

**Orange County Planning Commission  
Regular Meeting  
Gordon Building Meeting Room  
112 West Main Street  
March 19, 2009  
Minutes**

**MEMBERS PRESENT:** Cory Redifer, William Speiden, Walter Smith, Will Likins, Elliott Fox, Jr., Thomas Bundy, David Kovarik, Nigel Goodwin

**ABSENT:** Donald Brooks, Terry Apperson, Teri Pace

**STAFF PRESENT:** David B. Grover, Director of Community Development; Janet Jones, Permit Technician

1. **Call to Order**
2. **Determination of Quorum**

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

3. **Approval of Agenda**

Mr. Likins asked if there were any additions to or deletions from the agenda.

Mr. Bundy stated he wanted to address the commission on the Certified Planning Commissioners Training class that he recently completed. Mr. Bundy stated that a citizen has asked that the Planning Commission agenda and background material be placed on the Orange County website.

A motion was made by Mr. Bundy, seconded by Mr. Speiden that the agenda be approved as amended. Motion carried with all members voting in the affirmative.

4. **Approval of minutes – January 8, 2009**

Mr. Likins asked for additions or deletions to the January 8, 2009 minutes.

Mr. Bundy stated he had changes concerning his statement on the presentation of the draft zoning ordinance presented by Mr. Milt Herd. Mr. Bundy read to the commission his corrections.

Mr. Grover stated he wanted to clarify that sunset clauses as they pertain to rezoning are not allowed in the state of Virginia. Mr. Grover stated that sunset clauses can be used if proffered by the applicant but cannot be done as a matter of course based on time elapsing which is in our ordinance at this time. Mr. Grover stated that the county attorney agrees with him on this. Mr. Bundy asked if a legal opinion is available. Mr. Grover stated that it may be possible for him to

obtain that opinion. Mr. Grover stated that the time limit can be set with a Special Use Permit.

Mr. Likins stated he had one item of clarity concerning his comment on Agricultural zoned property.

A motion was made by Mr. Bundy, seconded by Mr. Kovarik that the minutes of January 8, 2009 be approved as amended. Motion carried with all members voting in the affirmative.

## **5. Old Business**

A. Board of Supervisors – Teri Pace  
No board of supervisor report

B. Planning & Zoning – Mr. Grover reviewed the monthly report from the Community Development Department. Mr. Grover stated that he had recently attended the Regional Planning District Commission meeting and a power-point presentation was done on Uranium Mining in Virginia and he wanted the commission to have a copy of that presentation. Mr. Grover also handed out copies of a memorandum which is an Update on Virginia Draft Proposed Stormwater Regulations.

## **7:15 p.m. Public Hearings**

**CPA 09-01:** *An application initiated by the Board of Supervisors to amend the Long Range Land Use Map 2005 for properties totaling ±18.347 acres, owned by the Central Virginia Battlefield Trust, and located near the intersection of Routes 3 & 20. The Long Range Map amendment would change the designation from Mixed Use to Agricultural Conservation. The properties are identified on County maps as tax map numbers 24-11A and 24-11F.*

**REZ 09-01:** *An application initiated by the Board of Supervisors as a companion action to CPA09-01 to amend the Zoning Map for properties totaling ±18.347 acres, owned by the Central Virginia Battlefield Trust, located near the intersection of Routes 3 & 20. The proposed amendment would change the zoning of the properties from General Commercial (C-2) to Agricultural (A). The properties are identified on County maps as tax map numbers 24-11A and 24-11F.*

Mr. Likins opened the public hearing.

Mr. Likins asked staff to brief the commission on the public hearing request.

Mr. Grover stated he is presenting both cases on behalf of the board of supervisors and as staff.

Mr. Grover stated that the Central Virginia Battlefield Trust, Inc. has requested a Comprehensive Plan Future Land Use Map 2025 amendment and also rezoning

of approximately 18.347 acres consisting of two parcels located along Route 20 and identified on Orange County Tax maps as tax parcels 24-11A and 24-11F.

