

BOARD OF SUPERVISORS MINUTES**JUNE 13, 2023**

At a Regular Meeting of the Orange County Board of Supervisors held on Tuesday, June 13, 2023, beginning at 5:00 p.m., in the Meeting Room of the Public Safety Building, 11282 Government Center Drive, Orange, Virginia. Present: R. Mark Johnson, Chairman; Lee H. Frame, Vice Chairman; James K. White; and Keith F. Marshall. Absent: James P. Crozier. Also present: Theodore L. Voorhees, County Administrator; Thomas E. Lacheney, County Attorney; and Alyson A. Simpson, Chief Deputy Clerk.

RE: ADOPTION OF AGENDA

On the motion of Mr. Frame, seconded by Mr. White, which carried by a vote of 4-0, with Mr. Crozier being absent, the Board adopted the agenda, as presented. Ayes: Johnson, White, Marshall, Frame. Nays: None. Absent: Crozier.

RE: SPECIAL PRESENTATIONS AND APPEARANCES

There were no Special Presentations and Appearances at this time.

RE: CONSENT AGENDA

On the motion of Mr. Frame, seconded by Mr. Marshall, which carried by a vote of 4-0, with Mr. Crozier being absent, the Board adopted the Consent Agenda, as presented.

Ayes: Johnson, White, Marshall, Frame. Nays: None. Absent: Crozier.

RE: FY23 BUDGET AMENDMENTS (SUPPLEMENTALS AND TRANSFERS)

As part of the Consent Agenda, the Board approved the following budget amendments, as presented:

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUS BUDGET	BUDGET CHANGE	AMENDED BUDGET
30034005-34030	Sheriff OT Reimbursement	\$ (6,381.00)	\$ (818.22)	\$ (7,199.22)
43120001-41200	Wages - Overtime	234,390.00	818.22	235,208.22
30030006-33500	Donations - Animal Shelter	(36,721.65)	(9,430.00)	(46,151.65)
43520003-43115	Prof. Serv. - Emergency Vet	200,613.65	9,430.00	210,043.65
30030002-33625	Donations - Triad	(12,725.00)	(750.00)	(13,475.00)
43177001-46800	Triad Expenses	3,000.00	750.00	3,750.00
TOTALS		\$ 382,176.00	\$ 0.00	\$ 382,176.00

RE: ADOPTION OF THE MAY 23, 2023 WORKSESSION MINUTES

As part of the Consent Agenda, the Board adopted the May 23, 2023 Worksession minutes, as presented.

RE: ADOPTION OF THE MAY 23, 2023 REGULAR MEETING MINUTES

As part of the Consent Agenda, the Board adopted the May 23, 2023 Regular Meeting minutes, as presented.

RE: NEW BUSINESS

RE: REQUEST FROM THE PLANNING COMMISSION REGARDING WATER SUPPLY PLANNING

Chairman Johnson reported that he had received a memorandum from the Chairman of the Planning Commission concerning the immediate need to begin the process for water supply planning, particularly impoundment planning for the Wilderness Crossing development. He indicated that some discussions were already in motion, but he wanted to include this matter on the agenda in order to get thoughts from the entire Board.

Discussion ensued among the Board regarding: the fact an impoundment was already planned in Wilderness Crossing; the additional withdrawal request from the Rapidan River that was already in process with the Rapidan Service Authority; the need to wait on the outcome of Wilderness Crossing before moving too far ahead; soil testing to be completed on the Wilderness Crossing site; the fact the Board understood the need, but recognized that steps had to be sequenced appropriately; preliminary data that was already available; and the position of the Board to acknowledge the need and the request from the Planning Commission and commit to moving forward with planning at the appropriate time.

The Board took the information regarding water supply planning under advisement, and there was no action taken at this time.

RE: OLD BUSINESS

RE: SUP 23-01 (WAL-MART) (CARRIED OVER FROM THE MAY 9, 2023 PUBLIC HEARING)

Kyra Davis, Planner, reminded the Board this matter had been carried over from Public Hearing on May 9, 2023, in order to allow the SUP Concept Plan to be updated to reflect the requested on-site generator. She presented the updated Plan for the Board's consideration.

Rob Beaman, agent for the applicant, noted the SUP Concept Plan had in fact been updated to show the location of the on-site generator in compliance with all code requirements.

