

BOARD OF SUPERVISORS MINUTES**SEPTEMBER 12, 2023**

At a Regular Meeting of the Orange County Board of Supervisors held on Tuesday, September 12, 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; Keith F. Marshall; and Crystal D. Hale. Also present: Glenda E. Bradley, Deputy 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. Marshall, which carried by a vote of 5-0, the Board adopted the agenda, as presented. Ayes: Johnson, White, Marshall, Hale, Frame. Nays: None.

RE: SPECIAL PRESENTATIONS AND APPEARANCES**RE: BUSINESS SPOTLIGHT**

Jackie Kanupp, Owner of 2 Scoops Sweets & Treats, LLC, appeared before the Board to spotlight her business.

The Board thanked Ms. Kanupp for her presentation.

RE: CONSENT AGENDA

On the motion of Mr. Frame, seconded by Mr. White, which carried by a vote of 5-0, the Board adopted the Consent Agenda, as presented.

Ayes: Johnson, White, Marshall, Hale, Frame. Nays: None.

RE: FY24 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
30045004-35975	FA - DCJS for Sheriff	\$ 0.00	\$ (572.00)	\$ (572.00)
43120006-46800	Forfeited Asset Expenses	0.00	572.00	572.00
30052001-39900	Appropriated Fund Balance	(2,423,569.00)	(30,000.00)	(2,453,569.00)
49310001-47312	To County Capital Project	1,064,791.00	30,000.00	1,094,791.00
30030004-33260	Availability Fees	0.00	(30,000.00)	(30,000.00)
49400000-48005	Capital Project Development	(6,250.00)	30,000.00	23,750.00
30045010-35825	ICAC Program Proceeds	0.00	(7,000.00)	(7,000.00)
43120010-46800	Int. Crimes Against Children	0.00	7,000.00	7,000.00
30034005-34030	Sheriff OT Reimbursement	0.00	(1,159.00)	(1,159.00)
43120001-41200	Wages - Overtime	227,985.00	1,159.00	229,144.00
41211005-43100	Professional Serv. - Other	9,000.00	(300.00)	8,700.00
48155002-43100	Professional Serv. - Other	84,000.00	300.00	84,300.00
48155001-47737	To EDA Fund	138,796.00	300.00	139,096.00
30051009-39100	Transfer from General Fund	(138,796.00)	(300.00)	(139,096.00)
30030006-33500	Donations - Animal Shelter	(184.00)	(2,098.00)	(2,282.00)

43520003-43115	Prof. Serv. - Emergency Vet	619.00	2,098.00	2,717.00
30033502-33250	Miscellaneous	0.00	(7,999.00)	(7,999.00)
47310001-43210	Data Processing Server	91,690.00	7,999.00	99,689.00
TOTALS		\$ (951,918.00)	\$ 0.00	\$ (951,918.00)

RE: AMENDMENT TO THE YOUTH COUNCIL BYLAWS

As part of the Consent Agenda, the Board adopted the amendment to the Youth Council Bylaws, as presented.

RE: REQUEST FOR A SPEED AND SAFETY STUDY ON ROUTE 731 (TISDALE ROAD)

As part of the Consent Agenda, the Board adopted the following resolution, as presented:

RESOLUTION REQUESTING THAT THE VIRGINIA DEPARTMENT OF TRANSPORTATION
(VDOT) CONDUCT A SPEED AND SAFETY STUDY ON ROUTE 731 (TISDALE ROAD) IN
ORANGE COUNTY, VIRGINIA

WHEREAS, it is the intention of the Orange County Board of Supervisors to protect the health, safety, and welfare of all its citizens; and

WHEREAS, the Board of Supervisors has received a request for a speed and safety study on Route 731 (Tisdale Road), as travelers appear to be using speeds in excess of the current road and neighborhood conditions; and

WHEREAS, the Board feels that posting the appropriate speed limit, safety signage, and pavement markings would significantly improve the safety on this roadway for all residents and travelers;

NOW, THEREFORE, BE IT RESOLVED, on this 12th day of September, 2023, that the Orange County Board of Supervisors hereby requests that the Virginia Department of Transportation conduct a speed and safety study on Route 731 (Tisdale Road) in Orange County, Virginia, as described above.

RE: ADOPTION OF THE APRIL 13, 2023 ECONOMIC DEVELOPMENT PARTNERSHIP GROUP MEETING MINUTES

As part of the Consent Agenda, the Board adopted the April 13, 2023 Economic Development Partnership Group Meeting minutes, as presented.

RE: ADOPTION OF THE AUGUST 8, 2023 REGULAR MEETING MINUTES

As part of the Consent Agenda, the Board adopted the August 8, 2023 Regular Meeting minutes, as presented.

RE: ADOPTION OF THE AUGUST 22, 2023 REGULAR MEETING MINUTES

As part of the Consent Agenda, the Board adopted the August 22, 2023 Regular Meeting minutes, as presented.

