

**PLANNING COMMISSION
WORKSESSION MINUTES
November 10, 2009
4:00 p.m.**

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

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

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ORDINANCE REVIEW

Mr. Byerly called the November 10, 2009 Worksession to order. He stated the Planning Commission will break for dinner at 6:00 pm followed by the regularly scheduled meeting at 7:00 pm. The worksession will then reconvene after the regularly scheduled meeting to continue discussion on the ordinance changes. He turned the meeting over to Dale Cobb to continue to present staff's review of the comments received from the public hearing on October 26, 2009.

Mr. Cobb provided the Planning Commission with a comparison chart of the General and Exclusive Agriculture districts. He briefed the Commission on the background of the creation of the two agriculture districts. With regard to the chart, Mr. Cobb explained under the proposed agriculture district, lots and tracts less than five (5) acres in size will be allowed only limited agriculture. For the purposes of this section, Mr. Cobb stated the minimum acreage shall mean the total acreage of the contiguous tracts that are wholly owned by the same person, firm, or corporation. Mr. Cobb stated permitted uses for the proposed General Agriculture zoning will remain the same. With regard to agriculture related uses, he stated the uses will include, but not necessarily be limited to: wildlife areas, game refuges, (where shooting wildlife is not allowed), forest preserves, stables and riding academies and fish hatcheries.

Ms. Shiflett stated the intensive agriculture wording was not included in the proposed language.

Ms. Earhart stated that is correct. She stated all agriculture is being treated the same for the purpose of the proposed ordinance. She stated the setback will be the same.

Mr. Cobb stated the following permitted uses will remain the same under the proposed General Agriculture District, one (1) single family dwelling and certain group homes required to be permitted by state law; religious institutions; passive recreational facilities not requiring a building; and additional principal dwellings:

1. On lots five (5) acres or more, two (2) principal dwelling units are permitted.
2. On lots or tracts sixty (60) acres or more, three (3) principal dwelling units are permitted.
3. For every additional twenty (20) acres in the tract, one (1) additional dwelling unit is permitted.

With regard to Administrative Permits, Mr. Cobb stated off-site sales of seasonal items; greenhouses, nurseries and tree farms, where products are grown on the premises are sold to the public; single family dwellings less than nine hundred square feet (900 sq. ft.); mobile homes built prior to 1976; off-site office trailers, buildings, parking lots, and equipment or materials storage areas or facilities in connection with temporary construction will all remain the same under the proposed agriculture zoning. He stated trailers used other than as recreational vehicles are currently not permitted under the Administrative Permit process in Exclusive Agriculture, but is being proposed in the General Agriculture District. Mr. Cobb stated currently there is only one (1) home occupation class.

Mr. Wilkinson explained the current Home Occupation Permit allows one (1) employee at the home, one (1) company vehicle, and the business must be conducted within the home, no accessory buildings, outdoor storage, or display is permitted.

Mr. Cobb explained under the proposed zoning there will be Class A Home Occupations, Class B Home Occupations, Day Care Home Occupations, and Rural Home Businesses.

Mr. Cobb explained the difference between the Class A and Class B Home Occupation Permits. He stated the Class A Home Occupation Permit is similar to the current Home Occupation Permit. He stated these permits will be allowed on lots less than one (1) acre. He stated the major difference between the Class A and Class B is the Class A must be home based or conducted inside the home. He stated an accessory building up to five hundred square feet (500 sq. ft.) and one (1) utility trailer up to sixteen feet (16') in length will be permitted under the Class B Home Occupation Permit. Mr. Cobb explained mowing businesses will utilize the Class B Permit as they have the truck and trailer to haul mowers and equipment.

Also provided under an Administrative Permit, Mr. Cobb explained is a Rural Home Business permitted in the proposed General Agriculture District. Mr. Cobb stated this is the biggest change with regard to businesses being permitted in this district. He stated the idea behind the Rural Home Business is to allow farmers to conduct other types of businesses on the property in order to supplement their farm income without having to apply for a Special Use Permit. A chart was provided that depicted the standards and regulations of the Rural Home Business in General Agriculture based on the acreage amount. Mr. Cobb stated with the Rural Home Business, the number of Special Use Permits will decrease. He stated if the business gets larger than what is permitted; the applicant would then apply for a Special Use Permit.

Mr. Cobb stated recently an individual voiced concern at the Board of Supervisors' meeting with a pallet business regarding noise and hours of operation.

Mr. Wilkinson stated the business operates under a Special Use Permit. When the permit was issued, the hours of operation were regulated by the Board of Zoning Appeals. If those hours are violated, Mr. Wilkinson stated it would be a zoning violation.

Mr. Cobb stated under the proposed Rural Home Business Permit, the hours of operation are not regulated. He explained as long as the business operates within the allowed structure, the hours and days of operation are not regulated.

Ms. Shiflett asked if the Administrative Permit is by right.

Ms. Earhart answered yes. As long as the business meets the standards as established by the Zoning Ordinance, the permit would be issued. She raised the issue of signage. She stated under a Rural Home Business Permit, the applicant is allowed a total of thirty-two square feet (32 sq. ft.) and a maximum of two (2) signs.

