.

Mr. Cole stated he agreed, especially in light of the fact the uses in General Business and General Industrial will be getting more intense.

The Planning Commission agreed that the current requirement of 25' of land is not sufficient.

Mr. Cobb read the draft ordinance alternatives, as well as revised alternatives which downsize the amount of landscaping required and stated the concerns he has heard are mostly about cost.

Ms. Shiflett stated it appears this gives them good alternatives.

Ms. Earhart read Mr. Curd's comments in which he agrees that there are concerns with the cost of implementing the buffer yard requirements and also the impact on the viewsheds.

Mr. Cole stated that with the new ordinance you could have a 75' tall building and with the revised language less landscaping.

Ms. Earhart stated that was correct, but the current ordinance requires no landscaping in the 25' buffer yard.

Mr. Cobb stated the Commission may want to discuss the height limits.

Ms. Shiflett stated that she supported the alternatives presented by staff, a good compromise.

Mr. Cole stated that he supported the advertised draft.

Mr. Leonard stated that if you go with the alternatives, everyone will go the cheaper route and wants to be sure that is adequate.

Mr. Bridge stated that he supports the requirements as written.

The Planning Commission agreed to defer the discussion until the full Commission was available for the discussion.

Mr. Cobb stated the staff would also look at alternatives dealing with the height requirement in business and bring back some alternatives for the Commission to consider.

Mr. Cobb stated a discrepancy was pointed out between §25-308 and the parking ordinance in terms of the height of the fence required for buffering the parking lot when adjacent to residential zoning. Mr. Cobb indicated that staff had checked with the County Attorney who indicated that the change could be made to make them consistent.

The Planning Commission consensus was to make the height of the fence or wall required in the parking ordinance 6' to match the buffer yard requirement.

Mr. Cobb reintroduced the concept of flex space in General Industrial Districts (§25-383.B). He stated that the comment was as drafted the requirements for flex space are not workable and need to be modified to provide more flexibility.

Ms. Bullerdick passed out a handout with suggested changes to the draft ordinance no longer prohibiting outdoor storage and requiring at least two loading docks.

Mr. Leonard asked if outdoor storage was allowed in General Industrial districts.

Mr. Cobb stated that was correct which was why in the suggested changes the prohibition against outdoor storage is being eliminated. If it is allowed in all the rest of the district, it does not make sense to prohibit it just because the building is being rented to someone for a little bit of business.

Ms. Earhart stated there are really two discussions to have based on the comments. One is about mixed use buildings that can be used for both business and industrial uses and how should those work and function. The other comment made was that the list of uses allowed in General Industrial needs to be expanded to include more business uses. She indicated staff has looked at that and thinks it could be done by either allowing the extra uses by right or by Special Use Permit. She stated that adding more uses to the General Industrial district regulations will require readvertisement, but is a possibility.

Ms. Shiflett stated due to the heavy industrial uses allowed in General Industrial districts by right she feels that any business uses should be by Special Use Permit only.

Mr. Leonard asked for examples of uses that could be allowed.

Mr. Wilkinson stated that banks, eating and drinking establishments, entertainment businesses, hospitals, office buildings, hotels and retail uses could be allowed in General Industrial.

Ms. Shiflett stated that most of those uses generate more traffic than standard industrial uses and she feels there are some dangerous uses allowed in General Industrial that should not have business uses so close to them.

Mr. Cole indicated that he felt to some degree it will be self-limiting. He cited an example of a restaurant in an industrial park and questioned its ability to make money.

Ms. Earhart stated the staff could come back with options at the next meeting if the Commission were supportive of the concept either in terms of mixed uses in a building or adding extra uses in an industrial district.

Mr. Leonard stated if you allow business uses in an industrial building you have already opened the district up to some extent.

The Commission consensus was to have staff bring back some options for consideration.

Mr. Cobb indicated there are concerns about the mandatory setbacks for certain Special Use Permits in the General Industrial districts similar to the concerns raised in the General Business district. Mr. Cobb asked if the Planning Commission wanted to defer consideration on this topic as well as the General Business setback issue.

The Planning Commission deferred discussion on this topic to give staff time to provide more information on the specific uses.