Mr. Grover stated that the parcels are currently designated Mixed Use on the Future Land Use Map 2025. Mr. Grover stated that given the intent of the Central Virginia Battlefield Trust to transfer title of this land to the National Park Service, an amendment to the Agricultural Conservation (AC) designation on these properties would be consistent with the description of the Agricultural Conservation category in the Comprehensive Plan, and would be consistent with the designation of other National Park properties in the immediate vicinity.

Mr. Grover stated that the companion rezoning is to down-zone the subject parcels from General Commercial (C-2) to Agricultural (A). Mr. Grover stated that similar to the Comprehensive Plan amendment, the Agricultural (A) classification is consistent with that of other National Park Service properties in the county.

Mr. Grover stated that county records indicate that as of 1972, at least a portion of TM 24-11A was zoned General Commercial and then on September 11, 1990, the remaining portions of the subject properties were rezoned from Agricultural to General Commercial, with the intention of developing a shopping center. Mr. Grover stated that the Central Virginia Battlefields Trust, Inc. was gifted ownership of the subject parcels in July, 2001 and September, 2007.

Mr. Grover stated that the Future Land Use Map 2025 amendments from Mixed Use to Agricultural Conservation, and the companion rezoning from General Commercial (C-2) to Agricultural (A) are being initiated by the Board of Supervisors.

Mr. Grover stated that the property is currently vacant and presently wooded, with no significant environmental features. Mr. Grover stated no development is proposed, and given the mission of the Central Virginia Battlefield Trust to preserve the land and hold it in trust for transfer to the National Park Service, any existing historic and cultural resources will be protected. Mr. Grover stated that the property owner is seeking tax exempt status for the subject properties, but that the Board of Supervisors has tabled their decision on this request, until the rezoning has been approved. Mr. Grover stated that the down zoning would result in a reduction in the assessed value of these parcels and a reduction in property taxes, the potential loss in county tax revenue would equal \$13,486.55.

Mr. Grover stated that staff recommends the Planning Commission forward the Future Land Use Map 2025 amendment and companion rezoning to the Board of Supervisors with recommendations for approval.

Mr. Grover stated that he would answer any questions of the commission.

Mr. Fox had a question on the tax revenue.

Mr. Grover explained that the \$13,486.55 figure is an annual figure but somewhat misleading because it is what the property is currently taxed at. Mr. Grover stated this was information that he felt the commission should have.

Mr. Likins asked for persons to speak in favor of the application.

Mr. Eric Nelson, President of the Central Virginia Battlefield Trust stated that he staff report was very concise and we would be happy to answer any question of the commission.

Mr. Fox asked what other properties the Central Virginia Battlefield Trust owned.

Mr. Nelson stated that they only own these two parcels and typically only look at properties outside of the National Park that they think are important for the integrity of the park.

Mr. Likins stated he had a public safety issue but was not sure how it would be handled. Mr. Likins stated that deer along the side of the road in that area are a problem. Mr. Likins stated that he knows of some things that the park service has done in other areas that could help deter deer from getting too close to the road. Mr. Likins stated he would appreciate it if Mr. Nelson could pass along his concerns to the park service.

Mr. Goodwin asked if there are any plans for the property.

Mr. Nelson stated that the property would be left as it currently is and no improvements will be made to the property.

Mr. Likins asked for persons to speak in opposition to the request. There was no one.

Mr. Likins asked for opposition to or in favor of the request. There being none, Mr. Likins closed the public hearing

A motion was made by Mr. Bundy, seconded by Mr. Smith that the Comprehensive Plan Future Land Use Map 2025 amendment that would change the designation from Mixed Use to Agricultural Conservation on tax map parcels 24-11A and 24-11F be sent forward to the Board of Supervisors with a recommendation for approval. Motion carried with all members voting in the affirmative.

A motion was made by Mr. Bundy, seconded by Mr. Speiden that the rezoning of the properties identified on county maps as tax map numbers 24-11A and 24-11F be amended from General Commercial (C-2) to Agricultural (A). Motion carried with all members voting in the affirmative.

