

**ORANGE COUNTY PLANNING DEPARTMENT
131 W. MARGARET LANE, SUITE 201
HILLSBOROUGH, NORTH CAROLINA 27278**



**AGENDA
ORANGE COUNTY PLANNING BOARD**

**ORANGE COUNTY WEST CAMPUS OFFICE BUILDING
131 WEST MARGARET LANE – LOWER LEVEL CONFERENCE ROOM (ROOM #004)
HILLSBOROUGH, NORTH CAROLINA 27278
Wednesday, October 7, 2015
Regular Meeting – 7:00 pm**

<u>No.</u>	<u>Page(s)</u>	<u>Agenda Item</u>
1.		CALL TO ORDER
2.		INFORMATIONAL ITEMS
	3 - 4	a. Planning Calendar for October and November
	5 - 6	b. Preview of October 15, 2015 JPA Joint Public Hearing Item
3.		APPROVAL OF MINUTES
	7 – 9	September 2, 2015 ORC Notes
	10 - 12	September 2, 2015 Regular Meeting
4.		CONSIDERATION OF ADDITIONS TO AGENDA
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 residents 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.
		Public Charge
		The Planning Board pledges to the residents of Orange County its respect. The Board asks its residents to conduct themselves in a respectful, courteous manner, both with the Board and with fellow residents. At any time, should any member of the Board or any resident fail to observe this public charge, the Chair will ask the offending member to leave the meeting until that individual regains personal control. Should decorum fail to be restored, the Chair will recess the meeting until such time that a genuine commitment to this public charge is observed.
6.		CHAIR COMMENTS

No.	Page(s)	Agenda Item
7.	13 - 18	ZONING ATLAS AMENDMENT – To make a recommendation on a request to rezone an approximately 9 acre parcel of property located at 4915 Hillsborough Road within the Eno Township from Economic Development Eno Lower Intensity (EDE-1), Economic Development Eno Higher Intensity (EDE-2), Lower Eno Protected Watershed Protection Overlay District, and Major Transportation Corridor (MTC) Overlay District to Economic Development Eno Higher Intensity (EDE-2), Lower Eno Protected Watershed Protection Overlay District, and Major Transportation Corridor (MTC) Overlay District. This item was heard at the September 8, 2015 quarterly public hearing.
Presenter: Patrick Mallett, Planner II		
8.	19 - 52	MAJOR SUBDIVISION PRELIMINARY PLAT: To review and make a recommendation on a Major Subdivision Preliminary Plat, Henderson Woods, located at the intersection on Erwin Road and Whitfield Road in Chapel Hill Township. The Plat is consistent with the Concept Plan Flexible Design Option reviewed and approved by the Planning Board in June 2015. The Plat shows 19 single-family residential lots on a 48 acre parcel of property with 21.51 acres (44.9% of the site) held in common open space.
Presenter: Patrick Mallett, Planner II		
9.	53 - 101	UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT - To make a recommendation on government-initiated amendments to the text of the UDO to revise the existing public hearing process for Comprehensive Plan-, UDO-, and Zoning Atlas-related items/amendments. This item was heard at the September 8, 2015 quarterly public hearing.
Presenter: Perdita Holtz, Planning Systems Coordinator		
10.	102 - 128	UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT - To make a recommendation on government-initiated amendments to the text of the UDO regarding recreational land uses, including shooting ranges. This item was heard at the September 8, 2015 quarterly public hearing.
Presenter: Michael Harvey, Current Planning Supervisor		
11.	COMMITTEE/ADVISORY BOARD REPORTS a. Board of Adjustment b. Orange Unified Transportation	
12.	ADJOURNMENT	

IF AN EMERGENCY OCCURS, OR IF YOU ARE RUNNING LATE FOR THE MEETING, PLEASE LEAVE A VOICE MAIL FOR PERDITA HOLTZ (919-245-2578).

<September		October 2015					November>
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	
				1	2	3	
Notes: * Planning Board Member Attendance Required WCOB = West Campus Office Building (131 W. Margaret Lane, Hillsborough)				BOCC Work Session 7:00 pm Whitted Building			
4	5	6	7	8	9	10	
		Regular BOCC Meeting 7:00 pm Whitted Building	Planning Board 7:00 pm WCOB 004*				
11	12	13	14	15	16	17	
	Board of Adjustment 7:30 pm WCOB 004	BOCC Work Session 7:00 pm Whitted Building		Joint Planning Public Hearing & BOCC/Town of Carrboro Joint Meeting 7:00 pm Southern Human Services Center			
18	19	20	21	22	23	24	
		Regular BOCC Meeting 7:00 pm Southern Human Services Center	OUTBoard 7:00 pm WCOB 004				
25	26	27	28	29	30	31	

<October		November 2015					>December
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	
1	2	3 Election Day	4 ORC (time TBD) and Planning Board 7:00 pm WCOB 004*	5 Regular BOCC Meeting 7:00 pm Whitted Building	6	7	
8	9 Board of Adjustment 7:30 pm WCOB 004	10 BOCC Work Session 7:00 pm Southern Human Services Center	11	12	13	14	
15	16	17 Regular BOCC Meeting 7:00 pm Southern Human Services Center	18 OUTBoard 7:00 pm WCOB 004	19 Assembly of Governments 7:00 pm Southern Human Services Center	20	21	
22	23 Quarterly Public Hearing 7:00 pm Whitted Building*	24	25	26 Holiday/Offices Closed	27 Holiday/Offices Closed	28	
29	30	Notes: * Planning Board Member Attendance Required WCOB = West Campus Office Building (131 W. Margaret Lane, Hillsborough)					

This is the legal advertisement for the October 15th JPA (Joint Planning Area) joint public hearing. The Planning Boards of the three jurisdictions are not required to attend the joint public hearing but they do make recommendations to their respective elected boards. This item is expected to be on the agenda of the Orange County Planning Board on November 4th for a recommendation to the Board of County Commissioners. The public hearing materials will be posted on the County's website no later than Friday, October 9th and video of the hearing will be available shortly after the public hearing. Documents related to the Joint Planning Area are available on the Planning Department's website:

http://www.orangecountync.gov/departments/planning_and_inspections/documents.php

NOTICE OF JOINT PLANNING PUBLIC HEARING

Orange County Board of Commissioners Chapel Hill Town Council Carrboro Board of Aldermen

A public hearing will be held at the Southern Human Services Center, 2501 Homestead Road, Chapel Hill, North Carolina on Thursday, October 15, 2015 at 7:00 p.m. for the purpose of giving all interested persons an opportunity to speak for or against the following item:

- 1. Text Amendments to the Joint Planning Agreement** – Revise existing language in Section 2.7 (Representation of Transition Area Residents) of the Joint Planning Agreement to modify membership on the Town of Chapel Hill's Planning Commission and Board of Adjustment.

Currently, at least one resident of the Town's Transition Area, as designated on the Joint Planning Land Use Map, is appointed to each advisory board. Earlier in 2015, the Town of Chapel Hill extended its Extraterritorial Jurisdiction (ETJ) over approximately 1,033 acres of land which changed most of the Town's Transition Area to ETJ. Approximately 274 acres of land remains designated as Chapel Hill Transition Area.

The Town is considering: 1) replacing the Transition Area resident on its Planning Commission and Board of Adjustment with a Chapel Hill resident; or 2) replacing the Transition Area resident with a resident from either the Transition Area, the Extraterritorial Area or a Chapel Hill Resident.

Purpose: To hear public comment on the proposed text amendments.

Substantial changes in items presented at the public hearing may be made following the receipt of comments made at the public hearing. Accommodations for individuals with physical disabilities can be provided if the request is made to the Orange County Planning Director at least 48 hours prior to the Public Hearing by calling the one of the phone numbers below. The full text of the public hearing items may be obtained no later than October 9, 2015 at the County website www.orangecountync.gov at the Board of County Commissioners Meeting Agendas link.

Questions regarding the proposals may be directed to the Orange County Planning Department located on the second floor of the County Office Building at 131 West Margaret Lane, Suite 201, Hillsborough, North Carolina. Office hours are from 8:00 a.m. to 5:00 p.m. Monday through Friday. You may also call (919) 245-2575 or 245-2585 and you will be directed to a staff member who will answer your questions or you may e-mail questions to planningdept@orangecountync.gov.

PUBLISH: The Herald Sun
September 30, 2015
October 7, 2015

Chapel Hill News
September 30, 2015
October 7, 2015

55
56 Michael Harvey: You could, but in the urban areas of the county you have the capability to do more impervious with a
57 storm water feature.

58
59 James Lea: Is there a way to find out how many businesses this will affect in the rural area?

60
61 Michael Harvey: Sure

62
63 James Lea: And to know what these businesses will be faced with? What changes they will have to make?

64
65 Michael Harvey: Any existing motor vehicle business in operation legally doesn't have to comply with this ordinance
66 and can continue to operate subject to Article 8, Non Conformities, of the UDO. Business owner will be not penalized,
67 however, if they expand their business it would need to be brought into compliance at that time. If one goes out of
68 business and another opens, they would have to comply. I can get a list of businesses.

69
70 **AGENDA ITEM 2: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS**
71 **SEXUALLY ORIENTED BUSINESSES**

72 To review and comment upon proposed amendment to the UDO regarding sexually
73 oriented businesses.

74
75 **Presenter:** Michael Harvey, Current Planning Supervisor

76
77 Michael Harvey presented item and background information.

78
79 Michael Harvey: On page 27 it states no sexually oriented business shall be located in a building or on a premises
80 where alcohol or alcoholic beverages are sold or in a building or on a premises that allows alcohol or alcoholic
81 beverages to be consumed.

82
83 Tony Blake: Where is the case law for this?

84
85 Michael Harvey: The State Law granting us the authority to regulate sexually oriented businesses specifically
86 mentions that we have the ability to modify ABC permitting requirements. The County Attorney's office will review the
87 case law and you will be updated if it is removed.

88
89 Tony Blake: What about the existing business on Highway 86?

90
91 Michael Harvey: Closed. In fact we are about to issues letters to two businesses that they have been closed for more
92 than 180 days and as a result they have lost their nonconforming status and cannot open as a sexually oriented
93 business.

94
95 Lisa Stuckey: Were those the only two in the county?

96
97 Michael Harvey: There was also Dixie's Truckstop, but that is also closed.

98
99 James Lea: Currently there are no zoned properties in Orange County that would allow this?

100
101 Michael Harvey: There are no I-2 or I-3 zoned properties, but there are several Eno Economic Development District
102 properties that would allow this use.

103
104 Tony Blake: Will there be issues with proposing this use in the Eno Economic District?

105
106 Michael Harvey: Due to the proposed use, it would face opposition in every district. When you look at the current
107 makeup of land uses allowed in the Eno Economic District, there are more industrial uses and less residential uses
108 compared to existing uses in the Buckhorn Economic District.

109

110 James Lea: What is the economic development impact to the county from this use?

111

112 Michael Harvey: To some it is like a night club or video store. There is also an aversion that people and businesses
113 do not want to be near it because of perceptions and would not want to see it.

114

115 Lisa Stuckey: Is this use considered blight in other communities where it is regulated?

116

117 Michael Harvey: It can be depending on how it is regulated and maintained.

118

119 **AGENDA ITEM 3: ADJOURNMENT**

**MINUTES
PLANNING BOARD
SEPTEMBER 2, 2015
REGULAR MEETING**

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

MEMBERS ABSENT: Lydia Wegman-At-Large Chapel Hill Township (Vice Chair); Maxecine Mitchell, At-Large Bingham Township; Paul Guthrie, At-Large Chapel Hill Township;

STAFF PRESENT: Michael Harvey, Current Planning Supervisor; Ashley Moncado, Special Projects Planner;

OTHERS PRESENT: Katherine Ansardi

AGENDA ITEM 1: CALL TO ORDER

AGENDA ITEM 2: INFORMATIONAL ITEMS

- a) Planning Calendar for September and October
 - September 8 – Quarterly Public Hearing

AGENDA ITEM 3: APPROVAL OF MINUTES

- a) August 5, 2015 ORC Notes
- b) August 5, 2015 Regular Meeting

MOTION by Laura Nicholson to approve the notes and minutes. Seconded by Buddy Hartley.

VOTE: UNANIMOUS

AGENDA ITEM 4: CONSIDERATION OF ADDITIONS TO AGENDA

No changes to the 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 residents and business 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, decision, and recommendations.

Public Charge

The Planning Board pledges to the residents of Orange County its respect. The Board asks its residents to conduct themselves in a respectful, courteous manner, both with the Board and with fellow residents. At any time, should any member of the Board or any resident fail to observe this public charge, the Chair will ask the offending member to

54 leave the meeting until that individual regains personal control. Should decorum fail to be
 55 restored, the Chair will recess the meeting until such time that a genuine commitment to
 56 this public charge is observed.

57
 58 **AGENDA ITEM 6: CHAIR COMMENTS**

59
 60 None

61
 62 **AGENDA ITEM 7: ZONING ATLAS AMENDMENT (CONDITIONAL ZONING DISTRICT)** – To make a
 63 recommendation on a request to rezone 112 acres of property from Rural Residential (R-
 64 1), Upper Eno Protected Watershed Protection Overlay District to Master Planned
 65 Development Conditional Zoning (MPD-CZ), Upper Eno Protected Watershed Protection
 66 Overlay District in order to allow for the development of Hart's Mill Village within the
 67 Cheeks Township. This item was heard at the May 26, 2015 quarterly public hearing and
 68 was reviewed at the July 1, 2015 Planning Board meeting.

69
 70 **Presenter:** Michael Harvey, Current Planning Supervisor

71
 72 Michael Harvey: Reviewed abstract.

73
 74 Michael Harvey: On page 59 there is a condition stating the community house will be limited to 3,000 square feet.
 75 The applicant is asking for that to be doubled to a maximum of 6,000 square feet so they are not limited in the future.
 76 Staff has no concerns with doubling the square footage. If there is a motion tonight to recommend approval it will
 77 need to be done as amended addressing this request.

78
 79 Tony Blake: The six inch water line is adequate for service and firefighting?

80
 81 Michael Harvey: The project engineer is saying the six inch line should suffice in providing water for firefighting and
 82 service. There is a pond on site for auxiliary firefighting capabilities. Jason [Fire Marshal] agreed that ultimately the
 83 size of the line will be determined at the construction drawing phase and concerns will be addressed at that time with
 84 the existing line.

85
 86 Lisa Stuckey: If there are more developments along Fazier Road would that trigger a need for a larger line?

87
 88 Pete Hallenbeck: It could, if someone came in and wanted to do a large development.

89
 90 Lisa Stuckey: Every owner will own 1/50th share. So people will not own the unit at all?

91
 92 Katherine Ansardi: We would like to do a housing cooperative and we are speaking with attorneys to understand the
 93 law in North Carolina and implications of that model. At the end of the day we might end up with a condo legal
 94 structure that is organized to operate as close to housing cooperative as possible. The land itself will not be
 95 individually owned and if we go with the condo model people will own the interior of the units. However, with the
 96 cooperative model every member is an equal shareholder that owns all the land and buildings which provides the
 97 option for a long term lease of their unit.

98
 99 Lisa Stuckey: So everyone has to be an equal owner?

100
 101 Katherine Ansardi: They have to have an equal voting share.

102
 103 James Lea: Can you sublease the unit?

104
 105 Katherine Ansardi: We are discussing that and trying to determine that.

106
 107 James Lea: What happens when someone dies?

108
 109 Katherine Ansardi: You are getting into details that I don't have all the answers to. My understanding is that when
 110 someone buys into the coop they have an economic interest in the community that may be passed onto kin after they
 111 pass which they can sell. Their heir would not be automatically a member of their coop, but they would have the right
 112 to their share to be sold. The cooperative may buy that unit back.

113
 114 Lisa Stuckey: Our approval doesn't relate to how they set up their ownership?

115
 116 Pete Hallenbeck: Our next step is the statement of consistency which does not directly relate to ownership.

117
 118 Michael Harvey: The ownership model was a concern at the public hearing because Board members wanted
 119 information of how this would be set up and the applicant is still figuring that out. They have provided additional
 120 information on page 17 and 18.

121
 122 Michael Harvey reviewed the recommendation.

123
 124 **MOTION** made by Lisa Stuckey to recommend approval of the statement of consistency. Buddy Hartley seconded.
 125 **VOTE:** Unanimous

126
 127 **MOTION** made by Lisa Stuckey to approve the ordinance of approval as amended. Laura Nicholson seconded.
 128 **VOTE:** Unanimous

129
 130 **AGENDA ITEM 8: COMMITTEE/ADVISORY BOARD REPORTS**

131 **A. Board of Adjustment**

132
 133 Michael Harvey: Board of Adjustment has a public hearing on October 12 to review a Class B Special Use Permit for
 134 a retreat center. We are not sure we will have a full board anymore or if the applicant may withdraw the application.

135
 136 **B. Orange County Transportation**
 137 None

138
 139 **AGENDA ITEM 9: ADJOURNMENT**

140
 141 Motion to adjourn made by James Lea. Seconded by Tony Blake.

Pete Hallenbeck, Chair

**ORANGE COUNTY
PLANNING BOARD
AGENDA ITEM ABSTRACT**
Meeting Date: October 7, 2015

**Action Agenda
Item No. 7**

SUBJECT: Zoning Atlas Amendment - Jacobs Glass Rezoning

DEPARTMENT: Planning and Inspections

PUBLIC HEARING: (Y/N)

Yes

ATTACHMENTS:

1. Property and Vicinity Map
2. Draft Statement of Consistency
3. Draft Ordinance Approving Rezoning

INFORMATION CONTACT:

Patrick Mallett, Planner II (919) 245-2577
Michael Harvey, Planner III (919) 245-2597
Craig Benedict, Director (919) 245-2592

PURPOSE: To make a recommendation to the BOCC on an owner initiated request to rezone a split zoned 9.8 acre parcel of property in accordance with the provisions of Section 2.9.2 of the Unified Development Ordinance (hereafter 'UDO'). Specifically the applicant wishes to rezone the property:

FROM: Economic Development Eno Lower Intensity (EDE-1), Economic Development Eno Higher Intensity (EDE-2), Lower Eno Protected Watershed Protection Overlay District, and Major Transportation Corridor (MTC) Overlay District

TO: Economic Development Eno Higher Intensity (EDE-2), Lower Eno Protected Watershed Protection Overlay District, and Major Transportation Corridor (MTC) Overlay District

BACKGROUND: This item was presented at the September 8, 2015 Quarterly Public Hearing where staff indicated approximately 2.1 acres of the property is zoned EDE-2 and 7.7 acres is zoned EDE-1. The portion of property zoned EDE-2 is currently developed and used to support a glass manufacturing and installation business, specifically Jacobs Glass, and the property owner has requested the rezoning to allow for a potential expansion of the existing operation.

Materials from the September 8, 2015 Quarterly Public Hearing can be viewed at: http://www.orangecountync.gov/document_center/BOCCAgendaMinutes/150908.pdf.

During the public hearing the following questions/comments were made:

1. A BOCC member asked if the property owner will have to maintain land use buffers along NC 751 and adjacent residential property, both in Orange and Durham counties, if the property were rezoned.

STAFF COMMENT: The property owner will have to comply with established buffers, including:

- a. The 100 ft. perimeter EDD buffer required under Section 6.8.12 (C) (1) of the UDO along the southern property line (i.e. railroad right-of-way) and eastern property line (i.e. Durham County line), and
- b. A 20 ft. Type A land use buffer along NC 751 in accordance with Section 6.8.12 (C) (13) of the UDO.

The aforementioned land use buffers are the same for EDE-1 and EDE-2 zoned property.

2. A Planning Board member asked if approval of the rezoning petition grants development rights allowing for the expansion of the existing commercial operation.

STAFF COMMENT: As indicated during the public hearing approval of the zoning atlas amendment does not eliminate the applicant's responsibility to apply for, and obtain, site plan approval and a Zoning Compliance Permit allowing for the expansion of the existing business as required by Section 2.5 of the UDO.

Procedural Information: In accordance with 2.8.8 of the UDO any evidence not presented at the public hearing must be submitted in writing prior to the Planning Board's recommendation. Additional oral evidence may be considered by the Planning Board only if it is for the purpose of presenting information also submitted in writing. The public hearing is held open to a date certain for the purpose of the BOCC receiving the Planning Board's recommendation and any submitted written comments.

Planning Director's Recommendation: The Planning Director recommends **approval** of proposed Zoning Atlas Amendment application and further recommends approval of the:

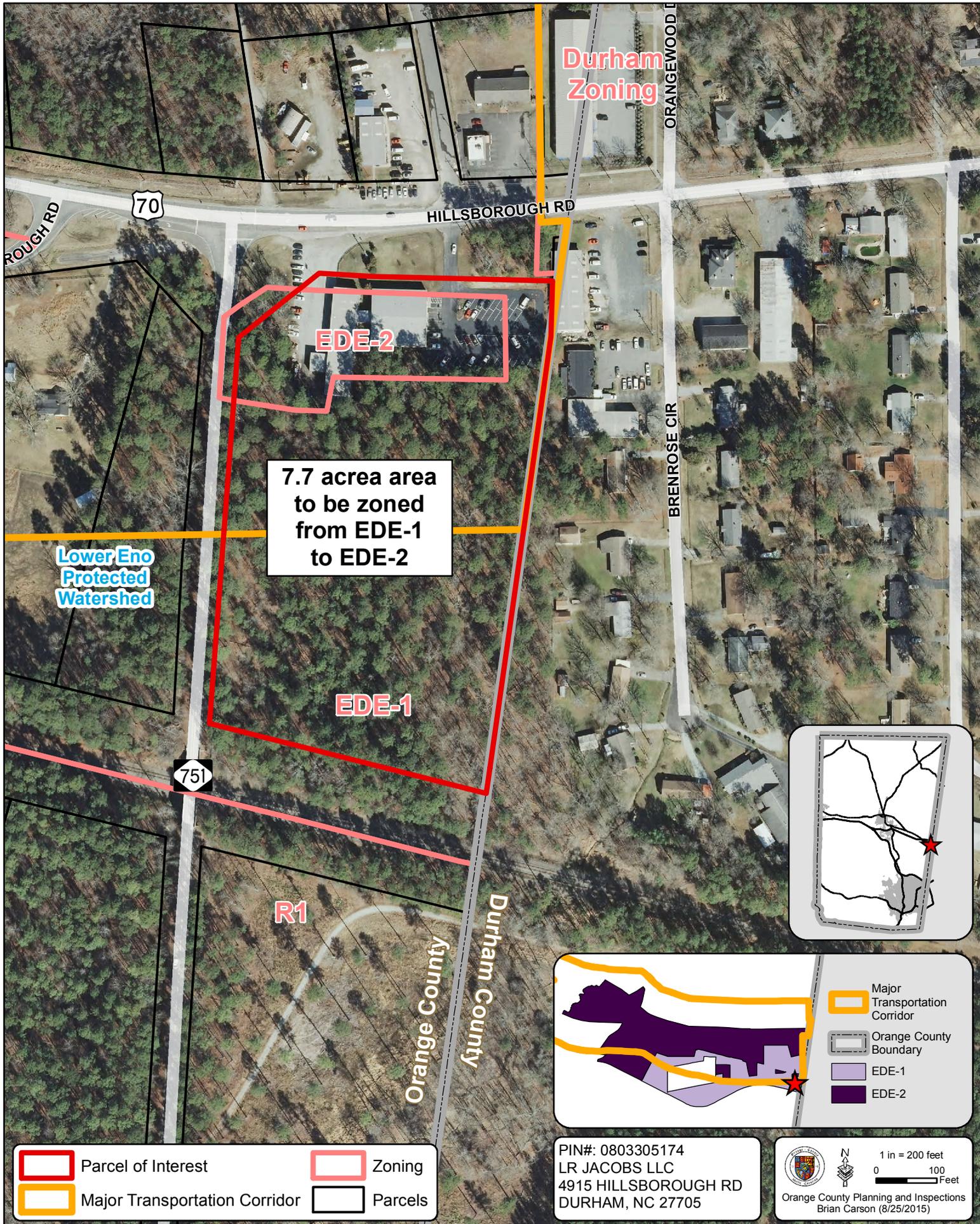
- i. Statement of Consistency, as contained in Attachment 2, indicating the proposed zoning atlas amendment is consistent with the adopted Comprehensive Plan and the project is reasonable and in the public interest, and
- ii. Ordinance amending the Orange County Zoning Atlas as contained in Attachment 3.