RE: NEW BUSINESS

RE: ADJUSTMENTS TO THE CHILDCARE FEE SCHEDULE

Alisha Vines, Office on Youth Director, explained that the COVID-19 Pandemic had wreaked financial havoc on the childcare programs, as site enrollment had to be limited and the

price of goods increased, but access to Federal funding kept the sites operational without cost to the County. She noted, however, that after reviewing the end of year revenue and expenditures for FY23, it did not appear that the fee schedule correlated appropriately to the times of operation and the costs of operating the programs, meaning the programs could not be self-sufficient, as intended.

Ms. Vines presented proposed childcare fee schedule adjustments, which would address the rising cost of goods and services used in the programs, the changes to staff compensation, and would appropriately correlate the fees to the amount of time the children were in morning care versus afternoon care. The proposed adjustments would also increase the fees for the summer childcare rates for 2024. In order to provide adequate notice to parents, Ms. Vines asked that the changes become effective on October 16, 2023.

Ms. Vines indicated the last time the fees had been adjusted was in 2021. She noted staff would continue to review the fees annually, as well as continue to perform bi-annual rate comparisons to similar surrounding programs, in order to ensure the programs remained affordable and self-sufficient, as intended.

Discussion ensued among the Board regarding: the desire to see the data on the financial shortcomings of the programs; whether the programs could naturally come out of the COVID deficits without rate increases; other ideas or ways to be self-sufficient and break even financially; the fact that the Board policy was for these programs to be self-supporting and that staff was simply complying with that objective; whether other cuts or changes were possible to avoid fee increases; the need to cover salary increases and increases in the cost of goods and services; and the number of employees utilizing the childcare programs versus non-employees.

Mr. Frame made a motion to approve the adjustments to the childcare fee schedule, as presented, but the motion died for lack of a second.

Further discussion ensued among the Board regarding: the desire to see additional program financial data before making a decision.

By consensus, the Board deferred action on the matter, instead requesting that staff prepare additional program financial data for presentation to the Board before making a decision at a future meeting.

RE: AWARD OF A CONTRACT FOR AERIAL IMAGERY SERVICES

Amanda Amos, Contract and Procurement Specialist, stated that staff released a solicitation in June requesting proposals from qualified firms to provide aerial imagery services to the County. She explained the services requested included the capture of aerial imagery to supplement timely field inspections with a computer-assisted office review, with imagery meeting or exceeding the conditions of IAAO Standard 3.3.5. The solicitation was advertised on the County's website, in The Orange Review, and on eVA, and two responses were received.

Ms. Amos noted that, after interviewing both firms, staff agreed Eagleview could provide the aerial imagery services needed to best assist the County. Eagleview had signed agreements with both Concise Systems and Tyler Technologies, which the County already utilized for Computer Aided Mass Appraisal and EnerGov. She stated that Eagleview had over 2,000 local government clients, and they could meet the County's deadline with an impressive fleet of more than 130 aircraft, 500+ cameras, and a vast processing/production staff.

Ms. Amos reported that costs for these services totaled \$50,043 annually, which included six-inch Ortho and Oblique image frames, software, training, and sketch inspections. She noted that funding had been included in the adopted budget for FY24.

Discussion ensued among the Board regarding: whether this was a step closer to the in-house assessment department; the ability to use less staff while still meeting the certification

requirements; whether additional hardware or software would be needed for this service; the fact that street level imagery was still needed as well; accessibility of the imagery to citizens; and the need to address privacy concerns if the imagery was shared publicly.

On the motion of Mr. White, seconded by Mr. Marshall, which carried by a vote of 5-0, the Board authorized staff to enter into a contract with Eagleview for aerial imagery services for Orange County, as presented.

Ayes: Johnson, White, Marshall, Hale, Frame. Nays: None.

RE: ZONING COMPLAINT PROCEDURE

Supervisor Marshall indicated that an anonymous zoning complaint had recently been received and he questioned whether the complaint was valid, given that the complaint form he located on the County's website did not allow for anonymous submissions.

Discussion ensued among the Board regarding: the fact that neither State Code nor County Code required the name of the complainant and that the Freedom of Information Act allowed for that information to be withheld, if provided; the idea that the County Administrator could provide the complainant's information to parties who may need to know; understanding the motivation behind complaints; the idea that providing a name gave legitimacy to a complaint; the various avenues available to submit a complaint; staff's process for addressing or reviewing complaints; whether the Board reviewed the SOPs for Development Services; and the bottom line being that anonymous complaints were currently accepted, unless the Board made a determination to change that.

The Board took the information regarding the zoning complaint procedure under advisement, and there was no action taken at this time.

RE: OLD BUSINESS

There were no matters for Old Business at this time.

RE: DEPARTMENT DIRECTOR / CONSTITUTIONAL OFFICER REPORTS

There were no Department Director or Constitutional Officer Reports at this time.

