

**Orange County Planning Commission
Regular Meeting Minutes
Public Safety Building; Board Meeting Room
11282 Government Center Drive, Orange, Virginia 22960
Thursday, September 1, 2022**

Members Present: Donald Brooks, Chairman; Jason Capelle, Vice Chairman; George Yancey; Adam Bryington; and Bryan Nicol.

Members Absent: None.

Others Present: David Smitherman, Interim Planning and Development Services Director; Eric Lansing, Assistant County Attorney; Eric Bittner, Planner; Kyra Davis, Planner; and Alyson Simpson, Planning Commission Secretary.

1. Call to Order and Determination of Quorum

Chairman Brooks called the meeting to order at 6:04 p.m. and a quorum was established.

2. Adoption of Agenda

On the motion of Mr. Nicol, seconded by Mr. Capelle, which carried by a vote of 5-0, the Commission adopted the agenda, as modified, to include deferral of Agenda Item 7B.

Ayes: Capelle, Yancey, Brooks, Bryington, Nicol. Nays: None.

3. Adoption of Minutes

a. August 4, 2022 Regular Meeting

On the motion of Mr. Yancey, seconded by Mr. Bryington, which carried by a vote of 5-0, the Commission adopted the August 4, 2022 Regular Meeting minutes, as presented.

Ayes: Capelle, Yancey, Brooks, Bryington, Nicol. Nays: None.

4. Public Comment

At 6:07 p.m., Chairman Brooks opened the floor for Public Comment.

There being no speakers, Public Comment was closed at 6:07 p.m.

5. Public Hearings

a. SUP 22-02; A&M Auto (*Deferred from July 21, 2022 Meeting*)

An application by Vista Construction Group, on behalf of Jeremy and Melannie Beveridge, to expand public garage A&M Auto to include a garage addition, new office building, boundary line adjustment, and an increase in the number of vehicles allowed on the premises.

Eric Bittner, Planner, reminded the Commission this Special Use Permit had previously been discussed at its meeting on July 21, 2022. He presented the updated staff report, which included information on the following: the location and specifications of the subject property; the request to amend the conditions of SUP 12-02, which previously approved operation of a public garage on the subject property; and a review of the current conditions of SUP 12-02. Mr. Bittner summarized the proposed conditions for this new Special Use Permit that would amend and replace the previous SUP. He concluded his staff report by reviewing the Commission's feedback from its meeting on July 21, 2022, and the applicant's response to said feedback. Mr. Bittner indicated that staff ultimately recommended approval of the requested Special Use Permit.

Discussion ensued among the Commission regarding: voluntary registration with the Virginia Department of Environmental Quality as a small waste generator; the threshold levels and types of waste used to determine requirements to register as a small waste generator; the opinion of staff on the increase in permitted number of vehicles on the premises (above what was previously permitted); the location of the existing buffer and whether the location of the buffer or trees in the buffer would be moved; the purpose of the buffer in the original SUP; the overall intent behind requiring buffers between properties and uses; use of the buffer to conceal some of the business activity from the road; and where vehicles were parked and stored on the subject property.

Further discussion ensued regarding: how the tow truck would access the parking area; whether an access easement would be necessary as part of the proposed boundary line adjustment; the reduction in the total number of permitted vehicles from what was originally requested in this amendment; delineating between the type and/or location of the permitted number of vehicles; and the desire to add language to the proposed conditions related to expiration of the SUP, other remedies, non-severability, and site inspections to be requested by the applicants.

Scott Beranek, agent on behalf of the applicants, presented a PowerPoint presentation regarding stormwater management and site environmental, which was in response to feedback provided at the meeting on July 21, 2022. He indicated exemption from EPA and DEQ inspection requirements as the waste generated on the site was below the required thresholds. As part of the presentation, Mr. Beranek also reviewed site modifications that had recently been completed, which included regrading the parking area, creating a safe drainage, installing a berm, new drainage pipes, and oil booms, and removing vehicles from the stormwater runoff site.

At 6:35 p.m., Chairman Brooks called the Public Hearing to order.

There being no speakers, Chairman Brooks closed the Public Hearing at 6:35 p.m.

A motion was made (Nicol) and seconded (Brooks) to recommend approval of the requested Special Use Permit to the Board of Supervisors, as modified, to include conditions related to expiration, other remedies, and non-severability.

Further discussion ensued among the Commission regarding: whether the back taxes and building permit fees were settled; conditions of the settlement agreement between the applicants and the County; and inspection by the County and DEQ at the one-year mark in order to confirm compliance.