Mr. Cobb noted the following Administrative Permit uses will remain the same under the proposed General Agriculture zoning. They include temporary use of a manufactured home as a dwelling during construction of a dwelling; attached accessory dwelling units; detached accessory dwelling units, attached to an accessory dwelling (new language); and cemeteries.

Mr. Cobb discussed the Special Use Permit uses in the proposed General Agriculture zone. He stated agriculture support businesses will remain, however animal care facilities and uses away from developed areas will be modified with some uses in these categories becoming stand alone Special Use Permit categories with their own standards. Mr. Cobb also stated it is being proposed to add new language to the General Agriculture District to include landing strips and

heliports; junkyards and demolition facilities; vehicle repair shops; campgrounds and recreational vehicle parks; manufactured and mobile homes and school and other buses used for storage and shipping containers, semi-trailers, and similar containers used for storage that are not shielded or screened from view; and attached or detached accessory dwelling units where the owner of record does not personally reside in either the principal or accessory dwelling unit on the property. He explained carnivals, circuses, and fairs will be permitted under a Special Use Permit in General Agriculture. Mr. Cobb stated wireless communications facilities will be regulated in a separate article of the Zoning Ordinance. With regard to public accommodation facilities and limited business and industries in agriculture zones, Mr. Cobb stated currently there are no provisions for these uses in Exclusive Agriculture. He stated it is being proposed for these uses to be permitted with a Special Use Permit with limitations in the proposed General Agriculture district. He further stated the date of apartments in a pre-1970 structure will be changed to a pre-1980 structure as it is difficult to determine when a structure was built before 1970 as the Building Inspection Department did not exist prior to that time. Mr. Cobb explained the language regarding passive recreational facilities requiring a building and active recreational facilities; and recreational attractions and public amusement businesses will remain the same and be permitted with a Special Use Permit under the proposed district.

Mr. Byerly questioned reciprocal setbacks in General Agriculture.

Ms. Earhart stated the proposed ordinance will not have a setback for intensive agriculture. She explained it will be the standard setback for a building greater than nine hundred square feet (900 sq. ft.).

Mr. Cole asked the criteria for administering these standards. He asked what language in the ordinance ties the decision back to the Comprehensive Plan and the impact these decisions have on neighboring properties.

Mr. Leonard asked Mr. Cole to explain the statement in relation to agriculture.

Mr. Cole explained under the current ordinance as criteria for Special Use Permits in the agriculture zoned districts, the proposed uses have to be consistent with the Comprehensive Plan and the views and impacts they have on adjacent properties have to be considered. Mr. Cole stated in the proposed ordinance the language making it a criteria and connecting the decisions and impacts to the Comprehensive Plan has been removed.

Ms. Earhart stated the Comprehensive Plan is not referenced under the Administrative Permit process. She stated the language regarding the impact on the neighborhood is vaguer in the proposed ordinance. She explained the language previously included the specific impacts such as traffic, congestion, noise, odor, dust, etc. Under the Special Use Permit criteria, Ms. Earhart stated

the Comprehensive Plan conformity is still referenced and the requirement for the Planning Commission to review the application would remain, but the language regarding the impact on the neighborhood has been amended.

Mr. Cobb stated the difficulty comes from relating the Administrative Permit to the Comprehensive Plan. He stated the concern is the need for the administrative decisions by the Zoning Administrator to be "black and white".

Mr. Cole stated comments he has received are concerns with the lack of review from the Planning Commission in the agriculture districts.

Mr. Leonard realizes the objective with eliminating the Exclusive Agriculture District is to give farmers more business opportunities, but he stated he has a problem with someone buying a small parcel in agriculture in order to have a business. He stated he feels the County is opening General Agriculture to promote more business growth. Mr. Leonard stated he can support certain businesses on parcels twenty-five (25) acres or more, but he cannot support large businesses on small acre parcels.

Mr. Cole stated of the comments he has received, people do not want to keep farmers from earning a living, but at the same time, they do not want this to have an adverse impact on agriculture.

Mr. Byerly stated the intent is to allow existing farmers to supplement the income of their farming operations, but he too is concerned that opening up General Agriculture for these opportunities will have an adverse effect on agriculture.

Ms. Earhart stated staff would have to consult with legal counsel as to whether or not the County can require a property owner to own the property for a certain amount of time before starting a business operation. However, she stated staff can come up with language to require a minimum amount of acreage for large by-right business operations in agriculture.

Ms. Shiflett stated she agrees that farmers do need more opportunities to supplement their income, but she is concerned with the nuisances and hazards that come with more businesses in agriculture. She stated there needs to be a balance. Ms. Shiflett noted the price for land in agriculture is much cheaper than lots zoned business.

Mr. Leonard stated these opportunities are being provided to anyone who wants to open up a small business in agriculture. Mr. Leonard asked the committee's opinion on how this would be beneficial to farmers.

Mr. Cobb stated the intent is to allow more flexibility and opportunities for farmers. He also stated it was the goal to allow more tourism opportunities to farmers, such as bed and breakfasts, wineries, etc.

Ms. Earhart explained it would also allow farmers to utilize their heavy equipment to supplement their income.

Mr. Leonard asked approximately how many acres would be needed to utilize the heavy equipment.

Mr. Cobb stated the examples he is familiar with have large parcels.