RE: COUNTY ATTORNEY'S REPORT

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

RE: COUNTY ADMINISTRATOR'S REPORT

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

RE: BOARD COMMENT

There was no Board Comment at this time.

RE: INFORMATIONAL ITEMS

The Board received the following correspondence for its information:

- CSA Monthly Report
- Office on Youth Quarterly Report
- Library Semi-Annual Report
- VDOT Monthly Report for August

RE: APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

By consensus, the Board appointed Jim White as the Board of Supervisors Representative on the Health Center Commission, filling the unexpired one-year term of Lee Frame, with said term commencing October 1, 2023, and expiring on December 31, 2023.

RE: CALENDAR

The Board received copies of its calendar of meetings for the months of September 2023, October 2023, and November 2023.

RE: PUBLIC HEARING #1; REDUCTION TO PERSONAL PROPERTY TAX RATE

Glenda Bradley, Deputy County Administrator, explained that the Board had previously adopted an emergency ordinance on August 22, 2023, in order to reduce the personal property tax rate for automobiles, trucks, and motorcycles for Tax Year 2023. Since the ordinance was adopted under the emergency provision of the Code of Virginia, this required Public Hearing had been scheduled for the Board to consider adoption of the final ordinance, which would ratify the emergency ordinance previously adopted.

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

REDUCTION TO PERSONAL PROPERTY TAX RATE

Pursuant to §58.1-3012 of the Code of Virginia, the Board of Supervisors will consider an ordinance to amend the personal property tax rate for automobiles, trucks, and motorcycles, which was previously adopted by ordinance on April 25, 2023. Said ordinance proposes to reduce the personal property tax rate for automobiles, trucks, and motorcycles from \$3.85 per \$100 assessed valuation down to \$3.60 per \$100 assessed valuation for Tax Year 2023.

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

On the motion of Mr. Frame, seconded by Ms. Hale, which carried by a roll call vote of 5-0, the Board adopted the following ordinance, as presented:

ORDINANCE TO AMEND TAX LEVIES FOR THE TAX YEAR BEGINNING JANUARY 1, 2023

WHEREAS, notice was advertised of proposed tax levies pursuant to §§15.2-1427, 58.1-3007, and 58.1-3604 of the Code of Virginia; and

WHEREAS, the Board of Supervisors conducted a duly-advertised Public Hearing on April 18, 2023, to receive public comment; and

WHEREAS, tax levies were adopted by the Board of Supervisors on April 25, 2023, based on estimated personal property values at that time; and

WHEREAS, values for certain personal property have substantially exceeded those estimates, resulting in the need for amendment to the originally-adopted rates; and

WHEREAS, the Board of Supervisors previously adopted an emergency ordinance on August 22, 2023, to reduce the personal property tax rate for automobiles, trucks, and motorcycles; and

WHEREAS, in order to adopt the final ordinance, the Board of Supervisors has conducted a duly-advertised Public Hearing on September 12, 2023, to receive public comment;

NOW, THEREFORE, BE IT ORDAINED, on this 12th day of September, 2023, that the Orange County Board of Supervisors, in accordance with §58.1-3012 of the Code of Virginia, hereby amends the

originally-adopted tax levies for the County of Orange, Virginia, as follows, for the tax year beginning January 1, 2023:

REAL ESTATE, pursuant to §58.1-3000 VA Code Ann., including equalized public service corporation real estate as defined by §58.1-2605 VA Code Ann., including a manufactured home as defined by §36-85.3 VA Code Ann.: \$0.61 per \$100.00 of assessed valuation (subject to County land use tax ordinance and ordinance granting tax relief for the elderly and handicapped).

COUNTY-WIDE FIRE AND EMS DISTRICT, pursuant to §27.23.1 VA Code Ann.: \$0.14 per \$100.00 of assessed valuation.

MOBILE HOMES CLASSIFIED AS PERSONAL PROPERTY, pursuant to §36-85.3 VA Code Ann. and pursuant to §58.1-3506(A)(10) VA Code Ann.: \$0.75 per \$100.00 of assessed valuation.

TANGIBLE PERSONAL PROPERTY - AUTOMOBILES, TRUCKS, AND MOTORCYCLES, pursuant to §58.1-3000 VA Code Ann. and classified by §58.1-3506.48 VA Code Ann., including automobiles, trucks, and motorcycles: \$3.60 per \$100.00 of assessed valuation.

TANGIBLE PERSONAL PROPERTY - REGULAR, pursuant to §58.1-3000 VA Code Ann. and classified by §58.1-3500 through -3506.1 VA Code Ann., including but not limited to, other motor vehicles, but excluding automobiles, trucks, and motorcycles included in other categories, watercraft and boats, aircraft, forest harvesting machinery and farm machinery, and business tangible personal property: \$3.75 per \$100.00 of assessed valuation (subject to County ordinance granting exemption for pollution control equipment).