FINANCIAL IMPACT: This request has been reviewed by various County departments who have determined that the approval or denial of the request would not create the need for additional funding for the provision of County services. Costs associated with advertising, including the public hearing notice and mailings, were paid by the applicant in accordance with the adopted Orange County Fee Schedule.

Costs associated with permitting development of any future project shall be paid by the applicant in accordance with the adopted Orange County Fee Schedule (i.e. erosion control, stormwater management, building, zoning, etc.).

RECOMMENDATION(S): The Planning Director recommends the Board:

1. Deliberate on the application as necessary,
2. Consider the Planning Director's recommendation, and
3. Take action on the Statement of Consistency (Attachment 2) and make a recommendation on the ordinance of approval (Attachment 3) in time for the **November 5, 2015** BOCC meeting.



**STATEMENT OF CONSISTENCY
OF PROPOSED ZONING ATLAS AMENDMENTS WITH THE 2030 COMPREHENSIVE
PLAN AND/OR OTHER ADOPTED COUNTY PLANS**

L.R. Jacobs, owners of a 9.8 acre parcel of property within Orange County, has initiated an amendment to the Orange County Zoning Atlas, as established in Section 1.2 of the Orange County Unified Development Ordinance (UDO) to rezone property:

FROM: Economic Development Eno Lower Intensity (EDE-1), Economic Development Eno Higher Intensity (EDE-2), Lower Eno Protected Watershed Protection Overlay District, and Major Transportation Corridor (MTC) Overlay District

TO: Economic Development Eno Higher Intensity (EDE-2), Lower Eno Protected Watershed Protection Overlay District, and Major Transportation Corridor (MTC) Overlay District

allowing for the continued development and expansion of an existing commercial facility known as Jacobs Glass Company. The parcel, further identified utilizing Orange County Parcel Identification Number (PIN) 0803-30-5174, is located in the southeastern quadrant of the NC 751 and US70 East/Hillsborough Road, and an address of 4915 Hillsborough Road hereafter referred to as 'the property.'

The Planning Board finds:

- The requirements of Section 2.8 of the Unified Development Ordinance (UDO) have been deemed complete, and
- Pursuant to Sections 1.1.5, and 1.1.7 of the UDO and to Section 153A-341 of the North Carolina General Statutes, the Board finds documentation within the record denoting that the rezoning **is consistent** with the adopted 2030 Comprehensive Plan, the Eno EDD Area Small Area Plan and/or other adopted County plans.

The amendment is consistent with applicable plans because it:

- Supports the following 2030 Comprehensive Plan goals and objectives including:
 1. Land Use Overarching Goal: *Coordination of the amount, location, pattern and designation of future land uses, with availability of County services and facilities sufficient to meet the needs of Orange County's population and economy consistent with other Comprehensive Plan element goals and objectives.*
 2. Land Use Goal 2: *Land uses that are appropriate to on-site environmental conditions and features, and that protect natural resources, cultural resources, and community character.*
 3. Objective LU-1.1: *Coordinate the location of higher intensity / high density residential and non-residential development with existing or planned locations of public transportation, commercial and community services, and adequate supporting infrastructure (i.e., water and sewer, high-speed internet access, streets, and sidewalks), while avoiding areas with protected natural and cultural resources.*

4. *Economic Development Goal 1: Public-private sector partnerships that create a stronger business climate.*

Objective ED-1.4: Achieve the objective of adding 5,000 new private sector jobs in the County and \$125,000,000 in new commercial property by June 2010, with the goal of 75% of the new jobs being filled by County residents.

Objective ED-1.5: Identify barriers to development of desirable businesses and local businesses, and mitigate these barriers.

Objective ED-1.6: Provide outreach, recognition and/or expedited service to new and existing businesses that meet development criteria.

Objective ED-1.8: Explore policies to use in attracting and encouraging development of companies and enterprises that will build and expand upon the County's economic base.

5. *Economic Development Goal 2: Infrastructure that supports desired development.*

Objective ED-2.5: Identify lands suitable to accommodate the expansion and growth of commercial and industrial uses in the County.

Objective ED-2.8: Adjust ongoing designation and zoning of Economic Development Districts to avoid the area designated as the Rural Buffer. (See also Land Use Objectives LU-3.1 and LU-3.3.).

The amendments are reasonable and in the public interest because:

- a. The amendment will foster economic development within the Eno Economic Development District. It also encourages the balanced and sustainable growth of existing non-residential uses.

The project will provide buffers and setbacks to transition between residential uses and transition to natural resource areas.

- b. The project will not result in traffic impacts deemed to be detrimental to existing roadways due to the proposed density.
- c. The proposed amendments promote public health, safety, and general welfare by furthering the goals and objectives of the 2030 Comprehensive Plan.

The Planning Board hereby recommends that the Orange County Board of County Commissioners consider adoption of the proposed Zoning Atlas amendments.

Pete Hallenbeck, Chair

Date

**AN ORDINANCE AMENDING
THE ORANGE COUNTY ZONING ATLAS**

WHEREAS, Orange County has received and processed a petition submitted by L.R. Jacobs seeking to amend the Orange County Zoning Atlas, as established in Section 1.2 of the Orange County Unified Development Ordinance (UDO), and

WHEREAS, this petition seeks to rezone a 9.8 acre parcel of property, further identified utilizing Orange County Parcel Identification Number (PIN) 0803-30-5174, to Economic Development Eno Higher Intensity (EDE-2), Lower Eno Protected Watershed Protection Overlay District, and Major Transportation Corridor (MTC) Overlay District for the purpose of expanding their business known as Jacobs Glass company.

WHEREAS, the proposal has been found to be consistent with the various plans outlining allowable development in the area including the Eno EDD Small Area Plan, and

WHEREAS, the requirements of Section 2.8 of the UDO have been deemed complete, and

WHEREAS, the Board has found the proposed zoning atlas amendment to be reasonably necessary to promote the public health, safety, and general welfare.

BE IT ORDAINED by the Board of Commissioners of Orange County that the Orange County Zoning Atlas is hereby amended to rezone the 9.8 acre portion of the aforementioned parcel to Economic Development Eno Higher Intensity (EDE-2), Lower Eno Protected Watershed Protection Overlay District, and Major Transportation Corridor (MTC) Overlay District.

BE IT FURTHER ORDAINED THAT this ordinance be placed in the book of published ordinances and that this ordinance is effective upon its adoption.

Upon motion of Commissioner _____, seconded by Commissioner _____, the foregoing ordinance was adopted this _____ day of _____, 2015.

I, Donna S. Baker, Clerk to the Board of Commissioners for Orange County, DO HEREBY CERTIFY that the foregoing is a true copy of so much of the proceedings of said Board at a meeting held on _____, 2015 as relates in any way to the adoption of the foregoing and that said proceedings are recorded in the minutes of the said Board.

WITNESS my hand and the seal of said County, this _____ day of _____, 2015.

SEAL

Clerk to the Board of Commissioners

**ORANGE COUNTY
PLANNING BOARD
ACTION AGENDA ITEM ABSTRACT**
Meeting Date: October 7, 2015

**Action Agenda
Item No. 8**

SUBJECT: Major Subdivision Preliminary Plat Application – Henderson Woods

DEPARTMENT: Planning and Inspections

PUBLIC HEARING: (Y/N)

No

ATTACHMENTS:

1. Application Package
2. Property and Vicinity Map
3. Staff Generated Correspondence
4. Excerpt of Approved June 3, 2015
Planning Board Minutes

INFORMATION CONTACT:

Patrick Mallett, Planner II (919) 245-2577
Michael D. Harvey, Planner III (919) 245-2597
Craig Benedict, Director (919) 245-2575

Under Separate Cover – Full Size Copy of
Preliminary Plat

PURPOSE: To review and take make a recommendation on a Major Subdivision Preliminary Plat application proposing a 19 lot single-family residential subdivision in accordance with the provisions of Section 2.15 and Article 7 *Subdivisions* of the Unified Development Ordinance (UDO).

BACKGROUND: The Planning Board reviewed a Concept Plan for the subdivision, located within the Chapel Hill Township near Whitfield and Erwin Roads, at its June 3, 2015 regular meeting. Agenda materials for this meeting can be viewed utilizing the following link: http://www.orangecountync.gov/PB_Agenda_Packet_June_2015.pdf. Minutes from the meeting are contained within Attachment 4.

Development Process, Schedule, and Action: The typical cadence for the review of a major subdivision is as follows:

- **FIRST ACTION** – Submission of a concept plan application containing a proposed layout for the project based on a ‘conventional’ and ‘flexible’ development option.
STAFF COMMENT: As indicated at the June 3, 2015 Planning Board meeting a complete concept plan application was submitted.
- **SECOND ACTION** – Planning staff schedules a Neighborhood Information Meeting to invite property owners within 500 feet of the subject property to view the proposal.
STAFF COMMENT: Staff held the required meeting on April 7, 2015.
- **THIRD ACTION** – The Planning Board shall review and make a recommendation on the Concept Plan Application making a decision on whether the proposed development should proceed as a ‘conventional’ or ‘flexible’ development.
STAFF COMMENT: At its June 3, 2015 regular meeting the Board voted unanimously to approve the flexible development option for Henderson Woods. Per Section 2.15.2 (G) (3) of the UDO the applicant has two years, from the date

of Concept Plan approval, to prepare and file an application for Preliminary Plat approval.

- **FOURTH ACTION** – Once a concept plan option is approved, the Planning Board reviews and makes a recommendation on the approval of the Preliminary Plat for the project.

STAFF COMMENT: The Planning Board will review the Preliminary Plat application at its October 7, 2015 regular meeting.

- **FIFTH ACTION** – The BOCC reviews and takes action on the Preliminary Plat application.
- **SIXTH ACTION** – If approved, and once all construction activities have been completed or appropriate financial assurances have been approved, staff will sign off on a Final Plat, which will be recorded in the Orange County Registrar of Deeds Office.

Proposal: The petitioner has submitted a Major Subdivision Preliminary Plat application proposing to develop a conservation cluster flexible development subdivision with 19 single-family residential lots with an overall density of 1 dwelling unit per every 2.52 acres of land area. A summary of the proposal is as follows:

Subdivision Type	Number of Lots	Average Lot Size	Area in Open Space	Open Space Percentage
Flexible Development Plan	19	1.22 acres	21.5 acres	44.9%

The lots within the subdivision range in size from 1.0 acre (smallest) to 1.68 acres (largest) in area.

Staff has determined the Preliminary Plat application is consistent with the Concept Plan approved by the Planning Board at its June 3, 2015 regular meeting. Please refer to Attachment 4 for the minutes from this meeting.

STAFF COMMENT: The proposal is in accordance with the anticipated densities and minimum lots sizes for parcels located within:

- The Rural Buffer land use category as defined within the adopted Comprehensive Plan,
- Rural Designated areas of the County as denoted on the Growth Management Systems Map, and
- The Rural Buffer – Rural Residential Area land use category as defined within the Joint Planning Land Use Plan.

It should be remembered the clustering of lots is permitted in accordance with the provisions of the UDO as well as in Section 6, *Future Land Use – Joint Planning Area* of the Joint Planning Land Use Plan, which can be viewed utilizing the following link: <http://orangecountync.gov/planning/documents/JPALUPDocument.pdf>

Roads: The proposal involves the creation of new public roads to service the project, each constructed to NC Department of Transportation (DOT) standards. A 5 foot wide concrete sidewalk shall be constructed outside of identified road rights-of-way and will be maintained by the local homeowners association. Specifically, the proposal calls for:

- A single access road affording vehicular ingress/egress from Whitfield Road (SR 1731).
- Construction of two cul-de-sac roadways within fifty-foot rights-of-way and a 27-foot improved travel way with a 35-foot cul-de-sac radius that will include curb and gutter.

The Preliminary Plat indicates there will be two 20-foot wide shared driveway/truck turn areas within each cul-de-sac to accommodate the turn radius of larger vehicles. These dimensions comply with NCDOT standards for residential subdivisions.

STAFF COMMENT: As indicated during the June 3, 2015 Planning Board meeting, there is an existing private road running through the property called Shakori Trail serving existing properties to the north.

A portion of this existing right-of-way will be converted into a public street terminating in a cul-de-sac along the eastern property.

There will be a gated access off of the cul-de-sac for those property owners to the north who desire to continue to use this as their access. This area can also be utilized for emergency vehicle access if necessary.

Staff has determined that the proposed roadway construction and layout is consistent with the requirements of the UDO. Staff and NCDOT have also determined that the limited access to Erwin Road and the properties to the north are sufficient for services and emergency services.

Utilities – Water and Sewer: The applicant is proposing to serve the project with individual wells and septic systems developed on each lot. The Plan Sheet C-6 denotes anticipated locations for well and septic sites for the lots.

STAFF COMMENT: Orange County Environmental Health has indicated that they do did not foresee see any potential problems with the proposed layout with respect to finding suitable soils to support septic tank development. For more information please refer to Attachment 3.

Stormwater Drainage: Drainage will be engineered according to Best Management Practices (BMP) at the time of permit application for construction and will be handled through a curb and gutter system located within the proposed road rights-of-way. The property is subject to adopted stormwater management guidelines.

The Preliminary Plat provides an assessment demonstrating the project will comply with established standards.

STAFF COMMENT: The applicant has submitted a preliminary stormwater analysis for staff review and comment.

Open Space: Open space for the project is broken down on Sheet C.1 of the submittal as follows:

- Primary Open Space (i.e. wetlands, streams, floodplains, slopes greater than 25%, natural areas/wildlife corridors, etc.) – 4.02 acres (175,111 sq. ft.).

- Secondary Open Space (i.e. Open space access, woodlands, slopes between 15% and 25%, scenic views, etc.) – 17.49 acres (761,864 sq. ft.) further broken down as:
 - Perimeter Buffer (100 ft. in width): 12.61 acres
 - Woodlands/fields: 4.8 acres

The total area reserved as common open space is approximately 21.5 acres (44.9% of the site) composed of fields and forested areas with existing, mature, vegetation and trees with an approximate height of between 50 to 80 feet. All 19 lots are adjacent, and have access to, primary and/or secondary open space areas. Access to open space areas is also via the proposed 5 ft. wide concrete sidewalk running throughout the project.

STAFF COMMENT: Staff has determined the proposed open space meets the requirements of the UDO.

Land Use Buffer: The Preliminary Plat indicates there will be a 30-foot Type “B” land use buffer along Erwin Road and Whitfield Road. The buffers are comprised of existing, dense, vegetation composed of existing, mature, shrubs and trees with an approximate height of between 50 to 70 feet.

STAFF COMMENT: Section 6.8.6 (D) of the UDO requires that this project maintain a thirty (30) foot land use buffer separating the project from adjacent roadways. Staff has determined the proposed open space and land use buffers meet the requirements of the UDO.

Additional Comments: Attachment 3 contains additional comments for this project, including:

- An e-mail from David Sykes, Orange County Emergency Management, indicating there is an existing pond in the area to address fire suppression issues.
- An e-mail from Jeff Scouten, Orange County Solid Waste, approving road layout and construction.

JPA Review: In accordance with the Joint Planning Area Agreement, this project was sent to the Town of Chapel Hill for review and comment on April 20, 2015. To date, Staff has not received any comments.

Analysis: As required under Section 2.15.2 (E) of the UDO, the Planning Director is required to: *‘prepare and submit a recommendation’* on the concept plan to the Planning Board for consideration. In analyzing this request, the Planning Director offers the following:

1. The application has been deemed complete in accordance with the requirements of Section 2.2 and 2.15.2 of the UDO.
2. Staff has determined that the property is of sufficient size to support the proposed subdivision.
3. The proposal appears consistent with the various goals outlined within the Comprehensive Plan concerning development, including:
 - a. Land Use Overarching Goal: *Coordination of the amount, location, pattern, and designation of future land uses, with availability of County services and facilities sufficient to meet the needs of Orange County’s population and economy consistent with other Comprehensive Plan element goals and objectives.*

- b. Land Use Goal 2: *Land uses that are appropriate to on-site environmental conditions and features and that protect natural resources, cultural resources, and community character.*
 - c. Land Use Goal 3: *A variety of land uses that are coordinated within a program and pattern that limits sprawl, preserves community and rural character, minimizes land use conflicts, supported by an efficient and balanced transportation system.*
4. Staff has determined that the proposed subdivision is consistent with the provisions and goals of the Joint Planning Land Use Plan and Joint Planning Agreement.

FINANCIAL IMPACT: Staff has determined the project would not require augmentation of County budgetary outlays to support services and that anticipated revenues from property taxes should supplement increases in cost.

RECOMMENDATION: The Planning Director recommends the Board:

1. Receive the Preliminary Plat application for the Henderson Woods Subdivision,
2. Discuss the proposal, and
3. Recommend approval of the Preliminary Plat as submitted.

APPLICATION FOR PRELIMINARY PLAN APPROVAL
MAJOR SUBDIVISION

ORANGE COUNTY

5/05

PLEASE TYPE OR PRINT (INK ONLY)

DATE: _____

SUBDIVISION NAME: Henderson Woods

LOCATION: 605 Erwin Road

OWNER/DEVELOPER: Humphries Family, LLC & Henderson Woods, Inc.

ADDRESS: 4712 Whitfield Road / 6315 Howie Mine Church Rd

TELEPHONE NO.: 919-929-0518

Durham, NC 27707 / Waxhaw, NC 28173

AGENT/CONTACT: Tom Heffner, Heffner Properties, Inc.

ADDRESS: 1020 New Hope Road

TELEPHONE NO.: 919-929-0518

Chapel Hill, NC 27516

A SUMMARY INFORMATION Pin# 9891-80-0703 & 9891-60-4884

Orange County Tax Map _____ Block _____ Lot(s) _____ Township 7

Zoning District(s): RB - Rural Buffer

Total Number of Acres: 47.95

Total Number of Lots: 19 Average Lot Size: 1.2 AC Minimum Lot Size: 1.0 AC

Number/Type of Structures: (existing) 3 / house + 2 barns (proposed) 19 Single Family Homes

Linear Feet in Streets: 2,120 LF Acres in Open Space: 21.5 AC

Water Supply: _____ Public (specify) _____ Community _____ X Well Individual

Wastewater Disposal: _____ Public (specify) _____ Community _____ X Septic Individual

School District: CH - Carr School Fire District: New Hope Fire

General Land Uses in Area: Residential & Vacant Lands

Critical Areas: Stream & Buffer on Site stream/drainageways _____ flood prone areas
Jordan Lake Unprotected watershed (specify) _____ historic sites
other (explain) _____

Is the property to be subdivided currently under "farm use value taxation"? Yes _____ No X. If "yes," please contact the Orange County Tax Office. Subdivision of the property may require payment of deferred taxes under "farm use value taxation."

B All plats must be submitted on sheet no smaller than one inch equals two-hundred feet (1"=200') and no larger than one inch equals twenty feet (1"=20') and must contain the following information:

- | | | | |
|------------------|---|------------------|--|
| <u>CPK</u> _____ | subdivision name | <u>CPK</u> _____ | zoning of tract and adjacent properties |
| <u>CPK</u> _____ | name & address of owner(s) | <u>CPK</u> _____ | building setback lines by notation or typical lot layout |
| <u>CPK</u> _____ | name & address of subdivider (if other than owner) | <u>CPK</u> _____ | location and width of existing and proposed easements (drainage, utilities, roads, etc.) |
| <u>CPK</u> _____ | name of surveyor, engineer, landscape architect or architect, address, registration # & seal (title) Preliminary Plan | <u>CPK</u> _____ | Existing, proposed and adjoining rights-of-way including dimensions and street names and State Road numbers. Linear feet of road centerlines and approximate acreage of new street rights-of-way |
| <u>CPK</u> _____ | scale, north arrow | | |
| <u>CPK</u> _____ | date of plan preparation and revisions | | |
| <u>N/A</u> _____ | township, tax map-block-lot references | <u>CPK</u> _____ | existing and proposed utilities, including type, sizes, hydrants, valves, manholes |
| <u>CPK</u> _____ | Parent Parcel Identification # | | |
| <u>CPK</u> _____ | deed book and page # of property to be subdivided | | |
| <u>CPK</u> _____ | boundary described with bearings and distances | <u>CPK</u> _____ | existing and proposed curbs, gutters and culverts, including sizes and grades |

Site Data

Zoning: RB - Rural Buffer
 Acreage: 48.0 acres
 Overlay Districts: Jordan Lake Unprotected
 Plat/Legal Description: PIN: 9891-80-0703 DB 5892 / PG 471 Plat Book 58 / PG 21 and PIN: 9891-60-4884 DB 2027 / PG 561 Plat Book 110 / PG 157
 Recorded Declarations/Covenants: Not Found

Zoning Requirements

Min. Lot Size: 87,120 sq. ft.
 Min. lot width: 130'
 Maximum height: 25'
Building Setbacks:
 -Front (and Corner lots) = 40' from public rights-of-way
 -Side Setbacks = 20' from side lot lines
 -Rear Yard Setback = 20' from rear lot lines

Note: Lot size, building setbacks and stream buffers may increase based on Private Road Justification (UDO 7.8.5).

Environmental Features:

-Stream buffers located on lots. Stream buffer is 80^{ft} (displayed) for northern stream, and 50 ft (SWID) for eastern stream. Waterbody buffer not required for pond, please see SWID for details.