Mr. Bridge stated he feels if there is a concern of individuals purchasing small agriculture lots for business purposes, there should be some type of minimum acreage requirement.

Ms. Earhart noted the Rural Home Business is being proposed under the Administrative Permit process. She stated there are other options. Ms. Earhart stated if a farmer does not have the minimum required acreage, but wanted to conduct a business, that would still be an option under the Special Use Permit process, unless the Commission recommends differently.

Mr. Leonard stated if the lot is less than five (5) acres, a Special Use Permit should be required.

Ms. Shiflett stated neighbors are more impacted on smaller lots.

Mr. Wilkinson explained the two (2) biggest factors with regard to Special Use Permits, are the use of accessory buildings and/or heavy equipment.

Ms. Earhart stated another option would be to set a standard minimum setback for certain uses.

Mr. Byerly suggested increasing the minimum acreage for these uses.

Mr. Bridge agreed and also suggested adding a minimum setback as well.

Ms. Shiflett commented the Planning Commission often comments that businesses need to be in business zoned locations for Special Use Permit applications.

Mr. Cobb explained if the standards could not be met under the Administrative Permit, the applicant would still have the option of applying for the Special Use Permit. He asked the Commission's recommendation on a minimum acreage and setback for applying for the Special Use Permit.

Mr. Leonard stated he would like to see a twenty-five (25) acre minimum requirement.

Mr. Cobb asked the Commission if they would require a minimum setback.

Ms. Shiflett stated she would prefer at least one hundred feet (100'). She asked Mr. Wilkinson his thoughts based on the complaints the office receives.

Mr. Wilkinson stated he feels twenty-five feet (25') is not enough.

Mr. Cole asked if raising the minimum acreage amount addresses the concern with protecting agriculture. He stated it may address one aspect of the concerns, but there are still issues with the perception citizens have of losing their protection in Exclusive Agriculture.

Mr. Bridge asked how the minimum acreage and setback standards will address the concerns of those who feel their land is protected in Exclusive Agriculture.

Ms. Earhart stated two separate concerns are being discussed. She stated the discussion is on rural home business in General Agriculture. She suggested the Commission consider the elimination of the Exclusive Agriculture District as a separate discussion. She stated the concern depends on the location of the Exclusive Agriculture zoning. Ms. Earhart explained if a parcel is surrounded by Exclusive Agriculture and there is not a home business option in the area, then it may be protected from that aspect. But, she stated because of the scattered pattern of Exclusive Agriculture and General Agriculture zoning, even if Exclusive Agriculture is not eliminated, the parcel adjacent may be zoned General Agriculture and that parcel by right would have the option of having a business on the property.

Mr. Cole stated the perception is a sense of protection in the Exclusive Agriculture district. He explained the perception is if this zoning is eliminated, the door would be open to all types of permitted uses. Mr. Cole stated based on comments he has received, people want a level of protection whether that is real or perceived.

Mr. Cobb discussed the current restrictions in Exclusive Agriculture. He stated many parcels are being rezoned from Exclusive Agriculture to General Agriculture in order to be eligible for a Special Use Permit. Mr. Cobb stated the majority of the requests for the rezonings and subsequent Special Use Permits are being approved by the Planning Commission and Board of Zoning Appeals. He stated the Commission needs to give the changes a lot of thought as the ordinance does not change very often.

Mr. Byerly stated if an Exclusive Agriculture zoned parcel is surrounded by General Agriculture, there is no protection as the adjacent property would have the option of conducting certain types of businesses on the property through the Administrative and Special Use Permit processes.

Mr. Leonard stated citizens have theorized development will increase if the Exclusive Agriculture District is deleted. He stated the majority of the concern with protection in Exclusive Agriculture is perceived.

Ms. Shiflett stated she does not see a way of protecting the district unless there were to be a countywide rezoning. She stated the best protection for farmland would be to put it into an agriculture and forestal district.

Mr. Cobb stated the only issue with an agriculture and forestal district is it is temporary. He explained if the Commission wished to establish criteria, restrictions, etc. in order to protect agriculture districts, now is the time to do so while it is being considered.

Ms. Shiflett expressed the difficulty in deciding the criteria for the district.

Ms. Earhart stated theoretically, there should not be rezonings from Exclusive Agriculture. She stated agriculture conservation areas and Exclusive Agriculture are not the same. She explained it is difficult for some to differentiate between the Comprehensive Plan designations and zoning classifications.

Mr. Byerly asked the Commission if there was any member adamant about retaining the Exclusive Agriculture Zoning.

Mr. Cole stated he is adamant about preserving the district based on comments and concerns he has received from the public. He further stated of those concerns, people were not opposed to allowing home based businesses in Exclusive Agriculture, however the support would be for businesses that would have a connection to agriculture and have no adverse effect on agriculture.

Mr. Bridge stated he has received the same comments and concerns. However, he feels the concerns are more perception than reality.

Mr. Byerly stated after talking to people who were initially opposed to eliminating Exclusive Agriculture and explaining the real differences in the two districts they have no objection to dropping the Exclusive Agriculture zoning, but some protection of agriculture land is desired.

With regard to protection in agriculture, Ms. Earhart discussed cluster subdivisions. She stated agriculture cluster subdivisions have to be allowed, but criteria can be established.