BUSINESS TANGIBLE PERSONAL PROPERTY, pursuant to §58.1-3506(A)(26) VA Code Ann., including furniture, equipment, trade fixtures, hand-powered tools, office machines, business mobile telephones, books, signs, and other tangible personal property used in business except for automobiles or trucks, which will be taxed as tangible personal property: \$2.20 per \$100.00 of assessed valuation.

PROGRAMMABLE COMPUTER EQUIPMENT AND PERIPHERALS USED IN A TRADE OR BUSINESS, pursuant to §58.1-3506(A)(27) VA Code Ann.: \$2.20 per \$100.00 of assessed valuation.

AIRCRAFT, pursuant to §58.1-3506(A)(2), (3), (4) and (5) VA Code Ann.: \$0.00 per \$100.00 of assessed valuation.

WATERCRAFT AND BOATS, pursuant to §58.1-3506(A)(1)(a), (1)(b), (12), (28), (29), (35) and (36) VA Code Ann.: \$2.09 per \$100.00 of assessed valuation.

PRIVATELY OWNED MOTOR HOMES USED FOR RECREATIONAL PURPOSES, pursuant to §58.1-3506(A)(30) VA Code Ann.: \$2.62 per \$100.00 of assessed valuation.

ALL OTHER RECREATIONAL VEHICLES, pursuant to §58.1-3506 (A)(18), §58.1-3506(B) VA Code Ann., including but not limited to, privately owned camping and travel trailers, and certain trailers used for the transportation of horses: \$2.62 per \$100.00 of assessed valuation.

FARM MACHINERY, pursuant to §58.1-3505(8) and (10) VA Code Ann.: \$0.00 per \$100.00 of assessed valuation.

MACHINERY AND TOOLS, pursuant to §58.1-3507 VA Code Ann.: \$1.831 per \$100.00 of assessed valuation.

COMPUTER EQUIPMENT & PERIPHERALS USED IN A DATA CENTER, pursuant to §58.1-3506(A)(43) VA Code Ann.: \$1.25 per \$100.00 of assessed valuation.

HEAVY CONSTRUCTION EQUIPMENT, pursuant to §58.1-3508.2 VA Code Ann.: \$2.20 per \$100.00 of assessed valuation.

FOREST HARVESTING MACHINERY, pursuant to §58.1-3508 VA Code Ann.: \$0.00 per \$100.00 of assessed valuation.

MERCHANTS' CAPITAL, pursuant to §58.1-3000 and §58.1-3509 *et seq.* VA Code Ann.: \$0.40 per \$100.00 of assessed valuation.

MOTOR VEHICLE LICENSE TAX, pursuant to §46.2-752 VA Code Ann. and §62-36 *et seq.* Orange County Code: \$35.00 per year for cars and trucks, and \$21.00 per year for motorcycles.

BE IT FURTHER ORDAINED, that this ordinance hereby ratifies the emergency ordinance previously adopted by the Board of Supervisors on August 22, 2023.

Ayes: Johnson, White, Marshall, Hale, Frame. Nays: None.

RE: PUBLIC HEARING #2; REZ 23-05

Kyra Davis, Planner, presented the staff report and request for Rezoning from Kaci Elmore and Matt Barrett, which included information on the location and specifications of the subject property, the request to rezone to Agricultural (A) in order to allow for a manufactured home to be constructed, and the recommendation of approval from the Planning Commission.

Kaci Elmore, Applicant, and her grandfather, Hector Elmore, offered their comments on the request, indicating the property had been used for agriculture for many years and they simply wanted to construct a manufactured home for their family at this time.

At 6:12 p.m., Chairman Johnson called the Public Hearing to order to receive comments on the following:

REZ 23-05

The Board of Supervisors will consider an application from Kaci Elmore and Matt Barrett to rezone property on the south side of James Madison Highway (Route 15) adjacent to 19051 James Madison Highway, Gordonsville, from General Residential (R-2) to Agricultural (A). The property is identified as Tax Map Parcel 68-132A and contains approximately 5 acres. The property is situated in the Town/Suburban Recommended Future Land Use category, as described in the Orange County Comprehensive Plan.

There being no speakers, Chairman Johnson closed the Public Hearing at 6:12 p.m.