***REZ09-02: An application initiated by the Board of Supervisors to amend the Zoning Map for property of ±100 acres owned by the Orange County Fair Association, Inc., located along State Road 647. The Zoning Map amendment***

*would change the zoning of the properties from General Industrial (I-2) to Agricultural (A). The property is identified on County maps as tax map numbers 44-50A.*

Mr. Grover presented the staff report stating that this application was initiated by the Board of Supervisors to amend the zoning map for property of  $\pm 100$  acres owned by the Orange County Fair Association, Inc., and identified as tax map parcel 44-50A. Mr. Grover stated that this property was donated to the association by the Ridgid Tool Company, and is being anticipated as the new home for the Orange County Fair and related activities. Mr. Grover stated that the intended use of the property, which is not allowed in the current General Industrial (I-2) zoning district, may be allowed in the Agricultural zoning district with an approved special use permit.

Mr. Grover stated that the Orange County Future Land Use Map 2025 shows the subject property designated for Economic Development, adjacent property to the north, west and southwest is also planned for Economic Development, properties to the east side are designated for Agricultural use. Mr. Grover stated that the proposed down-zoning would seem inconsistent with the Future Land Use Map 2025 but stated that considering the surrounding uses and the property owner's stated intentions, changing the property from General Industrial (I-2) to Agricultural (A) zoning to allow development of a venue for fair and other commercial activities could be considered economic development and appropriate. Mr. Grover stated that the site is undeveloped wooded property with no significant environmental features on the subject parcel.

Mr. Grover stated that the Orange County Fair Association, Inc, will be required to submit a special use permit application and as a part of that process, they will have to develop a special use permit plan that indicates with specificity where activities and uses will be located on the site. Mr. Grover stated that the need for a Traffic Impact Analysis (TIA) has been deferred by his office until the Orange County Fair Association submits their application for a special use permit.

Mr. Grover stated it is desirable in the sense that the land will be used for a venue to accommodate the Orange County Fair and other entertainment activities in the community and has potential to attract revenue from tourist dollars spent in Orange County. Mr. Grover stated that the agricultural fair is a traditional use in keeping with the rural character of Orange.

Mr. Grover stated that it is staff's recommendation that the down-zoning of the approximately 100 acres from General Industrial (I-2) to Agricultural (A) be forwarded to the Board of Supervisors with recommendation for approval.

Mr. Grover stated he would answer any questions of the commission concerning the request.

Mr. Likins asked for persons to speak in favor of the request.

Mr. Keith O'Connor, President of the Orange County Fair Association stated he had a couple of corrections to make to the staff report. Mr. O'Connor stated that the land was donated by the Emerson Charitable Trust not Ridgid Tool Company. Mr. O'Connor stated that on item L, Sewer; portable johns will be used initially due to the cost of extending the sewer to the property. Mr. O'Connor stated that portable johns are used now at all events and that it is their hope that they would be able to continue to be allowed to use portable johns and eventually bring the sewer over to the fair property.

Mr. O'Connor said he would answer any questions of the commission.

Mr. Likins asked what the cost would be to extend the sewer to the property. Mr. O'Connor stated that they have not looked into the cost of the extension of the sewer onto the property.

Mr. Likins stated the Fair Association should keep in mind there are federal grants that might be available and to also look at the stimulus money.

Mr. Bundy wanted to know what other types of activities other than just the fair will be hosted on the property and how often.

Mr. O'Connor stated that they obtained the property because they are a charitable organization and had to be in order to receive the land. Mr. O'Connor stated as part of the gift the Fair Association has an agreement with Emerson that only certain activities will be held on the property. Mr. O'Connor read a list of 40 items that would be allowed and also a few activities that will not be allowed.

Mr. Bundy stated that it is a long list of activities, and it encompasses a lot of good things, but does the Fair Association have any activity lined up to use the property or is it just a wish list.