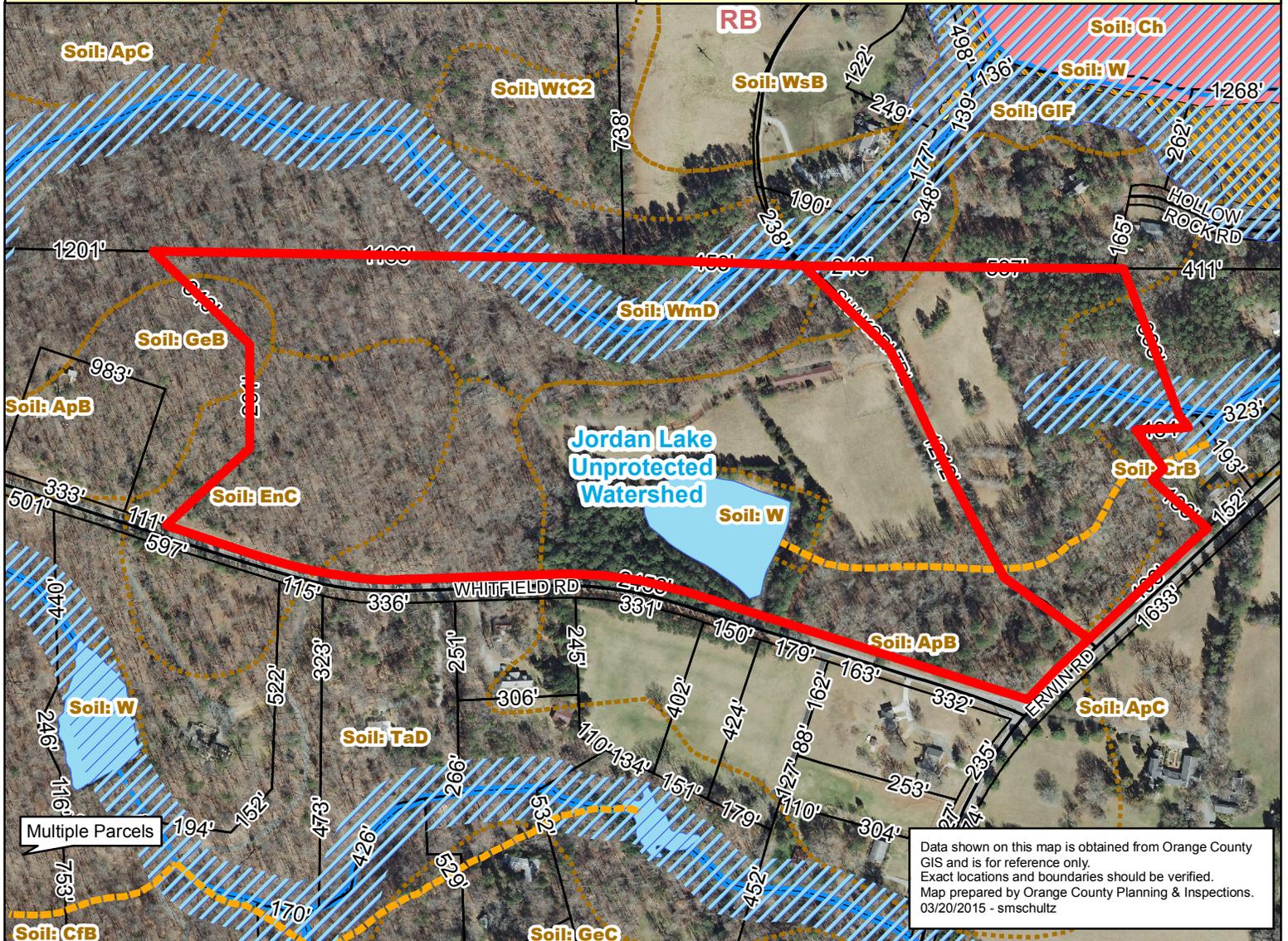
Impervious Surface Limits: NA

Land Disturbance Thresholds

- 1) Environmental Control Permit required if disturbing more than 20,000 sq.ft.; and
- 2) Stormwater Management Permit required if disturbing more than 21,780 sq. ft. for residential structures.

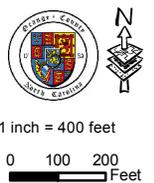
Note: Surface Water Identification (SWID) was performed by the Orange County Engineering Erosion Control Division and issued its findings on February 3, 2015

Date Site Assessment Completed: 3/20/2015 by SMS



Data shown on this map is obtained from Orange County GIS and is for reference only. Exact locations and boundaries should be verified. Map prepared by Orange County Planning & Inspections. 03/20/2015 - smschultz

- Streams (Deleted)
- USGS Stream
- Soils Survey Stream
- OC Updated Stream
- Stream Buffer 80ft
- Floodplain Buffer 80ft
- Parcels
- Zoning
- Water Body
- Watershed
- Soils
- 100 YR Floodplain (Effective 02/02/07)
- Floodway (Effective 02/02/07)
- 500 Year Floodplains (Effective 02/02/07)



EarthCentric Engineering, Inc.

September 9, 2015

Orange County Planning & Inspections Dept.
Patrick R. Mallett, Planner II
131 W. Margaret Lane
Suite 201
P. O. Box 8181
Hillsborough, NC 27278

Reference: ECE#14-044 – Henderson Woods response to Preliminary Plan Review
Comments

Dear Reviewers:

Attached are the requested revisions to the above referenced project. All comments have been addressed as indicated below.

I. Cover Sheet:

1. Provide a site total below Parcel 1 and 2 in the Project Data Table;
Site totals provided.
2. Your density is correct. However, the density should be noted as unit per acres (i.e. 1 unit per 2.52 acres);
Density notation changed as requested.
3. Itemize the linear feet in all access easements; and
Access easement lengths are now itemized.
4. Provide a note stating that any proposed road names will be submitted to Orange County Land Records for review and approval prior to recordation to ensure the names meet the County's Addressing Ordinances and policies. Please be advised that Shakori Trail is the name of the current Private Road. At this time, it is uncertain whether the name would remain when converted to a public road.
Notation added.

II. Existing Conditions (Sheet C-2):

1. Provide topographic contours for the entire site;

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GIS contours are now provided outside of the approximately 100' wide surveyed corridor along the proposed roadway. The GIS elevations do not precisely match the as-surveyed elevations but they are within an acceptable tolerance and the slope trends are generally consistent.

2. Illustrate potential wetlands and note regarding USAEC 404 Permitting requirements.

The northern wetlands and the associated buffer are now shown as they were indicated by S&EC using GIS location data. The southern wetlands is currently under re-review by S&EC and we anticipate reclassification shortly. Consequently, we currently show no buffer around the indicated area. If, after review, any work affecting any wetlands is indicated, the proper 404 permits will be acquired prior to construction.

3. Illustrate "Edges of pavement" along Erwin and Whitfield roads;
Edges of pavement have now been added to Erwin and Whitfield roads past the boundaries of the Henderson Woods property. The EOP is based on GIS data and surveyed rights-of-way for the roads.

4. Illustrate existing trees stands/tree lines with sample vegetation and specimen trees with types heights, Caliper/DBH (e.g. 60% evergreen trees primarily loblolly pines range in height from 30-60' in height and 10"-32" caliper inches in size as measured from Diameter Breast Height; and 40% understory and canopy hardwoods....");

Existing tree lines have been added to the drawings based upon Orange County GIS orthophotos of the site. The site consists of a mix of both mature evergreen and deciduous trees. However, as a formal tree survey is not required by the UDO, tree caliper, height and species mix have not been indicated on the plans as they have not been determined.

5. Illustrate septic systems and additional wells on the property with notes regarding removal;
A note regarding proper abandonment of the existing well and septic field has been added.
6. Note sources for data; and
A note listing the sources for the various data presented on the plans has been added to the lower left corner of the page.

7. Please show the adjacent uses around the proposed subdivision (e.g. developed single-family residential).

Standard use codes have been added to the basic data blocks for each of the adjacent properties (SFR – Single Family Residential, CMSC – Commercial Miscellaneous, etc.)

III. Site Plan (Sheet C-3):

1. Illustrate potential well and septic areas or provide additional sheet with this information;
A new sheet, C6.0 (Utility Plan) has been added to the submittal set. It shows soils, potential building locations and the septic fields as identified and located by the Health Department on GIS data (see attached report) and some potential well locations. The purpose of this information at this stage of design is only to show the basic viability of the lots. Currently S&EC is evaluating and flagging the septic locations for R.S. Jones & Associates to survey. The applicant understands that prior to final approval all lots must have adequate well locations and septic fields identified that comply with all Orange County requirements for size, flow, setbacks, etc.
2. Categorize and quantify each Primary and Secondary Area;
Where the Health Department indicated primary and secondary areas in their report, the septic fields shown on sheet C6.0 have been split. The Health Department did not do this for most of the lots (see attached report).
3. Include a Site Summary (you can repeat data from cover page);
The site summary data from the cover sheet has been repeated here on sheet C3.0
4. Include and label easements for sidewalks outside of rights-of-way;
A variable width easement (from 15' to 25' wide) has been added to the plans outside of the street right-of-way. The width varies to accommodate the meandering nature of the applicant's preferred sidewalk layout.
5. Planning staff recommends ending sidewalks before cul-de-sacs to cut-down on extraneous concrete and impervious surface;
The applicant prefers to continue the sidewalk around the cul-de-sacs to provide a continuous walking path for the residents.

6. Illustrate the end of the Shakori Trail right-of-way and beginning of access easement to serve norther lots;
Any access easement overlap with the new (public) Shakori Trail has been removed. The access easement now begins at the Erwin Road right-of-way ends at the cul-de-sac bulb. Although unpaved past the intersection with "Road B" the public right-of-way continues up to the northern boundary of the site.
8. Consider tapering EOPs/curb to transition to the above private drive;
The pavement now shown tapering over a length of 50' from the roadway width down to the 12' width of the existing gravel private drive.
9. Indicate surfacing for access easements (paved//gravel?);
The pavement in the area of the former access easement remains gravel past the "T" turnaround at "Road B".
10. It was Planning staff's understanding that a gate would be installed on Shakori Trails for access and Emergency Services access, but there is no gate depicted on the site plan. Please add the gate along with mention of a means of access for emergency services;
A gate is now shown towards the Erwin Road end of the access easement. It is located 60' past the Erwin Road right-of-way line.
11. Detail more definitively the storm drainage easements;
The area for the storm drain easements is now shaded in an effort to make them stand out more. They are still somewhat obscured on the 100 scale site plan but they do appear clearly on all of the 40 scale plan and profile sheets. I think this is the best we can do.
12. Show which sidewalks are ADA accessible and maximum grades; and
The plan and profile sheets now indicate (at the bottom of the profile) the areas where the sidewalk meets ADA requirements. Slopes are shown at the road centerline and are the same at the sidewalk except where it is indicated that the sidewalk slope meets ADA requirements (5% or less) while the centerline slope is greater.
13. Define amenities planned around pond area (a gazebo and community garden were envisioned in the concept plan).
The gazebo, garden and play area amenity near the mail kiosk has been indicated on sheet C8.0, the Landscape and Lighting plan. It is more

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visible here than on the site plan due to text conflicts and the 100 scale size.

IV. Grading and Storm Drainage (Sheet C-4):

1. Delineate storm drainage easements;
As noted above, the storm drain easements are now shaded so as to stand out more, but they are shown far more clearly on the plan/profile sheets.
2. Show limits of disturbance(s), and notes if necessary, if you intended to select grade for the single-family lots;
Limits of disturbance are now included on the new C5.0 Erosion Control sheet.
3. Illustrate silt and tree protection fencing and detail cut sheets for both;
The standard combination silt fence/tree protection fence is now indicated on the EC plan, sheet C5.0. It sits generally just outside the sidewalk easement.
4. Illustrate temp and permanent erosion control and stormwater devices and measures;
EC measures are now shown on sheet C5.0, and permanent measures such as riprap aprons are on sheet C4.0.
5. Add standard Erosion Control, stormwater, land disturbance and Solid Waste Management notes (e.g. "No open burning or dumping..."). Also, add note acknowledging that Erosion Control and Stormwater Plans and permits will be required prior to land disturbing activity.
Solid Waste requested that their notes appear on the cover sheet. Item #2 in the standard grading and storm drainage notes (sheets C1.0 and C4.0) covers the need for permits before land disturbing can commence.

V. General Recommendations and request for additional provisions

1. Consider adding a phasing plan as part of the approval. Otherwise, all of the project's infrastructure (e.g. roads, sidewalks, BMPs) will need to be built or bonded prior to recordation. A phasing plan may allow you to develop the infrastructure proportionally. In other words, without a Phasing

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Plan approved by the Orange County Board of Commissioners, you are committing to building all the infrastructure up front;

A phase line now appears on sheet C3.0, with Phase 1 being the entrance road and all lots west of the first intersection, and Phase 2 being the remainder of the proposed lots.

2. Provide an Landscape and Lighting Plans to demonstrate compliance with UDO Landscape requirements (e.g. street trees and between lot plantings) and Lighting requirements;
A landscape and lighting plan, sheet C8.0 has been added to the submittal set. The lighting portion consists only of a note stating that per the UDO lighting shall be designed and provided by Duke Energy and that they will submit the proper plans prior to construction of any light fixtures.
3. Provide details and dimensions for the mail kiosk and bump out; and Provide a note regarding signage for subdivision (e.g. "Signage for the development shall comply with UDO Section 6.12: Signs").
The draft NCDOT detail for a mail kiosk bump out on a public street is now included on sheet D4.0. That is all that is available at this time. Prior to construction, we will coordinate with NCDOT on the bump-out design if they have not yet released a final detail.
4. Please reference comments in the attached email, dated July 23, 2015, by Jeff Scouten of Orange County Solid Waste Management.
See comments below.

Orange County Solid Waste Management

1. Plan Sheet C1.0 (Cover Sheet) - Add the following standard OCSW notes:
[construction waste notes removed from comment for brevity]
The indicated notes have been added to the cover sheet.
2. Plan Sheet C3.0 (Site Plan) - The minimum radius for each of the 2 proposed cul-de-sacs needs to be 43' 6" (effective 44') to the face of curb in order for the County's recycling trucks to get around them without having to make backing movements and/or 3 point turns. The radius as shown on the plan appears to be 35' to the face of curb.

Per discussions with staff (and based on previously approved designs used in Orange County), four 20' wide public access shared drives (two at each cul-de-sac) have been added to give Solid Waste's trucks sufficient space to perform a 3-point turn using those drives plus the standard NCDOT 35' radius cul-de-

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sac. See sheet C3.0 and the plan/profile sheets for additional detail. The shared drives shall have the same pavement cross section as the NCDOT roadway in order to properly support the trucks' weight.

Any department not listed above did not provide comments or issued an approval. I believe you will find these revisions adequately address your concerns and appreciate your cooperation on these reviews. Should you have any questions or concerns regarding the attached information, please contact me at (919) 563-9041.

Sincerely,



Charles P. Koch, PE
EarthCentric Engineering, Inc.



Henderson Woods S/D:

Lot #	Layout Needed	No Well Site or well to be moved	House site to be moved, new site plan needed	
1	yes			
2	yes	yes	yes	
3	yes	yes	yes	
4	yes	yes	yes	
5	yes			
6	yes	yes		
7	yes		yes	
8	yes	yes	yes	
9	yes	yes	yes	
10	yes	yes	yes	
11	yes	yes	yes	
12	yes	yes	yes	
13	yes	yes	yes	
14	yes	yes	yes	
15	yes	yes	yes	
16	yes	yes	yes	
17	yes	yes	yes	
18	yes	yes		
19	yes	yes		

***Please note Orange County required setbacks, see attached:**

KEEP THIS PAGE

**PLEASE READ THIS BEFORE SUBMITTING THE APPLICATION
WHILE YOU ARE WAITING FOR YOUR APPOINTMENT:**

In the interest of processing your permit application as smoothly and quickly as possible, we ask that you:

- Make sure that you have submitted an accurate site plan (preferably to scale) that shows ALL proposed improvements to your lot. This includes:
 - Existing and proposed property lines with dimensions
 - Location of existing and proposed structures showing setbacks, wells, driveways, excavations, etc.
 - Location of surface waters
 - Your preferred site for the septic system and well.
- Please stake out any structures, additions, or future improvements on the ground. If you need wire flags for this, we have some available for you.
- Make sure that property lines and property corners are clearly marked and that the site is accessible for a full evaluation. If we are unable to verify property line locations, it will be necessary for the property to be surveyed before a determination can be made.
- When vegetation is too thick to permit movement through the site or observation of the topography, the area will need to be "bush-hogged" or thinned out. Be careful not to grade or excavate potential areas, as it is possible to damage sites beyond use. After the site is permitted, do not allow any disturbance of the area designated for the drainfield.
- You will need to provide backhoe pits in the following cases:
 - Evaluation of tracts for proposed subdivisions,
 - When the proposed waste flow exceeds 600 Gallons per day (>5 bedrooms),or
 - Sites where rock is prevalent
- Additional fees will be required if the resulting waste flow is >600 gallons per day, or if additional permits are necessary

NOTICE - It is important that you fill in the application completely and accurately and submit the accompanying site plan and floor plan. Incomplete applications can not be processed and will result in lengthy delays. If you change your plans after the permit is issued, a new application and fees will be required, so please be sure the information given is correct.

The PIN is the number that we use to track and file our applications when there is no address assigned to the property. When inquiring about your application, please have the PIN (or the property address) handy. It is usually found in the upper right-hand corner of our forms.

SETBACKS FOR SEPTIC SYSTEMS

WELL	100 ft *
BUILDING FOUNDATION, FOOTING	15 ft
PROPERTY LINE	10 ft
WATER LINE	10 ft
SWIMMING POOL	25 ft
STRUCTURE w/NO FOUNDATION (ex. Decks, carports, pole sheds, etc.)	5ft from the drip line
WS-I STREAM/ SA WATERS / CLASS I RESERVOIR	100 ft
POND, STREAM OR SURFACE WATER	50 ft
STORMWATER DETENTION POND	50 ft
EMBANKMENT, EXCAVATION	15 ft
INTERCEPTOR DRAIN, FOUNDATION	
DRAIN, STORMWATER DIVERSION	10 ft upslope 15 ft side slope 25 ft down slope
OTHER NITRIFICATION FIELDS	20 ft

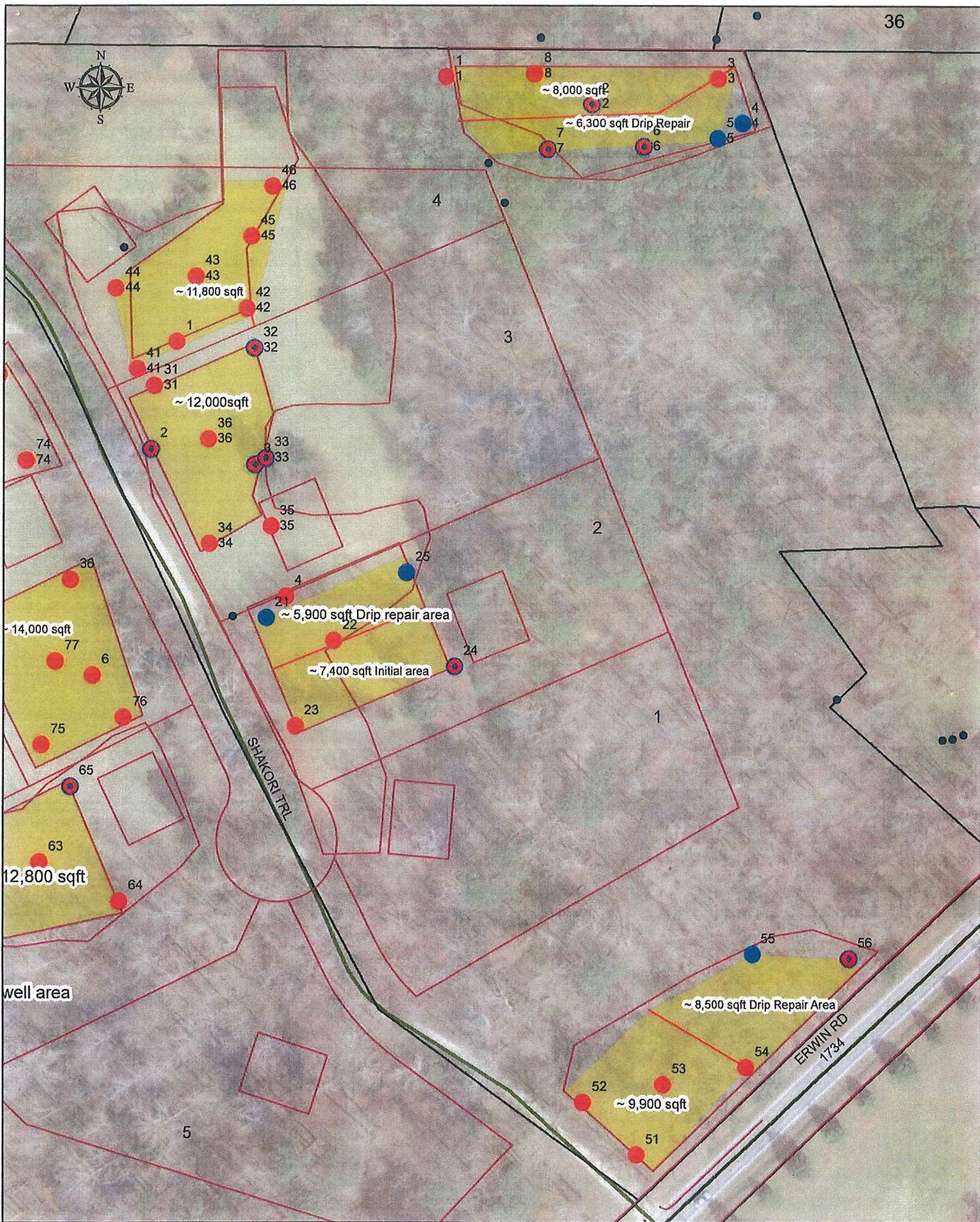
- Setbacks for large systems may need to be increased
- Systems must be located on property owned and controlled by the system owner. They may not be located in Resource Conservation Easements, Stream Buffers, Utility Easements, Rights of Way, etc.

SETBACKS FOR WELLS:

SEPTIC SYSTEM	100 ft *
SEWER LINES	50 ft *
PROPERTY LINE	40 ft *
BUILDING FOUNDATIONS	50 ft *
SWIMMING POOL OR SUPPLY STORAGE AREA	50 ft
STORAGE BUILDINGS W/ POTENTIAL CONTAMINANTS	50 ft
OTHER POTENTIAL SOURCES OF CONTAMINATION	100 ft

- Setbacks for Public Water Supplies may be increased.
- The well must be located in an area not subject to flooding.

* If it is not possible to achieve these distances, a reduced setback may be granted provided certain conditions can be met.

