Orange County Planning Commission
Regular Meeting
Gordon Building Meeting Room
112 W. Main Street, Orange, VA 22960
Thursday, February 16, 2012
Minutes

PRESENT: Nigel Goodwin, Walter Smith, Andy Hutchison, James P. Tucker, III, Donald Brooks and Jim White, Supervisor Representative

STAFF: Gregg B. Zody, Planning Director; Kevin McMahan, Planner; Lisa Robertson, Esq. Greehan, Taves, Pandak & Stoner; Janet Jones, Permit Technician

All discussion and comment made during this meeting was captured via digital audio and video recording. The minutes as written below are intended to be a summary of this discussion and comment. Anyone desiring detailed information about comment or discussion made during the meeting is referred to the recording.

1. Call to Order
2. Determination of Quorum

Chairman Goodwin called the meeting to order at 7:00 p.m. He stated a quorum was present to conduct business.

3. Approval of Agenda

Chairman Goodwin asked if there were any additions to or deletions from the agenda.

There were no additions or deletions from agenda.

A motion was made by Mr. Brooks seconded by Mr. Tucker that the agenda be approved as presented. Motion carried 5-0.

4. Public Comment

There was no public comment.

5. Old Business

A. Board of Supervisors Report – Jim White

Mr. White stated the BOS budget work session scheduled for March 15, 2012 has been rescheduled. Mr. White stated the board room would be available for the Commission to hold a public hearing on the text amendments at the regular meeting of the Commission scheduled for March 15, 2012.

Mr. White briefly touched on the memorandum from Julie Jordan to the Planning Commission on the new requested action for amendments to the Zoning and Subdivision Ordinance.

B. Planning and Zoning Report – Gregg Zody

Mr. Zody stated the new BOS resolution dated February 15, 2012 cancels out the previous BOS resolution and the BOS public hearing scheduled for February 28, 2012 has been cancelled. Mr. Zody stated the BOS will consider both text amendment options at the public hearings that will be scheduled for April 10, 2012.

7:15 P.M. PUBLIC HEARINGS:

Mr. Zody, Director, briefed the Commission on the requested rezoning stating the applicant is seeking to rezone a portion of the parcel to commercial and to amend proffers. Mr. Zody stated the case was scheduled for public hearing in December, 2011 and had been continued till tonight. Mr. Zody stated staff recommends denial of the rezoning application based on the Comprehensive plan; incompatibility with adjacent land uses and zoning; and negative impacts on Route 671 and the adjacent landowners if the rezoning request is granted.

REZ 11-04: *Application by George D. Carter, owner, requesting a rezoning of approximately 2.87 acres ("Subject Property") from Limited Residential (R-1) to General Commercial (C-2) subject to nine (9) proffered conditions set forth within a document filed with the Department of Planning and Zoning on January 26, 2012. The application states that the rezoning is requested in order to permit overflow parking from the adjacent commercially-zoned portion of the same parcel. The Subject Property is a portion of the property identified on Orange County Tax Map 32 as Parcel 69 ("Parcel 32-69") and is currently zoned R-1 (Limited Residential). Parcel 32-69 has frontage on Route 20 and is the site of Village Motorsports, 23436 Constitution Highway (Route 20), approximately 0.4 miles west of Zachary Taylor Highway (Route 522). The Subject Property is designated as Agricultural on the Future Land Use Map. Rezoning of the Subject Property to C-2, subject to the proffered conditions, would allow a range of commercial uses by right, as set forth within Section 70-482 of the Orange County Zoning Ordinance, except for uses specifically excluded by a set of proffered development conditions filed with the Department of Planning and Zoning on January 26, 2012 ("Proffered Conditions"). The Proffered Conditions exclude the following commercial uses: convenience store, fast food restaurant, any business with a drive-through facility, an automobile sales or service business (except for motorcycle sales, service and repair), and the Proffered Conditions otherwise establish limitations on and requirements for the use of the Subject Property. This application, including the Proffered Conditions, seeks to establish C-2 zoning for the entire acreage of Parcel 32-69 and to establish one set of proffered development conditions for the entirety of Parcel 32-69. The Proffered Conditions are the same set of proffered conditions proposed by the applicant within PROF MOD 11-04 (referenced therein as "Proposed Amended Proffers"), advertised this same date.*

