

MINUTES
ORANGE COUNTY PLANNING BOARD
MARCH 4, 2015
REGULAR MEETING

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MEMBERS PRESENT: Peter Hallenbeck (Chair), Cheeks Township Representative; Lisa Stuckey (Vice-Chair), Chapel Hill Township Representative; Maxecine Mitchell, At-Large Bingham Township; Herman Staats, At-Large, Cedar Grove Township; James Lea, Cedar Grove Township Representative; Tony Blake, Bingham Township Representative; Laura Nicholson, Eno Township Representative; Paul Guthrie, At-Large Chapel Hill Township; Buddy Hartley, Little River Township Representative; Bryant Warren, Hillsborough Township Representative; Lydia Wegman-At-Large Chapel Hill Township;

MEMBERS ABSENT: Andrea Rohrbacher, At-Large Chapel Hill Township;

STAFF PRESENT: Craig Benedict, Planning Director; Perdita Holtz, Special Projects Coordinator; Michael Harvey, Current Planning Supervisor; Tina Love, Administrative Assistant II;

OTHERS PRESENT: Tim and Ruth Sukow, Joe Forrest, Doug Efland, Marsha Efland, Lindsay and Knox Efland

AGENDA ITEM 1: CALL TO ORDER AND ROLL CALL

AGENDA ITEM 2: INFORMATIONAL ITEMS

- a) Planning Calendar for March and April
- b) JPA Public Hearing item for March 26, 2015 (initiated by Town of Chapel Hill) scheduled for May Planning Board meeting for a recommendation.

Perdita Holtz: The Town of Chapel Hill pulled their application because they need to iron out details and it wouldn't have been ready in time so we are going to wait until October's Joint Planning Hearing.

**AGENDA ITEM 3: APPROVAL OF MINUTES
FEBRUARY 4, 2015 REGULAR MEETING**

Tina Love: There were two minor corrections submitted by via email by Tony that are highlighted in yellow.

MOTION by Lisa Stuckey to approve the February 4, 2014 Planning Board minutes with corrections. Seconded by Tony Blake.

VOTE: UNANIMOUS

AGENDA ITEM 4: CONSIDERATION OF ADDITIONS TO AGENDA

AGENDA ITEM 5: PUBLIC CHARGE

Introduction to the Public Charge

The Board of County Commissioners, under the authority of North Carolina General Statute, appoints the Orange County Planning Board (OCPB) to uphold the written land development laws of the County. The general purpose of OCPB is to guide and accomplish coordinated and harmonious development. OCPB shall do so in a manner which considers the present and future needs of its citizens and businesses through efficient and responsive process that contributes to and promotes the health, safety, and welfare of the overall County. The OCPB will make every effort to uphold a vision of responsive governance and quality public services during our deliberations, decisions, and recommendations.

55 **PUBLIC CHARGE**
56 The Planning Board pledges to the citizens of Orange County its respect. The Board asks its
57 citizens to conduct themselves in a respectful, courteous manner, both with the Board and with
58 fellow citizens. At any time, should any member of the Board or any citizen fail to observe this
59 public charge, the Chair will ask the offending member to leave the meeting until that individual
60 regains personal control. Should decorum fail to be restored, the Chair will recess the meeting
61 until such time that a genuine commitment to this public charge is observed.
62

63 **AGENDA ITEM 6: CHAIR COMMENTS**

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65 **AGENDA ITEM 7: COMPREHENSIVE PLAN, UNIFIED DEVELOPMENT ORDINANCE, AND ZONING ATLAS AMENDMENTS:**
66 To make a recommendation to the BOCC on government-initiated amendments that would
67 establish two new zoning overlay districts in the Efland area. This item was heard at the
68 February 24, 2014 quarterly public hearing and the Planning Board received an update on the
69 topic at its February 4, 2015 meeting.
70 **Presenter:** Perdita Holts, Special Projects Coordinator
71

72 *Perdita Holtz reviewed the item and background.*

73
74 Paul Guthrie: On page 22 in the middle, second paragraph, what is your definition of “high quality development”?

75
76 Perdita Holtz: It was something talked about as part of the small area plan process and wanting to ensure that we
77 didn’t end up with a preponderance of metal or cinderblock buildings and the regulations that pertain to internal
78 pedestrian systems, etc. that all add up to what we would term “high quality development”.
79

80 Pete Hallenbeck: If you look at the proposed amendments, you talk about community character and the Planning
81 Department will take pictures of buildings to have something to look back on when you are making that somewhat
82 subjective call. Your point is well taken but there will be enough recorded for someone to look at that and say, “how
83 did that happen?”
84

85 Craig Benedict: Some of the differences are that we had a lot more mandates about how development should occur
86 very prescriptive but it did mention high quality development. That is subjective but we are creating a mandate and
87 that didn’t go together so now we are creating something that is feasible.
88

89 Pete Hallenbeck: I am happy with the development and the community involvement.
90

91 **MOTION** by Laura Nicholson to approve amendments as presented by staff. Seconded by Lisa Stuckey.