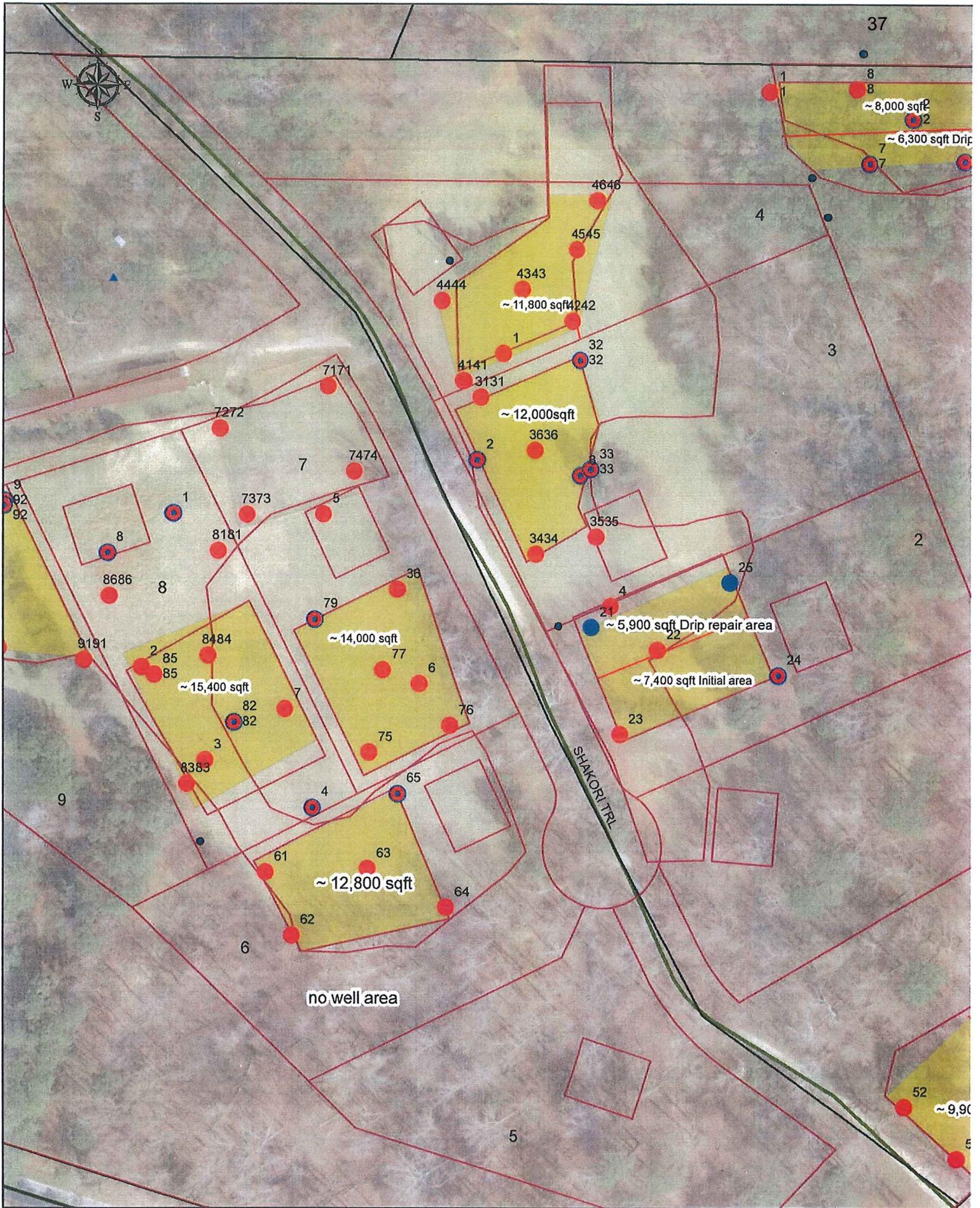


1 inch = 100 feet

Orange County Environmental Health

This map contains parcels prepared for the inventory of real property within Orange County, California.



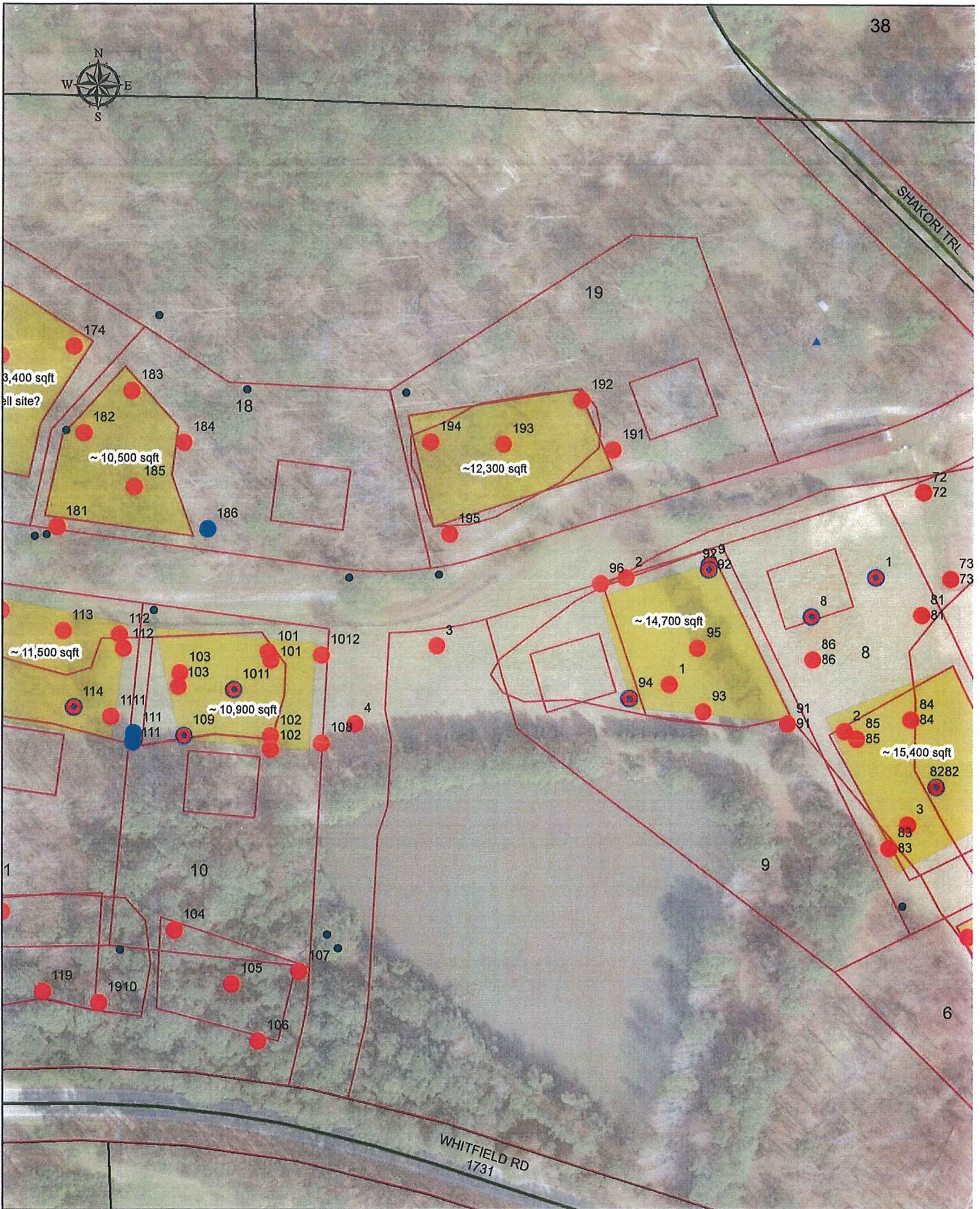


1 inch = 100 feet

Orange County Environmental Health

This map contains parcels prepared for the inventory of real property within Orange County and is compiled from



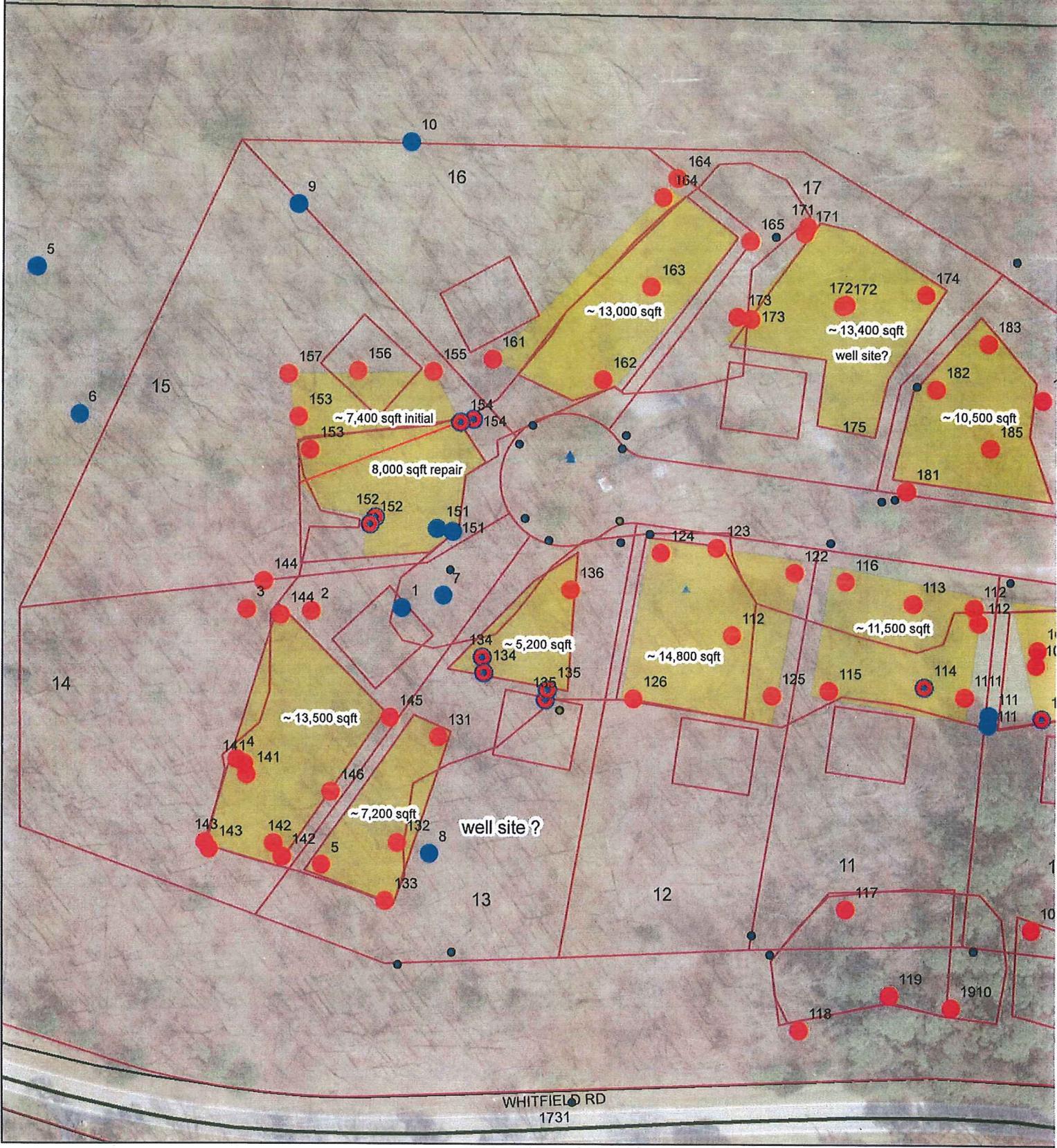


1 inch = 100 feet

Orange County Environmental Health

This map contains parcels prepared for the inventory of real property within Orange County, and is compiled from





1 inch = 100 feet

Orange County Environmental Health

This map contains parcels prepared for the inventory of real property within Orange County, and is compiled from



Patrick R. Mallett

From: Jason Shepherd
Sent: Monday, September 21, 2015 9:52 AM
To: Patrick R. Mallett
Subject: RE: Henderson Woods

[I don't have any issues with the preliminary subdivision](#)

From: Patrick R. Mallett
Sent: Monday, September 21, 2015 9:28 AM
To: Jason Shepherd; Jeff Scouten; Steve J Kaltenbach
Subject: Henderson Woods

Can you guys shoot me a quick e-mail stating the you have no significant issues with Henderson Woods Preliminary Subdivision? I need to demonstrate that we have closed the loop.

Very Respectfully,

Patrick R. Mallett, Planner II
Orange County Planning & Inspections Department

Phone: (919) 245-2577

Fax: (919) 644-3022

E-mail: pmallett@orangecountync.gov

Orange County Planning Website: <http://www.orangecountync.gov>

Address:

131 W. Margaret Lane, Suite 201

P.O. Box 8181

Hillsborough, NC 27278

Pursuant to North Carolina General Statute 132, correspondence sent and received from this account is a public record and may be disclosed to third parties.

Patrick R. Mallett

From: Steve J Kaltenbach
Sent: Monday, September 21, 2015 10:37 AM
To: Patrick R. Mallett
Cc: Michael Harvey
Subject: Henderson Woods

Patrick,

With my preliminary review for Erosion Control and Stormwater there are no issues of concern that will preclude development of the Henderson Woods project.

Steve



Department of Environment,
Agriculture, Parks & Recreation

MEMORANDUM

To: Patrick R. Mallett, *Planner, Planning and Inspections Department*

From: Rich Shaw, *DEAPR Land Conservation Manager*
Peter Sandbeck, *DEAPR Cultural Resources Coordinator*

Date: September 18, 2014

Re: Henderson Woods Major Subdivision

Thank you the opportunity to review and comment on the proposed Henderson Woods major subdivision. The development would create 19 single-family lots on 48 acres at the intersection of Whitfield Road and Erwin Road (Rural Buffer; Jordan Lake Unprotected Watershed).

DEAPR comments on subdivisions are generally intended to a) address any concerns with respect to potential impacts on important natural or cultural resources, and b) identify any areas that might be desirable for possible dedication to the County for public recreation/open space pursuant to Section 7.11.5 of the Unified Development Ordinance.

Natural Resources Review Comments:

The planned development would set aside 21.51 acres of open space (44.9% of the property) consisting of protected riparian buffers along two New Hope Creek tributary streams and roadside buffers adjacent to Whitfield Road and Erwin Road. The property shares a 1,200-foot common boundary with Duke Forest and the plan calls for retaining an undisturbed 100-foot buffer along that common boundary.

Overall, the plan appears consistent with the County's desire to minimize adverse environmental impacts with respect to the protection of floodplains, wetlands, natural areas and wildlife habitat. There are no known natural resource areas of high significance (e.g., natural heritage areas, recommended wildlife corridors) located on this property that would warrant potential DEAPR involvement in protecting the open space.

Cultural Resources Review Comments: There are no known/identified cultural resources on or immediately adjacent to this property. As always, the developer should be aware of the possibility of finding unmarked or poorly-marked graves when clearing and grading any rural property. Orange County maintains a detailed map of all known or identified cemeteries and burials, available through the Planning and Inspections Department. The willful disturbance or desecration of any gravesite or burial is a violation of state law. Anyone who encounters what appears to be a burial or grave should immediately contact the Orange County Cultural Resources Coordinator at 919-245-2517.

If you have questions please contact Rich at x-2514 or Peter at x-2517.

Patrick R. Mallett

From: Jeff Scouten
Sent: Thursday, July 23, 2015 1:41 PM
To: Patrick R. Mallett
Subject: Henderson Woods Major Subdivision Plan Review Comments Dated 7/23/15
Attachments: Henderson Woods Plan Review Comments Dated 7-23-15.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Pat:

I have completed my review of the subject plans and my comments are on the attached memo document. Thanks for the opportunity to review and comment on this plan and please let me know if you have any questions or wish to discuss this matter further.

Jeff Scouten
Environmental Enforcement Supervisor
Orange County Solid Waste Management
P.O. Box 17177
Chapel Hill, NC 27516-7177
919-968-2788 x 107 (Office)
919-932-2900 (Facsimile)
jscouten@orangecountync.gov
<http://orangecountync.gov/recycling>



MEMORANDUM

TO: PATRICK MALLET, PLANNER II, ORANGE COUNTY PLANNING DIVISION
FROM: JEFF SCOUTEN, ORANGE COUNTY SOLID WASTE MANAGEMENT
SUBJECT: HENDERSON WOODS MAJOR SUBDIVISION PLAN REVIEW COMMENTS – PLANS DATED 7/1/15
DATE: JULY 23, 2015

I have completed my review of the subject plans and the following comments must be satisfactorily addressed before I can offer my recommendation for approval:

1. Plan Sheet C1.0 (Cover Sheet) – Add the following standard OCSW notes:

Construction Waste:

- All existing structures 500 Square Feet and larger in size shall be assessed prior to demolition to ensure compliance with the County's Regulated Recyclable Materials Ordinance (RRMO) and to assess the potential for de-construction and/or the re-use of salvageable materials.
 - By Orange County Ordinance, clean wood waste, scrap metal, and corrugated cardboard present in construction or demolition waste must be recycled.
 - By Orange County Ordinance, all haulers of mixed construction and demolition waste that includes any regulated recyclable materials shall be licensed by Orange County.
 - Prior to any demolition or construction activity on the site the Applicant shall hold a pre-demolition/pre-construction conference with the Solid Waste staff. This may be the same pre-construction meeting held with other development/enforcement officials.
 - The presence of any asbestos containing materials ('ACM') and/or other hazardous materials in construction and demolition waste shall be handled in accordance with any and all local, state, and federal regulations and guidelines.
2. Plan Sheet C3.0 (Site Plan) – The minimum radius for each of the 2 proposed cul-de-sacs needs to be 43' 6" (effective 44') to the face of curb in order for the County's recycling trucks to get around them without having to make backing movements and/or 3 point turns. The radius as shown on the plan appears to be 35' to the face of curb

Thanks for the opportunity to review and comment on this plan and please do not hesitate to contact me with any questions or to discuss this matter further.

Patrick R. Mallett

From: Jeff Scouten
Sent: Tuesday, August 04, 2015 4:37 PM
To: Shawn Sidener
Cc: Patrick R. Mallett
Subject: RE: Henderson Woods
Attachments: New Truck Turn Radii Templates July 2015.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Shawn:

We prefer that plans meet the minimum turning radii for our collection trucks before we consider alternatives. Attached are templates that you can use to try and make it work for the project. Try to go that route first. Thanks.

Jeff Scouten
Environmental Enforcement Supervisor
Orange County Solid Waste Management
P.O. Box 17177
Chapel Hill, NC 27516-7177
919-968-2788 x 107 (Office)
919-932-2900 (Facsimile)
jscouten@orangecountync.gov
<http://orangecountync.gov/recycling>



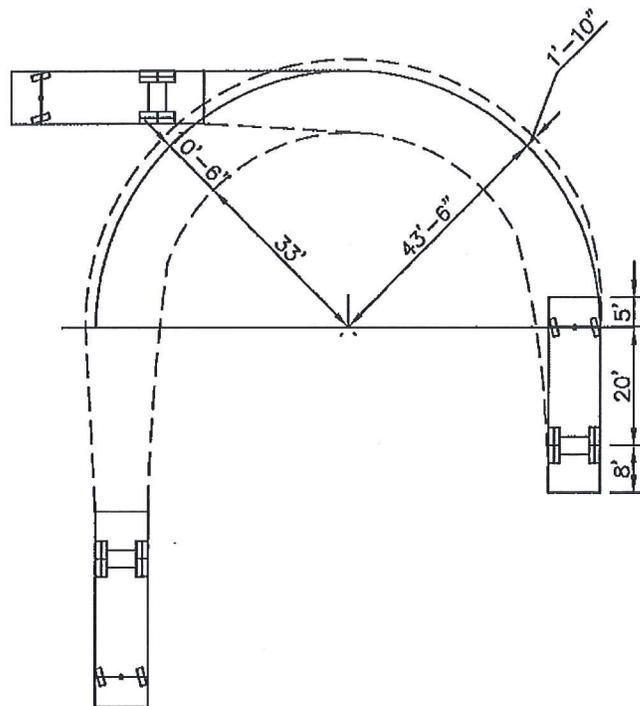
From: Shawn Sidener [<mailto:Shawn.Sidener@EarthCentric.com>]
Sent: Tuesday, August 04, 2015 3:02 PM
To: Jeff Scouten
Subject: Henderson Woods

Jeff,

We were going over the comments for Henderson Woods with Patrick in Planning. Patrick told us you have some "alternates" that we could look at instead of the increased Cul-de-sac size. I would like to see what options are available. Thank you.

Shawn C. Sidener
Office Manager, CAD Drafter
EarthCentric Engineering Inc.