Mr. O'Connor stated it is a wish list at this time. Mr. O'Connor stated it was hard nailing all this down so the lawyers throw out every activity that could be thought of. Mr. O'Connor stated that the Fair Association hopes to hold the County fair there and expand the site. Mr. O'Connor stated that being at Montpelier they cannot have any events that are money making activities, like tractor pulls and a demolition derby, events that pay for fairs in other localities. Mr. O'Connor stated that they have to ask citizens and business owners for donations. Mr. O'Connor stated the association has an equipment auction in two weeks and also sells food at Montpelier and will sell food for the bike tour in June. Mr. O'Connor stated that the Fair Association is out to make money any way they can to keep their heads above water.

Mr. Fox asked that if this request goes through when will the first event be held.

Mr. O'Connor stated it would be three or four years before the first events would be held, also the property is currently covered with trees. Mr. O'Connor stated that a site plan cannot be developed until the property is cleared. Mr. O'Connor

stated that they currently have a contract with Montpelier for three years with two one year extensions.

Mrs. Maxine Henry, Vice President of the Orange County Fair Association stated that she along with her husband own property across the road from the proposed site. Mrs. Henry stated she is involved in the 4-H in Orange and is very much in favor of the rezoning.

Mr. Likins asked for persons to speak in favor of or opposition to the request. There being none, Mr. Likins closed the public hearing.

Mr. Grover stated that he would like to clarify some items. Mr. Grover stated that the only reason the proposed uses on the property were not addressed at this time was because it would be appropriate to address those at the time of the special use permit application. Mr. Grover stated that while connection to public sewer may not be initially necessary, ultimately such service should be there. Mr. Grover stated staff understands that portable toilet facilities would be used for the first couple of seasons.

Mr. Fox had a question why an amendment to the Comprehensive Plan Future Land Use Map was not necessary.

Mr. Grover stated it was recommended by staff and that the Board of Supervisors chose not to initiate the amendment.

Mr. Likins asked if it was required for the first case why not this one.

Mr. Grover stated that it was never required but that it is good practice from the prospective of planning and legal reasons. The legal reasons are that it is always better to rezone property in a fashion that is consistent with the Comprehensive Plan. Mr. Grover stated that based on that premise, staff, I and Mrs. Pandak recommended to the board of supervisors that they should initiate a comprehensive plan amendment and they opted not to do so.

A short discussion was held concerning the amendment to comprehensive plan and the reason it was not done.

Mr. Bundy wanted to hear from the board what they were thinking before he could make a recommendation. Mr. Bundy stated he was ready to go forward with one part, but would like to consider the board of supervisor's reasoning as to whether or not we should be recommending that they do both the rezoning and comprehensive plan amendment.

Mr. Grover stated that the decision has been made because the commission does not have a comprehensive plan amendment before them.

Mr. Speiden stated that the planning commission serves at the direction of the Board of Supervisors and we have their direction and we need to go ahead and act on the request.

Mr. Bundy stated that the planning commission under state law is an entity of its own and it can do what it wants and then the board can decide.

Mr. Speiden stated why complicate the issue beyond what is necessary.

Mr. Grover stated that he suspects if you do not go forward with a recommendation on this request that the board of supervisors would adopt it anyway as they opted not to initiate the CP amendment.

Mr. Likins stated he does not want to hold up this request.

Mr. Redifer stated that it would be his intent that the land be returned to Emerson at the zoning classification prior to transfer. Mr. Redifer stated if for whatever reason the fair chooses to extinguish the use of the property and the land goes back to Emerson he does not see why it should go back at a downgraded level.

Mr. Grover stated the Board could initiate and change it back, it is a legal issue. Mr. Grover stated that by approving a comprehensive plan amendment it provides cover to the county. Mr. Grover stated should they choose to rezone something that is inconsistent with the comprehensive plan, and then have a subsequent application for a rezoning of a different piece of property, that is also inconsistent with the comprehensive plan, if denied, they would have handed over to the subsequent applicants' grounds for appeal.

