

On March 21, 2006, the Planning Commission held a public hearing on this amendment. The Commission identified several additional areas for changes to the proposed text:

- The workers must be employed on the farm containing the housing only. The intention would not be to provide housing for non-farm related workers or to have housing for many farms inside and outside the area. That restriction needs to be very specifically indicated in this ordinance.
- Individual structures in the facilities cannot have all of the features of a dwelling unit. That needs to be very specifically referenced.
- Remove “human habitation” as a reference in subsection d. Subsection d. should be rewritten to permit any use accessory to a primary agricultural use.
- The facilities will not be permitted to convert to uses that are not consistent with the ordinance, which can be done through the affidavit. The affidavit will be recorded and run with the land.
- Determine a limit to the number of structures. Determine a threshold for the number of facilities which will trigger a requirement for a special use permit.
- “Seasonal agricultural workers” should be defined more specifically.
- Indicate what types of units (structures, trailers, vehicles, etc.) should be either included or excluded.

Changes reflecting those comments were made to a version presented at a Commission hearing on April 18, 2006.

On April 18, 2006, the Planning Commission reviewed staff’s proposal and made further modifications to the proposed ordinance (see below). The following changes were made, as recommended by the Commission, and presented to the Board on June 7, 2006.

- Notification of adjacent property owners shall be required after the submittal of the concept plan for temporary farm work housing. Sections 5.1.44(a)(3) and (4) were added to require this notification process and to specify how adjacent landowners may request Planning Commission review of the concept plan for the use.
- Modification of the definition of “seasonal agricultural work” to include livestock operations activities by inserting the clause, “work related to keeping livestock and/or poultry.”
- In subsection e, striking the phrase “farm worker”. That was relating to some additional language in an earlier draft.
- In 10.2.1 adding to the phrase “up to twenty occupants” (for the by-right) the phrase “and five or fewer sleeping structures.” This change was intended to help clarify the language for the people looking at the rural areas regulations.
- In 10.2.2 adding to the phrase “more than twenty occupants” the phrase “or six or more sleeping structures.”
- In 10.2.2.a. (iii) changed “vehicular access to, and parking for, the facility;” to read, “Vehicular access and adequacy of travel ways and parking for the facility.” This change was made, but was moved to section 5.1.44(d)(2)(e), as adequacy is not something to be shown on the plan by the applicant, but a matter to be judged by the Fire/Rescue department as they review the plan. Subsection (d)(2)(e) is the appropriate location for review standards.

STRATEGIC PLAN:

Goal: 2.1

Protect and/or preserve the County's rural character

This text amendment is intended to maintain rural character by protecting the viability of existing and future agricultural operations.

DISCUSSION:

Requested Changes:

On June 7, 2006, the Board considered the proposed amendment as revised by the Planning Commission. After considering the proposal, the Board decided to defer action so that staff could address the following items:

- **Special use permits:**
 - **Issue:** The Board directed staff to change the proposal to require special use permits for all farm worker housing facilities.
 - **Solution:** The attached version has been changed to remove the by-right “Class A” facilities and to require special use permits for all facilities.

- **Commercial entrances:**
 - **Issue:** The Board wanted to avoid requirements for commercial entrances where possible.
 - **Solution:** Section 5.1.44(d)(2)(b) of the attached amendment specifies that:

Approval of the access to the site from a public street by the Virginia Department of Transportation; provided that nothing herein shall be deemed to require that a commercial entrance be constructed.

This reflects the Board’s intent that the County not require commercial entrances for these facilities.
 - **Remaining Issue:** While the County would not require commercial entrances for these facilities, entrance requirements will be set by the Virginia Department of Transportation based on their standards. County Engineering staff has explained that VDOT would be likely to require an entrance permit for either new entrances or entrance upgrades that served uses that were commercial or similar in character to commercial uses (as opposed to single private residences). VDOT would control the type of entrance to be built.