PROF MOD 11-04: *Application by George D. Carter, owner, requesting a modification of proffers currently applicable to 2.54 acres ("Subject Property") of the property identified on Orange County Tax Map 32 as Parcel 69 ("Parcel 32-69"). Parcel 32-69 has frontage on Route 20 and is the site of Village Motorsports, 23436 Constitution Highway (Route 20), approximately 0.4 miles west of Zachary Taylor Highway (Route 522). The use and development of the Subject Property is currently subject to eight (8) conditions proffered by the applicant and approved by the Board of Supervisors on October 14, 1997 and subsequently amended by the Board of Supervisors on November 10, 2009 at the request of the property owner ("1997 Proffers, as amended"). The Subject Property is designated as Agricultural on the Future Land Use Map, and is currently zoned C-2 (General Commercial) subject to the 1997 Proffers, as amended. This application for a proffer modification seeks to amend the language of several of the existing proffers and to add new conditions, as set forth within the Proposed Amended Proffers filed with the Department of Planning and Zoning on January 26, 2012 ("Proposed Amended Proffers"). Further, the application proposes to subject the entire acreage of Parcel 32-69 to the Proposed Amended Proffers, including that portion of Parcel 32-69 currently zoned R-1 (Limited Residential). The conditions set forth within the Proposed Amended Proffers are set forth below, shown as mark -ups of the text of the 1997 Proffers, as amended:*

1. *~~There shall be one entrance to the premises from State Route 20, which entrance shall be gated for security purposes after business hours.~~ There shall be one entrance for vehicles to access the Commercial District portion of the Parcel. This shall be the existing entrance from State Route 20. The Owner shall maintain the existing gate across this entrance and, for security purposes, the gate shall be kept closed and locked during times the business is unattended by the Owner. There shall be one entrance for vehicles to access the Residential District. This shall be the existing entrance on Village*

Road. Except during times the Residential Zoning District is accessed, as specified below in Proffer 7, the Owner shall keep the existing gate across this entrance closed and locked.

~~*2. The Applicant shall construct a deceleration lane on the east side of Route 20 to the entrance of the premises in accordance with VDOT standards.*~~

2. *The ~~Applicant~~ Owner shall ~~construct~~ maintain a fence around the ~~premises except at the location of the gate~~ perimeter of the Premises.*
3. ~~*The Applicant shall establish a vegetative buffer along the property lines of adjacent properties, as shown on the Site Plan, dated June 14, 1997, and submitted with this rezoning application.*~~ *The Owner shall maintain landscaping and screening within and around the Parcel. Should any of the plantings installed by the Owner be damaged or die, the Owner shall replace the planting(s) within six (6) months.*
4. ~~*Any signage constructed by the Applicant shall comply with County ordinance and State law and regulation, but shall be no more than twelve (12) feet high and shall be limited to one free-standing sign*~~ *. The Owner shall have one pylon sign on the Parcel, which shall be located within the Commercial District.*
5. ~~*The hours of operation for the repair shop shall not exceed 7:00 a.m. to 6:00 p.m., Monday through Saturday.*~~ *Between the hours of 9:00 p.m. and 6:00 a.m., seven days per week, there shall be no use of the Parcel by Owner or by Owner's invitee that is audible to a person located on an adjacent parcel. The business located within the Commercial District shall not be open to the public except between the hours of 6:00 a.m. to 9:00 p.m.*

~~*6. Lawn mower or other equipment repaired on the premises shall not exceed 35 horsepower.*~~

6. *The Applicant shall not use the premises for a convenience store, fast food restaurant, any business with a drive-through facility, an automobile sales or service business (except for motorcycle sales, service and repair)~~, or a commercial assembly plant~~.*
7. *In addition to by right uses, the Residential District may be utilized as follows:*
    a. *Unimproved, overflow parking for customers, employees, or vendors during special exhibits, trade shows, displays, or demonstrations being conducted on the Commercial Zoning District premises, on not more than four (4) occasions in any calendar year.*
    b. *Customer demonstrations not exceeding one piece of equipment at a time.*
    c. *Replacement drainfield location.*
8. *The conditions set forth within these Amended Proffers shall apply to and shall govern the entire Parcel.*
9. *The Owner shall diligently pursue approval of a final site plan for the existing buildings and improvements located on the Parcel, such that approval of the final site plan will be achieved no later than July 31, 2012.*

Chairman Goodwin opened the public hearing.