Discussion ensued among the Board regarding: the significant changes to signage and directional movement in the parking lot and the need to create awareness of the changes for the safety of vehicles and customers.

At 5:08 p.m., Chairman Johnson re-opened the Public Hearing deferred from May 9, 2023, to receive comments on the following:

SUP 23-01

The Board of Supervisors will consider a Special Use Permit application from Wal-Mart Real Estate Business Trust to modify the conditions of previously-approved SUP 11-05 for a large retail use, to now permit (a) re-painting of the store facade, (b) modifications to the free standing and building signage used for the store, (c) an expansion of the store to provide space for the staging of customer pick-up of pre-purchased merchandise, and (d) modifications to a portion of the parking area to provide designated space for customers picking-up pre-purchased merchandise, on property located at 2533 Germanna Highway, Locust Grove. The property is identified as Tax Map Parcel 12-42, contains 13.52 acres, and is zoned General Commercial (C-2) Conditional. The property is situated in the Germanna-Wilderness Area Plan (GWAP) Mixed Use Planned Development of Sub-Area 1 Recommended Future Land Use category, as described in the Orange County Comprehensive Plan.

There being no speakers, Chairman Johnson closed the Public Hearing at 5:08 p.m.

On the motion of Mr. Frame, seconded by Mr. Marshall, which carried by a roll call vote of 4-0, with Mr. Crozier being absent, the Board adopted the following ordinance, as presented:

ORDINANCE APPROVING SUP 23-01 TO ALLOW FOR AN AMENDMENT TO SUP 11-05 ON
TAX MAP NO. 12-42, REQUESTED BY WAL-MART REAL ESTATE BUSINESS TRUST

WHEREAS, Wal-Mart Real Estate Business Trust applied for a Special Use Permit to amend SUP 11-05, as it applies to property located at 2533 Germanna Highway, Locust Grove, referenced as Tax Map No. 12-42, containing 13.52 acres, pursuant to Section 70-582 of the Orange County Zoning Ordinance; and

WHEREAS, the Planning Commission advertised and conducted a Public Hearing on the request on April 6, 2023; and

WHEREAS, the Planning Commission considered whether the proposed 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 unduly impact the environment or natural, scenic, or historic assets of the County; and would not result in substantial detriment to the surrounding property; and

WHEREAS, the Planning Commission reviewed the request and determined that the request was consistent with the considerations above and, as such, recommended approval of the request to the Board of Supervisors, as modified during its Public Hearing; and

WHEREAS, the Board of Supervisors advertised and conducted a Public Hearing on the request on May 9, 2023, but deferred action until its meeting on June 13, 2023; and

WHEREAS, following the Public Hearing and further discussion, the Board of Supervisors hereby supports the request, as modified during its Public Hearing; and

WHEREAS, the Board of Supervisors has determined that public necessity, convenience, general welfare, and/or good planning and zoning practice also support approval of this Special Use Permit request, as modified during the Public Hearing;

NOW, THEREFORE, BE IT ORDAINED, on this 13th day of June, 2023, that the Orange County Board of Supervisors hereby approves SUP 23-01 to amend SUP 11-05, as it applies to property located at 2533 Germanna Highway, referenced as Tax Map No. 12-42, subject to the one (1) new condition as set forth below, as modified during the Public Hearing; and

BE IT FURTHER ORDAINED, that the conditions approved for the subject property in SUP 11-05 by the Board of Supervisors on October 27, 2011, shall also remain in full force and effect, except as modified herein.

Conditions for Approval

As adopted in Ord. No. 230613 - 6A
by the Orange County Board of Supervisors
on June 13, 2023

SUP 23-01: Wal-Mart Real Estate Business Trust

*To amend SUP 11-05, as it applies to the property located at
2533 Germanna Highway, Locust Grove*

Tax Map No. 12-42

The conditions of this Special Use Permit ("SUP") shall apply to the property identified on County Tax Map No. 12-42, as well as any future division or consolidation of said property, unless otherwise specified herein. Compliance is the responsibility of the applicant, owners, and assigns. The following conditions are intended to offset and mitigate impacts of the proposed use, and to render the application consistent with the applicable provisions of the Comprehensive Plan. If the conditions of the SUP or the information on the SUP plans or application are in conflict with one another or with the Zoning Ordinance, the more restrictive shall apply, unless specifically modified, waived, or otherwise specified in these conditions. Violation of these conditions, in whole or in part, may be cause for the revocation of the Special Use Permit, pursuant to §15.2-2309 (7) of the Code of Virginia.