204 West Clay Street
Mebane, NC 27302-2436



STANDARD SOLID WASTE AND RECYCLING COLLECTION VEHICLE
 WB 20, MIN PRACTICAL TURNING RADIUS 33'

PLOTTED: July 20, 2015-4:16pm (gdvely) FILENAME: S:\engineer\CADD Drive\trash truck turn template.dwg LAYOUT: 30 SCALE

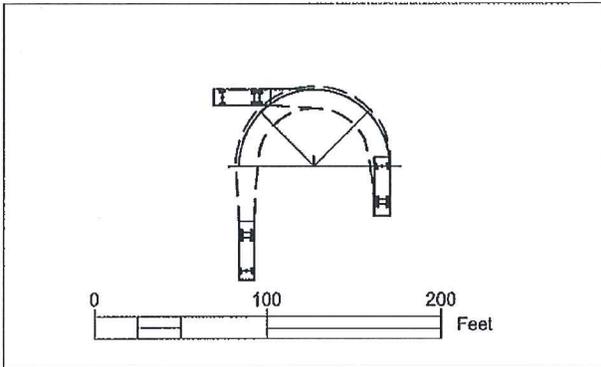
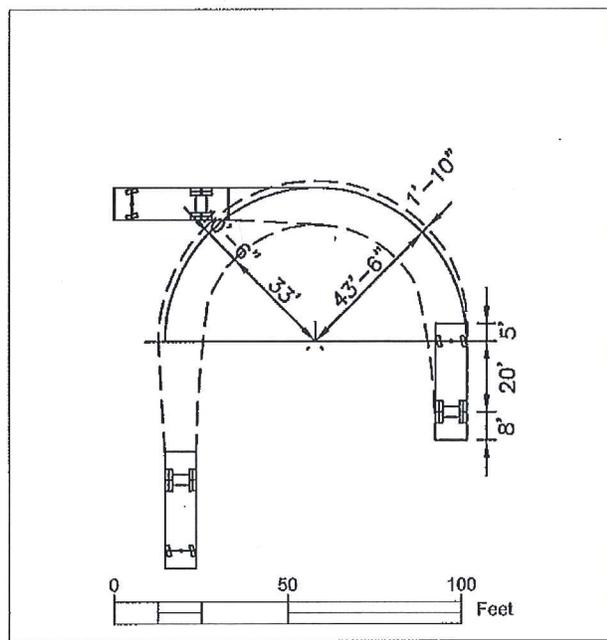
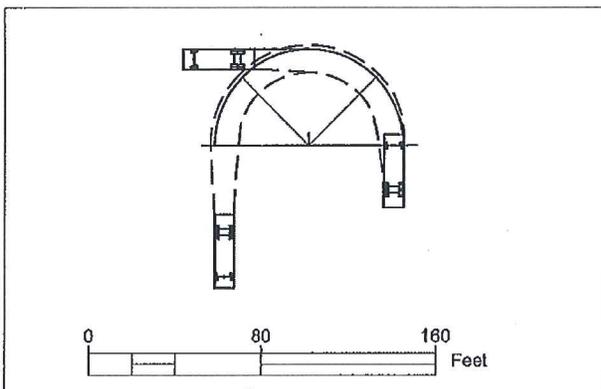
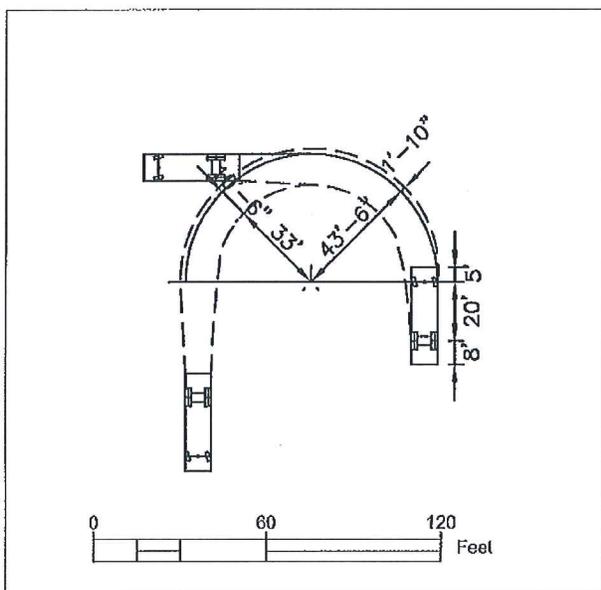
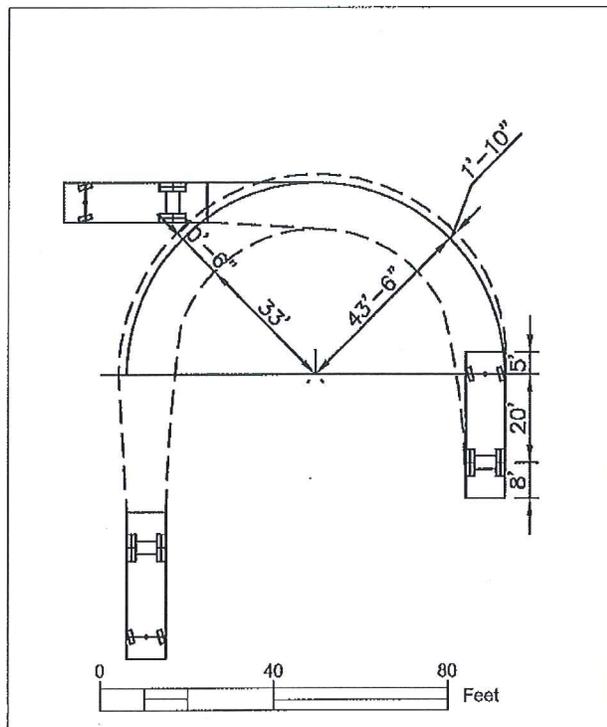


**ORANGE COUNTY
 SOLID WASTE MANAGEMENT**
 1207 EUBANKS ROAD
 PO BOX 17177
 CHAPEL HILL, NC 27516

**ORANGE COUNTY, NC
 SOLID WASTE MANAGEMENT**

TURN RADIUS TEMPLATE

REVISION		FIGURE 2	
		DATE: 7/20/2015	DESIGN:
REVISION		SHEET NUMBER: 1	



STANDARD SOLID WASTE AND RECYCLING COLLECTION VEHICLE
WB 20, MIN PRACTICAL TURNING RADIUS 33'

PLOTTED: July 20, 2015-4:16pm (gdvelv) FILENAME: S:\engineer\CADD Drive\trosh truck turn template.dwg LAYOUT: REST



**ORANGE COUNTY
SOLID WASTE MANAGEMENT**
1207 EUBANKS ROAD
PO BOX 17177
CHAPEL HILL, NC 27516

**ORANGE COUNTY, NC
SOLID WASTE MANAGEMENT**

TURN RADIUS TEMPLATE

FIGURE 3	
DATE: 7/20/2015	DESIGNER:
SHEET NUMBER: 1	
REVISION	

MINUTES
PLANNING BOARD
JUNE 3, 2015
REGULAR MEETING

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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; Bryant Warren, Hillsborough Township Representative; Laura Nicholson, Eno Township Representative; Lisa Stuckey, Chapel Hill Township Representative; Maxecine Mitchell, At-Large Bingham Township; Herman Staats, At-Large, Cedar Grove Township; James Lea, Cedar Grove Township Representative; Andrea Rohrbacher, At-Large Chapel Hill Township;

MEMBERS ABSENT: None

STAFF PRESENT: Craig Benedict, Planning Director; Michael Harvey, Current Planning Supervisor; Ashley Moncado, Special Projects Planner; Rachel McCook, Planning Technician; Erica Gray Administrative Assistant II;

AGENDA ITEM 7: MAJOR SUBDIVISION CONCEPT PLAN: To review and make a decision on a Major Subdivision Concept Plan (using the Flexible Design Option) application (Henderson Woods) seeking to subdivide a 48 acre parcel of property into 19 single family residential lots with 21.2 acres (44% of the site) held in common open space. The proposed subdivision is located at the intersection on Erwin Road and Whitefield Road in Chapel Hill Township.

Presenter: Michael Harvey, Current Planning Supervisor

Michael Harvey: Reviewed abstract.

Craig Benedict: To conceptualize the difference between a conventional subdivision and this flexible conservation cluster. The conventional would give you 19 2.5 acre lots. The flexible with give you 19 1.2 acre lots and 21 acres of open space. Everyone living within the project would have a share of this common open space. This is the tendency over the last 10 years for people to have a smaller lot to have the extra space for common open space.

Tom Heffner: My name is Tom Heffner and I am the developer of Henderson Woods. I have done a number of subdivisions in the area, Creekwood, Northfield, etc. I felt it was more desirable to have open space rather than larger lots. We came in with a plan, got comments from staff and made modifications, had the neighborhood information meeting, listened to their comments and input, made revisions to the proposal based on those comments. Talked to NCDOT and made their modifications. We believe this proposal captures most concerns and represents a reasonable project for the area.

Pete Hallenbeck: The existing road that comes through and Michael said you can't get rid of the right of way but it would be limited to the occupants of technically the people in this subdivision couldn't use that road to get out onto Erwin.

Tom Heffner: NCDOT has been explicit in saying they didn't want that to become a secondary entrance because that road is so close to a signalized intersection. We would pave that road and put a gate on it so the folks who have a right to use it could open the gate to use it.

Andrea Rohrbacher: What about delivery trucks?

51
52 Tom Heffner: FedEx will be encouraged to use the subdivision streets rather than the private road.
53
54 Pete Hallenbeck: Is that road going to be taken off the GIS system as a road that segment there? If you
55 don't it would show up for emergency responders as a valid route they could take.
56
57 Craig Benedict: Probably addressing off that road and emergency services has a point on Erwin Road
58 where they expect to see that road. They will have an asterisk on it because of what has happened around
59 it but my thought process is that if the address is off that road indicate the point of entry for those lots, it will
60 remain on the GIS system.
61
62 Pete Hallenbeck: They are currently switching to a system of closely dispatch that looks for all possible
63 roads and routes and there is no mechanism to show if the road is full access or not.
64
65 Michael Harvey: You will probably see that occur if the project is approved and recorded. This will remain
66 as an easement (Mr. Harvey was pointing to a map of the identified easement area) but the road name will
67 be removed.
68
69 Paul Guthrie: On the open space buffering outside the lot, what is going to be the legal long-term
70 ownership and legal responsibility for that property?
71
72 Tom Heffner: It would be owned by a homeowner's association as incorporated body. Their legal
73 documents would require their ownership and their maintenance of the property and then in turn there
74 would be homeowner's dues paid by the people living in the subdivision that would fund that work on an
75 ongoing basis.
76
77 Michael Harvey: If this is approved with a flexible development layout, there will be provisions in the
78 resolution of approval as there are in all major subdivision based on the flexibility and design guidelines to
79 preclude the clearing of the trees within the dedicated open space except for any activity recognized by the
80 board such as the installation of a trail or recreation area.
81
82 Paul Guthrie: My question was about long term liability and things that take place on that and the ability or
83 not of that being removed from open space.
84
85 Michael Harvey: This area could not be removed from open space unless the applicant came back to the
86 county to request a modification of the major subdivision. I will state that we would probably object to it
87 being removed because that is how it was originally approved and we are not interested in seeing
88 dedicated open space turned into developed area.
89
90 James Lea: Does Lot 9 actually take up part of the pond?
91
92 Tom Heffner: Yes. The pond size will be modified. Since it is not a spring fed pond, in the summer when
93 we have less rain, it drops significantly so my goal is that we will reduce the physical area of the pond to try
94 to have a more stable water level. The line is showing the maximum size of the pond.
95
96 James Lea: What happens when you have flooding with the pond?
97
98 Tom Heffner: Earth Centric engineering is doing storm water plan we have had several meetings on how to
99 handle that. We can increase the storm water flow downstream to the properties over to the right. We are

100 trying to utilize the pond as a storm water retention device so in maximum flow areas, the pond will serve to
101 retain storm water so it will be release more gradually after the storm event is over.

102
103 Pete Hallenbeck: It looks like the drainage to the pond is out the center. Is that through a drain pipe?
104

105 Tom Heffner: I don't know.

106
107 Pete Hallenbeck: If it is, you should still have a cut away for hurricane events.
108

109 Tom Heffner: That will be part of the design.
110

111 Michael Harvey: I would like to remind the board that on pages 34 and 35, we have provide the board with
112 an email exchange from David Sykes and Jason Shepard of Orange County Emergency Services as well
113 as Mike Tapp who is the deputy chief of the local volunteer fire department indicating there are two existing
114 water sites that would support fire suppression activity. The question was asked, does this pond need to
115 be turned into a water source. Mr. Tapp has indicated it does need to be there as there are existing water
116 sources they will take advantage of. We did not require a stand pipe for this pond.
117

118 Lydia Wegman: How many properties currently use Shakori Trail as an access point?
119

120 Tom Heffner: There are two properties. One property has two houses and the other has one building.
121

122 Lydia Wegman: There is no expectation of expansion?
123

124 Tom Heffner: Those people probably do have subdivision rights there.
125

126 Lydia Wegman: They would have rights?
127

128 Tom Heffner: Exactly.
129

130 Maxecine Mitchell: I take it the threshold for not having some type of recreational, are we going to be faced
131 with someone saying I want to put a pool but I don't have enough impervious surface to do anything?
132

133 Michael Harvey: This parcel of property is not located in a protected or critical watershed overlay district so
134 there is no impervious limit. There are open space requirements on the lots but nothing that would
135 preclude them from putting in a pool. The applicant is providing walkways but they are electing to do a
136 payment-in-lieu to the County allowing for regional park development. In other words the applicant will give
137 the county money that will go to developing parks in the area.
138

139 James Lea: You said there would be walkways, does that mean sidewalks and if so, who maintains those
140 sidewalks?
141

142 Tom Heffner: The homeowners association. I do a meandering concrete sidewalk behind the DOT street
143 right of way. I am going to do sidewalk on both sides and then another section of sidewalk will come down
144 toward the pond. The combination of sidewalks on both sides will give about a mile of walking trail.
145

146 Unidentified Female: Are these houses essentially like the ones in Creekwood?
147

148 Tom Heffner: Based on the probable lot size will be.

149

150 Unidentified Male: And the size of those houses will be?

151

152 Tom Heffner: I would guess will be between 4,000 to 6,000 feet. On restricted covenants, I tend to put a
153 pretty low restrictive covenant number in. The minimum square footage will be 2,500 feet.

154

155 **MOTION** made by Lydia Wegman to approve the flexible development concept plan. Tony Blake
156 seconded.

157 **VOTE:** Unanimous

158

**ORANGE COUNTY
PLANNING BOARD
ACTION AGENDA ITEM ABSTRACT**
Meeting Date: October 7, 2015

**Action Agenda
Item No. 9**

SUBJECT: Unified Development Ordinance Text Amendment – Public Hearing Process Revisions

DEPARTMENT: Planning and Inspections

PUBLIC HEARING: (Y/N)

Yes

ATTACHMENT(S):

1. Comprehensive Plan/UDO Amendment Outline Form
2. Statement of Consistency
3. Proposed Text Amendments
4. Timeline Examples

INFORMATION CONTACT: (919)

Perdita Holtz, Planning, 245-2578
Craig Benedict, Planning, 245-2592

PURPOSE: To make a recommendation to the Board of County Commissioners (BOCC) on text amendments to the Unified Development Ordinance (UDO) initiated by the Planning Director to revise the existing public hearing process for UDO-, Comprehensive Plan-, and Zoning Atlas-related items.

BACKGROUND: The “Amendment Outline Form” (Attachment 1) for these amendments was approved by the BOCC at its June 2, 2015 regular meeting, after discussion of the topic at the May 12, 2015 BOCC work session. Please see Section B of Attachment 1 for background and analysis, including information on three objectives near the bottom of page 3 of the Amendment Outline Form.

The amendment was presented at the September 8, 2015 quarterly public hearing. Agenda materials from that meeting are available at http://www.orangecountync.gov/document_center/BOCCAgendaMinutes/150908.pdf. The video for the public hearing is available for viewing at: http://orange-nc.granicus.com/MediaPlayer.php?view_id=2&clip_id=958. Planning Board members who were not able to attend the quarterly public hearing are encouraged to view the video prior to the Planning Board meeting.

As a result of comments made at the public hearing, the following modifications have been made to the amendment materials (depicted in orange text in Attachment 3):

- The newspaper legal advertisement for Special Use Permits will be retained. Staff will work on language to be included in the legal ads to clarify who may testify in quasi-judicial matters since the general public does not have standing in quasi-judicial matters but may attend the hearing.
- The notice distance requirement for all types of amendments or projects that require mailed notification is proposed to be increased from 500-feet to 1,000-feet. Staff is

proposing that notices be mailed via first class mail instead of certified mail, as is currently done, to keep costs and staff time lower.

Additionally, the BOCC requested input from the Planning Board on whether a quorum of Planning Board members should be necessary in order to hold a quarterly public hearing. The language of the text amendments in Attachment 3 does not require a quorum of Planning Board members in order to hold a quarterly public hearing.

At the request of Planning Board Chair Hallenbeck, staff created examples of expected timelines for the revised processes. These examples are included in Attachment 4.

Procedural Information: In accordance with Section 2.8.8 of the UDO any evidence not presented at the public hearing must be submitted in writing prior to the Planning Board's recommendation. Additional oral evidence may be considered by the Planning Board only if it is for the purpose of presenting information also submitted in writing. The public hearing is held open to a date certain for the purpose of the BOCC receiving the Planning Board's recommendation and any submitted written comments.

Planning Director's Recommendation: The Planning Director recommends **approval** of the Statement of Consistency, indicating the amendments are reasonable and in the public interest, contained in Attachment 2 and proposed amendment package contained in Attachment 3.

FINANCIAL IMPACT: Existing staff will complete the necessary work required for this project. Adoption of the proposed revisions is not expected to cause significant financial impacts (negative or positive).

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goals is applicable to this agenda item:

GOAL: Enable Full Civic Participation

Ensure that Orange County residents are able to engage government through voting and volunteering by eliminating disparities in participation and barriers to participation.

RECOMMENDATION(S): The Planning Director recommends that the Board:

1. Provide input to the BOCC on whether a quorum of Planning Board members should be necessary in order to hold a quarterly public hearing,
2. Deliberate on the amendments as desired,
3. Consider the Planning Director's recommendation, and
4. Make a recommendation to the BOCC on the Statement of Consistency and proposed amendment package in time for the **November 5, 2015** BOCC meeting

COMPREHENSIVE PLAN / FUTURE LAND USE MAP AND UNIFIED DEVELOPMENT ORDINANCE (UDO) AMENDMENT OUTLINE

UDO / Zoning-2015-09
Revisions to Public Hearing Process

A. AMENDMENT TYPE

Map Amendments

- Land Use Element Map:
From: - - -
To: - - -
- Zoning Map:
From: - - -
To: - - -
- Other:

Text Amendments

- Comprehensive Plan Text:
Section(s):

- UDO Text:
 - UDO General Text Changes
 - UDO Development Standards
 - UDO Development Approval Processes
 Section(s): 1.6.2, 2.1, 2.2, 2.3, 2.7, 2.8, 2.9, 2.11.6 (correct typo), 2.12.6, and 5.10.2.

- Other: Planning Board Rules of Procedure to: 1) require that the Planning Board Chair (or Vice-Chair in Chair's absence) attend quarterly public hearings and BOCC meetings at which a decision is scheduled for items on which the Planning Board has made a recommendation; and 2) to encourage Planning Board members to attend Neighborhood Information Meetings (NIMs) for Class A Special Use Permits and Conditional Zoning Districts and to address procedures for notification regarding NIMs.

B. RATIONALE

1. Purpose/Mission

To consider revisions to the current public hearing process for Comprehensive Plan, Unified Development Ordinance, and Zoning Atlas amendments.

County staff and elected officials received comments during development of the Comprehensive Plan (2008) and Unified Development Ordinance (2011) about the perceived need to streamline and speed up decisions on applications.

2. Analysis

This topic was discussed extensively in 2014, after being heard at the September 2014 quarterly public hearing. The public hearing for the amendments, as proposed in 2014, was closed in November 2014 when it became apparent that the proposal would change significantly enough to require another public hearing. The topic was recently discussed at the May 12, 2015 BOCC work session. Work session materials include links to prior materials and are available at:

<http://www.orangecountync.gov/150512.pdf>.

The Ordinance Review Committee (ORC), a function of the Planning Board, reviewed draft language in July and August 2015. At the time, internal staff/attorney review was ongoing and the materials to be presented at public hearing have been modified from the versions the ORC reviewed. ORC agenda materials and meeting notes are available at:

http://www.orangecountync.gov/ORC_Agenda_Packet_July_2015.pdf

http://www.orangecountync.gov/7_1_15_ORC_Notes.pdf

http://www.orangecountync.gov/ORC_Agenda_Package_Aug_2015.pdf

http://www.orangecountync.gov/8_5_15_ORC_Notes.pdf

Proposed Revisions

The following revisions are being proposed:

- Planning Board review/recommendation would occur prior to the public hearing for both legislative and quasi-judicial (Class A Special Use Permit) items. (The existing process is for Planning Board review/recommendation to occur after the public hearing).
 - Notification of the Planning Board meeting would be mailed/posted for items requiring such notice (e.g., map amendments or development projects) and the public would be able to address the Planning Board at its meeting. The proposed process would allow for public notification and involvement earlier than the existing process.
- No longer require a quorum of Planning Board members in order to hold a quarterly public hearing. Planning Board members would still be expected to attend the hearing but a quorum of members would not be necessary in order for the hearing to be held. This revision would mean that the quarterly public hearings would no longer be considered joint BOCC/Planning Board hearings since, without a quorum requirement, the Planning Board could not be considered an official board in attendance.
 - Revise the Planning Board Policies and Procedures to require that the Planning Board Chair, or Vice-Chair in the Chair's absence, attend the

quarterly public hearings and also the BOCC meetings at which a decision is scheduled for items on which the Planning Board has made a recommendation.

- Allow Comprehensive Plan amendments to be heard at any quarterly public hearing. Existing language that states “principal” Comprehensive Plan amendments are “generally” considered only once per year at the quarterly public hearing in February is proposed for deletion (Section 2.3.7). Additionally, language that classifies Comprehensive Plan amendments into “principal” and “secondary” amendments (Section 2.3.4) is proposed for deletion because it is relevant only in conjunction with Section 2.3.7.
- Legal advertisement of quasi-judicial hearing items: due to comments made at the September 8, 2015 public hearing, staff is suggesting that the newspaper legal advertisement for Special Use Permits will be retained and that staff work on language to be included in the legal ads to clarify who may testify in quasi-judicial matters. [Within the materials presented at the public hearing, the Attorney’s office had suggested that Special Use Permit applications (both Class A and Class B) no longer be included in legal advertisements since the general public does not have standing to participate in quasi-judicial hearings.]
- Mailed Notification Distances: Due to comments made at the September 8, 2015 public hearing, the notice distance requirement for all types of amendments or projects that require mailed notification is proposed to be increased from 500-feet to 1,000-feet. Staff is proposing that notices be mailed via first class mail instead of certified mail, as is currently done, to keep costs and staff time lower.
- Closure of public hearings: Modifications in Section 2.3.11, 2.7.9, and 2.8.9 would mean that the BOCC would close the public hearing the night of the hearing. At that time, the BOCC could defer a decision to a later BOCC meeting date; make a decision; or, as a procedural right not included in the text of the UDO, send an application back to the Planning Board for further review. If the BOCC chooses to defer a decision to a later meeting date, legislative items could be listed on the future BOCC agenda as “Regular Agenda” items and additional public comment could be accepted. The existing requirement for only written comments after the quarterly public hearing is proposed for deletion.
 - In order to meet legal sufficiency requirements, hearings for quasi-judicial items (Class A Special Use Permits) would be continued to a date/time certain if additional evidence is requested at the quasi-judicial hearing. The date/time certain could be a regular BOCC meeting (e.g., not necessarily the next quarterly public hearing). Written evidence after the quasi-judicial hearing would no longer be permitted.
 - The BOCC may wish to consider adding an additional heading to its agendas: Quasi-Judicial Hearings, along with a note explaining that only persons with legal standing can participate in quasi-judicial hearings. Quasi-judicial items deferred for decision to a later meeting date or for which the hearing was continued in order to receive additional evidence would be listed on the BOCC agenda under this new heading.

As has been discussed in the past, the bases for some of the proposed revisions are as follows:

1. Allow the public to make comments at the end of the process.
2. Do not require a quorum of Planning Board members in order to hold a public hearing.
3. Streamline and speed up the review/decision process when possible.

The proposed revisions are expected to achieve these objectives. When the BOCC discussed this topic at its May 12, 2015 work session members indicated that if the process were revised it should be evaluated after one year to ensure it was working as intended and satisfactorily. If the proposed revisions are adopted, an evaluation can be scheduled for a year later. Any future revisions to the UDO would need to be brought forward to a future public hearing.

3. Comprehensive Plan Linkage (i.e. Principles, Goals and Objectives)

Land Use Goal 6: A land use planning process that is transparent, fair, open, efficient, and responsive.

