

SUMMARY NOTES
ORANGE COUNTY PLANNING BOARD
AUGUST 5, 2015
ORDINANCE REVIEW COMMITTEE

NOTE: A quorum is not required for Ordinance Review Committee meetings.

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

STAFF PRESENT: Michael Harvey, Current Planning Supervisor; Perdita Holtz, Planning Systems Coordinator; Ashley Moncado, Special Projects Planner;

AGENDA ITEM 1: CALL TO ORDER
UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS
PUBLIC HEARING PROCESS REVISIONS

To continue review and comment upon proposed amendments to the UDO to revise the public hearing process.

Presenter: Perdita Holtz, Planning Systems Coordinator

Perdita Holtz: Reviewed abstract and presentation.

James Lea: When you say generally are you speaking of Section 2.3.7, is that the word you are talking about?

Perdita Holtz: Yes, we are suggesting that A, B, and C be deleted, and this is what I would like your input on, but if they are not to be deleted then it would need to be amended as shown. We are suggesting any amendment to the comprehensive plan can be heard at any of the four quarterly public hearings. How does the ORC feel about that?

Lydia Wegman: Where does it say four times a year?

Perdita Holtz: The language would say proposed amendments shall be considered at the quarterly public hearings.

Lydia Wegman: I think that makes sense

Pete Hallenbeck: It sounds good to me.

Tony Blake: I am not opposed to the intent; I'm just trying to think of things that could go wrong.

Pete Hallenbeck: We have also had concerns in the past that the county moves too slowly. Making this four times a year is a good deal.

Perdita Holtz: Ok, it sounds like you are good with changing that.

Perdita Holtz continued presentation.

Perdita Holtz: Would it be acceptable to combine the Planning Board meeting notice and the quarterly public hearing notice into one? Or should we stick to having two separate ones?

Pete Hallenbeck: You schedule the two at the same time?

Perdita Holtz: Yes, we schedule both at the same time.

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56 Lydia Wegman: This it just for comprehensive plan amendments?
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58 Perdita Holtz: For comprehensive plan map amendments.
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60 Lydia Wegman: How does this relate to Section 2.3.5?
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62 Perdita Holtz: Section 2.3.5 says that before the BOCC can adopt any comprehensive plan amendment there shall
63 be a public hearing. Right now the public hearing is a joint public hearing with the BOCC and Planning Board. Part of
64 this proposal is to not require a quorum of Planning Board members in order to hold the public hearing, so technically
65 it would no longer be a joint public hearing.
66
67 Tony Blake: It doesn't mean we aren't invited?
68
69 Perdita Holtz: You are encouraged to attend.
70
71 Lydia Wegman: The Planning Board would still be making recommendations?
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73 Perdita Holtz: Yes.
74
75 Lydia Wegman: Is this a legal issue not to have a quorum?
76
77 Perdita Holtz: We are still reviewing this with the county attorney, but they believe it would not be an issue.
78
79 Perdita Holtz: So it sounds like you all are ok with combining two notices into one?
80
81 Lydia Wegman: Yes
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83 Tony Blake: A concern I see is that the tighter we make it the less opportunity there is for parties to discuss outside of
84 the process and settle somethings.
85
86 Perdita Holtz: The applicants and neighbors can discuss outside of the hearing, it's just the decision makers need to
87 hear the evidence in a hearing setting.
88
89 Lydia Wegman: If there is the public hearing and the applicant and neighbors come up with a new plan then would
90 there have to be another public hearing?
91
92 Perdita Holtz: Following the quasi-judicial hearing, the hearing would either be closed or would be continued at
93 another hearing date. I believe in that scenario it's going to be continued to another hearing date and at that new
94 hearing the compromises would be presented.
95
96 Tony Blake: If there are material changes to the plan, they would have to go through the application process again?
97
98 Perdita Holtz: Once your application is in, you can amend it.
99
100 Michael Harvey: Those changes would need to be presented at a public hearing.
101
102 *Meeting postponed for Planning Board meeting at 7:07*
103
104 *Perdita Holtz continued presentation following Planning Board meeting.*
105
106 Lydia Wegman: Planning Board would not necessarily be involved in Class A Special Use Permits?
107
108 Perdita Holtz: Correct, it would be at the discretion of the BOCC.