1. Applicability – The conditions approved by the Board of Supervisors for SUP 11-05 on October 27, 2011, shall remain in full force and effect, except as modified herein. Permitted modifications are as follows:
 - a. The subject property, being Tax Map No. 12-42, containing 13.52 acres, shall be permitted to redevelop in accordance with the following documents and plans:
 - i. The SUP Concept Plan titled, "Building Addition and Pickup 2.0 Improvements," prepared by Bohler Engineering, revised June 6, 2023; and
 - ii. The Major Site Plan titled, "Building Addition and Pickup 2.0 Improvements," prepared by Bohler Engineering, revised November 4, 2022, to also include any subsequent revisions to said Site Plan that may be necessary to meet all regulations in order to receive approval from Orange County.

Ayes: Johnson, White, Marshall, Frame. Nays: None. Absent: Crozier.

RE: STA 23-01 (COUNTY-INITIATED TEXT AMENDMENT)

Chairman Johnson explained this group of various subdivision text amendments had been put forward by an ad hoc subcommittee of the Board. At its Public Hearing on June 1, 2023, the Planning Commission recommended denial of the amendments. Therefore, Chairman Johnson indicated he wanted feedback from the entire Board before either scheduling a worksession or moving the item forward to public hearing.

Discussion ensued among the Board regarding: the fact the Planning Commission didn't understand some of the particulars of the amendments; the nature of ordinance amendments and that some of the comments and concerns from the Planning Commission did not make sense; the fact these amendments were not specific to a landowner; the idea that issues were brought to the Board's attention and the Board could choose to react through an ordinance amendment; and the desire to have a worksession to further discuss the amendments before sending them back to the Planning Commission.

By consensus, the Board scheduled a Worksession to discuss STA 23-01 on Tuesday, June 27, 2023, at 4:00 p.m.

RE: DEPARTMENT DIRECTOR / CONSTITUTIONAL OFFICER REPORTS

RE: REQUEST FOR STAFF SALARY ADJUSTMENTS

Diana O'Connell, Commonwealth's Attorney, gave a presentation regarding her request for salary adjustments for the current Deputy Commonwealth's Attorney and the current Assistant Commonwealth's Attorney, which included information on the following: background details of the request; unique challenges facing the justice system; increased workloads for staff; increased

scopes of work for staff; increased case complexity; a comparison of neighboring salaries for deputies and assistants; the goal behind the request; and the proposed solution to the request.

Discussion ensued among the Board regarding: the level of salary increases (current salaries to proposed salaries); the need to look at an overall adjustment to the attorney salaries if recruitment at current salaries was an issue; the possibility of converting one of the vacant positions into a position type that could be filled; the fact this change would reward current staff with a salary increase, but the workload would not change without additional hires; the number of current vacancies; the long-term solution given that the current staff would still be overworked; factors leading to recruitment issues; and the amount of funding available for the vacant positions versus the amount being committed for the two staff raises.

By consensus, the Board authorized elimination of one (1) budgeted FTE position for an Assistant Commonwealth's Attorney from the Position Control list and further authorized a salary increase for the current Deputy Commonwealth's Attorney (Fitzgerald) to the midpoint salary for Grade 124 and a salary increase for the current Assistant Commonwealth's Attorney (Hastings) to the midpoint salary for Grade 122, effective the first payroll in Fiscal Year 2024 (June 25, 2023), as presented.

RE: COUNTY ATTORNEY'S REPORT

The County Attorney had nothing to report on at this time.

RE: COUNTY ADMINISTRATOR'S REPORT

RE: BOARD OF SUPERVISORS' TWO-YEAR STRATEGIC PRIORITIES; FY 2023 THIRD QUARTER UPDATE

Theodore L. Voorhees, County Administrator, provided a quarterly update on the Board's Two-Year Strategic Priorities, reviewing the progress that had been made on each priority to-date and highlighting achievements related to each priority.

The Board took the information regarding its Two-Year Strategic Priorities under advisement, and there was no action taken.