Mr. Leonard discussed the situation with Bedford County. He stated their concern is lot size. He stated Bedford County is considering establishing a minimum lot size requirement for development in agriculture. He asked Augusta County's minimum lot size requirement.

Ms. Earhart answered one acre minimum in General Agriculture and two (2) acre minimum in Rural Residential. She stated neither a minimum or maximum requirement was established in the rural cluster developments, but seventy percent (70%) of the land has to remain open space.

Mr. Leonard asked why a size requirement was not considered.

Ms. Earhart answered in order to have community septic systems and not force owners to have individual septic systems on their property and allowing more flexibility no lot size was established.

Ms. Shiflett asked if there are a minimum number of homes within a cluster development.

Ms. Earhart stated the number of homes is based on the amount of road frontage.

Mr. Cobb explained the concerns he has about allowing these developments in agriculture.

Ms. Earhart stated General and Exclusive Agriculture are in all policy areas in the Comprehensive Plan. She explained even if a parcel was zoned General Agriculture, a cluster subdivision could not be established in an Urban Service or Community Development Area because public utilities would be utilized, and the proposed ordinance does not allow a cluster subdivision to utilize public water and sewer. Ms. Earhart explained to the Commission, if they are in favor of the cluster subdivision, the Rural Residential Zoning classification can be considered if a cluster option were added to that district.

Legislation regarding the cluster subdivisions was discussed.

Mr. Cobb explained under a worst case scenario, we can have subdivisions in General Agriculture and adjacent property owners aren't notified and the Planning Commission and Board of Supervisors aren't involved in the decision. He stated it is being recommended to give incentives to developers to develop in the Urban Service Areas rather than encourage development in the agriculture areas.

Mr. Cole stated two things that can limit cluster development in agriculture are Agriculture and Forestal Districts and conservation easements. He asked that a setback be added to the cluster option for conservation easements.

Ms. Earhart stated the criteria can be established at the Commission's preference.

With regard to home based businesses in agriculture, Mr. Curd stated he supports having a minimum acreage requirement. He feels businesses should be located in business zoned districts. He stated the minimum lot size requirement should be large enough that it would cost more to purchase the land in agriculture than it would to purchase a business zoned parcel. With regard to the elimination of the Exclusive Agriculture District, Mr. Curd stated parcels located in Exclusive Agriculture should have the option to remain in Exclusive Agriculture, but also have the option to rezone to General Agriculture.

Mr. Bridge stated the reason for proposing to eliminate Exclusive Agriculture is the perception of protection. He further explained in factuality, the protection is perceived and the zoning only creates more paperwork and “hoops to jump through” for things that would otherwise be by right in General Agriculture.

Ms. Earhart stated staff reviewed the differences between General and Exclusive Agriculture. She stated other than setbacks for intensive agricultural facilities there is little difference between the zonings. She stated the only difference was Exclusive Agriculture had fewer Special Use Permit options. In order to have those options, Ms. Earhart explained the property owner would have to first rezone the property before applying for the Special Use Permit.

With regard to the rural home business, Mr. Leonard stated he supports allowing individuals to have an accessory building.

The Home Occupation Chart was discussed with regard to requiring a minimum amount of acreage for certain classes of home occupations.

Mr. Cobb suggested under the Class B Home Occupation, changing the allowed square footage of a detached accessory building from the proposed five hundred square feet (500 sq. ft.) to nine hundred square feet (900 sq. ft.). He explained the current ordinance allows for a nine hundred square feet (900 sq. ft.) building to be set back five feet (5 ft.) from the property line. Mr. Cobb also suggested the Commission may want to consider parcels twenty-five (25) and fifty (50) acres or more and adjust accordingly.

Ms. Earhart stated the goal was to make it clear to the public if the established standards could not be met, the property owner would have the option of applying for the Special Use Permit.

The Planning Commission agreed for parcels less than twenty-five (25) acres the property owner would be eligible for a Class B Home Occupation Permit which allows one (1) employee on site, no heavy equipment on site, one (1) company vehicle, a detached accessory building up to nine hundred square feet (900 sq. ft.) and no storage yard. If the property is greater than twenty-five (25) acres, the property owner would be eligible for up to four (4) employees on site, four (4) heavy equipment vehicles as defined in the ordinance, four (4) company

vehicles, a detached accessory building up to three thousand square feet (3,000 sq. ft.), and a storage yard of up to three thousand square feet (3,000 sq. ft.). She stated if those options cannot be met, the property owner would still have the option of applying for a Special Use Permit.

Ms. Shiflett asked staff if a one hundred feet (100 ft.) setback was adequate.

Mr. Wilkinson stated the building and storage yard would be required to be screened from public view.

Ms. Earhart asked the Commission whether or not to have limitations on hours of operation for Rural Home Businesses as those concerns would not necessarily be addressed by the required setback.

Mr. Leonard asked staff to clarify the requirements for a Home Occupation Permit.

Ms. Earhart stated the Class B would be included for parcels that are less than twenty five (25) acres in size, one (1) employee on site, one (1) business vehicle, no heavy equipment, up to nine hundred square feet (900 sq. ft.) accessory building, and no storage yard. If the property is greater than twenty-five acres, the property owner would have the option of up to four (4) employees on site, four (4) heavy equipment vehicles as defined in the ordinance, four (4) company vehicles, a detached accessory building up to three thousand square feet (3,000 sq. ft.), and a storage yard of up to three thousand square feet (3,000 sq. ft.) shielded from public view. Ms. Earhart stated if those standards cannot be met, the property owner would have the option of applying for the Special Use Permit.