A motion was made by Mr. Goodwin, seconded by Mr. Smith that the rezoning of tax map 44-50A, consisting of 100 acres from General Industrial (I-2) to Agricultural (A) be forwarded to the Board of Supervisors with a recommendation for approval. Motion carried with all members voting in the affirmative.

## **6. New Business**

Mr. Bundy stated that the Certified Planning Commissioner course that he had recently completed is a very good course and had a lot of very good information. Mr. Bundy stated anyone who has not taken the class should, and recommends that they do. Mr. Bundy stated for those who do not want to or cannot fit it into their schedule he recommends a couple of books that were a part of the required reading. Mr. Bundy stated a library should be started so that this material can be available for people and appointees to the planning commission. Mr. Bundy was concerned that training money that is available would not cover the number of persons who want to take the class. Mr. Bundy would like to recommend that when the board of supervisors appoints persons to the planning commission that funds are made available so that appointees can attend the Certified Planning Commissioner Class. Mr. Bundy stated that maybe a resolution could be made to have the money available to have the initial training so that the new person would know what to do and what is expected of them and that it be automatic.

Mr. Goodwin stated that it sounds like a good idea but does not believe it is the right time to ask for money.

Mr. Smith stated that it is a good recommendation but as long as the planning commission is viewed in the light that it is now with the board of supervisors, they are not going to put money into something like this, and does not believe that it will happen.

Mr. Redifer stated that maybe what could be done is try and reach a middle ground and have a recommendation that due to current economic conditions make available a library of required reading for any member but that anyone who accepts a position should take it upon themselves to do what is required and it is part of the job.

Mr. Grover stated that some of those books are available in the Planning Office and that anyone from the commission can use them.

Mr. Smith stated he sees nothing wrong with going on record wishing for available funds but believes that it will not go anywhere.

Mr. Likins stated he could not support asking for money because of the current economic conditions and also with the county cuts that are being made.

Mr. Grover stated that is not required to attend these classes.

Mr. Speiden stated that he would go along with the motion that Mr. Bundy suggested as long as it is kept on a voluntary basis.

Mr. Redifer asked if courses are available on line.

Mr. Grover stated some things are on line from the American Planning Association but that the Certified Planning Commissioner course is through the CPEAV and is a very specialized class.

Mr. Goodwin asked if anything else has been done about Milt Herd coming back to the Planning Commission.

Mr. Grover stated that he believes that he may come back in April.

Mr. Likins hopes that public meetings will be held, so that the citizens of the county have input in the rewriting of the zoning ordinance. Mr. Likins stated the more you involve the citizens, the more support you will have for the document. Mr. Likins stated that the committee has done a good job and would hate for it to be shot down at the next election.

Mr. Speiden stated that there are a lot of blanks in the document.

Mr. Grover stated that Mr. Herd wanted to get something out in writing to the committee so that they could make more comments. Mr. Grover stated that the project is scheduled to be complete in August of this year.

A motion was made by Mr. Bundy, seconded by Mr. Smith that a recommendation be forwarded to the Board of Supervisors that every appointee to the Planning Commission be funded to take the Certified Planning Commissioner course if that person wants to take advantage of the funding. Voting Aye: Smith, Bundy, Speiden, Kovarik; Voting nay; Goodwin, Likins, Redifer, Fox, motion failed.

Mr. Bundy stated that a citizen has asked that the agenda and background material be posted on the website.

Mr. Grover stated that the agenda is posted on the website currently and he will also post staff report for any request that comes before the commission.

## **7. Next meeting**

Mr. Likins stated that no business is coming before them in April. Mr. Likins stated he would like to get away from the second meeting and get back to having the first meeting of the month.

Mr. Likins asked if Mr. Herd would be available to come back to the Planning Commission at the first meeting in April.

Mr. Grover stated he would make a request of Mr. Herd to attend the first meeting in April to discuss the zoning ordinance.

## **8. Adjourn**

There being no further business, a motion was made by Mr. Speiden, seconded by Mr. Fox that the meeting be adjourned. Motion carried with all members voting in the affirmative.

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David B. Grover, AICP  
Secretary

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Will Likins, Chairman