RE: BOARD COMMENT

Supervisor Frame commented that final approval had been received for Greene County's withdrawal from the Rapidan Service Authority, noting that the next RSA meeting would likely be Greene County's last meeting before the additional Orange County appointee began serving instead.

RE: INFORMATIONAL ITEMS

The Board received the following correspondence for its information:

- Health Center Commission Meeting Minutes; March 31, 2023

RE: APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

By consensus, the Board appointed Mark Johnson as an Advisory Member on the Health Center Commission to serve at the pleasure of the Board, effective immediately, until such time a subsequent appointment is made.

By consensus, the Board appointed Steven Hein as an Advisory Member on the Health Center Commission to serve at the pleasure of the Board, effective immediately, until such time a subsequent appointment is made.

By consensus, the Board appointed Karen Gibson as the Litter Control Committee Coordinator, filling the vacancy created by Michelle Williams, effective immediately, until such time a subsequent appointment is made.

RE: CALENDAR

The Board received copies of its calendar of meetings for the months of June 2023, July 2023, and August 2023.

RE: SCHEDULE A PUBLIC HEARING FOR SUP 22-06

By consensus, the Board authorized staff to advertise for and schedule a public hearing for SUP 22-06 on Tuesday, July 11, 2023, as presented.

RE: PUBLIC HEARING #1; REZ 23-02

Eric Bittner, Planner, presented the staff report and Rezoning request from Damian Herndon, which included information on the location and specifications of the subject property, the request to rezone Tax Map Parcels 32-19B, 32-19C, and 32-19G to Agricultural (A), and the legacy zoning of the parcels. He concluded his report by noting the recommendation of approval from the Planning Commission.

Discussion ensued among the Board regarding: the proposed access to Route 20 via an easement and whether that became a limiting factor to developing the parcels.

The applicant did not wish to make a presentation.

At 5:52 p.m., Chairman Johnson called the Public Hearing to order to receive comments on the following:

REZ 23-02

The Board of Supervisors will consider an application from Damian Herndon to rezone property on the north side of Constitution Highway (Route 20) adjacent to 21429 Constitution Highway, Rapidan, from Limited Residential (R-1) to Agricultural (A). The property is identified as Tax Map Parcels 32-19B, 32-19C, and 32-19G, and contains approximately 0.766 acres. The property is situated in the Agricultural (A2) Recommended Future Land Use category, as described in the Orange County Comprehensive Plan.

There being no speakers, Chairman Johnson closed the Public Hearing at 5:52 p.m.

Discussion ensued among the Board regarding: development limitations with the rezoning and the fact there was no further subdividing of the parcels planned by the applicant.

On the motion of Mr. Marshall, seconded by Mr. White, which carried by a roll call vote of 4-0, with Mr. Crozier being absent, the Board adopted the following ordinance, as presented:

ORDINANCE APPROVING REZ 23-02 TO REZONE APPROXIMATELY 0.766 ACRES FROM LIMITED RESIDENTIAL (R-1) TO AGRICULTURAL (A), REQUESTED BY DAMIAN HERNDON

WHEREAS, Damian Herndon has requested the rezoning of property on the north side of Constitution Highway (Route 20) adjacent to 21429 Constitution Highway, Rapidan, specifically identified as Tax Map Nos. 32-19B, 32-19C, and 32-19G, totaling approximately 0.766 acres, from Limited Residential (R-1) to Agricultural (A), pursuant to Section 70-191 *et seq.* and Section 70-301 *et seq.* of the Orange County Zoning Ordinance; and

WHEREAS, the Planning Commission advertised and conducted a Public Hearing on the request on May 4, 2023; and

WHEREAS, the Planning Commission considered whether the proposed Rezoning 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 unduly impact the environment or natural, scenic, or historic assets of the County; and would not result in substantial detriment to the surrounding property; and

WHEREAS, the Planning Commission reviewed the request and determined that the request was consistent with the considerations above, and, as such, recommended approval of the request to the Board of Supervisors, as presented during its Public Hearing; and

WHEREAS, the Board of Supervisors advertised and conducted a Public Hearing on the request on June 13, 2023; and

WHEREAS, following the Public Hearing and further discussion, the Board of Supervisors hereby supports the request, as presented during its Public Hearing; and