109
110 Tony Blake: In the materials provided, it seemed to indicate that the quasi-judicial or ex parte communication began
111 when the application was complete, but I don't see an application complete milestone on the chart.
112
113 Pete Hallenbeck: You want a box that says ex parte starts here?
114
115 Tony Blake: Yes
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117 Pete Hallenbeck: If I understand the DAC does not include Planning Board, just staff and is just a process of the
118 application?
119
120 Perdita Holtz: Staff reviews all the applications and does not accept applications that are not complete, so when its
121 application submittal time, it's considered complete.
122
123 Tony Blake: So at that point there needs to be some indication that ex parte begins.
124
125 Perdita Holtz: That may not be something we put in the chart, but is something that we have to discuss in training to
126 understand when the process starts.
127
128 Michael Harvey: Once an application is determined to be complete, we send out notifications for the neighborhood
129 information meeting noting that we have received the application. I have noted before that once an application is
130 deemed complete by staff, that's when Board members cannot have ex parte communication. You will all find out
131 about the application when the notifications are sent for the neighborhood information meeting.
132
133 Tony Blake: Don't you think that's late notice?
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135 Michael Harvey: No, because that goes out 60 days before the public hearing and is sent the day after an application
136 is determined complete.
137
138 Tony Blake: This negates the Planning Board function because when someone gets the notice, they call Planning
139 Board members and start asking questions and if we are bound by ex parte by not discussing it.
140
141 Perdita Holtz: That is true, but that is the nature of quasi-judicial hearings and why many jurisdictions do not have
142 their Planning Board look at these items.
143
144 Michael Harvey: Why not recommend to the public to call staff? Since staff is processing the application we can
145 divulge information since we are not bound by ex parte communication and we are not making a recommendation to
146 a governing body.
147
148 Pete Hallenbeck: I think that's the answer if someone calls you.
149
150 Tony Blake: Why can staff talk about the details, but not us?
151
152 Michael Harvey: Because that's why we are here. You make recommendations to the BOCC.
153
154 Pete Hallenbeck: This is how this process is set up and defined. Those are the rules if you will.
155
156 Tony Blake: It doesn't make sense.
157
158 Pete Hallenbeck: I think you can go on record and say I don't like the rules, but...
159
160 Lydia Wegman: To me, I wouldn't have the kind of information staff would have, I think that if you want to help
161 someone that is upset you...
162

163 Tony Blake: We are billed as township representatives. Are we township representatives or not? And since we aren't
164 making the decision I do not understand why we can't discuss it.
165
166 Pete Hallenbeck: We have the ability to provide our input to the BOCC.
167
168 Lydia Wegman: I think we have the ability to provide our input and recommendation to the BOCC and that would be
169 the point when representation of your township would be very relevant.
170
171 Tony Blake: But how can we get a feel for what the township we represent is feeling if we can't discuss it?
172
173 Lydia Wegman: Wouldn't we hear it at the quarterly public hearing?
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175 Michael Harvey: Or the neighborhood meeting.
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177 Perdita Holtz: We are still discussing with the attorney how much Planning Board members can participate at the
178 neighborhood meeting.
179
180 Pete Hallenbeck: That's something we need guidance with.
181
182 Tony Blake: I am just trying to understand when and what I can say. And I would like to know a little bit more why.
183
184 Pete Hallenbeck: As a result of this conversation we need clarification from the attorney regarding ex parte
185 communication.
186
187 Tony Blake: I would agree.
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189 Pete Hallenbeck: What happens when a Planning Board member has specific skills that would make them the
190 equivalent of an expert witness and has questions or comments about the evidence provided?
191
192 Perdita Holtz: I will bring that up to the county attorney. My feeling with that is that would need to be brought up at the
193 quasi-judicial meeting.
194
195 Lydia Wegman: Or at least to ask questions?
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197 Perdita Holtz: You are definitely able to ask questions.
198
199 Paul Guthrie: On a number of occasions and presentations to this body, provided evidence of a proposal was weak
200 and incomplete, and with raising questions with the context the applicant basically blows off an answer and you feel
201 as a member here do you really want to go down the road and cross examine them on where their information is
202 from. Yet we are here to provide citizen representation and assistance based our experience. You may need to be
203 careful how you frame that issue.
204
205 *Perdita Holtz continued presentation.*
206
207 Perdita Holtz: New language will be added to the Planning Board policies and procedures that would require the chair
208 or vice chair to attend the quarterly public hearing and BOCC meetings where a decision is scheduled on items
209 Planning Board made a recommendation on.
210
211 Paul Guthrie: Shouldn't it be noted that the chair or vice chair be prepared to discuss with this Board what went on at
212 that session?
213
214 Perdita Holtz: Hopefully you all will attend the public hearing.
215

216 Pete Hallenbeck: The meetings are available for viewing and notes are provided following the meeting. If I went to
217 this meeting I provide subjective viewpoints to the Board.

218
219 *Perdita Holtz continued presentation.*

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221 Pete Hallenbeck: The commissioners will choose if they want door A or door B? And when that happens then some
222 of this timing will get better nailed down?

223
224 Perdita Holtz: Yes, both options are going to be presented for comment at the public hearing and depending on how
225 that goes, we will decide how to move forward. This is planned to be on the October Planning Board meeting for a
226 recommendation.

227
228 Pete Hallenbeck: Any other comments?

229
230 Lydia Wegman: Thank you for your patience in going through this.

231
232 **AGENDA ITEM 2: ADJOURNMENT**