With regard to the setback, Mr. Byerly recommended one hundred feet (100 ft.).

Mr. Cole asked if these decisions will go back to public hearing.

Mr. Cobb answered not necessarily, he explained once these changes are made based on the Planning Commission's recommendations, the revisions will be sent to the County Attorney along with the advertised draft at which point it will be decided whether or not the revisions will need to be re-advertised.

Mr. Cole stated Administrative Permits should be tied to the Comprehensive Plan.

Mr. Leonard stated if someone wants to do business in agriculture, but the business is not agriculture related it is not a goal of the Comprehensive Plan.

Mr. Cole stated there is no guidance when there is an implementation plan that does not relate back to the goal of the organization. He explained citizens of Augusta County participated in establishing the Comprehensive Plan in which

their goals were clearly stated. Now, Mr. Cole explained the County is moving in a direction that does not relate to those goals. He stated he has a problem with that direction. Mr. Cole stated the Comprehensive Plan is the only document where the expectations for growth in the County are established.

Mr. Cobb explained the open language of the Comprehensive Plan serves as criteria for the Board of Zoning Appeals and Planning Commission to review when making their decisions on requests. Currently, he stated if a use is permitted by an Administrative Permit, the Zoning Administrator can approve it if the request meets the standards set forth in the ordinance. Mr. Cobb stated the request does not necessarily have to be in compliance with the Comprehensive Plan because that is such a subjective standard. He stated if the Commission does not like the idea of the permit being approved by a single person, language can be included for the request to be reviewed by the Planning Commission.

Ms. Earhart explained now is the Commission's opportunity to review the uses of Administrative Permits to see if they support the Comprehensive Plan. She stated if there are any uses the Commission feels are not appropriate, they need to be removed from the uses permitted by Administrative Permit. She explained the Special Use Permit process is the opportunity for the Planning Commission and Board of Zoning Appeals to review the use to determine if it supports the Comprehensive Plan.

Mr. Cole stated he has difficulty with a Zoning Ordinance that does not relate to the goals and directions of the Comprehensive Plan.

With regard to the setback for buildings and storage yards under the Rural Home Business, Ms. Earhart clarified, the Planning Commission consensus was to require a one hundred feet (100 ft.) setback for the accessory building and the storage yard which must be shielded from public view.

Mr. Cobb stated under Rural Home Business, it is also proposed to allow two (2) signs per lot, each sign being a maximum of thirty-two square feet (32 sq. ft.).

Mr. Leonard questioned allowing two (2) signs per lot.

The Commission agreed to recommend only one (1) sign per lot with a maximum total area of thirty-two square feet (32 sq. ft.).

Ms. Earhart brought up the current ordinance does not restrict the number of businesses on a single lot and the proposed ordinance does not restrict the number of businesses on a single lot. She asked if this is a concern to the Commission.

Mr. Cobb stated the way the ordinance is drafted, under the home occupation permit; the applicant can have numerous businesses, detached accessory

buildings, and company vehicles, but will be limited to only one (1) sign on a single lot.

The Planning Commission recessed for the regularly scheduled November Planning Commission meeting.

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Mr. Byerly called the Worksession back to order. He turned the meeting over to Dale Cobb.

Mr. Cobb reviewed the decisions made by the Planning Commission earlier in the afternoon on the proposed ordinance revisions. With regard to Rural Home Businesses, he stated the Commission has voted to include a one hundred feet (100 ft.) setback for detached accessory buildings and storage yards. He explained the storage yards will be required to be shielded from public view. The Commission also moved to allow only one (1) sign per lot with a maximum area of thirty-two square feet (32 sq. ft.).

There was discussion on restricting the number of businesses per lot.

Mr. Cobb asked the Commission if they prefer to keep the restrictions for a Class B which is, for parcels that are less than twenty five (25) acres in size, one (1) employee on site, one (1) business vehicle, no heavy equipment, up to nine hundred square feet (900 sq. ft.) accessory building, no storage yard, and If the property is greater than twenty-five acres the property owner would have the option of up to four (4) employees on site, four (4) heavy equipment vehicles as defined in the ordinance, four (4) company vehicles, up to three thousand square feet (3,000 sq. ft.) detached accessory building, and a storage yard of up to three thousand square feet (3,000 sq. ft.) shielded from public view and do not restrict the number of businesses per lot.

Mr. Cole stated he does not have an issue with the number of businesses per lot, but he feels there should be a limit on the accessory buildings, number of vehicles and employees, etc.

The Planning Commission moved to not restrict the number of home occupations per lot, but for parcels that are less than twenty five (25) acres in size, limit the applicant to one (1) employee on site, one (1) business vehicle, no heavy equipment, an accessory building up to nine hundred square feet (900 sq. ft.), and no storage yard. If the parcel is greater than twenty-five (25) acres, the Planning Commission moved to limit the applicant to up to four (4) employees on site, four (4) heavy equipment vehicles as defined in the ordinance, four (4) company vehicles, a detached accessory building up to three thousand square feet (3,000 sq. ft.), and a storage yard of up to three thousand square feet (3,000 sq. ft.) shielded from public view.