WHEREAS, the Board of Supervisors has determined that public necessity, convenience, general welfare, and/or good planning and zoning practice also support approval of this Rezoning request, as presented during the Public Hearing;

NOW, THEREFORE, BE IT ORDAINED, on this 13th day of June, 2023, that the Orange County Board of Supervisors hereby approves REZ 23-02 to rezone property on the north side of Constitution Highway (Route 20) adjacent to 21429 Constitution Highway, Rapidan, specifically identified as Tax Map Nos. 32-19B, 32-19C, and 32-19G, totaling approximately 0.766 acres, from Limited Residential (R-1) to Agricultural (A), subject to the Legal Summary as set forth below, as presented during the Public Hearing.

Legal Summary

As adopted in Ord. No. 230613 - PH1
by the Orange County Board of Supervisors
on June 13, 2023

REZ 23-02: Damian Herndon

From Limited Residential (R-1) to Agricultural (A)

Tax Map Nos. 32-19B, 32-19C, and 32-19G

This Legal Summary for this zoning map amendment (Rezoning) shall apply to the property identified on County Tax Map Nos. 32-19B, 32-19C, and 32-19G, as well as any future division or consolidation of said property, unless otherwise specified herein. Compliance is the responsibility of the applicant, owners, and assigns.

If this Legal Summary or the information on the Rezoning plans or application are in conflict with one another or with the Zoning Ordinance, the more restrictive shall apply, unless specifically modified, waived, or otherwise specified. Violation of this Legal Summary, in whole or in part, may be cause for the revocation of the Rezoning, pursuant to §15.2-2309(7) of the Code of Virginia.

1. Controlling Documents – Controlling documents shall be the Legal Summary as set forth herein and the documents submitted with the application dated March 6, 2023, including the Concept Plan dated July 8, 2022.
2. Compliance – Use and development of the subject property shall be in substantial conformance with this Legal Summary. The Zoning Administrator shall determine “substantial conformance.” The property owner shall be responsible for obtaining all required County licenses, site plan approvals, building permits, health permits, VDOT permits, zoning permits, stormwater permits,

and erosion & sediment control permits. The property owner shall be responsible for complying with all local, State, and Federal laws and regulations as may be applicable to this development.

3. Uses – This Rezoning shall permit development, as generally shown on the Concept Plan and described in the application.

Ayes: Johnson, White, Marshall, Frame. Nays: None. Absent: Crozier.

RE: PUBLIC HEARING #2; SUP 23-04

Eric Bittner, Planner, presented the staff report and request for Special Use Permit from William and Deborah Huff, which included information on the location and specifications of the subject property, the request to allow for the keeping of animals in Limited Residential (R-1) Zoning, and the recommendation of approval from the Planning Commission.

The applicants did not wish to make a presentation.

At 5:58 p.m., Chairman Johnson called the Public Hearing to order to receive comments on the following:

SUP 23-04

The Board of Supervisors will consider a Special Use Permit application from William and Deborah Huff for the keeping of animals (goats and chickens) not customarily kept as household pets, on property located at 23362 Village Road, Unionville. The property is identified as Tax Map Parcel 32-68, contains 5.10 acres, and is zoned Limited Residential (R-1). The property is situated in the Village Recommended Future Land Use category, as described in the Orange County Comprehensive Plan.

There being no speakers, Chairman Johnson closed the Public Hearing at 5:58 p.m.

On the motion of Mr. Frame, seconded by Mr. Marshall, which carried by a roll call vote of 4-0, with Mr. Crozier being absent, the Board adopted the following ordinance, as presented:

ORDINANCE APPROVING SUP 23-04 TO ALLOW FOR THE KEEPING OF ANIMALS IN LIMITED RESIDENTIAL (R-1) ON TAX MAP NO. 32-68, REQUESTED BY WILLIAM AND DEBORAH HUFF

WHEREAS, William and Deborah Huff applied for a Special Use Permit to allow for the keeping of animals (goats and chickens) not customarily kept as household pets, on property located at 23362 Village Road, Unionville, referenced as Tax Map No. 32-68, containing 5.10 acres, and zoned as Limited Residential (R-1), pursuant to Section 70-191 *et seq.* and Section 70-331 *et seq.* of the Orange County Zoning Ordinance; and