On the motion of Mr. Frame, seconded by Mr. Johnson, which carried by a roll call vote of 5-0, the Board adopted the following ordinance, as presented:

ORDINANCE APPROVING REZ 23-05 TO REZONE APPROXIMATELY 5 ACRES FROM GENERAL RESIDENTIAL (R-2) TO AGRICULTURAL (A), REQUESTED BY KACI ELMORE AND MATT BARRETT

WHEREAS, Kaci Elmore and Matt Barrett have requested the rezoning of property on the south side of James Madison Highway (Route 15) adjacent to 19051 James Madison Highway, Gordonsville, identified as Tax Map No. 68-132A, totaling approximately 5 acres, from General Residential (R-2) 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 August 17, 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 September 12, 2023; and

WHEREAS, following the Public Hearing and 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 12th day of September, 2023, that the Orange County Board of Supervisors hereby approves REZ 23-05 to rezone property on the south side of James Madison Highway (Route 15) adjacent to 19051 James Madison Highway, Gordonsville, identified as Tax Map No. 68-132A, totaling approximately 5 acres, from General Residential (R-2) 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. 230912 - PH2
by the Orange County Board of Supervisors
on September 12, 2023

REZ 23-05: Kaci Elmore and Matt Barrett

From General Residential (R-2) to Agricultural (A)

Tax Map No. 68-132A

This Legal Summary for this zoning map amendment (Rezoning) shall apply to the property identified on County Tax Map No. 68-132A, 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 June 2, 2023.
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 described in the application documents.

Ayes: Johnson, White, Marshall, Hale, Frame. Nays: None.

RE: PUBLIC HEARING #3; REZ 23-06

Kyra Davis, Planner, presented the staff report and request for Rezoning from Hector and Karen Elmore, which included information on the location and specifications of the subject property, the request to rezone the split-zoned portion to Agricultural (A) in order to legally allow access to an adjoining parcel, and the recommendation of approval from the Planning Commission.

Hector Elmore, Applicant, offered his comments on the request, indicating this rezoning would allow him to legally provide access, through an easement, to the adjoining parcel owned by his granddaughter, which was approved for rezoning in the previous public hearing.

At 6:18 p.m., Chairman Johnson called the Public Hearing to order to receive comments on the following:

REZ 23-06

The Board of Supervisors will consider an application from Hector and Karen Elmore to rezone a portion of property located at 19051 James Madison Highway, Gordonsville, from General Residential (R-2) to Agricultural (A). The property is identified as Tax Map Parcel 68-132 and the subject portion contains approximately 3.2 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 6:18 p.m.

On the motion of Mr. Johnson, seconded by Mr. Marshall, which carried by a roll call vote of 5-0, the Board adopted the following ordinance, as presented:

ORDINANCE APPROVING REZ 23-06 TO REZONE APPROXIMATELY 3.2 ACRES FROM GENERAL RESIDENTIAL (R-2) TO AGRICULTURAL (A), REQUESTED BY HECTOR AND KAREN ELMORE

WHEREAS, Hector and Karen Elmore have requested the rezoning of a portion of property located at 19051 James Madison Highway, Gordonsville, identified as Tax Map No. 68-132, totaling approximately 3.2 acres, from General Residential (R-2) 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 August 17, 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 September 12, 2023; and

WHEREAS, following the Public Hearing and 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 12th day of September, 2023, that the Orange County Board of Supervisors hereby approves REZ 23-06 to rezone a portion of property located at 19051 James Madison Highway, Gordonsville, identified as Tax Map No. 68-132, totaling approximately 3.2 acres, from General Residential (R-2) 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. 230912 - PH3
by the Orange County Board of Supervisors
on September 12, 2023

REZ 23-06: Hector and Karen Elmore

From General Residential (R-2) to Agricultural (A)

Tax Map No. 68-132

This Legal Summary for this zoning map amendment (Rezoning) shall apply to the property identified on County Tax Map No. 68-132, 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 June 5, 2023.
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 described in the application documents.

Ayes: Johnson, White, Marshall, Hale, Frame. Nays: None.

RE: PUBLIC HEARING #4; SUP 23-02

Kyra Davis, Planner, presented the staff report and request for Special Use Permit from Michael Young, which included information on the location and specifications of the subject property, the request to allow a commercial recreational use which conducts regular mud-bogging events throughout the year, and the recommendation of approval from the Planning Commission.

Discussion ensued among the Board regarding: clarification on the number of yearly events recommended for approval by the Planning Commission; addressing the environmental concerns in the conditions for approval; and the locations where the decibel level measurements were taken.

Michael Young, Applicant, did not have additional comments to offer.

Further discussion ensued among the Board regarding: the significance of six (6) events per year, as requested, versus the three (3) events per year, as recommended by the Planning Commission; and whether the events were covered by insurance paid by the applicant.

At 6:29 p.m., Chairman Johnson called the Public Hearing to order to receive comments on the following:

SUP 23-02

The Board of Supervisors will consider a Special Use Permit application from Michael Young to allow a commercial recreational use which conducts regular mud-bogging events throughout the year, on property located at 13253 Winter Lane, Unionville. The property is identified as Tax Map Parcel 49-53B, contains 53.83 acres, and is zoned Agricultural (A). The property is situated in the Agricultural (A2) Recommended Future Land Use category, as described in the Orange County Comprehensive Plan.

The following individual spoke:

- Catherine Young-Turgal, 27235 Sunnyside Road, Unionville

There being no further speakers, Chairman Johnson closed the Public Hearing at 6:33 p.m.