4. New Statutes and Rules

N/A

C. PROCESS

1. TIMEFRAME/MILESTONES/DEADLINES

- a. BOCC Authorization to Proceed

June 2, 2015

- b. Quarterly Public Hearing

September 8, 2015

- c. BOCC Updates/Checkpoints

May 12, 2015 – work session

July 1, 2015 – Planning Board ORC (agenda materials are available to all interested persons)

August 5, 2015 – Continuation of Planning Board ORC (agenda materials are available to all interested persons)

November 5, 2015 – receive Planning Board recommendation and make decision

- d. Other

2. PUBLIC INVOLVEMENT PROGRAM

Mission/Scope: Public Hearing process consistent with NC State Statutes and

Orange County ordinance requirements.

a. Planning Board Review:

Amendments proposed in 2014 were discussed extensively by the Planning Board in October, November, and December 2014. This discussion informs the 2015 proposed amendments.

July 1, 2015 – ORC (Ordinance Review Committee)
August 5, 2015 – ORC (continued from July 1)
October 7, 2015 - recommendation

b. Advisory Boards:

_____	_____
_____	_____
_____	_____

c. Local Government Review:

Proposed text amendments were sent to JPA partners (Towns of Chapel Hill and Carrboro) on August 7, 2015 in accordance with the JPA Agreement since any project in the Rural Buffer requiring a public hearing would be subject to a revised process. To date, no comments have been received from the JPA partners.

_____	_____
_____	_____
_____	_____

d. Notice Requirements

Consistent with NC State Statutes – legal ad prior to public hearing

e. Outreach:

<input type="checkbox"/> General Public:	_____
<input type="checkbox"/> Small Area Plan Workgroup:	_____
<input type="checkbox"/> Other:	_____

3. FISCAL IMPACT

Consideration and approval will not create the need for additional funding for the provision of County services. Costs for the required legal advertisement will be paid from FY2015-16 Departmental funds budgeted for this purpose. Existing Planning staff included in the Departmental staffing budget will accomplish the work required to process this amendment.

D. AMENDMENT IMPLICATIONS

If adopted, the amendments would revise the existing process used by Orange County to review Comprehensive Plan, Unified Development Ordinance, and Zoning Atlas amendments.

E. SPECIFIC AMENDMENT LANGUAGE

See Attachment 3.

Primary Staff Contact:

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**STATEMENT OF CONSISTENCY
OF A PROPOSED UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT
WITH THE ADOPTED ORANGE COUNTY 2030 COMPREHENSIVE PLAN**

Orange County has initiated an amendment to the Unified Development Ordinance (UDO) to revise the existing public hearing process.

The Planning Board finds:

- a. The requirements of Section 2.8 of the UDO have been deemed complete; and,
- b. Pursuant to Sections 1.1.5, and 1.1.7 of the UDO and to Section 153A-341 of the North Carolina General Statutes, the Board finds sufficient documentation within the record denoting that the amendment **is consistent** with the adopted 2030 Comprehensive Plan.
 1. The amendment is consistent with applicable plans because it supports the following 2030 Comprehensive Plan goals and objectives:

Land Use Goal 6: A land use planning process that is transparent, fair, open, efficient, and responsive.
- c. The amendment is reasonable and in the public interest because it:
 1. Allows public participation and comments earlier in the review process than the existing process.
 2. Streamlines and speeds up the review and decision process for low controversy applications while retaining the potential for additional review time when warranted.
 3. Allows the public to offer comments to elected and appointed officials throughout the legislative process.
 4. Provides a greater level of legal sufficiency for applications reviewed under the quasi-judicial process (e.g., Special Use Permits).

The Planning Board of Orange County hereby recommends that the Board of County Commissioners consider adoption of the proposed UDO text amendment.

Pete Hallenbeck, Chair

Date

Amendment Package to Revise the Existing Public Hearing Process

Notes

The pages that follow contain the amendments necessary to the Unified Development Ordinance (UDO) text to revise the existing public hearing process for Comprehensive Plan- and Unified Development Ordinance-related hearing items. This proposal would revise the existing cadence and have the Planning Board make its recommendation before the public hearing. See Section B of the Amendment Outline Form (Attachment 1 of agenda item materials) for a more detailed analysis of the proposed revisions.

Additions/changes proposed as part of the September 8, 2015 quarterly public hearing materials are depicted in **red**. Revisions made after the public hearing are shown in **orange** text. Some of the proposed changes utilize footnotes to provide a brief explanation as to rationale. Users are reminded that these excerpts are part of a much larger document (the UDO) that regulates land use and development in Orange County. The full UDO is available online at: <http://orangecountync.gov/planning/Ordinances.asp>

Please note that the page numbers in this amendment packet may or may not necessarily correspond to the page numbers in the adopted UDO because adding text may shift all of the text/sections downward.

Some text on the following pages has a large "X" through it to denote that these sections are not part of the amendments under consideration. The text is shown only because in the full UDO it is on the same page as text proposed for amendment. Text with a large "X" is not proposed for deletion; proposed deletions are shown in **red-strikethrough** or **orange-strikethrough** text.

Proposed modifications to the Planning Board Policies and Procedures are also part of this amendment package.

- (C) Each Township within the County shall be represented in the membership of the Board by at least one resident.
- (D) The Board of County Commissioners may by resolution establish rules related to the requirements for volunteer service on the Planning Board, appointment and removal of Planning Board members, and rules of procedure.
- (E) In establishing the Planning Board and its program, the Board of Commissioners intends that the Planning Board be guided by the following principle:
 - (1) The Comprehensive Plan, and any ordinances or other measures to effectuate it, shall be made with the general purpose of guiding and accomplishing a coordinated, and harmonious development of the County which will, in accordance with present and future needs, best promote health, safety and the general welfare, as well as efficiency in the process of development; including, among other things, adequate provisions for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of populations, the promotion of good civic design, wise and efficient expenditure of public funds, and adequate provision of public utilities, services, and other public requirements, and conservation of significant natural and man-made resources within the County.

1.6.2 Tenure and Membership Expectations

- (A) The tenure of office shall be three years. Members are eligible for reappointment for a second consecutive full term. After two consecutive terms a member shall be ineligible for reappointment for one year after the expiration of the previous terms.
- (B) Appointments shall be made so that one-third of the terms expire in March of each calendar year.
- (C) Appointments made to fill vacancies shall be for the unexpired term and shall not be counted as a term in determining eligibility for reappointment.
- (D) A member whose term has expired shall continue to serve on the Board until his/her respective successor has been appointed.
- (E) Attendance at the regular meetings of the Board **and at quarterly public hearings¹** shall be considered a prerequisite for maintenance of membership on the Planning Board. The Board of County Commissioners may declare a vacancy on the Planning Board because of a member's non-attendance, in accordance with the Planning Board Rules of Procedure.
- (F) Absence due to sickness, death of an immediate family member or similar reason shall be considered approved absences and shall not affect the member's status. In the event of long illness or other cause for prolonged absence, the member shall be replaced.
- (G) The Board of County Commissioners may by resolution establish rules related to tenure and membership expectations. If the terms of such resolution, or policy created thereby, conflict with the terms of this section 1.6.1 or 1.6.2 the terms of the resolution or policy shall control.

1.6.3 Duties

As provided for in 153A-321 of the General Statutes of North Carolina, as amended, the Planning Board shall have the following general Powers and Duties:

- (A) Make studies of Orange County and surrounding areas;
- (B) Determine objectives to be sought in the development of Orange County;
- (C) Propose and recommend plans for achieving these objectives;

¹ Proposed addition to clarify that Planning Board members are expected to attend the quarterly public hearings.

ARTICLE 2: PROCEDURES

SECTION 2.1: REVIEW AND DECISION MAKING AUTHORITY – SUMMARY TABLE

The following table provides a brief synopsis of the review and decision-making processes for development applications.

TABLE 2.1: REVIEW AND DECISION MAKING AUTHORITIES						
R=REVIEW DM=DECISION MAKER PH=PUBLIC HEARING						
ZONING/DEVELOPMENT REVIEW RELATED PROCEDURES	PLANNING DIRECTOR	EROSION CONTROL OFFICER	DEVELOPMENT ADVISORY COMMITTEE (DAC)	BOARD OF ADJUSTMENT	PLANNING BOARD	BOCC
Zoning Compliance Permits	R and DM	R	R			
Soil Erosion and Sedimentation Control Permits		R and DM				
Stormwater Management Plans		R and DM				
UDO Text Amendments	R		R		R [1]	DM and PH
Zoning Atlas Amendments	R		R		R [1]	DM and PH
Special Use Permits	R	R	R	DM and PH Class B	R [1] Class A	DM and PH Class A
Zoning Variances	R		R	DM and PH		
Conditional Use	R	R	R		R [1]	DM and PH
Appeals/Interpretations	R		R	DM and PH		
Comprehensive Plan Amendments	R				R [1]	DM and PH
Subdivision Related Procedures						
Exempt	R and DM					
Minor	R and DM	R	R			
Major	R	R	R		R and DM [2]	R and DM
Conditional Use	R	R	R		R [1]	R, DM, and PH
Appeal						
NOTES						
[1]	The Planning Board attends a Joint Public Hearing with the BOCC to review all zoning related items requiring a public hearing. The Planning Board will have the item referred to it and shall have up to 90 days to comment on the application. The Planning Board reviews applications and makes a recommendation prior to the public hearing held by the Board of County Commissioners. The Board of County Commissioners may choose to refer an application back to the Planning Board at the conclusion of the public hearing.					
[2]	The Planning Board approves the Concept Plan for a Major Subdivision and then makes a recommendation on the Preliminary Plat to the BOCC.					

- ~~(A) If the Board of County Commissioners denies an application, or the application is withdrawn subsequent to notice of the public hearing thereon, no application for the same or similar amendment, affecting the same property or a portion of it, may be submitted for a period of one year. Said one year period begins on the date of denial or withdrawal, as appropriate.~~

2.2.9 Manner of Review²

Applications requiring a public hearing shall be reviewed using either a legislative process or a quasi-judicial process as follows:

- (A) Comprehensive Plan amendments – legislative
- (B) Special Use Permits – quasi-judicial
- (C) Zoning Atlas and Unified Development Ordinance amendments – legislative
- (D) Conditional Use District (CUD) – rezoning portion is legislative; Special Use Permit portion is quasi-judicial
- (E) Conditional Zoning District (CZD) - legislative

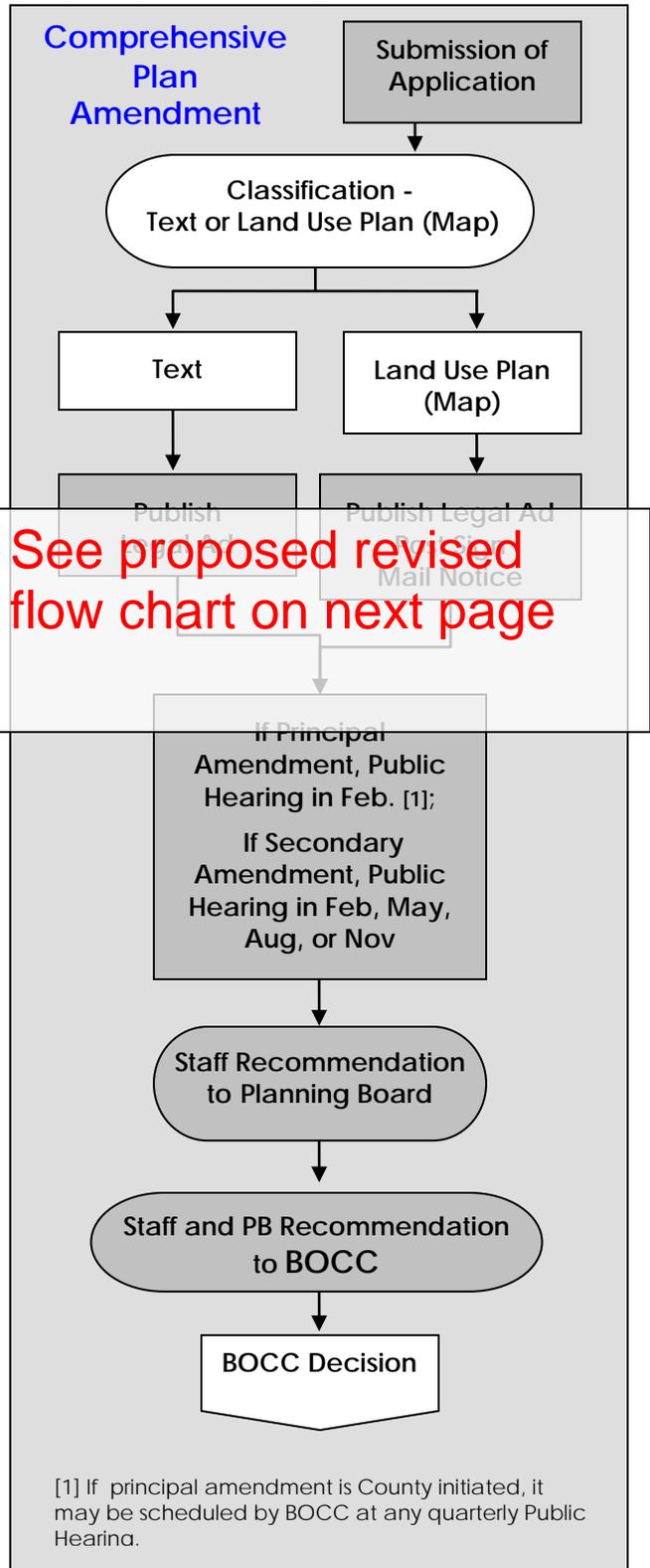
SECTION 2.3: COMPREHENSIVE PLAN AMENDMENTS

2.3.1 Review and Approval Flow Chart

The review and approval process for Comprehensive Plan Amendments is shown in the procedure’s flowchart.

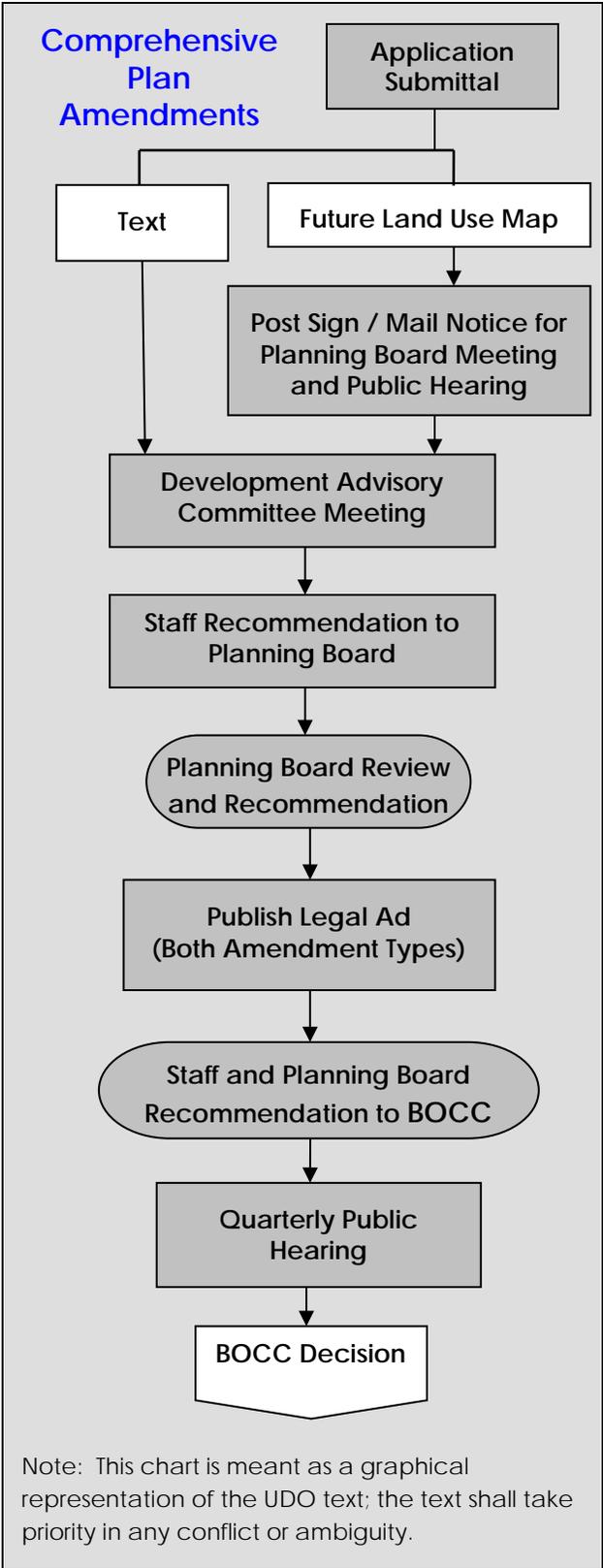
2.3.2 Generally

- (A) The Comprehensive Plan shall be so prepared that all or individual elements and parts thereof may be adopted and/or amended by the Board of Commissioners.
- (B) For the purpose of establishing and maintaining sound, stable, and desirable development within Orange County, the Comprehensive Plan or portion thereof shall not be amended except as follows:
 - (1) Because of changed or changing conditions in a particular area or areas of the County;
 - (2) To correct an error or omission; or



² Proposed to be added to provide clarity on which type of review process is used for the various types of applications that require a public hearing. Staff is not suggesting adding the specifics of each process in the UDO as specifics may change as case law is made or State statutes are modified.

Proposed flow chart for Section 2.3.1



- (3) In response to a change in the policies, objectives, principles or standards governing the physical development of the County.

2.3.3 Initiation of Amendments

- (A) An amendment to the Comprehensive Plan or portion thereof may be initiated by:
 - (1) The Board of Commissioners on its own motion;
 - (2) The Planning Board;
 - (3) Application, by any person or agency, which accurately and completely sets forth the reason(s) for the proposed amendment as prescribed in Section 2.3.2(B); or
 - (4) The Planning Director.³
- (B) Once initiated, all amendments shall be referred to the Planning Board.⁴

2.3.4—Classification of Amendments⁵

~~Amendments to the Comprehensive Plan or portion thereof are classified as "principal" or "secondary" amendments.~~

- (A) **Principal Amendments Include**
 - ~~(1) Additions to or modifications of policies, objectives, principles or standards;~~
 - ~~(2) The creation of new activity nodes or additions to existing activity nodes which exceed ten acres in land area; or~~
 - ~~(3) Proposals for new freestanding plan areas or additions to existing areas that exceed 100 acres in land area.~~
- (B) **Secondary Amendments Include**
 - ~~(1) The expansion of an activity node where the additional area is contiguous to an existing node and does not increase its land area by more than ten acres;~~
 - ~~(2) The expansion of a designated plan area where the additional area is contiguous to the existing plan designation and does not increase its land area by more than 100 acres;~~
 - ~~(3) A correction of an error or omission; or~~
 - ~~(4) Revisions to any factual or descriptive material.~~

³ (1) through (4) are currently (A) through (D). This section has been reformatted on the advice of the Staff Attorney.

⁴ These proposed revisions here and on subsequent pages incorporate the discussion the Planning Board had in October, November, and December 2014 and which the BOCC discussed on May 12, 2015. The cadence of the review process would be revised to have the Planning Board make its recommendation prior to the public hearing. Notices would be mailed to nearby property owners and a sign(s) would be posted; this revision will notify nearby property owners of potential changes much earlier in the process. Although the Planning Board meeting would not be an official public hearing, the public could address the Planning Board (the existing requirement for written comments only is not proposed to continue in this revised process) and the Planning Board can take all public comments into consideration when making its recommendation.

⁵ Staff proposes that this entire section (2.3.4) be deleted because it is relevant only in conjunction with Section 2.3.7. Rather than limiting "principal" amendments to being heard "generally" only once per year (as Section 2.3.7 does), staff proposes that any Comprehensive Plan amendment could be heard at any of the quarterly public hearings. Deletion of this subsection will cause the renumbering of subsequent subsections in Section 2.3.

2.3.5 Public Hearing Required

A public hearing shall be held before adoption of any proposed Comprehensive Plan amendment. The Board of County Commissioners ~~and the Planning Board~~⁶ shall hear applications and receive public comment for proposed Comprehensive Plan amendments in a Quarterly Public Hearing.

2.3.6 Notice Requirements for **Planning Board Meetings and Public Hearings**

- (A) The Planning Director shall provide notice of Planning Board meetings at which the Planning Board is to review and make a recommendation on Future Land Use Map amendments and Quarterly Public Hearings at which an amendment to the Future Land Use Map is to be reviewed. Notifications of proposed Future Land Use Map amendments shall occur as follows:
- (1) Notice of the Planning Board meeting and public hearing shall be posted on the affected parcel or on an adjacent public right of way a minimum of ten days prior to the Planning Board meeting. Said notice shall contain the time and location of both the Planning Board meeting and public hearing.⁷
 - (a) When multiple parcels are affected, a posting on each individual parcel is not required, but sufficient notices shall be posted to provide reasonable notice to interested persons.
 - (2) Written notice of the Planning Board meeting and public hearing shall be sent by first-class mail to all property owners, as listed in the Orange County tax records, whose property is affected or within ~~500~~ one thousand⁸ feet of the affected parcel(s). Said notice shall be mailed at least 15 days prior to the date of the Planning Board meeting and shall include the times and locations of both the Planning Board meeting and public hearing.
- (B) The Planning Director shall provide public notice for any Comprehensive Plan amendment to be heard at a Quarterly Public Hearing. The notice shall include the time and location of the public hearing.⁹
- (C) For all proposed amendments, ~~Notice~~ notice of the public hearing shall be given by publishing said notice at least twice in a newspaper of general circulation in the County, stating the time and place of such hearing and the substance of the proposed amendment.¹⁰
- (1) This notice shall appear in said newspaper for two consecutive weeks with the first notice appearing not less than ten days nor more than 25 days before the date set for the public hearing. In computing the notice period, the day of publication is not to be included, but the day of the hearing is to be included.
 - (2) The minimum published size of the notice shall be 25 square inches.¹¹
- (D) ~~In the case of amendments to the Land Use Plan (map), the Planning Director shall prominently post a notice of the public hearing on the site proposed for the land use~~

⁶ Since a quorum of Planning Board members will no longer be necessary to hold a public hearing, the public hearing would no longer be considered a joint hearing.

⁷ The Planning Board has stated that it would like the public to have notice of its meetings when it is considering amendments so the public can attend the meetings and provide comments if desired. Staff is proposing that the notice for the Planning Board meeting and the later quarterly public hearing be combined into one notice so that two notices are not required to be mailed for Comprehensive Plan amendments.

⁸ As a result of comments made at the September 8, 2015 public hearing, the notification boundary is proposed to be expanded from 500 feet to 1,000 feet.

⁹ Proposed addition made by the Staff Attorney.

¹⁰ This language is currently (A) but has been automatically re-numbered due to a new (A) and (B) being proposed for addition.

¹¹ (C)(1) and (C)(2) are currently (C) and (D) but have been recommended as subparagraphs by the Staff Attorney.