Mr. Cobb stated there were concerns raised about the Planned Unit Development District requirements in §§25-411-419. He stated that since 1971, there have been only 6 or so Planned Unit Developments created in Augusta County. Therefore, staff did not spend time looking at making changes to this district and concentrated instead on the Planned Residential district which staff believes may take the place of the Planned Unit Development district. He indicated that if the Planning Commission wanted them to work on this district, staff could do so after the first of the year or the Planning Commission could recommend leaving the ordinance as is.

Ms. Earhart stated the suggestions listed on the comment sheet would also take revisions that would require readvertisement, so making the changes now is not an option. The choice is to work on the ordinance after the first of the year or leave it as it is for now.

Mr. Cole stated he agreed with staff's suggestion to revisit this district in another year or so after the county sees if the Planned Residential district is successful.

The consensus of the Commission was to leave the ordinance as drafted and revisit the issue in a year to see how the Planned Residential district is working.

Mr. Cobb stated there was a request to give more points to high quality open space in §§25-415 and 430.2. He stated the draft ordinance concentrates on the provision of recreational facilities. However, if the Commission wants to do so, it could add points for high quality open space.

The consensus of the Commission was to leave the ordinance as drafted.

Mr. Cobb stated the County received numerous comments and suggestions about the Planned Residential district §§25-421-429. The concerns are it is not attractive enough for developers. He indicated that at the Partnering Session and another meeting held with developers and engineers after the Partnering Session, the County received suggestions on changes to make the regulations more workable. He stated the goal of the County was to make this district workable, but the goal of the district is to create walkable, livable communities with a mixture of housing types which would implement the recommendations of the Comprehensive Plan. He indicated that at the Partnering Session we appeared to be getting away from the goal of having walkable, livable communities and focused more on a district that developers would use.

He stated that one of the things that was looked at was the "chunky" style of development.

Mr. Wolfe displayed a picture of the type of concept plan that would be required for this form of development. The property would be divided into areas within the plan that would be designated for townhouses, duplexes, single family and with the number of units in each area with a general plan for the roads. As it was advertised, each area was required to have a mixture of uses in each area, so the developer could not have had a lot of townhouses in one area and another big area of single family in some other area.

The consensus of the Commission was to allow for "chunky" style zoning.

Mr. Cobb stated there was a request to delete the prohibition about having multi-family and townhouses adjacent to one another. He indicated that the way it was drafted prevented having too many massive buildings from being next to each other, since this is supposed to be a community. If you want to have large apartment buildings or a lot of townhouses in one area the developer could still do that through conventional zoning.

Mr. Cobb introduced the next concern which was the limit on the number of units allowed per building. The suggestion has been made to raise that from 6 units to 8 units which will allow for apartments with 4 units on the bottom floor and 4 units on the

top floor. He stated that staff felt this was a reasonable change.

Mr. Cobb stated the next request was to eliminate the limitation on the size of the parking lots in the development. Mr. Cobb stated, again, this requirement has to do with the desire to keep the development on a “community scale” and not have large parking lots in the project. If the number of units allowed per building is raised, the number of parking spaces allowed in an individual lot would need to be changed. He indicated staff thought capping the number of spaces at 16-18 spaces per lot made sense, if a change was desired, but not allowing a sea of parking to be created.

Mr. Cobb indicated that concerns were raised about the limitation on the multi-family portion of the project. The suggestion was made to limit it to no more than 25%, but not to include townhouses in that calculation. He stated that another developer said perhaps multi-family should not be an allowable dwelling type at all since that is what neighbors seem to fear the most.

Mr. Cobb stated that another request was made to shift dwelling types within pods where the developer could change the dwelling type to a less intense type without Board of Supervisors approval. He stated that in order to protect the neighbors it would appear that anytime you want to increase the intensity of the dwellings, it would require a rezoning, but you could shift to a less intense use.

Mr. Cobb stated there was a request to only require recreation if there is a multi-family residential component to the project and then only to serve those residents. He stated that the Planned Residential district envisions a small lot residential community and it appears that recreation should be for everyone, not just for one type of resident. He reminded the Commission that while the goal was to make a district that developers would use, the goal is to still to develop a livable community. If the developer wants to just have apartments and townhouses, there is another zoning district that will allow for that.

Mr. Cobb indicated there was a suggestion to delete the requirement in the recreation section that requires the recreation to be in the center of the development and just require that it is accessible to everyone. He stated the language could be modified as suggested.