Further discussion ensued among the Board regarding: discouraging or limiting the use of Stonesifer Lane to access the events; the number of estimated vehicle trips equal to 1,800 attendees; the volume of vehicles using the local roads to access the events; attendance levels observed at the recent events held under temporary use permits; whether camping or overnight stays were permitted on the property; whether alcohol was allowed at the events and how the “no alcohol” rule was enforced; clarification on the “controlling documents” and the information included in the application and narrative; the staggered arrival and departure of racers and spectators; addressing traffic impacts and backups at key intersections; comments from event security; and site improvements that had been made to facilitate access to the site and to conduct the events.

On the motion of Mr. Frame, seconded by Ms. Hale, which carried by a roll call vote of 5-0, the Board adopted the following ordinance, as modified:

ORDINANCE APPROVING SUP 23-02 TO ALLOW A COMMERCIAL RECREATIONAL USE FOR
CONDUCTING REGULAR MUD-BOGGING EVENTS ON TAX MAP NO. 49-53B, REQUESTED BY
MICHAEL YOUNG

WHEREAS, Michael Young applied for a Special Use Permit to allow a commercial recreational use which conducts regular mud-bogging events throughout the year, on property located at 13253 Winter Lane, Unionville, referenced as Tax Map No. 49-53B, containing 53.83 acres, and zoned as Agricultural (A), pursuant to Section 70-303 *et seq.* of the Orange County Zoning Ordinance; and

WHEREAS, the Planning Commission advertised and conducted a Public Hearing on the request on August 3, 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 September 12, 2023; and

WHEREAS, following the Public Hearing and 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 12th day of September, 2023, that the Orange County Board of Supervisors hereby approves SUP 23-02 to allow a commercial recreational use which conducts regular mud-bogging events throughout the year, on property located at 13253 Winter Lane, Unionville, referenced as Tax Map No. 49-53B, subject to the five (5) conditions and nineteen (19) sub-conditions as set forth below, as modified during the Public Hearing.

Conditions for Approval

As adopted in Ord. No. 230912 - PH4
by the Orange County Board of Supervisors
on September 12, 2023

SUP 23-02: Young

*To allow a commercial recreational use which conducts
regular mud-bogging events throughout the year*

Tax Map No. 49-53B

The conditions of this Special Use Permit ("SUP") shall apply to the property identified on County Tax Map No. 49-53B, 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 February 20, 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 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 allow commercial recreational use events; to wit: mud-bogging events and all-terrain vehicle (ATV) events, as generally described in the application.

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. The events are to be limited to between the hours of 7:00 a.m. and 10:00 p.m., with event start time no earlier than 11:00 a.m.
 - b. There are no events to be held on consecutive weekends.
 - c. The only event that may occur on a Sunday is during Memorial Day weekend.
 - d. The events shall not be hosted more than six (6) times in any calendar year, between the months of May through October.
 - e. All spectator areas shall be set back a minimum of 100' from the track. Staff, emergency services, and event competitors are the only exception to this condition.
 - f. There shall be a minimum of two portable toilets per 100 expected attendees. The number of required portable toilets shall double for attendance above 1,000.
 - g. Shall food be available for sale that requires permits through the Virginia Department of Health (VDH), the owner is responsible for acquiring said permits through VDH and providing copies to Planning and Zoning staff before the event.
 - h. All lighting used for events shall be temporary in nature and are to be operated only during designated event hours.
 - i. The use shall not cause mud to be tracked off the property onto any surrounding roadways. Repeated violations of this condition shall be cause for review by the Board of Supervisors to consider revocation of the SUP.
 - j. On the occasion that increased attendance at the events on the property causes traffic volumes on Tower Road to increase significantly, the County and/or the Virginia Department of Transportation (VDOT), in their sole discretion, may require additional transportation improvements as warranted to preserve the safety and efficiency of the roadway in this area.
 - k. A 100-foot no disturbance buffer shall be established from the top of the stream bank of Terry's Run. No part of the use shall be located in the southeastern part of the property designated as floodplain.
 - l. The smaller stream below the pond, as shown on the Concept Plan, shall have a 35-foot no disturbance buffer. The event area shall also not be within 35' of the stream and pond.
 - m. The applicant shall take necessary dust control measures for Winter Lane, to include wetting the gravel roadway surface, prior to each event.
 - n. Temporary Stop Signs shall be placed at the intersection of Winter Lane and Stonesifer Lane prior to each event.
 - o. VDOT Event Signs shall be placed on Tower Road prior to each event, subject to necessary VDOT permit requirements.
 - p. Speed Limit Signs of 10 mph shall be placed on Winter Lane for each event.