~~change or on an adjacent public street or highway right of way not less than ten days before the date set for the public hearing.~~

~~(1) —When multiple parcels are included within a proposed Land Use Plan (map) amendment affected, a posting on each individual parcel is not required, but the county shall post sufficient notices to provide reasonable notice to interested persons.~~

~~(E) In the case of amendments to the Land Use Plan (map), written notice of the public hearing shall be sent by first-class mail to all property owners, as listed in the Orange County tax records, whose property is affected (property that is included in the proposed land use plan amendment) and all property owners or within 500 feet. Said notice shall be mailed at least 14 days, but not more than 25 days, prior to the date of the public hearing.¹²~~

2.3.7 Consideration of Amendments¹³

~~(A) Principal amendments shall generally only be considered once each year at the quarterly public hearing in February. A proposed amendment may be considered at any Board of County Commissioners meeting designated as a Quarterly Public Hearing.~~

~~(B) If a principal amendment is scheduled by the Board of County Commissioners for other than the February quarterly public hearing, it shall be scheduled during one of the quarterly public hearings held in May, August, and November.~~

~~(C) Secondary amendments may be considered four times each year at the a quarterly joint public hearings, in February, May, August, and November.~~

~~(D) A proposed amendment may be considered in conjunction with a rezoning request for the same property if the requests are in compliance with an adopted small area plan.¹⁴~~

~~(E) Requests for a rezoning not in compliance with an adopted small area plan, conditional use district, and/or special use permit may only be considered at subsequent hearings or meetings following approval of the proposed amendment to the Comprehensive Plan.¹⁵~~

2.3.8 Application Requirements

(A) Generally

(1) All applications for amendments to the Comprehensive Plan shall be submitted on forms supplied by the Planning Department and shall be signed.

(2) Three copies of the application shall be submitted to the Planning Director.

¹² (D) and (E) have been rewritten and combined into (A) above.

¹³ Staff proposes this section be modified, in conjunction with the proposed deletion of Section 2.3.4, so that any proposed amendment to the Comprehensive Plan can be heard at any of the quarterly public hearings, rather than limiting “principal” amendments to “generally” only the February QPH. (It is noteworthy that principal amendments in recent years have been heard at hearings that were not in February, such as the land use classification change in the Efland-Mebane corridor where Morinaga’s factory is now located, which was heard at a May QPH).

¹⁴ The Staff Attorney has recommended deletion of this provision due to concerns over who determines compliance with a small area plan and how compliance is determined.

¹⁵ The Staff Attorney has recommended deletion of this provision because of the modification made in (D). If the modification in (D) is not made, the language of (E) should be modified because of the concern that a restriction on a rezoning application has been placed in the Comprehensive Plan amendment section.

- (3) Before accepting any amendment application, the Planning Director shall ensure that it contains all required information, as specified in this Ordinance. Applications which are not complete, or otherwise do not comply with the provisions of this Ordinance, shall not be accepted by the Planning Director, but shall be returned to the applicant, with a notation by the Planning Director of the deficiencies in the application.

(B) Contents of Application

Applications for amendments to the Comprehensive Plan, without limiting the right to file additional material, shall contain at least the following:

- (1) For amendments to the ~~Land Use Plan (map)~~ Future Land Use Map¹⁶ within the Land Use Element, a map at a legible scale adequately illustrating the land which would be covered by the proposed map amendment, and a complete list of Property Identification Numbers (PIN) for the properties;
- (2) For amendments to the Comprehensive Plan text, a copy of the existing text provision(s) which the applicant proposes for amendment, and a written statement which describes in detail changes which the applicant proposes to make to the text of the Comprehensive Plan and the rationale for the proposed amendment consistent with the standards established in this Ordinance; and
- (3) All other circumstances, factors and reasons which the applicant offers in support of the proposed Comprehensive Plan amendment.

2.3.9 Analysis and Recommendation

The Planning Director shall cause an analysis to be made of the application and, based upon that analysis, prepare a recommendation for consideration by the Planning Board and the Board of County Commissioners.

2.3.10 Planning Board Review

- ~~(A) Following the public hearing, all proposed amendments shall be referred to the Planning Board for consideration and recommendation.~~
- ~~(B) The Board of County Commissioners may direct the Planning Board to provide a recommendation by a date certain. If the Board of County Commissioners does not so direct, the Planning Board shall make its recommendation within three regularly scheduled Planning Board meetings unless the Board of County Commissioners grants an extension.~~
- ~~(C) If the Planning Board fails to make a recommendation within the time allotted in subsection (B), the application shall be forwarded to the Board of County Commissioners without a Planning Board recommendation.~~
- ~~(D) Amendments initiated by Orange County shall not be subject to time limitations other than those specified by the Board of County Commissioners during the public hearing process.~~
- ~~(E) Evidence not presented at the public hearing may be submitted in writing to the Planning Board for consideration prior to the Planning Board's recommendation to the Board of County Commissioners. The Planning Board may consider additional oral evidence only if it is for the purpose of presenting information also submitted in writing.~~
- (A) The Planning Board shall allow public comments at its meeting and those comments shall be taken into consideration by the Planning Board in making its recommendation.
- (B) The Planning Board shall review and comment on applications and shall make one of the following recommendations prior to the quarterly public hearing:

¹⁶ The name of this map was changed in the Comprehensive Plan in 2012 and should be updated here.

- (1) Recommend approval,
 - (2) Recommend denial,
 - (3) Recommend approval but with specified changes.
 - (4) Recommend the Planning Board be given extended time to consider the matter.
- (C) Should the Planning Board fail to make a recommendation prior to the quarterly public hearing, the application shall be forwarded to the Board of County Commissioners without a Planning Board recommendation.¹⁷

2.3.11 Action by Board of County Commissioners

- (A) The Board of County Commissioners shall ~~not consider enactment of proposed amendment until~~ hold a public hearing after the Planning Board either makes its recommendation or takes no action on the application ~~as prescribed in this section~~ within 30 days of its referral.¹⁸
- (B) ~~In making its decision, the Board of Commissioners shall consider all relevant evidence presented at the public hearing and any submitted written evidence that was considered by the Planning Board in making its recommendation.~~
- (C) ~~The Board of Commissioners, upon receipt of a recommended Comprehensive Plan or portion thereof from the Planning Board, shall consider such recommendations and adopt them by resolution, either unchanged or with modifications.~~
- (B) After the Board of County Commissioners closes the public hearing, the Board of County Commissioners shall do one of the following:
- (1) defer a decision to a later Board of County Commissioners meeting date, or
 - (2) make a decision.
- (C) In making its decision, the Board of Commissioners shall consider comments made at the public hearing, the Planning Board's recommendation, and the Planning Director's recommendation.

SECTION 2.4: ZONING COMPLIANCE PERMITS

2.4.1 Applicability

- (A) As required by this Ordinance, a Zoning Compliance Permit must be issued before any new site development, building, structure, or vehicular use area may be erected, constructed or used.
- (B) Submittal and approval of a site plan (see Section 2.5) is required for issuance of a Zoning Compliance Permit except for:
- (1) Single-family detached dwellings and duplexes, and accessory structures to those residential uses shall require a plot plan as detailed within Section 2.4.3 of this Ordinance.

¹⁷ This paragraph is a slight modification from existing paragraph (C), which is proposed to be deleted. It addresses what happens in the event the Planning Board fails to make a recommendation (namely, that the process moves forward without a Planning Board recommendation).

¹⁸ The Staff Attorney has suggested this paragraph be rephrased to make it affirmative.

- ~~(3) Accessory Structures with any dimension that is 12 feet or greater in height, width, or depth, meeting requirements of Section 6.6.1(B)(8).~~

SECTION 2.7: SPECIAL USE PERMITS

2.7.1 Generally

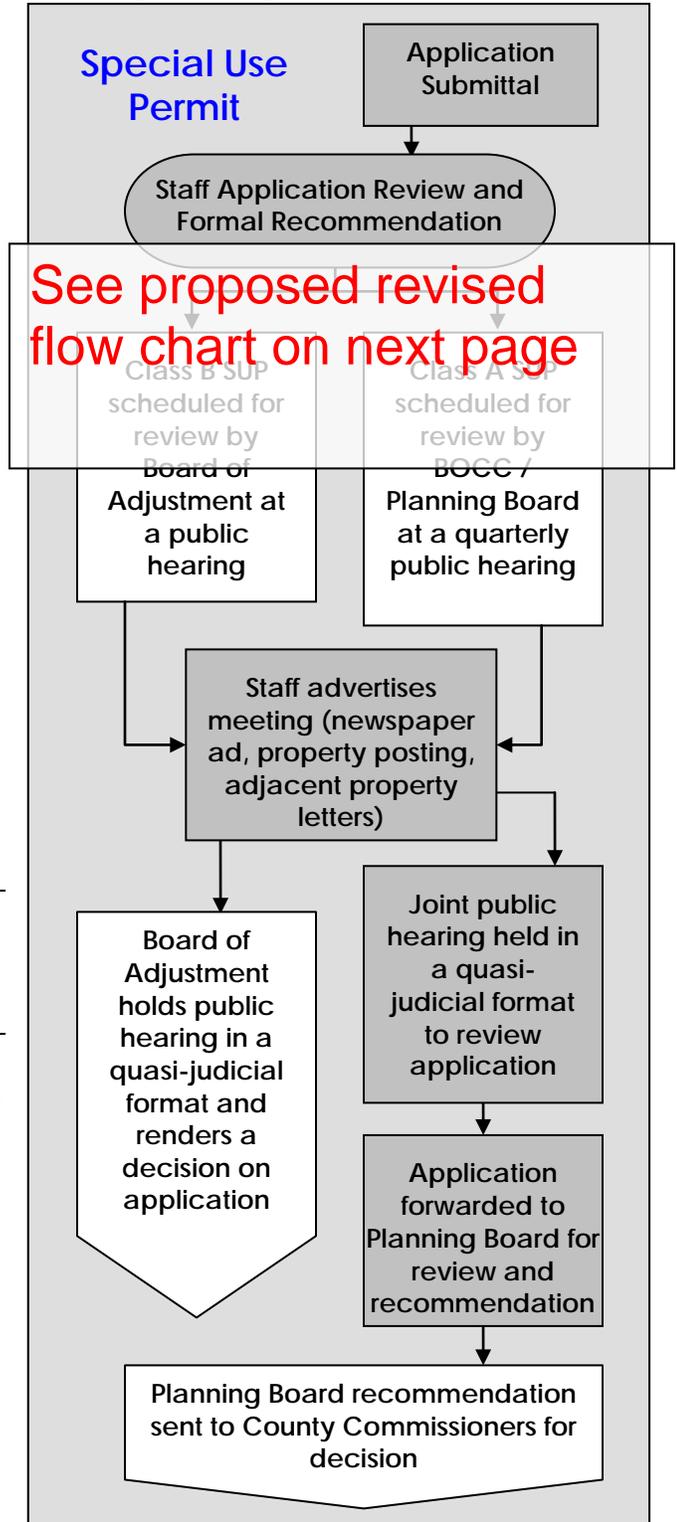
- (A) Any use or development designated by applicable zoning district regulations contained within Article 5 as a special use, or as allowed only pursuant to a special use permit (either Class A or Class B), may be established in that district only after the use or development is authorized by a validly issued and recorded special use permit.
- (B) This section sets forth required review and approval procedures for submittal, review, and approval of applications for special use permit.
- (C) A special use permit authorizes its holder to use or develop a particular parcel of land in a particular way, as specified by the terms and conditions of the special use permit.
- (D) A special use permit imposes on its holder the responsibility of ensuring that the authorized use or development continues to comply with the terms and conditions of approval.
- (E) Issuance of a special use permit does not relieve the holder of the special use permit of the additional responsibility of obtaining a building permit or any other permit or approval required by any other applicable law.

2.7.2 Review and Approval Flow Chart

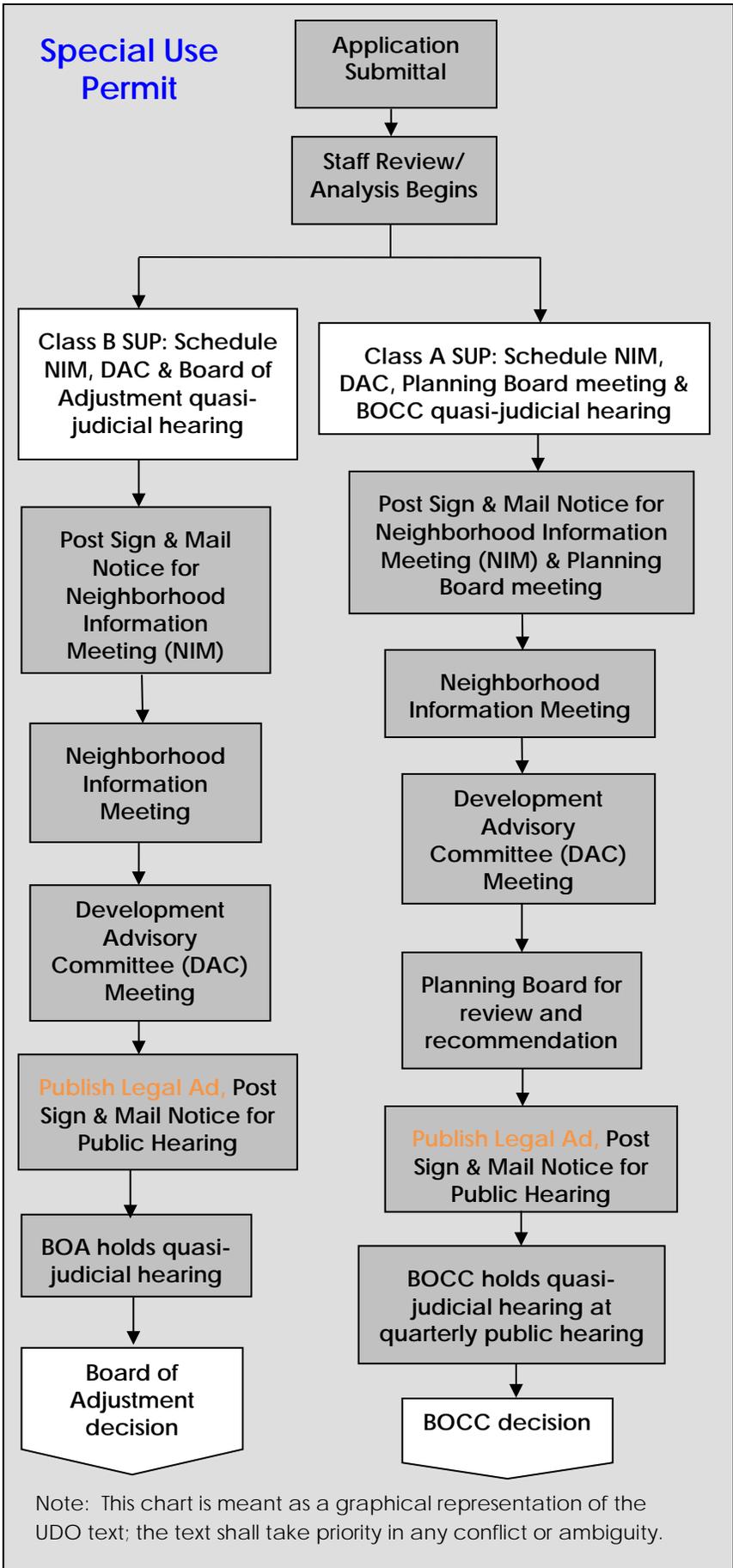
The review and approval process for Special Use Permits is shown in the procedure's flowchart.

2.7.3 Application Requirements

- (A) Applications for a Special Use shall be submitted on forms provided by the Planning Department in accordance with Section 2.2 of this Ordinance.
- (B) Applications shall include:
 - (1) A full and accurate description of the proposed use, including its location, appearance, and operational characteristics.
 - (2) The name(s) and address(es) of the owner(s) of the property involved.



Proposed flow chart for Section 2.7.1



- (3) Relevant information needed to show compliance with the general and specific standards governing the Special Use (See Articles 5 and 6).
- (4) For Class A Special Uses 26 copies of the site plan, and for Class B Special Uses 10 copies of the site plan, prepared by a registered North Carolina land surveyor, landscape architect, architect, or engineer, which shall contain the information listed in Section 2.5.
- (5) If the application involves a Preliminary Subdivision Plat, 26 copies of the Plat prepared in accordance with Section 7.14 shall be provided.
- (6) A list of all parcels located within 500 feet of the subject parcel and the name and address of each property owner, as currently listed in the Orange County tax records.
- (7) Elevations of all structures proposed to be used in the development.
- (8) For Class A Special Uses 26 copies and for Class B Special Uses 10 copies of the Environmental Assessment and/or Environmental Impact Statement, if required by Section 6.16.
- (9) Method of disposal of trees, limbs, stumps and construction debris associated with the permitted activity, which shall be by some method other than open burning.
- (10) Statement from the applicant indicating the anticipated development schedule for the build-out of the project.
- (11) Statement from the applicant in justification of any request for vesting for a period of more than two years (five years maximum).

2.7.4 Staff Review

- (A) The Planning Director shall cause an analysis to be made of the application by qualified representatives of the County and other agencies or officials as appropriate.
 - (1) Applications for agricultural support enterprise uses located within the Rural Buffer land use classification, as depicted on the Future Land Use Map of the adopted Comprehensive Plan, shall be forwarded to the County's Agricultural Preservation Board for review and comment.
 - (a) The Agricultural Preservation Board shall have 30 calendar days to provide comments. If comments are not received within this timeframe, the application review process shall not be delayed.
 - (b) For purposes of this subsection, agricultural support enterprise uses shall be defined as those permitted in the ASE-CZ zoning district, as detailed within Section 5.2.3 of this Ordinance.
- (B) The Planning Director shall submit the analysis to the Board of County Commissioners and the Planning Board, in the case of Class A Special Uses, or the Board of Adjustment, in the case of Class B Special Uses.
- (C) The appropriate Board reviewing the application shall receive and enter the analysis into evidence during the public hearing. The analysis shall be subject to examination by all interested parties and the Planning Director shall be subject to cross-examination regarding the analysis.
- (D) ~~The Planning Director shall not make a recommendation on the general findings detailed within Section 5.3 of this Ordinance.~~¹⁹

¹⁹ The Staff Attorney has suggested this language be removed. In instances where Planning staff is asked for an opinion or asked questions about the findings of fact, having this language in the UDO could be problematic because it could create a large gray area. (Section 1.4 of the UDO allows the Planning Director to designate other

2.7.5 Neighborhood Information Meeting

- (A) Before a Public Hearing may be held for a Special Use the applicant is required to schedule a minimum of one neighborhood information meeting. The purpose of the meeting is to obtain surrounding property owner input and comments on the proposed development project and allow staff an opportunity to explain the review process associated with the request.
- (B) The applicant shall obtain property owner mailing address information from the Orange County Planning Department, which shall utilize Orange County Land Records data, and shall mail certified notices of the meeting date and time to each property owner within ~~500~~ one thousand²⁰ feet of the property for which a Special Use has been requested.
- (C) The applicant shall mail notice of the Neighborhood Information Meeting a minimum of 14 days prior to the date of the meeting.
- (D) The applicant shall post a sign on the property advertising the date, place, and time of the meeting a minimum of 10 days prior to the date of the meeting.
- (E) The meeting shall be held a minimum of 45 days prior to the date of the Public Hearing.
- (F) Neighborhood information meetings for telecommunication facilities shall be held in accordance with the provisions of Section 5.10.8 (B) (2).

2.7.6 Notice Requirements for Class A Special Use Permits

- (A) The Planning Director shall give notice of the date, time and place of the Planning Board meeting at which the Planning Board is scheduled to review a Special Use Permit application.
 - (1) Written notice shall be sent by first class mail to all adjacent property owners not less than ten days before the Planning Board meeting date. Adjacent property owners are those whose property lies within ~~five hundred~~ one thousand feet of the affected property and whose names and addresses are currently listed in the Orange County tax records.
 - (2) The Planning Director shall post on the affected property a notice of the Planning Board meeting at least ten days prior to the date of said meeting.
 - (3) Notices may be combined with notice of the Neighborhood Information Meeting required in Section 2.7.5.
- (B) The Planning Director shall give public notice of the date, time and place of the public hearing to be held to receive ~~comments, evidence in the form of~~²¹ testimony and exhibits pertaining to the application for a Special Use.

staff members to administer, interpret, and enforce the UDO; the term Planning Director is used throughout the UDO for consistency).

²⁰ As a result of comments made at the September 8, 2015 public hearing, the notification boundary is proposed to be expanded from 500 feet to 1,000 feet.

²¹ The Staff Attorney has suggested this language modification since SUP applications are quasi-judicial in nature and require testimony rather than comments.

- (1) Written notice shall be sent by ~~certified first class~~²² mail to all adjacent property owners ~~not less than 15 days at least ten days but not more than 25 days~~²³ before the hearing date. Adjacent property owners are those whose property lies within ~~five hundred one thousand~~ feet of the affected property and whose names and addresses are currently listed in the Orange County tax records.
- (2) The Planning Director shall post on the affected property a notice of the public hearing at least ten days ~~but not more than 25 days~~²⁴ prior to the date of said hearing.²⁵
- (3) ~~Such notice~~ Notice of the public hearing shall be published in a newspaper of general circulation in Orange County once a week for two successive weeks, with the first notice to be published not less than ten days nor more than 25 days prior to the date of the hearing. In computing the notice period, the day of publication is not to be included, but the day of the hearing is to be included.²⁶

2.7.7 Notice Requirements for Class B Special Use Permits

Notice Requirements for Class B Special Use Permits shall follow the procedures in Section 2.12.6.

2.7.8 Nature of Proceedings

- (A) The review of Special Use Permit applications shall be conducted during a public hearing by the decision-making board.
- (B) The review of a Special Use Permit application is a quasi-judicial process, where the Board responsible for rendering a decision acts much like a panel of judges. The Board hears factual evidence and sworn testimony presented at an evidentiary hearing, and then makes findings of fact supported by competent, substantial, and material evidence.
- (C) The chair or presiding officer of the hearing shall swear all parties intending to present evidence or testimony during the hearing.
- (D) The chair or presiding officer may take whatever action is necessary to limit testimony to the presentation of new factual evidence that is material to the application, to ensure fair and orderly proceedings, and to otherwise promote the efficient and effective gathering of evidence. Such actions may include:
 - (1) Barring the presentation of obvious hearsay evidence,

²² State statutes do not require mailing via certified mail. Because of the proposed notification distance increase (from 500 feet to 1,000 feet), staff is suggesting that notices be mailed via first class mail in order to keep costs and necessary staff time lower.

²³ Language modification is being suggested to be consistent with Statutes and to ensure the outer limit of 25 days is not inadvertently missed. Because notices for the Neighborhood Information Meeting (and Planning Board meeting, if these proposed text amendments are adopted) are sent more than a month before this notice for the public hearing, notification to the public regarding proposed projects is occurring much sooner in the review process than in the past.

²⁴ Language modification is being suggested to be consistent with Statutes and to ensure the outer limit of 25 days is not inadvertently missed.

²⁵ C(1) and (2) are currently (C) and (D) in the adopted UDO but have been indented one level to flow better in this subsection.