The next item Mr. Cobb stated the Planning Commission needs to decide is whether or not the Exclusive Agriculture District should be eliminated.

Mr. Byerly called for a straw vote to retain two (2) agriculture zoning districts.

The vote carried 4-3 with Mr. Leonard, Mr. Byerly, and Mr. Hite opposed.

With the above decision, Mr. Cobb further stated the Commission next needs to decide whether or not to set new criteria for the Exclusive Agriculture District or allow the option of applying for more Special Use Permits in that district.

Mr. Leonard stated he does not agree with having a district established on perceived protection.

Mr. Hite stated he agrees with Mr. Leonard. He stated he does not support having two (2) agriculture districts because some feel a perceived sense of protection. He stated there are very few differences between General and Exclusive Agriculture.

Mr. Leonard stated there needs to be more restrictions in Exclusive Agriculture or there only needs to be one (1) district.

Ms. Shiflett stated it will be difficult to put more restrictions in Exclusive Agriculture until there is criteria set for the rezoning of parcels to the district.

Ms. Earhart stated the Ag Industry Board has stated farmers in Exclusive Agriculture need additional opportunities to supplement their income. She gave an example that one cannot operate a bed and breakfast in Exclusive Agriculture zoning. She stated there are degrees of everything and at some point a line needs to be drawn to separate allowing a bed and breakfast versus a hotel in an Exclusive Agriculture District.

Mr. Byerly asked those Commissioners who were in favor of keeping the Exclusive Agriculture District, if they were in favor of allowing property owners whose parcels are zoned Exclusive Agriculture, the option of applying for a Special Use Permit.

Mr. Cole stated based on the comments he has received, property owners do not have an issue with allowing farmers in Exclusive Agriculture the option to supplement their income. He stated the question is how Exclusive Agriculture can be maintained, but at the same time allow those options. Mr. Cole stated he understands the points made about the idea of preserving a perceived perception of protection in the Exclusive Agriculture District, but he stated there is enough sentiment from landowners in the County to keep the district.

Mr. Byerly stated the most likely option would be to allow the option of more Special Use Permits in Exclusive Agriculture.

Mr. Leonard stated if the option for more Special Use Permits is granted in Exclusive Agriculture, there would be no separation between the two (2) agriculture districts.

Mr. Cole stated there is enough strong sentiment from landowners in the County, that the district needs to be protected.

Ms. Earhart stated one option would be to go through the uses on the comparison chart that are permitted by Special Use Permit in Exclusive Agriculture and General Agriculture Districts and decide which ones to leave out of Exclusive Agriculture and which ones to include in Exclusive Agriculture.

Ms. Earhart explained agriculture support businesses. She stated currently agriculture support in General and Exclusive Agriculture have separate meanings. She explained agriculture support in the Exclusive Agriculture District are operations that support agriculture whereas agriculture support businesses in the General Agriculture District are operations that are traditionally supportive of the agriculture industry. Ms. Earhart explained animal care facilities, for instance, are currently allowed under a Special Use Permit in General Agriculture, but not in Exclusive Agriculture.

The Commission moved to allow animal care facilities in Exclusive Agriculture under the Special Use Permit process.

The Commission reached consensus to not include the following uses under the Special Use Permit process in Exclusive Agriculture: uses away from developed areas, such as batching plants, asphalt and cement plants, storage of bulk fuel, explosives such as ammunition and fireworks, extraction of minerals, dirt, sand, gravel, and rock, and outdoor shooting ranges and preserves; landing strips and heliports; junkyards and demolition facilities; carnivals, circuses and fairs; public accommodation facilities.

With regard to public accommodation facilities, the Commission moved to allow Bed and Breakfasts and farms which hold special events and serve meals, but not on a regular basis, by Special Use Permit in Exclusive Agriculture. The Planning Commission reached consensus to allow residential care facilities under a Special Use Permit with a limit of three (3) residents in the home.

Ms. Earhart explained limited business and industries in agriculture zones. She read the allowed uses as follows: sale of goods and services, or limited industrial activity, including but not necessarily limited to barbers and beauty shops; pet grooming businesses; day care centers and nursery schools; medical and dental clinic; veterinarian clinic; hardware store; lawn and garden centers; motor vehicle

service stations and convenience stores; auction houses and flea markets; sale and storage of building materials; carpentry, electrical, and plumbing sales and services; contractor's offices and storage yards; and welding and machine shops.

The Planning Commission reached consensus to not include limited business and industries in Exclusive Agriculture under the Special Use Permit category.

The Planning Commission reached consensus to not include apartments in a pre-1980 structure as a use permitted through the Special Use Permit category.

Vehicle repair shops were discussed under the Special Use Permit category in Exclusive Agriculture. Mr. Cobb questioned repairing farm equipment. It was discussed whether or not to include the item as a use permitted by Special Use Permit.

Mr. Wilkinson explained currently in Exclusive Agriculture, agriculture support would be defined to support the property owner's farm. In General Agriculture, agriculture support is defined as an operation that is related to agriculture as a whole.

Mr. Leonard stated if the Exclusive Agriculture District is going to be opened up to allow more business, the definition of an agriculture support business needs to read the same as the definition in General Agriculture.