Mr. Clark Leming, Counsel for George Carter briefed the Commission on the history of Village Motor sports and the many cases both before the Board of Zoning Appeals and in the Orange County Circuit Court.

Mr. Leming addressed issues that were stated in the letter received this day from Mr. Shackelford, legal counsel, for some of the neighbors on Village Road. Mr. Leming stated he feels all the issues have been addressed in the modified proffers that have been submitted and stated the applicants have made a good faith effort to put an end to the issues addressed by the neighbors. Mr. Leming reminded the Commission of the two separate cases before the Commission and the need for the Commission to consider them separate.

Ms. Robertson addressed the issues in the letter from Mr. Shackelford. Ms. Robertson stated nothing in the letter from Mr. Shackelford would cause issue enough for the public hearings not to be held as scheduled for tonight.

Chairman Goodwin asked for speakers for or against the request.

The following is a list of speakers for the public hearing REZ 11-04 and PROF MOD 11-04.

Barbara Parks, 23494 Village Road, Unionville, VA; Greg Hebler, 23494 Village Road, Unionville, VA; Francis Allen, 23363 Village Road, Unionville, VA; Joan Bergstrom, 16075 Zachary Taylor Highway, Unionville, VA; V.R. Shackelford, III, P.O. Box 871, Orange, VA; John Nicolay, 23124 Village Road, Unionville, VA; Catherine Crickenberger, 23521 Village Road, Unionville, VA; Howard Crickenberger, 23521 Village Road, Unionville, VA; Joanna Davies, 24026 Village Road, Unionville, VA; Donald Davis, 24026 Village Road, Unionville, VA; Anita Marshall, Village Road, Unionville, VA; Steve Satterfield, 21041 Clarks Mtn. Road, Rapidan, VA; Teri Pace, 25485 Gooch Lane, Unionville, VA; Lucretia Wolfcale, 22485 Clarks Mtn. Road, Rapidan, VA; Jack Snyder, 12574 Chicken Mtn. Road, Orange, VA.

The major concerns of the speakers were the noise coming from the property and the rezoning of the residential portion to the commercial in the middle of a residential area. The speakers did not want to see any more commercial activities in a residential area.

Ms. Lucretia Wolfcale, Co-Owner of Village Motorsports spoke in favor of the proffer modification.
Ms. Wolfcale stated the new proffers are better now than the original proffers from 1997.

There being no further speakers, Chairman Goodwin closed the public hearing closed at 8:36 p.m.

The Commission held a lengthy discussion on the rezoning request, points of concerns the hours of operation being changed and also the demonstration of equipment on the back portion of the property.

Mr. Brooks suggested a committee should be formed to discuss the proffers.

A motion was made by Mr. Hutchison, seconded by Mr. Smith that the request for rezoning of approximately 2.87 acres from Limited Residential (R-1) to General Commercial (C-2) portion of tax map 32-69 is denied per resolution recommending denial dated February 16, 2012 and as follows: Motion carried with all members voting in the affirmative.

MOTION: Mr. Hutchison

SECOND: Mr. Smith

February 16, 2012
Regular Meeting
Res. No. 12-01

RE: REZ 11-04: GEORGE D. CARTER REQUESTING A REZONING OF APPROX. 2.87 ACRES FROM LIMITED RESIDENTIAL (R-1) TO GENERAL COMMERCIAL (C-2). PORTION OF TAX MAP NO. 32-69

WHEREAS, George Carter has submitted an application requesting a rezoning of approximately 2.87 acres of his property from Limited Residential (R-1) to General Commercial (C-2), subject to nine (9) proffered conditions set forth within a document entitled "Proposed Proffers" dated January 26, 2012; and

WHEREAS, on February 16, 2012 the Planning Commission held a duly advertised public hearing on REZ 11-04; and

WHEREAS, the Department of Planning and Zoning staff has recommended denial of the Rezoning; and

WHEREAS, the Planning Commission has determined that the proposed Rezoning is inconsistent with the Comprehensive Plan future land use designation of the subject property as Agricultural; and