- q. Trained security and EMS personnel shall be present for each event. At least one of each shall be present for attendance up to 1,000, and at least two of each shall be present for attendance above 1,000.
- r. No event shall have more than 1,800 attendees at any given time.
- s. The owner shall contact and confirm with the Virginia Department of Environmental Quality that surface water withdrawals from any nearby stream for the proposed use are permitted. If permitted, such documentation, including any necessary permits, shall be provided to the County. If not permitted, the owner shall not be permitted to withdrawal water from any stream for any element of the proposed use.

Ayes: Johnson, White, Marshall, Hale, Frame. Nays: None.

RE: PUBLIC HEARING #5; REZ 23-03

Josh Frederick, Planning and Zoning Services Manager, presented the staff report and request for Rezoning from NVR, Inc. and Twin Lakes, LLC, which included information on the location and specifications of the subject properties, the request to rezone in order to amend the proffers on the subject properties approved in 1996 (REZ 96-08) that capped 70% of the units at two bedrooms, and the recommendation of approval from the Planning Commission.

Sherman Patrick, of Compton and Duling, LC, spoke on behalf of NVR, Inc., Applicant. Mr. Patrick shared details behind the original proffer that capped the number of bedrooms in 1996, as there was concern with water availability and with an increase in school-aged children that would prompt the need for a new school. Now that those specific concerns were no longer valid, the request was to amend the rezoning to remove the proffer that capped the number of bedrooms. Mr. Patrick reminded the Board that this development was already age-restricted.

Discussion ensued among the Board regarding: whether the third bedroom could be accomplished with changes to the floor plan only, and not with an expansion to the footprint; inclusion of a closet in the third bedroom; and whether estimated water consumption was based on the number of bedrooms.

At 7:12 p.m., Chairman Johnson called the Public Hearing to order to receive comments on the following:

REZ 23-03

The Board of Supervisors will consider an application from NVR, Inc. and Twin Lakes, LLC to rezone a series of properties, totaling approximately 63.54 acres, located along Germanna Highway (Route 3) at the Twin Lakes Subdivision, Locust Grove, from Multifamily Residential (R-4) Conditional to Multifamily Residential (R-4) Conditional. Specifically, the application requests an amendment to proffers approved in 1996 (REZ 96-08) to remove a requirement that at least 70% of the units be capped at 2 bedrooms. The Board will concurrently consider removal of the same proffer from the remaining parcels, not included in the application, totaling approximately 8.87 acres, located in the same area as the subject parcels. A map of the subject parcels is available at: orangecountyva.gov/DocumentCenter/View/5626.

There being no speakers, Chairman Johnson closed the Public Hearing at 7:12 p.m.

On the motion of Mr. Frame, seconded by Mr. White, which carried by a roll call vote of 5-0, the Board adopted the following ordinance, as presented:

ORDINANCE APPROVING REZ 23-03 TO REZONE APPROXIMATELY 63.54 ACRES FROM MULTIFAMILY RESIDENTIAL (R-4) CONDITIONAL TO MULTIFAMILY RESIDENTIAL (R-4) CONDITIONAL, AND AN ADDITIONAL APPROXIMATELY 8.87 ACRES, IN ORDER TO AMEND THE EXISTING PROFFERS CAPPING THE NUMBER OF BEDROOMS IN THE UNITS, REQUESTED BY

COMPTON AND DULING LC, ON BEHALF OF NVR, INC., AND TWIN LAKES, LLC, AND BY THE
COUNTY OF ORANGE

WHEREAS, Compton and Duling LC, on behalf of NVR, Inc. and Twin Lakes, LLC, have requested the rezoning of a series of properties located along Germanna Highway (Route 3) at the Twin Lakes Subdivision, Locust Grove, totaling approximately 63.54 acres, from Multifamily Residential (R-4) Conditional to Multifamily Residential (R-4) Conditional in order to amend the existing proffers capping the number of bedrooms in the units, pursuant to Section 70-191 *et seq.* of the Zoning Ordinance; and

WHEREAS, the specific Tax Map Nos. include: 12-18, 12D(1B)14, 12D(1B)15, 12D(1B)16, 12D(1B)17, 12D(1B)18, 12D(1C)19, 12D(1C)20, 12D(1C)21, 12D(1C)22, 12D(1C)23, 12D(1C)24, 12D(1C)25, 12D(1C)26, 12D(1C)27, 12D(1C)28, 12D(1C)29, 12D(1C)30, 12D(1C)31, 12D(1C)32, 12D(1C)33, 12D(1C)34, 12D(1C)35, 12D(1C)36, 12D(1C)37, 12D(1C)38, 12D(1C)39, 12D(1C)40, 12D(1C)41, 12D(1C)42, 12D(1C)43, 12D(1C)44, 12D(1C)45, 12D(1C)46, 12D(1C)47, 12D(1C)48, 12D(1C)49, 12D(1C)50, 12D(1C)51, 12D(1C)52, 12D(1C)53, 12D(1C)54, 12D(1C)55, 12D(1C)70, 12D(1C)71, 12D(1C)72, 12D(1C)73, 12D(1C)74, 12D(1C)75, 12D(1C)76, 12D(1C)77, 12D(1C)78, 12D(1C)79, 12D(1C)80, 12D(1C)81, 12D(1C)82, 12D(1C)83, 12D(1C)84, 12D(1C)85, 12D(1C)86, 12D(1C)87, 12D(1C)88, 12D(1C)89, 12D(1C)90, 12D(1C)91, 12D(1C)92, 12D(1C)93, 12D(1C)94, 12D(1C)95, 12D(1C)96, 12D(1C)97, 12D(1C)98, 12D(1C)99, 12D(1C)100, 12D(1C)101, 12D(1C)102, 12D(1C)103, 12D(1C)S, 12D(1B)S, 12D(1B)118, 12D(1B)119, 12D(1A)A, and 12D(1C)C; and