Ms. Shiflett asked which definition staff recommends to be used.

Mr. Wilkinson stated the proposed ordinance states, "Agriculture support businesses excluding, but not necessarily limited to slaughter houses, sawmills, livestock market and sales, commercial grain storage and grain handling facilities, commercial feed and fertilizer mills, fertilizer sales, sludge treatment sites, agriculture machinery and equipment repair, and greenhouse, nursery, and tree farm facilities where twenty-five percent (25%) or more of the products sold on not grown on site". Mr. Wilkinson further read the first standard under Exclusive Agriculture concerning agriculture support business, "The business shall be subordinate to agriculture or forestry activity on the premises as a reasonably limited supplement to the farm income".

Mr. Leonard asked if the proposed definition would permit someone to have a small repair shop in their garage in Exclusive Agriculture.

Mr. Wilkinson stated yes but the business would have to be subordinate to the farming operation.

Mr. Byerly recommended deferring discussion concerning agriculture support businesses.

With regard to passive recreational facilities requiring a building and active recreational facilities Mr. Leonard stated some types of recreation should be permitted under the Special Use Permit.

The Planning Commission requested language be added to “link” the definition to the language in General Agriculture.

Concerning recreational facilities and public amusement attractions, the Planning Commission reached consensus not to allow them in Exclusive Agriculture.

Campgrounds and recreational vehicle parks. The Commission recommended not to allow them in Exclusive Agriculture.

Manufactured and mobile homes and school and other buses used for storage and shipping containers, semi-trailers, and similar containers used for storage that are not shielded or screened from view. The Planning Commission reached consensus not to allow them in Exclusive Agriculture.

Attached or detached accessory dwelling units where the owner of record does not personally reside in either the principal or accessory dwelling unit on the property. The Planning Commission supports allowing them as a Special Use Permit option in Exclusive Agriculture.

The Commission discussed whether or not to allow cluster subdivisions in Exclusive Agriculture districts.

Mr. Leonard asked the required size of new lots created in Exclusive Agriculture.

Mr. Cobb answered one acre.

Mr. Leonard stated if the goal is to maintain open green space, one option would be to require a larger minimum lot size in Exclusive Agriculture.

Ms. Shiflett stated if the minimum lot size is larger, it may maintain open space, but it is not maintaining agriculture.

Mr. Cole stated if there is a maximum lot size, the number of lots created off a parcel will be limited. He stated if the goal is to limit the amount of acreage converted to residential, it would make more sense to have a smaller lot size.

The consensus of the Commission was not to allow cluster subdivisions in Exclusive Agriculture.

Mr. Cobb stated the height in agriculture was raised to seventy-five feet (75'). He stated however there are several exceptions, including silos.

The Planning Commission did not object to the proposed change concerning height requirements.

The Planning Commission discussed the need for larger setbacks for intensive agricultural facilities. Staff indicated that currently this is not much of an issue since there are not many new intensive agricultural facilities.

Ms. Shiflett stated no one knows what the future will bring.

Mr. Leonard indicated he has a concern with requiring large setbacks and the impact it could have on farmers.

The Planning Commission recommended not requiring separate setbacks for intensive agriculture facilities.

§25-73.L. and other Attached Accessory Use Sections. Mr. Cobb stated there was a request to change the standards for attached accessory dwelling units to allow them to be attached by only a single common wall. He explained after reviewing the language, staff recommends changing the standards for attached accessory dwellings in each applicable zoning district to read: *It is attached by sharing one (1) common wall. In no case shall an enclosed or unenclosed breezeway be considered a common wall for the purposes of attaching an accessory dwelling unit to a dwelling.* Mr. Cobb stated staff has suggested the definition of accessory building or use be changed to read: *A building or use subordinate to the principal building or use on the same lot serving a purpose naturally and normally incidental to the principal building or use. When an accessory building is attached to the principal building by a common wall, it shall be considered part of the principal building.*

The Planning Commission concurs.

§25-74. and all other Special Use Permit general sections and specific standards where the list of impacts was deleted. Mr. Cobb stated there was concern regarding the deletion of the reference to “rural environment” and the list of matters to be considered when determining the impact on the surrounding neighborhood.

Ms. Earhart stated this is a policy decision. She explained the language can be added back into the draft regarding the adverse impact on the neighborhood and give the Board of Zoning Appeals more to consider or the Planning Commission can recommend leaving the language as drafted.

The Planning Commission recommended leaving the language as drafted.

It was also suggested to add a checklist to help strengthen these sections and an example was provided for consideration. Mr. Cobb stated there are standards for

every Special Use Permit and therefore staff has agreed that a checklist would not provide something in addition to these standards.

The Planning Commission concurs.

§25-74.C. Animal Care Facilities. Mr. Cobb stated there was concern there were issues that needed to be addressed that setbacks wouldn't address. He stated there are nine (9) standards that the Board of Zoning Appeals consider when looking at these requests and lot size and setbacks are just some of the items to be considered.

The Planning Commission concurs no change is needed.

§25-74.D. Uses away from developed areas. Mr. Cobb stated suggestion was more of the "uses away from developed areas" could be separated into their own categories that are not agriculture related or necessarily beneficial to the rural area. Mr. Cobb stated these uses have to be somewhere and if not away from developed areas, then where? He stated many of these uses are also allowed in General Industrial Districts by Special Use Permit.