WHEREAS, the Planning Commission has further determined that the proposed Rezoning would not serve the interests of public necessity, convenience, general welfare, and/or good zoning practice;

NOW, THEREFORE, BE IT RESOLVED, that the Orange County Planning Commission hereby recommends that the Orange County Board of Supervisors **deny** REZ 11-04

Votes:
Ayes: Goodwin, Hutchison, Smith, Brooks, Tucker
Nays: None
Absent from Vote: None
Absent from Meeting: None

A motion was made by Mr. Brooks, seconded by Mr. Hutchison to table the proffer modification public hearing until March 15, 2012. Motion carried with all members voting in the affirmative.

Ms. Robertson stated if substantial changes are made to the proffers they would have to be re-advertised.

PUBLIC HEARING: SUBDIVISION / ZONING TEXT AMENDMENTS

SUMMARY – The proposed changes repeal Sec. 54-27 of the Subdivision Ordinance and replace it with provisions in the Chapter 70, the Zoning Ordinance, primarily Sec. 70-304, which keeps a minimum lot size of 2 acres in the Agricultural District and allows up to 5 divisions, and additional lots of a minimum lot size of 50 acres after the 5 divisions have been made. The lots divided off cannot be further divided. After 5 divisions from the parent parcel/residue, that parcel can only be further divided into lots of a minimum lot size of 50 acres. Boundary line changes must yield lots which comply with the lot size requirements. Creation of more than 20 lots as a result of division of contiguous parcels requires a rezoning. The rest of the proposed changes accommodate the foregoing changes.

PROPOSED SUBDIVISION ORDINANCE AMENDMENTS RELATING TO THE AGRICULTURAL ZONING DISTRICT

Amend **Sec. 54-5**. *Parent Parcel* to mean a parcel of land of four (4) or more acres instead of 10 or more acres that is of record upon the effective date of this ordinance.

Repeal **Sec. 54-27. ~~Divisions of land in the agricultural zoning district~~**. which allowed the subdivision of no more than one lot from any parent parcel within any four (4) year period, and simultaneous division of parcels of land into an unlimited number of tracts 50 acres or larger in size.

Amend **Sec. 54-28. Family Subdivision.** To remove the reference to sec. 54-27.

Amend **Sec. 54-30. Boundary Line Adjustment Survey.** To remove reference to sec. 54-27 and state minimum lot size requirement of two (2) acres

Amend **Sec. 54-36. Court-ordered subdivisions, Sec. 54-37. Family Subdivisions, Sec. 54-**

42. Part-and-Parcel Subdivisions. To substitute reference to sec. 70-304 for reference to sec. 54-27.

Amend **Sec. 54-94. Certificates.** To incorporate changes to sec. 70-304.

Amend **Sec. 54-171. Minimum widths.** To correct reference to sec. 54- 28(10).

PROPOSED ZONING ORDINANCE AMENDMENTS RELATING TO THE AGRICULTURAL ZONING DISTRICT

Article I. In General

Amend **Sec. 70-1. Definitions.** To provide that in the agricultural zoning district *Parent Parcel* means a parcel of land of four (4) or more acres that is of record upon the effective date of this ordinance, and to add the definition of *Residue* from sec. 54-5 to mean the remainder of a lot after a subdivision has detached one or more lots.

Article IV. District Regulations

Division 2. Agricultural Zoning District (A)*

Amend **Sec. 70-301. Intent.** as follows: The agricultural zoning district (A) comprises most of the land area of the county. It preserves the traditional rural character of the county by protecting agricultural, forestal and horticultural uses, and other lands of significance for protection of the environment from ~~conflicts with~~ incompatible uses ~~and discourages,~~ such as large residential subdivisions not typically found in rural, agricultural areas. Discourage the scattering of large commercial and industrial uses not associated with agricultural, forestal and horticultural land uses. ~~and residential developments.~~ In addition to agriculture, it permits the traditional rural development pattern of homes in order to protect against the overcrowding of land and undue density of population in relation to the community facilities existing or available and small agricultural-related businesses which maintain and preserve the rural and agricultural character of the area.