92 **VOTE: UNANIMOUS**

93
94 *Craig Benedict reviewed the history of this project for the new members.*
95

96 Paul Guthrie: This is a good case study about how we deal with changes in this county. This whole county over the
97 next 50 years will urbanize tremendously so this kind of issue will come up over time and some time when the
98 planning staff catches their breath, they may want to strategize the process so we won’t have to reinvent the wheel
99 each time.
100

101 Pete Hallenbeck: A lot of those steps are underway. The UDO is not perfect or light reading but a lot better. There
102 is progress here. What happened in Efland will set a lot of precedence.
103

104 **AGENDA ITEM 8 DISCUSSION ITEMS:** Planning Staff will present information on the following items and receive
105 feedback from the Planning Board:
106 a. Impervious Surface Issues currently being discussed with the state
107 b. Zoning Code Enforcement in and around the Economic Development Districts
108 c. Sexually Oriented Businesses

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Michael Harvey updated on issues the County staff is dealing with on impervious surface issues.

Tony Blake: We just went through this with the fire department at White Cross. The water garden required an easement. We didn't know that until after we had completed everything so we had to pay for a second full survey of the property. My suggestion would be that if you are going to reference BMPs and the DENR in the UDO, you need to make that clear. The second issue was you said something that peaked my interest, what watershed is this property that is complaining?

Michael Harvey: University Lake Protected. It is the most protected watershed in the County.

Craig Benedict: Our rules are more restrictive than the state requires. Discussed the example of Cain Creek.

Tony Blake: When you do this transfer between two lots that has to be deeded?

Michael Harvey: If you are talking about the conservation easement, you have to record the easement deed language in the Register of Deeds formalizing the transfer yes.

Tony Blake: Why isn't the quarry in here?

Craig Benedict: It may when the operation is complete.

Paul Guthrie: How do you interlock your analysis with waste disposal, septic systems, etc.?

Craig Benedict: We have been looking at that with Environmental Health because part of the water quality that runs off lots is due to the nutrients that come off based on the impervious surface.

Lydia Wegman: Can you help me understand why the County would want to change to the state provisions?

Craig Benedict: You could put more impervious. It would create more tax base. And there are water quality issues. The less the better, impervious surface.

Tony Blake: Isn't most of the effect downstream?

Craig Benedict: The question you ask may be asked by the BOCC and some of the members of the community. Someone will need to show the benefits.

Tony Blake: The state is not suggesting that you get rid of the more restrictive requirements?

Michael Harvey: The state isn't mandating we do anything with respect to this item but there has been legislation that has been reviewed at the state level basically indicating local governments cannot be more restrictive than the state allows. The state is also considering modifying its definition of built upon area which translates to impervious surface. State officials are looking to add gravel areas, that are compacted to serve as vehicular access roads, to the definition of built upon area thereby making them count as impervious.

Tony Blake: How does an easement affect this? Does that count against my impervious surface?

Michael Harvey: Yes.

Lisa Stuckey: Is there a social cost in terms of affordable housing, it makes it more expensive.

Michael Harvey: I don't know if it is the impervious limit in any watershed that creates a higher cost for the development of housing. It is the totality of the regulations. One example would be University Lake. There is a density limit indicating you can only have a specific number of units per acre, specifically 1 unit for every 5 acres of

163 property. I think that has more of a dramatic impact on the price of land versus a limit on the amount of impervious
164 surface area.

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166 Laura Nicholson: What is the frequency of these requests?
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168 Michael Harvey: I get one or two a year.
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170 Lydia Wegman: Has DENR or DEAPR said anything about the effect of this change on water quality?
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172 Michael Harvey: DEAPR has not been involved because we haven't gotten any direction from elected officials?
173

174 *Craig Benedict reviewed information on zoning code enforcement in and around the Economic Development*
175 *Districts.*

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177 Lydia Wegman: Would that be a change to the UDO or state legislation?
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179 Craig Benedict: It may be both. If we can do it within the UDO we will.
180

181 Tony Blake: Could you try a carrot approach and offer a tax break and allow the fire department to burn down these
182 houses?
183

184 Craig Benedict: We have spoken to a few people and are surprised they have not taken the offer. It is likely they
185 want to sell the property.
186

187 *Michael Harvey reviewed sexually oriented businesses*
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189 Michael Harvey: We have printed a 1988 document prepared by the Institute of Government. It is still timely and
190 more offers more definitive comments on the regulation of sexually oriented businesses. We technically don't allow
191 sexually oriented businesses, which is illegal. We cannot simply ban these uses but we can regulate them. From a
192 zoning standpoint, you will one of the main tools utilizing is a separation requirement of sexually oriented businesses
193 from identified sensitive uses. One area of concern from the county attorney's office is that we must ensure our
194 regulations deal with the notion that if you have a legally established sexual oriented business and a sensitive land
195 use moves next door, it does not make that business non-conforming. We have gone as long as we can without
196 tackling this issue. This amendment will involve licensing and a zoning component.
197

198 Paul Guthrie: There are some legal actions going on with regards to the constitutionality of limiting where sexual
199 offenders can live. You may want to make sure they are keeping an eye on what is going on in the federal court.
200

201 Michael Harvey: Sexual offender registry issues are not germane to this.
202

203 Paul Guthrie: There is a case making its way through the federal system now that may make it to the Supreme
204 Court.
205

206 Michael Harvey: We will take you through a process that will require the elected officials and Planning Board to
207 make reference to studies and findings.
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209 **AGENDA ITEM 10: COMMITTEE/ADVISORY BOARD REPORTS:**

- 210 a. Board of Adjustment
- 211 b. Orange Unified Transportation

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213 **AGENDA ITEM 11: ADJOURNMENT:**
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215 **MOTION** by Bryant Warren to adjourn. Seconded by Tony Blake.
216 **VOTE: UNANIMOUS**

Approved 4/1/15

Pete Hallenbeck, Chair