WHEREAS, the application requests to remove a proffer from the Recorded Proffer Statement from REZ 96-08, being identified as Proffer 4; and

WHEREAS, the County seeks to abandon the same proffer from the remaining properties of the Twin Lakes Subdivision, which were not included as part of the application, totaling approximately 8.96 acres, from Multifamily Residential (R-4) Conditional to Multifamily Residential (R-4) Conditional; and

WHEREAS, those specific Tax Map Nos. include: 12D(1A)1, 12D(1A)2, 12D(1A)3, 12D(1A)4, 12D(1A)5, 12D(1A)6, 12D(1A)7, 12D(1A)8, 12D(1A)9, 12D(1A)10, 12D(1A)11, 12D(1A)12, 12D(1A)56, 12D(1A)57, 12D(1A)58, 12D(1A)59, 12D(1A)60, 12D(1A)61, 12D(1A)62, 12D(1A)63, 12D(1A)64, 12D(1A)65, 12D(1A)66, 12D(1A)67, 12D(1A)68, 12D(1A)69, 12D(1A)122, 12D(1A)123, 12D(1A)124, 12D(1A)125, 12D(1A)126, 12D(1A)127, 12D(1A)128, 12D(1A)129, 12D(1A)130, 12D(1A)131, 12D(1A)132, 12D(1A)133, 12D(1A)134, 12D(1A)135, 12D(1A)136, 12D(1A)137, 12D(1A)138, 12D(1A)139, 12D(1A)140, 12D(1A)141, 12D(1A)142, 12D(1A)143, 12D(1B)104, 12D(1B)105, 12D(1B)106, 12D(1B)107, 12D(1B)108, 12D(1B)109, 12D(1B)110, 12D(1B)111, 12D(1B)112, 12D(1B)113, 12D(1B)114, 12D(1B)115, 12D(1B)116, 12D(1B)117, 12D(1B)120, 12D(1B)121, 12D(1B)122, 12D(1B)123, 12D(1B)124, 12D(1B)125, 12D(1B)126, 12D(1B)127, 12D(1B)128, 12D(1B)129, and 12D(1B)13; and

WHEREAS, the Planning Commission advertised and conducted a Public Hearing on the request on August 17, 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 September 12, 2023; and

WHEREAS, following the Public Hearing and 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 12th day of September, 2023, that the Orange County Board of Supervisors hereby approves REZ 23-03 to rezone the series of properties in the Twin Lakes Subdivision identified above, from Multifamily Residential (R-4) Conditional to Multifamily Residential (R-4) Conditional in order to amend the proffers, subject to the Legal Summary and the proffers dated May 23, 2023, as attached to the original Ordinance retained in the County Administrator's Office, as presented during the Public Hearing; and

BE IT FURTHER ORDAINED, that this Rezoning and the proffers supersede and replace the action taken and the proffers previously adopted for the subject properties as part of REZ 96-08.

Ayes: Johnson, White, Marshall, Hale, Frame. Nays: None.

RE: CLOSED MEETING

At 7:15 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, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of the public body concerning FOIA processing and Planning and Zoning Services. - §2.2-3711(A)(1) 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 Unionville Brewing, FOIA processing, and Planning and Zoning Services. - §2.2-3711(A)(8) of the Code of Virginia

WHEREAS, pursuant to §§2.2-3711 (A)(1) 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 aforesated matters in Closed Meeting.

On the motion of Mr. Frame, seconded by Mr. White, which carried by a vote of 5-0, the Board adopted the resolution authorizing Closed Meeting, as presented. Ayes: Johnson, White, Marshall, Hale, Frame. Nays: None.

RE: CERTIFICATION OF CLOSED MEETING

At 8:51 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, Hale, Frame. Nays: None.

RE: ADJOURN

On the motion of Mr. Frame, seconded by Mr. White, which carried by a vote of 5-0, the Board adjourned the meeting at 8:51 p.m. Ayes: Johnson, White, Marshall, Hale, Frame. Nays: None.

R. Mark Johnson, Chairman

Theodore L. Voorhees, County Administrator