An amendment was made to the original motion, which was agreed by the second, to include a condition to encourage inspections by the County to ensure compliance. Eric Lansing, Assistant County Attorney, presented proposed language for said condition.

The Commission shared comments regarding the frequency of the inspections to be performed and getting the County to perform the inspections. As such, the condition language was modified to require that the applicant request inspections by the County.

On the motion of Mr. Nicol, seconded by Mr. Brooks, which carried by a roll call vote of 4-0-1, with Mr. Bryington abstaining, the Commission adopted the following resolution recommending approval, as modified:

WHEREAS, Vista Construction Group, on behalf of Jeremy and Melannie Beveridge, has applied for a Special Use Permit to expand public garage, A&M Auto, to include a garage addition, a new office building, a boundary line adjustment, and an increase in the number of vehicles allowed on the premises, on property located at 8475 Gold Dale Road, Locust Grove; and

WHEREAS, the request is pursuant to Sec. 70-303 of the Orange County Zoning Ordinance; and

WHEREAS, the Planning Commission held a duly-advertised Public Hearing on this Special Use Permit request at its Regular Meeting on September 1, 2022; and

WHEREAS, the Planning Commission has determined this Special Use Permit would further the purposes of the Comprehensive Plan and the Zoning Ordinance; would not threaten the public health, safety, or welfare; would be compatible with its surroundings; would not impact the environment or any natural, scenic, or historic assets of the County; and would not result in substantial detriment to the surrounding property;

NOW, THEREFORE, BE IT RESOLVED, on this 1st day of September, 2022, that the Orange County Planning Commission hereby recommends, based on public necessity, convenience, general welfare, and good planning and zoning practice, and the considerations above, that the Orange County Board of Supervisors approve SUP 22-02 (A&M Auto) with the conditions as shown below.

**SUP 22-02; A&M Auto
Conditions Recommended for Approval**

1. *Uses*: This Special Use Permit is to allow for the operation of a public garage, including 24-hour towing and storage, lock out, jump start, and flat tire service.
2. *Hours of Operation*: All vehicle repair services, except towing services and the drop-off and pick-up of vehicles, shall only be conducted between the hours of 7:00 a.m. to 10:00 p.m., Sunday through Saturday.
3. *Number of Vehicles*: At any time, the maximum number of vehicles shall be 70.
4. *Concept Drawing*: The concept drawing demonstrates the location of the proposed new Office Building, the Junk Yard, the Salvage Yard, and the areas designated for pick-up and cars awaiting service. It also demonstrates the proposed boundary line adjustment to increase the parking area at the rear of the property.
5. *Buffers*: A row of ten (10) shade trees, at least 1¼-inch caliper (approximately eight (8) feet in height) at the time of planting, which normally reaches a height of thirty (30) feet or more and a crown spread of twenty (20) feet or more at maturity, shall serve as

a buffer between lots 36-44J and 36-44H. All trees within the buffer area must be preserved and maintained, including the prompt replacement of dead or diseased plants, as long as this SUP shall remain in effect.

6. *Expansion:* A&M Auto will be permitted to expand their building footprint to include an extension onto the working garage (2,400 square feet) and to construct a new building (1,200 square feet) to include office space and a customer waiting area.
7. *Expiration Date:* Due to the applicant's flagrant violations of the original SUP, this SUP (including the SUP as amended, and the underlying original SUP) will expire by operation of law within two (2) years of the effective date of this SUP. The purpose of this expiration date is to give the Board of Supervisors the opportunity to ensure that the applicant has fully complied with the SUP as amended; to renew the SUP if the Board finds (in its sole discretion) that the applicant has fully complied with the terms of the SUP; and to allow the SUP to expire, unless the Board takes action to extend the SUP before the expiration date. To ensure that the applicant receives a hearing before the expiration date, the applicant shall apply for a new amendment to this SUP (which proposed amendment would renew this expiration date, or propose a new expiration date); and the applicant shall pay the applicable application fees. Applicant shall apply for the SUP amendment within one month of the one-year anniversary of the effective date of this SUP.
8. *Other Remedies:* Nothing in the foregoing paragraph shall be construed to limit the County's remedies for any violation of the SUP by the applicant, whether at law or in equity, civilly, or criminally, and whether before the SUP's expiration date or afterward.
9. *Non-Severability:* If any provision of this SUP, as amended, is deemed by any court of competent jurisdiction to be invalid, null, or void, then the entire SUP shall likewise be rendered null and void.
10. *Inspections:* The applicant will request inspection by the County on at least two occasions prior to the expiration date of the SUP.

Ayes: Capelle, Yancey, Brooks, Nicol. Nays: None. Abstentions: Bryington.