WHEREAS, the Planning Commission advertised and conducted a Public Hearing on the request on May 4, 2023; and

WHEREAS, the Planning Commission considered whether the proposed 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 unduly impact the environment or natural, scenic, or historic assets of the County; and would not result in substantial detriment to the surrounding property; and

WHEREAS, the Planning Commission reviewed the request and determined that the request was consistent with the considerations above and, as such, recommended approval of the request to the Board of Supervisors, as presented during its Public Hearing; and

WHEREAS, the Board of Supervisors advertised and conducted a Public Hearing on the request on June 13, 2023; and

WHEREAS, following the Public Hearing, the Board of Supervisors hereby supports the request, as presented during its Public Hearing; and

WHEREAS, the Board of Supervisors has determined that public necessity, convenience, general welfare, and/or good planning and zoning practice also support approval of this Special Use Permit request, as presented during the Public Hearing;

NOW, THEREFORE, BE IT ORDAINED, on this 13th day of June, 2023, that the Orange County Board of Supervisors hereby approves SUP 23-04 to allow for the keeping of animals (goats and chickens) not customarily kept as household pets, on property located at 23362 Village Road, Unionville, referenced as Tax Map No. 32-68, subject to the five (5) conditions and five (5) sub-conditions as set forth below, as presented during the Public Hearing.

Conditions for Approval

As adopted in Ord. No. 230613 - PH2
by the Orange County Board of Supervisors
on June 13, 2023

SUP 23-04: Huff

*To allow for the keeping of animals (goats and chickens)
not customarily kept as household pets*

Tax Map No. 32-68

The conditions of this Special Use Permit ("SUP") shall apply to the property identified on County Tax Map No. 32-68, as well as any future division or consolidation of said property, unless otherwise specified herein. Compliance is the responsibility of the applicant, owners, and assigns. The following conditions are intended to offset and mitigate impacts of the proposed use, and to render the application consistent with the applicable provisions of the Comprehensive Plan. If the conditions of the SUP or the information on the SUP plans or application are in conflict with one another or with the Zoning Ordinance, the more restrictive shall apply, unless specifically modified, waived, or otherwise specified in these conditions. Violation of these conditions, in whole or in part, may be cause for the revocation of the Special Use Permit, pursuant to §15.2-2309 (7) of the Code of Virginia.

1. Controlling Documents – Controlling documents shall be the conditions as set forth herein and the documents submitted with the application dated March 29, 2023.
2. Compliance – Use and development of the subject property shall be in substantial conformance with these conditions. The Zoning Administrator shall determine "substantial conformance." The property owner shall be responsible for obtaining all required County licenses, site plan approvals, building permits, health permits, VDOT permits, zoning permits, stormwater permits, and erosion and sediment control permits. The property owner shall be responsible for complying with all local, State, and Federal laws and regulations as may be applicable to the proposed use.
3. Uses – This SUP shall allow for the keeping of animals not customarily kept as household pets in the Limited Residential (R-1) Zoning District, as generally described in the application and shown on the Concept Plan.
4. Expiration – This SUP shall be deemed void if its use is not commenced within two years of approval or is discontinued for a period of two years.

5. Standards and Conditions –

- a. No more than two (2) goats and ten (10) chickens are to be kept on the property.
- b. The goats shall be kept within the pen identified on the Concept Plan, or in a temporary fence, at all times.
- c. The chickens shall be kept in the coop and pen identified on the Concept Plan at all times.
- d. Any subdivision or boundary adjustment resulting in a decrease in acreage of the parcel shall void this SUP.
- e. Any expansion of this use shall require a new SUP.

Ayes: Johnson, White, Marshall, Frame. Nays: None. Absent: Crozier.

RE: PUBLIC HEARING #3; SUP 22-08

Kyra Davis, Planner, presented the staff report and request for Special Use Permit from Chelsea Miller, on behalf of SBA Communications, which included information on the location and specifications of the subject property, the request to increase the height of an existing telecommunications tower, and the recommendation of approval from the Planning Commission.

Discussion ensued among the Board regarding: the reason for the requested increase in height.

Andrew Martin, representative from SBA Communications, confirmed the primary reason for the increase in height was to allow T-Mobile to co-locate on the tower.