- **Housing quality:**
 - **Issue:** The Board wanted to ensure that this ordinance would not encourage the creation of housing facilities not suited for human habitation.
 - **Solution:** Housing quality for migrant farm workers is regulated with detailed standards by the US Department of Labor’s Occupational Safety and Health Administration (OSHA), under regulations contained in 29 CFR 1910.142. The Virginia Department of Health inspects the facilities to ensure that they meet those federal standards and any state requirements for camp operation as directed in 12 VAC 5-501-10 *et seq.* Section 5.1.44(d)(2)(b) of the attached amendment has been changed to require that applicants submit a “[w]ritten approval of the farm worker housing facility as a migrant labor amp under 12 VAC 5-501-10 *et seq.*” before receiving a zoning clearance for the use.

In addition, Section 5.1.44(d)(2)(d) of the attached amendment now requires that facilities have “[w]ritten approval of the adequacy of the structures intended for human habitation by the building official” before issuance of the zoning clearance.

- **Misuse:**
 - **Issue:** The Board was concerned that abuses of this ordinance might lead to the creation of additional housing in the Rural Areas not related to legitimate agricultural uses.
 - **Solution:** Staff has added a new section—5.1.44(a)(3)—that requires that:

The concept plan shall include a written description of the type(s) of seasonal agricultural work to be performed on the farm by the persons housed in the farm worker housing facility.

Use of the facilities for non-farm worker residents would be violation of the special use permit, and the Zoning Administrator could require that the violation cease.

- Remaining Issue: If a plan was approved for a certain agricultural use and the landowner later needed to house workers for different agricultural use, the special use permit would have to be amended. This would create a burden for landowners.

General Analysis

The Rural Areas chapter of the Comprehensive Plan contains the following policies for agricultural land uses:

GOAL: Protect Albemarle County's agricultural lands as a resource base for its agricultural industries and for related benefits they contribute towards the County's rural character, scenic quality, natural environment, and fiscal health.

OBJECTIVE: To support agricultural land uses and to create additional markets for agricultural products through creative economic and land use strategies.

Housing for farm labor is a traditional part of some forms of agriculture in Albemarle County (especially in orchards), and is expected to be increasingly important in other forms, particularly vineyards. While the Zoning determination regarding farm-worker housing established that this use is not currently permitted by ordinance, allowing it to continue is consistent with the Comprehensive Plan policies.

However, the proposed ordinance (Attachment A) would create significant restrictions and difficulties for landowners hoping to upgrade existing facilities or to build new ones. Even for small facilities, farm worker housing, which supports a preferred use in the Rural Areas, would be subject to more review and regulation than many other uses in the Rural Areas that do not support agriculture, forestry, or conservation. If such an abuse were likely in the Rural Areas, more convenient residential-type housing could be obtained through the use of guest houses or pool houses, which are permitted by-right in the RA, as long as there is no provision for cooking. Many of these guest houses come equipped with wet bars, creating an even greater potential for abuse. Due to the requirements proposed in this ordinance such as, restricting work location to the farm in which the housing is located and provisions contained in the definition (no waivers possible) requiring separate structures from sleeping for eating, food preparation and sanitation (bathing and or toilets), the risk for abuse through the unintended creation of new residential units is significantly reduced. Staff feels that by focusing on potential abuses rather than the benefit to agriculture, the current proposal to require a special use permit for farm worker housing would create unnecessary difficulties for agriculture, while the overall potential for illegal dwellings is not greatly reduced. This concern is shared by the Farm Bureau, which participated in the development of the first proposed ordinance. The Farm Bureau has significant objections to the current state of the proposal (see their comments in Attachment B). In summary, their concerns are:

- Increased expense and time delays due to the requirement for special use permit approval. (During discussions with staff, Farm Bureau representatives agreed that special use permits were appropriate if more than 20 workers would be housed.)
- Concerns over potential misuse as dwelling units should be sufficiently addressed by the requirement that no single structure include all the facilities typical for dwelling units.
- The relative importance of supporting agriculture compared to controlling any potential misuses, which could be controlled through monitoring and enforcement.

RECOMMENDATION:

Staff recommends that the Board of Supervisors consider revisions to this proposed ordinance that would make facilities with 20 or fewer workers by right in the Rural Areas zoning district.

ATTACHMENTS:

- A. Proposed Code Amendment for Section 3, 5, and 10 of the Zoning Ordinance
- B. Letter from A. Colquitt Shackelford, Jr., Albemarle County Farm Bureau