Mr. Cobb stated another suggestion was to delete the front yard requirement if the improvement is adjacent to something other than an arterial or collector street. He indicated that was a policy decision and could be modified or deleted if desired.

Mr. Cobb stated the comment was made that having small “pods” would create Homeowners Associations that would be too small to be “viable”. He indicated that staff checked with the County Attorney who indicated that an umbrella HOA could be formed, as well as HOAs for “like type” housing, for example townhouses. He indicated the County Attorney did not see a problem with the viability of the HOAs.

Mr. Cobb stated that in addition to the issues raised at the Partnering Session, there were individual comments and concerns raised about the district and asked how the Planning Commission wished to proceed.

Mr. Cole asked if there were duplications or consistency in the two sets of comments.

Ms. Earhart stated there is some consistency, but others call for an entirely different approach to the regulations. For instance, the district is designed around having a mixture of dwelling types, yet one comment is that there should not be a required mix. From staff's perspective, if there is not a mixture of dwelling types, then you can use conventional zoning.

The Planning Commission revisited each of the issues and reached a consensus on the issues.

Mr. Cobb stated at the meeting there was a sentiment that if you got a zoning for 122 units you should be able to move dwelling types around at will without additional rezoning as long as the 122 units was not exceeded.

Ms. Earhart stated staff went back to the Myers Corner rezoning where the major issue with the neighbors was what was up against them.

Mr. Cobb added if you can change the layout or the dwelling types after the rezoning approval, what protection are you offering the neighbors. It is hard to allow flexibility for the developers, but still protect the adjacent property owners.

Mr. Cole stated that this type of development theoretically is an enhancement for the County as a whole.

Ms. Earhart stated the district allows flexibility and better site design. It allows for a higher density to be achieved to implement the goals of the Comprehensive Plan which is not currently achievable with the County's traditional zoning classifications.

Ms. Shiflett stated she does not see how you can allow the changes and still offer protection for the neighbors. She asked if it would come in the form of proffers.

Ms. Earhart indicated that the new district envisions developers getting away from writing their own ordinances. The developer would establish, for example, a single family pod and the uses would be the same as the County's traditional zoning classifications, but the developer would establish their own setbacks and yard requirements.

Ms. Shiflett questioned how the design would be tied to the rezoning from a legal standpoint.

Ms. Earhart stated the developer would be proffering the concept plan and that is one of

the reasons staff is concerned with making changes to the density, especially increasing the density or intensity of the dwelling units, within the development if it has been approved by the Planning Commission and Board.

Ms. Shiflett stated that she believes that people want to know what is going to be built next to them.

Mr. Bridge stated in general going down in terms of density may be fine, but if it changes what is immediately adjacent to a neighbor, it may not be.

Mr. Leonard stated he believes if the changes will be what is best for the community then the developers should not have a problem coming before the Commission and Board for approval. If they are afraid to come before the County for approval, we should be concerned.

Mr. Cobb stated staff had a vision that the district could have more flexibility and be more market driven, but that is difficult practice while protecting the neighbors.

Mr. Bridge indicated that he thought that was a good idea in concept, but felt if there were a lot of changes there needed to be a zoning amendment, so we can protect the neighbors.

Mr. Cole stated he has seen examples of neighborhoods that seemed to work well and people seem to enjoy living there.

Mr. Leonard asked about the mixture of dwelling types required and stated he does not think requiring two or three different types based on the acreage of the development is too much. He also questioned the setbacks required for this district.

Ms. Earhart stated that perimeter setbacks will be required from property lines and the setbacks from streets will match the requirements in all the residential districts, but internal to the subdivision, the yard requirements will be set as part of the concept plan during the rezoning.

Mr. Leonard asked if this would result in decreased lot frontage requirements.

Ms. Earhart stated she believed that would be the case for most residential types.

Mr. Leonard summarized by saying that the regulations in this district allow for more density and if a developer wants to get the maximum profit out of a piece of land this district seems like a good district to use.

Ms. Earhart stated the maximum density would be based on what the Comprehensive Plan designates for the property, for instance, 3-4 units per acre for medium density residential and 4-8 units per acre for neighborhood mixed use.