At 6:03 p.m., Chairman Johnson called the Public Hearing to order to receive comments on the following:

SUP 22-08

The Board of Supervisors will consider a Special Use Permit application from Chelsea Miller, on behalf of SBA Communications, to increase the height of an existing telecommunications tower (from 140' to 150' with a 6' lightning rod), on property located at 11459 Back Drive, Montpelier Station. The property is identified as Tax Map Parcel 42-25 and is zoned Agricultural (A). The property is situated in the Agricultural (A1) Recommended Future Land Use category, as described in the Orange County Comprehensive Plan.

There being no speakers, Chairman Johnson closed the Public Hearing at 6:03 p.m.

On the motion of Mr. Marshall, seconded by Mr. White, which carried by a roll call vote of 4-0, with Mr. Crozier being absent, the Board adopted the following ordinance, as presented:

ORDINANCE APPROVING SUP 22-08 TO ALLOW FOR AN INCREASE IN HEIGHT OF AN EXISTING TELECOMMUNICATIONS TOWER ON TAX MAP NO. 42-25, REQUESTED BY CHELSEA MILLER, ON BEHALF OF SBA COMMUNICATIONS AND THE NATIONAL TRUST FOR HISTORIC PRESERVATION
(C/O THE MONTEPELIER FOUNDATION)

WHEREAS, Chelsea Miller, on behalf of SBA Communications and the National Trust for Historic Preservation (c/o The Montpelier Foundation), applied for a Special Use Permit to increase the height of an existing telecommunications tower (from 140' to 150' with a 6' lightning rod), on property located at 11459 Back Drive, Montpelier Station, referenced as Tax Map No. 42-25, pursuant to Section 70-852 of the Orange County Zoning Ordinance; and

WHEREAS, the Planning Commission advertised and conducted a Public Hearing on the request on May 4, 2023; and

WHEREAS, the Planning Commission considered whether the proposed 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 unduly impact the environment or natural, scenic, or historic assets of the County; and would not result in substantial detriment to the surrounding property; and

WHEREAS, the Planning Commission reviewed the request and determined that the request was consistent with the considerations above and, as such, recommended approval of the request to the Board of Supervisors, as presented during its Public Hearing; and

WHEREAS, the Board of Supervisors advertised and conducted a Public Hearing on the request on June 13, 2023; and

WHEREAS, following the Public Hearing, the Board of Supervisors hereby supports the request, as presented during its Public Hearing; and

WHEREAS, the Board of Supervisors has determined that public necessity, convenience, general welfare, and/or good planning and zoning practice also support approval of this Special Use Permit request, as presented during the Public Hearing;

NOW, THEREFORE, BE IT ORDAINED, on this 13th day of June, 2023, that the Orange County Board of Supervisors hereby approves SUP 22-08 to increase the height of an existing telecommunications tower (from 140' to 150' with a 6' lightning rod), on property located at 11459 Back Drive, Montpelier Station, referenced as Tax Map No. 42-25, subject to the five (5) conditions and one (1) sub-condition as set forth below, as presented during the Public Hearing.

Conditions for Approval

As adopted in Ord. No. 230613 - PH3
by the Orange County Board of Supervisors
on June 13, 2023

SUP 22-08: SBA Communications and the National Trust for
Historic Preservation (c/o The Montpelier Foundation)

To increase the height of an existing telecommunications tower

Tax Map No. 42-25

The conditions of this Special Use Permit ("SUP") shall apply to the property identified on County Tax Map No. 42-25, as well as any future division or consolidation of said property, unless otherwise specified herein. Compliance is the responsibility of the applicant, owners, and assigns. The following conditions are intended to offset and mitigate impacts of the proposed use, and to render the application consistent with the applicable provisions of the Comprehensive Plan. If the conditions of the SUP or the information on the SUP plans or application are in conflict with one another or with the Zoning Ordinance, the more restrictive shall apply, unless specifically modified, waived, or otherwise specified in these conditions. Violation of these conditions, in whole or in part, may be cause for the revocation of the Special Use Permit, pursuant to §15.2-2309 (7) of the Code of Virginia.

1. Controlling Documents – Controlling documents shall be the conditions as set forth herein and the application documents submitted and approved with SUP 10-03. Application documents submitted with this SUP, dated December 14, 2022, shall apply as necessary to permit the increase in tower height from 140' to 150', a lightning rod no taller than 6', and any associated ground equipment within the established lease area. This SUP shall supersede SUP 10-03 as the controlling approval for the use.