The Planning Commission concurs no change is needed.

§25-74.E. Landing strips. Mr. Cobb stated a request was made for landing strips to be permitted to be used by family members, as well as the landowner; to not have a mandatory setback; to let the Board of Zoning Appeals make the decision based on comments; the only impact that should be considered by the Board of Zoning Appeals is that of a residential area, not agriculture or commercial. Mr. Cobb stated it is a policy decision, but if it is to be opened up, concern is how it would be regulated. Would the permit holder be required to provide documentation to the Board of Zoning Appeals?

Ms. Shiflett stated she does not have an issue with permitting family members to use the landing strip. She stated she does have an issue with the impact one may have on agriculture. She stated low flying airplanes have a negative effect on poultry houses.

Mr. Hite commented to let the Board of Zoning Appeals address the impacts as they view the site.

With regard to landing strips, the Planning Commission recommends allowing family members to use the facility, to eliminate the setback standards, and to allow the Board of Zoning Appeals to consider the impact the request would have on all adjacent properties.

§25-74.H. Public Accommodations. Mr. Cobb stated concern was raised the standards were too vague. It was asked how large can these facilities get, and should a time limit be imposed. Mr. Cobb stated it is a policy decision.

The Commission recommended leaving the language as drafted.

§25-74.I, J, and K. Public comment were the provisions were good. No action was necessary.

§25-74.L. Active Recreation. Concern was the criteria are too vague. Mr. Cobb stated there are four (4) standards. He stated it is a policy decision.

Mr. Curd recommended adding the business' hours of operation to the list of standards.

The Planning Commission concurred with making that change.

§25-74.M. Recreation attractions. Mr. Cobb stated concern was raised the language lacks criteria, there is no mention of the impact on the neighborhood and suggestion there should be noise and lighting standards. Mr. Cobb stated there are eight (8) standards and the language in one of them includes compliance with the lighting ordinance. He explained general standards for all Special Use Permits include the impact on the neighborhood.

The Commission recommends leaving the language as drafted.

§25-74.N. Concern was the lack of criteria to consider the full range of potential impacts. Mr. Cobb stated staff has commented there are thirteen (13) standards. He asked the Commission if there is any additional language that could be added.

The Commission recommends leaving the language as drafted.

§25-77.1. Cluster Subdivisions. Ms. Earhart stated a request was made for a cluster option that would allow farmers an opportunity to sell unproductive land while preserving their farm. It was requested to have the option for clusters to be available to properties without road frontage. Another comment was opposition to the cluster residential option. It was stated it is not good for forestry uses. There was support of regulations to make it harder to develop agriculture land. Ms. Earhart explained staff feels that subdivisions should be established through the rezoning process and a decision made by the Planning Commission and the Board of Supervisors. She stated mandatory clusters do not allow that review to occur. She stated it is a policy decision. She explained the standards for the mandatory cluster in General Agriculture could be modified to encourage its use; another option would be to add a cluster option to Rural Residential (if a cluster option in that district is desired, staff could work on the option after the first of the

year); or leave the language as drafted and not add a cluster option in Rural Residential. Ms. Earhart explained cluster subdivisions are required by law, however, restrictive standards can be established limiting these developments. She asked the Commission if they preferred these developments to be encouraged through the rezoning process.

Mr. Bridge stated by requiring the parcels to be rezoned, the County would have some control over these developments.

The Planning Commission recommended revising the cluster provisions in §25-77.1.B. to allow the clusters only in Rural Conservation Areas and not allow them in the Agriculture Conservation Areas as designated on the County's Comprehensive Plan Policy Area Map. The Planning Commission further recommended looking at establishing a cluster option in Rural Residential or establishing a new district that will allow cluster subdivisions through the rezoning process in other districts.

§25-77.3. Concern was the need for one hundred fifty foot (150 ft.) lot width at all points for agriculture lots. Mr. Cobb stated this was a policy decision. He explained the one hundred fifty foot (150 ft.) lot width makes it more difficult to create lots in agriculture. He suggested if the Commission wishes to make the creation of these lots easier, then the language could be changed to "minimum lot width at the minimum setback line be 150 ft."

The Planning Commission consensus was to require a minimum lot width at the minimum setback line of one hundred fifty feet (150 ft.) and a minimum lot width at the rear lot line of forty feet (40').

§25-78. There was question about the need for a fifty foot (50') setback from public roads. Mr. Cobb explained the larger setback assumes development on roads that may need to be widened in the future and attempts to protect the County from having to buy buildings if rights of ways are required for road improvements. He further stated it also assumes that many of these roads have higher speed limits and the County does not want to encourage development close to them.

The Planning Commission recommended leaving the language as drafted.

§25-79. and other sections. It was suggested height be regulated by the Federal Aviation Administration (FAA) not by the County. Mr. Cobb explained this would be hard to administer and every parcel could potentially have a different height requirement. He explained the goal is for the ordinance to be user friendly and enable the public to easily determine their building requirements on-line.

The Planning Commission recommends leaving the language as drafted.

The next worksession will be Thursday, November 19, 2009 at 6:30 pm.

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

Chairman

Secretary