Mr. Cole stated the district allows for the best utilization of the County's infrastructure.

The consensus of the Planning Commission was approval of the Planned Residential district in concept.

Ms. Earhart stated comments were received about whether or not to include multi-family in the mix and should there be a limit.

Mr. Cobb stated that as drafted up to 25% of the development could be multi-family.

Ms. Shiflett stated she supported having multi-family as an option.

Mr. Leonard asked for the rationale in limiting the amount of multi-family in any project.

Mr. Wolfe stated that the original concept was a blended community with no stigma attached to living in the multi-family part of the project versus one of the single family homes; they would all be side by side. He gave an example of a single family house next to a six unit apartment building next to a duplex. If you allow small numbers of apartments in a neighborhood, there usually is not a problem. It is when it is a large apartment complex and the sea of parking with it the community starts to separate itself based on type of dwelling.

Mr. Cole stated there are examples right here that are just as attractive as a single family neighborhood, because they are part of those neighborhoods.

Mr. Wolfe stated with the limitations you will not end up with massive parking lots. The draft originally envisioned a concept of a pod with, for example 10 single family dwellings, 6 duplexes, and 1 apartment building with 6 units, but the parking would be required to be split into 2 different lots. The feedback from the developers was such a plan was not feasible.

Mr. Cobb asked for the Commission's preference, include multi-family as an option and if so what type of limitation on the % in the development do you want.

Mr. Cole stated his preference would be to allow multi-family, including townhouses, as an option, but limit it to no more than 25% of the development.

Mr. Leonard stated that he felt he could support more townhouses because he sees those units more like single family dwellings.

Ms. Shiflett stated that depends on whether they are owned or rented.

Mr. Leonard suggested possibly limiting the number of townhouses per building and as a percentage of the entire development. He asked what the downside of such an approach would be.

Mr. Cole stated that if 25% could be townhouses and 25% could be multi-family, then 50% of the project is large buildings and that is not creating a community.

Ms. Earhart reminded the Commission that the overall concept plan would still require Planning Commission and Board of Supervisors' approval. If there are too many large buildings and not enough diversity or the layout does not provide the right mix, the County would not have to approve the rezoning.

Mr. Cole stated that he would love to see this concept be successful but what makes it desirable is not a large use in one area, it is friendly in scale. We need to provide a mix of uses and a mix of people.

Ms. Shiflett stated her concern is if you start out building the large uses it will attract other large uses and questioned whether or not you will even be able to have a single family component and make the development viable.

Mr. Hite asked if there were suggestions from the meeting with developers and engineers about the right percentage of townhouses and multi-family.

Mr. Cobb stated there was no consensus and the Commission can set the level at whatever they are comfortable with.

Ms. Shiflett stated she could support no more than 35% being townhouses and multi-family combined, but no more, and asked if that was an acceptable compromise.

Mr. Cole asked for an example of a neighborhood like this and asked which ones are most successful.

Ms. Earhart stated they could not provide an example. She stated they asked the developers for an example and only got one theoretical submittal for a project that was not built. She indicated Staunton has several projects that have been approved with a mix, but nothing that has been built yet.

The consensus of the Planning Commission was to limit the amount of townhouses and multi-family to no more than 35% of the total number of dwelling units in the development.

The consensus of the Planning Commission was to limit the number of townhouses to no more than 6 in a building and no more than 8 apartment units in a single building. The consensus was also to increase the number of allowable spaces in a single parking lot to 18.

In regards to allowing changes of dwelling types, the consensus of the Planning Commission was to require any changes to come before the Planning Commission and Board of Supervisors.

The consensus of the Planning Commission was to require recreation to meet the needs of the entire neighborhood and not just to the residents of the multi-family areas. In addition, the consensus was the recreation could be placed wherever the developer desired it to be located, but it should appear on the concept plan approvable at the time of the rezoning. The Planning Commission also asked that the requirements for recreation be modified to clearly allow recreation to be provided in phases and bonded accordingly.

Mr. Cobb asked for direction on the setback requirements.

Ms. Shiflett stated she liked the development in Crozet and asked what those setbacks were.

Mr. Hite indicated that he too liked the look and feel of that development and could support using that as a model.

The consensus of the Commission was to look at the requirements in Crozet and draft the front setback requirements accordingly but no less than 20'.