2. Compliance – Use and development of the subject property shall be in substantial conformance with these conditions. The Zoning Administrator shall determine “substantial conformance.” The property owner and/or business owner shall be responsible for obtaining all required County licenses, site plan approvals, building permits, health permits, VDOT permits, zoning permits, stormwater permits, and erosion and sediment control permits. The property owner and/or business owner shall be responsible for complying with all local, State, and Federal laws and regulations as may be applicable to the proposed use.
3. Uses – This SUP shall permit a “monopine” telecommunications tower with a maximum height of 150’, along with a lightning rod no greater than 6’ in length, for a maximum combined height of 156’, within a 40’ x 90’ fenced lease area to include associated ground equipment.

Restrictions listed in the lease agreement recorded in Instrument # 100003958, effective June 9, 2010, shall be adhered to with the exception of any height limitations which shall be controlled by these conditions.

Pursuant to Section 70-852 (g) of the Orange County Zoning Ordinance, the County shall be provided co-location opportunities on the proposed structure, free of charge, as a community benefit to improve electronic communications for County departments and emergency services.

4. Expiration – This SUP shall be deemed void if its use is not commenced within two years of approval or is discontinued for a period of two years.
5. Standards and Conditions –
 - a. Co-located users shall ensure the frequency in which they operate will not negatively affect the County's radio transmissions or other telecommunications.

Ayes: Johnson, White, Marshall, Frame. Nays: None. Absent: Crozier.

RE: CLOSED MEETING

At 6:05 p.m., Mr. Lacheney read the following motion authorizing Closed Meeting:

WHEREAS, the Orange County Board of Supervisors desired to discuss in Closed Meeting the following matters:

- Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community. - §2.2-3711(A)(5) of the Code of Virginia
- Consultation with legal counsel pertaining to actual or probable litigation, where such consultation in open meeting would adversely affect the negotiating or litigating posture of the public body concerning Wilderness Crossing and Rte. 33 Auto Repair. - §2.2-3711(A)(7) of the Code of Virginia
- Consultation with legal counsel employed or retained by the public body regarding specific legal matters requiring the provision of legal advice by such counsel concerning special elections, minimum road frontage issues, and building appeals. - §2.2-3711(A)(8) of the Code of Virginia

WHEREAS, pursuant to §§2.2-3711 (A)(5), (A)(7), and (A)(8) of the Code of Virginia, such discussions may occur in Closed Meeting;

NOW, THEREFORE, BE IT RESOLVED, that the Orange County Board of Supervisors hereby authorized discussion of the aforesaid matters in Closed Meeting.

On the motion of Mr. White, seconded by Mr. Frame, which carried by a vote of 4-0, with Mr. Crozier being absent, the Board adopted the resolution authorizing Closed Meeting, as presented. Ayes: Johnson, White, Marshall, Frame. Nays: None. Absent: Crozier.

RE: CERTIFICATION OF CLOSED MEETING

At 7:09 p.m., Ms. Simpson read the following resolution certifying Closed Meeting:

WHEREAS, the Orange County Board of Supervisors has, this day, adjourned into Closed Meeting in accordance with a formal vote, and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, the Freedom of Information Act requires certification that such Closed Meeting was conducted in conformity with the law;

NOW, THEREFORE, BE IT RESOLVED, that the Orange County Board of Supervisors hereby certified that, to the best of each member's knowledge, i) only public business matters lawfully exempted from open meeting requirements under the Freedom of Information Act were discussed in the Closed Meeting to which this certification applied, and ii) only such public business matters as were identified in the motion by which the said Closed Meeting was convened were heard, discussed or considered by it.

Ayes: Johnson, White, Marshall, Frame. Nays: None. Absent: Crozier.

RE: ADJOURN

On the motion of Mr. Frame, seconded by Mr. White, which carried by a vote of 4-0, with Mr. Crozier being absent, the Board adjourned the meeting at 7:09 p.m. Ayes: Johnson, White, Marshall, Frame. Nays: None. Absent: Crozier.

R. Mark Johnson, Chairman

Theodore L. Voorhees, County Administrator