6. Worksession

There were no Worksession matters at this time.

7. New Business

a. Appointment of Planning Commission Secretary

David Smitherman, Interim Planning and Development Services Director, explained that Tracey Newman had recently departed the organization, thus leaving the position of Planning Commission Secretary vacant. He indicated that, pursuant to the Commission's Bylaws, it would be appropriate for the Chairman to appoint a new secretary at this time.

Chairman Brooks announced the appointment of Alyson Simpson as Planning Commission Secretary, on an interim basis, until such time a subsequent appointment was made.

b. Site Plan for Redfish Solar Partners, LLC (SUP 20-05)

This item was deferred to a future meeting.

8. Old Business

a. **PRA 22-01; Melody Rose Lane (*Deferred from July 21, 2022 Meeting*)**

An application by Ronald Frazier to extend Melody Rose Lane, a private road, from serving seven (7) lots to serving ten (10) lots.

Kyra Davis, Planner, reminded the Commission this Private Road Application had previously been discussed at its meeting on July 21, 2022. She presented the staff report, which included information on the following: the request to extend Melody Rose Lane by 150 feet in order to serve three additional lots, for a total of ten (10) lots; the need for the applicant to present an undue hardship or an injustice; and the specifications for the subject property and private road. Ms. Davis indicated she had received clarification from VDOT that extension of the private road would not be required by fee simple right-of-way and could be accomplished by easement dedicated to public use, which was one of the concerns discussed at the meeting on July 21, 2022.

Discussion ensued among the Commission regarding: the applicant's need to prove an unusual hardship or injustice; case law and the definition of a hardship; why the application would be presented to the Commission for consideration if it was against case law or against counsel's recommendation to approve; the applicant's justification for the hardship; the fact that having three additional lots may be better than having a second road constructed, as far as safety; whether approval of the private road extension would be viewed as setting a precedence; why a private road was necessary if it was going to be constructed to State standards; the fact a hardship was not present if the property owners had expressed a willingness to change; and the various road dedication options.

On the motion of Mr. Nicol, seconded by Mr. Yancey, which carried by a roll call vote of 5-0, the Commission voted to deny PRA 22-01, as presented.

Ayes: Capelle, Yancey, Brooks, Bryington, Nicol. Nays: None.

9. Reports

a. **Board of Supervisors Report**

Mark Johnson, Board of Supervisors Liaison, was absent and, as such, did not provide a report.

b. **Planning and Development Services Report**

David Smitherman, Interim Planning and Development Services Director, announced staffing changes as they related to Planning Services Manager, Director of Development Services, and the Development Services Administrative Coordinator positions. He also announced there may be some internal assignments and alignments, but the Commission would remain informed of any departmental changes.

The Commission asked about the status of the report on the fiscal impact of residential development, as well as getting corrections to their email addresses both listed on the website and being used by staff.

c. Wilderness Crossing Updates and Discussion

Chairman Brooks announced that the Commission's Worksession related to Wilderness Crossing would be moved from September 15, 2022, to September 22, 2022. He expressed concern with the timing of the applicant's proposed Town Hall meeting.

Discussion ensued among the Commission regarding: the status of responses to the Application Review Committee comments; concern with the looseness of the proffer language proposed by the applicants; follow-up on the visit with DEQ and the Department of Energy; and timing of the Town Hall versus the Commission's Worksession.

Vice Chairman Capelle presented a PowerPoint presentation regarding the Wilderness Crossing rezoning application, particularly as it concerned mining and the related environmental impacts.

Discussion ensued among the Commission regarding: providing the materials gathered by Mr. Capelle to the applicants and/or reviewing and presenting the presentation at the Commission's Worksession; disappointment in the proposed school site being moved; the fact the land was not being "gifted" to the County if the County had to become responsible for the mining remediation; and encouraging the applicants to undergo the voluntary remediation program.

10. Commissioner Comments

Collectively, the Commissioners thanked each other for their commitment to serving democracy and also thanked Mr. Lansing for his service to the Commission, wishing him well in his future endeavors.

11. Next Meeting

The Commission was reminded of its next meeting.

12. Adjourn

On the motion of Mr. Nicol, seconded by Mr. Yancey, which carried by a vote of 5-0, the Commission adjourned its meeting at 8:20 p.m.

Ayes: Capelle, Yancey, Brooks, Bryington, Nicol. Nays: None.



Donald Brooks, Chairman

Alyson Simpson, Planning Commission Secretary

While the events of this meeting were captured via digital audio recording, these written minutes shall serve as the official record of actions taken during the meeting.