The consensus of the Commission was not to change the requirements for the Homeowners Associations.

The consensus of the Commission was to decrease the allowable height of buildings in the Planned Residential district to 35' to make it more "residential" in feel.

Ms. Earhart indicated there was a comment to add a provision for stormwater management facilities and rv parking lots in Planned Residential Districts. He stated that is already covered in the accessory use section and not necessary in this article.

Mr. Cobb introduced the Subdivision Ordinance Comments and asked Mr. Wolfe to walk the Commission through the handout on those topics.

Mr. Wolfe stated one of the engineers asked for "when feasible" to be added to §21-9.1A.3. The comment was that you cannot always line up streets due to topography or other site specific constraints. He indicated that language can be added to the section.

The consensus of the Commission was to add the "when feasible" language to that section.

Mr. Wolfe stated another comment was made that a reference to the ability of the Board of Supervisors to grant a waiver should be added to §21-9.1.C. He stated that the Board of Supervisors can issue a variance to any section of the Subdivision Ordinance under §21-62, so no additional language is needed.

Mr. Wolfe stated a request was made to modify §§ 21-33.D.E.F. and G by extending the timeframe for approval of preliminary plats to 10 years and site plans and final plats

from 5 to 10 years. He stated that under the current draft staff will be able to approve preliminary plats for 5 years. If a longer approval period is desired, the developer can take the plat to the Board of Supervisors and ask for a longer approval period. He explained recent legislation that extends all currently valid plats and plans until 2014 and indicated a reference to that action could be added to the site plan section for clarity.

The consensus of the Planning Commission was to leave the ordinance as drafted and add the note to the site plan section.

Mr. Wolfe stated there was also a request to make the 10% overage for bonds the permanent ordinance requirement (§21-36.A. and §25-240.1) as opposed to only lasting until the General Assembly deadline is up in 2014. Currently, the County is allowed to charge up to a 25% administrative fee and add that to the bond amount. He explained that while it is a policy decision, the 10% administrative addition, along with the required reduction down to 90% of the bond amount, makes it unlikely there will be sufficient funds to complete a project if a bond needs to be called several years after it is first issued. The 10% is supposed to cover the cost of inflation over the building period which could be up to 10 years. The ordinance allows for up to 25% and the way it is drafted after 2014 the requirement would go back up to 25%.

The consensus of the Planning Commission is to retain the existing wording and if there is a concern in 2014 when the legislation is due to expire; the County can revisit the issue at that time.

Mr. Wolfe stated that several engineers had questioned the need for the placement of monuments so close together. They recommended an intervisibility standard which is acceptable to staff.

The Planning Commission consensus was to make that change.

Ms. Earhart stated there are no public hearings scheduled for the December meeting, so the Commission will have an opportunity to finalize their recommendations on the ordinances including the deferred items and then take a formal action on the ordinances at their regular meeting. She stated the Board of Supervisors has scheduled a worksession to begin discussions on the ordinances for December 15th and they would like to be able to consider the Planning Commission's recommendations at that time.

Mr. Cobb stated that we have several other ordinances that need to be worked on in January, including sourcewater protection and incentives for developers to build in the Urban Service Areas, and the Board wants to use some of their time in December to begin looking at these ordinances, especially if there is a need to readvertise some of these ordinances.

Ms. Shiflett asked about prohibiting truck parking in subdivisions. She asked if the county had the right to prohibit them from parking the subdivisions, impacting their

livelihoods, when we have not offered them any other options.

Mr. Morgan explained how a grandfather clause would work in that instance.

Mr. Wilkinson reported that he checked with several localities and most monitor it on a complaint basis. He indicated that Rockingham County banned parking in residential neighborhoods, but their Sheriff's Department can write tickets.

Ms. Shiflett stated that is a touchy issue.

Mr. Bridge asked about school buses.

Mr. Wilkinson stated that most of the other ordinances prohibit those as well.

Ms. Shiflett asked about recreational vehicles.

Mr. Wilkinson stated they allow those as long as they are parked off-street and if in the front yard, in the driveway only.

The next worksession will be Tuesday, December 8, 2009 starting in the afternoon and breaking for dinner before reconvening for the regular December Planning Commission and potential action on the ordinances.

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

Chairman

Secretary