Amend **Sec. 70-304. - Area regulations.** as follows:

1. In the agricultural zoning district, the minimum lot area shall be two (2) acres or larger and no more than five (5) divisions may be made from a parent parcel. Neither said lots nor the parent parcel/residue may be further divided.
2. Lots shall be developed according to the provisions of this section, except as follows:
   a) lots with a minimum lot area of 50 acres or greater may be created from a parent parcel after the maximum of five (5) divisions have been made, and said 50 acre lots cannot be further divided;
   b) ~~L~~lots in cluster developments subject to article VI shall comply with the requirements of that article, ~~or~~
   c) lots within manufactured home parks subject to article VII shall comply with the requirements of that article,
   d) lots created pursuant to Section 54-37 of Chapter 54 (Subdivisions) shall have a minimum area of two (2) acres, or
   e) irrespective of the divisions otherwise being in accordance with this section, the creation of more than 20 lots as the result of divisions of contiguous parent parcels shall require a rezoning.

Mr. Zody briefed the Commission on the proposed changes to the Zoning and Subdivision Ordinances. Mr. Zody stated he had spoken with approximately 20 citizens concerning the proposed changes and after explaining the proposed changes they were fine.

Chairman Goodwin asked for persons to speak on the proposed text amendments.

The following is a list of those who signed up to speak.

Dorothy Carter, 23149 Village Road., Unionville, VA; Paul Carter, 28419 Village Road, Unionville, VA; Barbara Westwood, 23245 Village Road, Unionville, VA were not present when their names were called to speak. Rod Hasen, 14201 Cox Mill Road, Gordonsville, VA passed when his name was spoken.

Steve Satterfield, 21041 Clarks Mountain Road, Rapidan, VA; Barbara Culbert, 14201 Cox Mill Road, Gordonsville, VA; Bill Speiden, 12046 Bluie Hill Drive, Somerset, VA; Dan Holmes, PEC; Marshall Lupo, 4367 Haney Drive, Barboursville, VA; Teri Pace, 23485 Gooch Lane, Unionville, VA; Diane Strong, 3495 Hamm Road, Barboursville, VA; Steve Yelton, 15620 Burnley Road, Barboursville, VA; Jimmy Strong, 3495 Hamm Road, Barboursville, VA; Roy Barbee, Greene Ridge Farm, Ruckersville, VA; Jack Snyder, 12574 Chicken Mtn. Road, Orange, VA; Ken Dotson, 33225 Constitution Highway, Locust Grove, VA; Tony Wilson, 27388 Mine Run Road, Rhoadesville, VA; Keith Cuthrell, 17379 Wolf Trap Drive, Gordonsville, VA; Zack Burkett, 14162 Marquis Road, Unionville, VA; Randy Grymes, 15381 Willow Spring Road, Orange, VA; Gail Stevens, 14682 Star View Lane, Unionville, VA.

The concerns stated by the speakers were the keeping of Orange rural and also the reason why the changes are being proposed at this time and the concern the changes are inconsistent with Comprehensive Plan. Few speakers spoke of the fact that this is being none for one or two persons only. The concern about Orange trying to fix something that is broken.

There being no further speakers, Chairman Goodwin closed the public hearing closed at 10:05 p.m.

The Commission discussed the proposed text amendments and the need to slow down what they are doing to give them time to listen to what the citizens have said tonight.

A motion was made by Mr. Brooks, seconded by Mr. Hutchison to table the text amendments to give everyone time to look at the new suggestions along with other information that becomes available. Motion carried with all members voting in the affirmative.

6. New Business

There was no new business to come before the Commission.

7. Commissioner Comments

The Commission discussed the suggestion made by Mr. Brooks and it was the consensus of the Commissioner to have Mr. Zody work on the proffers and bring them back to the Commission at the March 1st meeting before scheduling a public hearing if needed.

8. Next meeting

The next meeting of the Commission will be Thursday, March 1, 2012. Discussion of the comprehensive plan update will continue. The future land use map will also be discussed.

9. Adjourn

Mr. Brooks made a motion, seconded by Mr. Tucker that the meeting be adjourned. Motion carried with all members voting in the affirmative. Motion carried 5-0. Meeting adjourned at 10:30 p.m.

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Nigel Goodwin, Chairman

Gregg B. Zody, Secretary