²⁶ This language is currently (B) in the adopted UDO. The Staff Attorney had suggested that published newspaper advertisements for quarterly public hearings omit SUP applications since the general public does not have standing in such matters and cannot participate. At the September 8, 2015 public hearing, comments were received to continue to publish SUP notices in the legal advertisements but to add additional language to the legal ad if necessary for legal sufficiency reasons. Therefore, the language has been restored and depicted in orange colored text and has been indented one level to flow better within the subsection. Planning and Attorney staff will work together to ensure future legal ads are modified as necessary.

- (2) Barring the presentation of non-expert opinion,
 - (3) Interrupting digressions into immaterial testimony,
 - (4) Interrupting repetitive testimony,
 - (5) Reasonably limiting the time allotted each witness or cross-examination,
 - (6) Providing for the selection of spokespersons to represent groups of persons with common interests,
 - (7) Interrupting personal attacks, and/or
 - (8) Ordering an end to disorderly conduct.
- (E) Where the Board finds compliance with the general standards, specific rules governing the specific use, and that the use complies with all required regulations and standards, the application must be approved unless the Board shall also find, in some specific manner, that:
- (1) the use will not maintain or promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted.
- (F) Those opposing approval of the application on the grounds that the use will not promote the public health, safety and general welfare shall have the burden of establishing, by competent material and substantial evidence, the specific manner in which the proposed use does not satisfy the requirements for approval of the application for a Special Use.

2.7.9 Review and Decision

- (A) For Class A Special Use ~~permits~~Permits, the following shall apply:
- (1) All applications shall be referred to the Planning Board for review and recommendation after the Neighborhood Information Meeting but prior to the public hearing.²⁷
 - (2) The Planning Board shall make a recommendation and proposed findings of fact on the application, including the findings required in Section 5.3.2 of this Ordinance²⁸. The Planning Board's action on an application shall be one of the following:
 - (a) Recommend approval based on proposed findings of fact,
 - (b) Recommend denial based on proposed findings of fact,
 - (c) Recommend approval based on proposed findings of fact but with specified conditions.
 - (3) Should the Planning Board fail to make a recommendation prior to the public hearing, the application shall be forwarded to the Board of County Commissioners without a Planning Board recommendation.

²⁷ The Staff Attorney has advised that a greater level of legal sufficiency is reached if the Planning Board reviews applications and makes its recommendation prior to the quasi-judicial hearing than during or after the hearing.

²⁸ The Planning Board has stated it wants to make a recommendation on the findings required in Section 5.3.2 (e.g., use will promote public health, safety, and welfare; use will maintain or enhance value of contiguous property; location and character of use is in harmony with the area). Staff notes that an applicant cannot be required to divulge the evidence they intend to present at the evidentiary hearing (quasi-judicial hearing). In the event an applicant chooses to withhold information until the quasi-judicial hearing, there may be cases where the Planning Board will not have access to all information at its meeting. In such cases, the Planning Board may note deficiencies in information in its recommendation.

- (4) The Board of County Commissioners ~~and Planning Board~~²⁹ shall review the application during ~~a regularly scheduled public hearing~~ a meeting designated as a Quarterly Public Hearing.
 - (5) All evidence shall be submitted during the public hearing. If additional evidence is requested by the Board of County Commissioners during a hearing which must be submitted at a later date, the hearing shall be continued to a date/time certain in order to receive the additional evidence.³⁰
 - ~~(6) Following review at a public hearing the Special Use permit application shall be referred to the Planning Board for its consideration and recommendation.~~
 - ~~(7) The Board of County Commissioners may direct the Planning Board to provide a recommendation by a date certain. If the Board of County Commissioners does not so direct, the Planning Board shall make its recommendation within three regularly scheduled meetings.~~
 - ~~(8) If the Planning Board fails to make a recommendation within the time allotted within subsection (3) above, the application shall be forwarded to the Board of County Commissioners without a Planning Board recommendation.~~
 - (9) After ~~receipt of any Planning Board recommendation and closure of~~ closing the public hearing, the Board of County Commissioners shall ~~take action upon the application. This action shall be one of the following~~ do one of the following:
 - ~~(a) Approval;~~
 - ~~(b) Approval with conditions; or~~
 - ~~(c) Denial.~~
 - (a) Defer action to a later Board of County Commissioners meeting date, or
 - (b) Act upon the application.
 - (10) Board of County Commissioner action on the application shall include making appropriate findings of fact pursuant to Section 2.7.11, stating whether the board concludes each of the applicable standards have been met and one of the following:
 - (a) Approval;
 - (b) Approval but with specified conditions as provided in Section 2.7.12; or
 - (c) Denial.
- (B) For Class B Special Use Permits, the following shall apply:
- (1) The Board of Adjustment shall review the application during a regularly scheduled public hearing.
 - (2) The Board of Adjustment shall conduct the hearing in accordance within the provisions detailed in this Section as well as those contained within Section 2.12.
 - (3) After ~~completion of closing~~ the public hearing, the Board of Adjustment shall take action upon the application. This action shall ~~be include making appropriate findings of fact pursuant to Section 2.7.11, stating whether the board concludes each of the applicable standards have been met and~~ one of the following:
 - (a) Approval;

²⁹ While the Planning Board is expected to attend the public hearing, a quorum of Planning Board members will not be necessary in order to conduct the hearing.

³⁰ In order to meet legal requirements for quasi-judicial proceedings, staff is suggesting this proposed language. Evidence would no longer be allowed to be submitted in writing after the quasi-judicial hearing. Instead, additional evidence would have to be presented by experts at a subsequent hearing (which does not necessarily have to be a quarterly public hearing date).

- (b) Approval but with specified conditions as provided in Section 2.7.12; or
- (c) Denial.

2.7.10 Standards of Evaluation

The following specific standards shall be used in deciding on an application:

- (A) The project meets all applicable design standards and other requirements of this Ordinance.
- (B) The development can reasonably be completed within the vesting period requested, if any.
- (C) Where vesting in excess of two years is requested, the project is located in an area where current issues under study do not involve potential amendments to the Comprehensive Plan and/or this Ordinance.

2.7.11 Required Findings

- (A) A resolution or motion to approve the application must include the findings of fact and conclusions of law that support the decision. Any proposed conditions of approval must also be included in the resolution or motion to approve the application.
- (B) A resolution or motion to deny the application must state findings of fact and conclusions of law that support the decision.
- (C) If a resolution or motion to approve the application fails, the application is deemed denied. Those members voting against the resolution or motion must state which of the conclusions of law they could not reach as well as findings of fact on which their inability to reach the conclusions is based.

2.7.12 Conditions of Approval

- (A) The Board of County Commissioners or the Board of Adjustment, as appropriate, may impose such reasonable conditions upon approval of a Special Use as will afford protection of the public health, safety and general welfare, ensure that substantial justice is done, and equitable treatment provided.
- (B) Conditions shall run with the land and use, and shall be binding on the original applicant(s) as well as all successors, assigns and heirs.
- (C) The Special Use Permit shall include a statement that if any condition of a Special Use Permit shall be held invalid or void, then the permit itself shall be void and of no effect.
- (D) It shall be stated in the Special Use Permit that the Permit shall automatically expire within 12 months of the date of approval if the use has not commenced or construction has not commenced or proceeded unless a timely application for extension of this time limit is approved by the Board of County Commissioners as provided in Section 2.7.13.

2.7.13 Notification of Board Action

- (A) The Planning Director shall send a notice of the relevant Board's action on the application by certified mail to the applicant. A copy of the decision shall be filed in the Planning Department within five business days of the relevant Board's action.
- (B) The Planning Director, in the case of approval or approval with conditions, shall issue the necessary permit in accord with the Board's action.
- (C) The Planning Director, but not a designee, shall certify that the Special Use Permit with any imposed conditions is as approved by the Board of County Commissioners or Board of Adjustment, as appropriate, with a report provided to the County Manager.

SECTION 2.8: ZONING ATLAS AND UNIFIED DEVELOPMENT ORDINANCE AMENDMENTS

2.8.1 Review and Approval Flow Chart

The review and approval process for a Zoning Atlas and Unified Development Ordinance Amendment is shown in the procedure's flowchart.

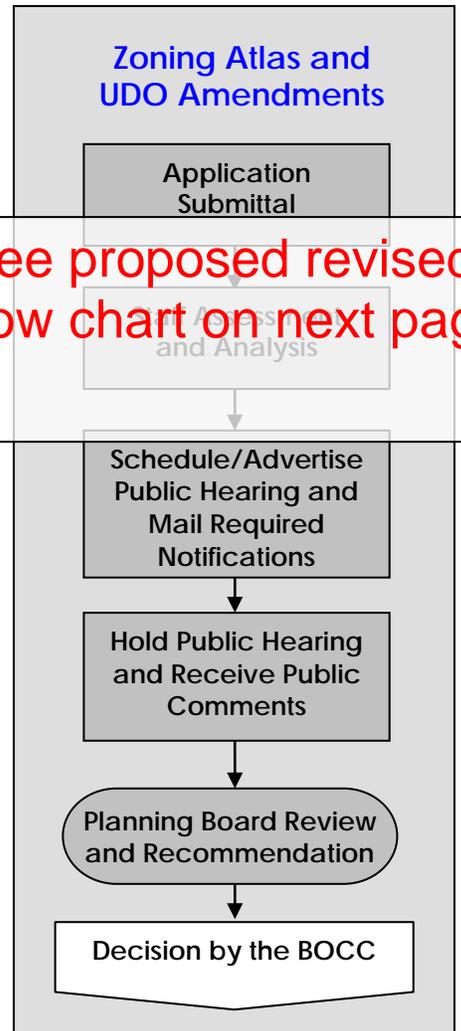
2.8.2 Amendment Initiation

- (A) An amendment to this Ordinance or the Zoning Atlas may be initiated by:
 - (1) The Board of County Commissioners on its own motion;
 - (2) The Planning Board;
 - (3) Application, by any person or agency, or
 - (4) The Planning Director.
- (B) If a request for consideration of an amendment proposal is submitted directly to the Board of County Commissioners, said Board may decline to consider the request or may refer the amendment proposal to the Planning Director for preparation of an amendment application.
- (C) **Once initiated, all amendments shall be referred to the Planning Board.³¹**

2.8.3 Contents of Application

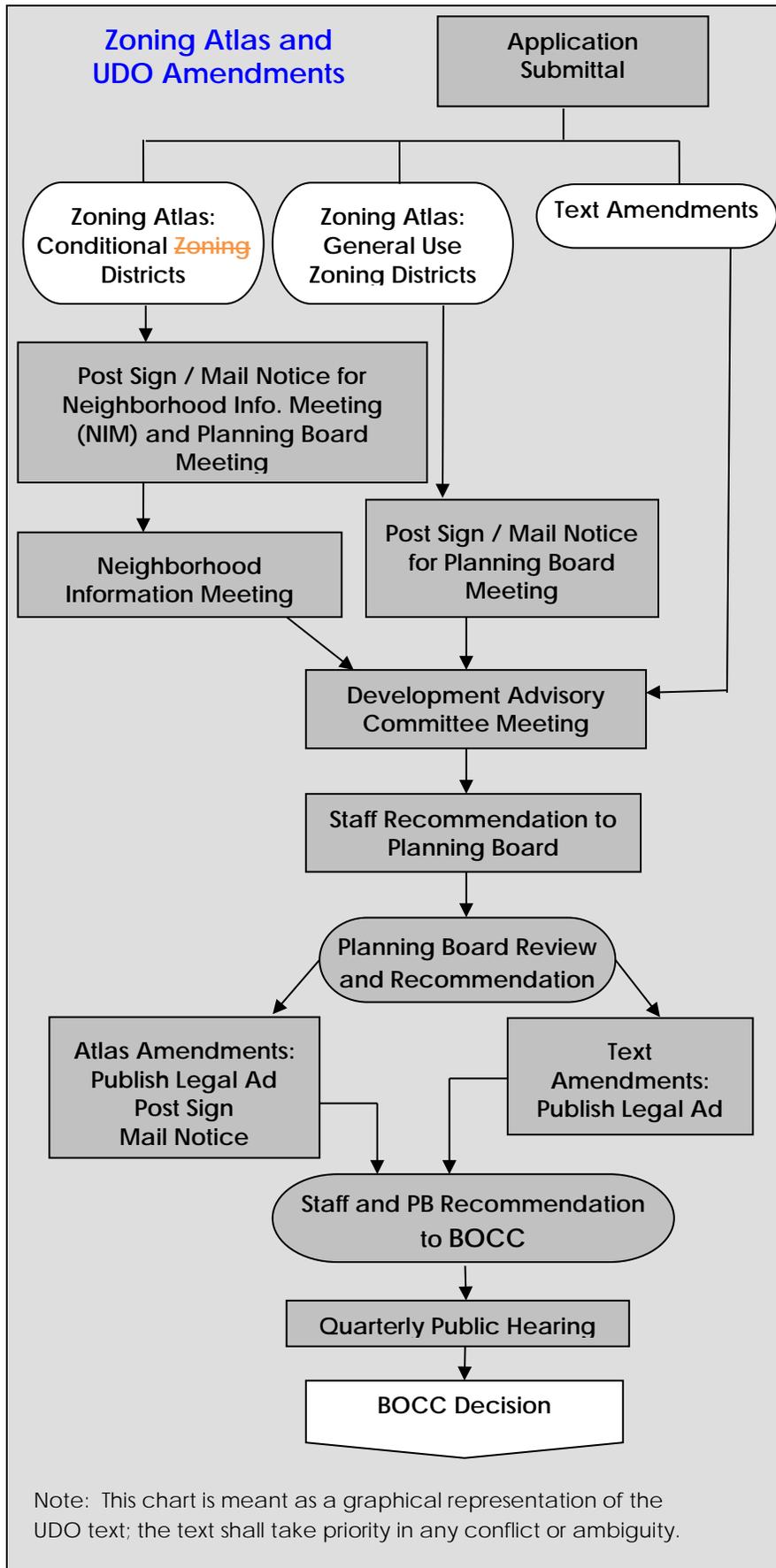
Applications shall contain the following:

- (A) For amendments to the Zoning Atlas:
 - (1) A map at a legible scale showing the land which would be covered by the proposed amendment, and
 - (2) A legal description of the land.
- (B) For amendments to the Unified Development Ordinance text:
 - (1) A copy of the existing text provision(s) which the applicant proposes for amendment, and
 - (2) A written statement which describes in detail the changes the applicant proposes to make.
- (C) The alleged error in the Zoning Atlas and/or Unified Development Ordinance text that would be corrected by the proposed amendment with a detailed explanation of such error



³¹ These proposed revisions here and on subsequent pages incorporate the discussion the Planning Board had in October, November, and December 2014 and which the BOCC discussed on May 12, 2015. The cadence of the review process would be revised to have the Planning Board make its recommendation prior to the public hearing. Notices would be mailed to nearby property owners and a sign(s) would be posted; this revision will notify nearby property owners of potential changes much earlier in the process. Although the Planning Board meeting would not be an official public hearing, the public could address the Planning Board (the existing requirement for written comments only is not proposed to continue in this revised process) and the Planning Board can take all public comments into consideration when making its recommendation.

Proposed flow chart for Section 2.8.3



in the Zoning Atlas and/or Unified Development text and detailed reasons how the proposed amendment will correct the alleged error;

- (D) The changed or changing conditions, if any, in the area or in the County generally, which makes the proposed Zoning Atlas and/or Unified Development Ordinance text amendment reasonably necessary to promote the public health, safety and general welfare;
- (E) The manner in which the proposed Zoning Atlas and/or Unified Development Ordinance text amendment will carry out the intent and purpose of the adopted Comprehensive Plan or part thereof; and
- (F) A traffic impact study as required by Section 6.17.
- (G) For amendments to the Special Flood Hazard Area Overlay District, pertaining to a Letter of Map Amendment:
 - (1) An elevation certificate with either an MT-1, MT-2, or MT-EZ (forms available through FEMA), or
 - (2) A “No-Impact” analysis for a Letter of Map Revision.
- (H) All other circumstances, factors and reasons that the applicant offers in support of the proposed Zoning Atlas and/or Unified Development Ordinance text amendment.

2.8.4 Applications for Amendment – Joint Planning Area

Applications for amendments to the Orange County Unified Development Ordinance and Zoning Atlas for the purpose of incorporating the provisions of the Chapel Hill Land Development Ordinance (and Zoning Maps) and/or the Carrboro Land Use Ordinance (and Zoning Maps) shall be processed as specified herein and as specified in the Joint Planning Agreement adopted November 2, 1987, and as amended from time to time.

Any text amendments adopted by Orange County shall be adopted by reference as though fully set forth herein. Any map amendments adopted by Orange County shall be officially denoted on the County Zoning Atlas. Where there is inconsistency between the amendment procedures contained herein and those contained in the Joint Planning Agreement, the provisions of the Joint Planning Agreement shall apply.

2.8.5 Review, Analysis and Recommendation

- (A) The Planning Director shall cause an analysis to be made of the application and, based upon that analysis, prepare a recommendation for consideration by the Planning Board and the Board of County Commissioners.
- (B) Applications for agricultural support enterprise uses located within the Rural Buffer land use classification, as depicted on the Future Land Use Map of the adopted Comprehensive Plan, shall be forwarded to the County’s Agricultural Preservation Board for review and comment.
 - (1) The Agricultural Preservation Board shall have 30 calendar days to provide comments. If comments are not received within this timeframe, the application review process shall not be delayed.
 - (2) For purposes of this subsection, agricultural support enterprise uses shall be defined as those permitted in the ASE-CZ zoning district, as detailed within Section 5.2.3 of this Ordinance.

2.8.6 Public Hearing Required

A public hearing shall be held before adoption of any proposed Zoning Atlas Amendment and/or text amendment to this Ordinance. The Board of County Commissioners ~~and the Planning~~

~~Board~~³² shall hear applications and receive public comment for Zoning Atlas amendments and/or text amendments to this Ordinance in a Quarterly Public Hearing.

2.8.7 Notice of Requirements for Planning Board Meetings and Public Hearings

- (A) The Planning Director shall provide notification of Planning Board meetings at which the Planning Board is to review and make a recommendation on Zoning Atlas amendments. Notifications shall be mailed and posted for the Planning Board meeting in the same manner as for the public hearing, as detailed in (C) and (D) below. The notice shall include the time and location of the Planning Board meeting.³³
- (B) The Planning Director shall cause notice ~~Notice~~ of the public hearing to review the application and receive public comment ~~shall to~~ be published at least twice in a newspaper of general circulation in the county, stating the time and place of the hearing and the substance of the proposed amendment.
- (1) Said notice shall appear in said newspaper for two successive weeks with the first notice appearing not less than ten days nor more than 25 days before the date set for the public hearing. In computing the notice period, the day of publication is not to be included, but the day of the hearing is to be included.³⁴
- (C) ~~In the case of For~~ amendments to the ~~zoning atlas~~ Zoning Atlas, the Planning Director shall post on the affected property a notice of the public hearing at least ten days prior to the date of said hearing.
- (D) ~~In the case of For~~ amendments to the Zoning Atlas, written notice shall be sent by certified mail to the affected property owner and ~~by first class mail to~~³⁵ all adjacent property owners at least 15 days, but not more than 25 days, before the public hearing date. Adjacent property owners are those whose names and addresses are currently listed in the Orange County tax records and whose property lies within ~~500 one~~ thousand³⁶ feet of the affected property.
- (1) ~~If amendments to the Zoning Atlas are proposed by the County, notice shall be sent by first class mail to all affected property owners and to all adjacent property owners within 500 feet as provided in (D) above.~~³⁷
- (E) The Planning Director shall certify the mailing of all notices to the Board of County Commissioners.

³² Since a quorum of Planning Board members will no longer be necessary to hold a public hearing, the public hearing would no longer be considered a joint hearing.

³³ The Planning Board has stated that it would like the public to have notice of its meetings when it is considering amendments so the public can attend the meetings and provide comments if desired. This will result in two mailed notifications/sign postings for Zoning Atlas amendments in order to meet statutory requirements for public hearings (mailed/posted at least 10 days but not more than 25 days prior to the public hearing)

³⁴ This paragraph has been indented one level to better reflect the cadence of ordinance structure.

³⁵ State statutes do not require mailing via certified mail to adjacent property owners. Because of the proposed notification distance increase (from 500 feet to 1,000 feet), staff is suggesting that notices be mailed via first class mail in order to keep costs and necessary staff time lower.

³⁶ As a result of comments made at the September 8, 2015 public hearing, the notification boundary is proposed to be expanded from 500 feet to 1,000 feet.

³⁷ This paragraph is suggested for deletion because of the proposed modifications in (D) which will allow all notices (both applicant-initiated and government-initiated) to be sent via first class mail. If the modification in (D) is not adopted, the language in (D)(1) should not be deleted and the notification distance should be increased from 500 feet to 1,000 feet.

2.8.8 Planning Board Review³⁸

- ~~(A) Following the public hearing, all proposed amendments shall be referred to the Planning Board for consideration and recommendation.~~
- ~~(B) The Board of County Commissioners may direct the Planning Board to provide a recommendation by a date certain. If the Board of County Commissioners does not so direct, the Planning Board shall make its recommendation within three regularly scheduled Planning Board meetings.~~
- ~~(C) If the Planning Board fails to make a recommendation within the time allotted in subsection (B) above, the application shall be forwarded to the Board of County Commissioners without a Planning Board recommendation.~~
- ~~(D) Amendments initiated by Orange County shall not be subject to time limitations other than those specified by the Board of County Commissioners during the public hearing process.~~
- ~~(E) Evidence not presented at the public hearing may be submitted in writing to the Planning Board for consideration prior to the Planning Board's recommendation to the Board of County Commissioners. The Planning Board may consider additional oral evidence only if it is for the purpose of presenting information also submitted in writing.~~
- (A) The Planning Board shall allow public comments at its meeting and those comments shall be taken into consideration by the Planning Board in making its recommendation.
- (B) The Planning Board's action on an application shall be one of the following:
- (1) Recommend approval,
 - (2) Recommend denial,
 - (3) Recommend approval but with specified changes, or
 - (4) Recommend the Planning Board be given extended time to consider the matter.
- (C) In making its recommendation, the Planning Board shall also approve a statement describing whether its action is consistent with an adopted comprehensive plan or any other officially adopted plan that is applicable, and briefly explain why the board considers the action taken to be reasonable and in the public interest.³⁹
- (D) Should the Planning Board fail to make a recommendation prior to the quarterly public hearing, the application shall be forwarded to the Board of County Commissioners without a Planning Board recommendation.⁴⁰

2.8.9 Action by Board of County Commissioners

- (A) The Board of County Commissioners shall ~~not consider enactment of the proposed amendment until~~ hold a public hearing after the Planning Board either makes its

³⁸ These proposed revisions incorporate the discussion the Planning Board had in October, November, and December 2014 and which the BOCC discussed on May 12, 2015. The cadence of the review process would be revised to have the Planning Board make its recommendation prior to the public hearing. Notices would be mailed to nearby property owners and a sign(s) would be posted; this revision will notify nearby property owners of potential changes much earlier in the process. Although the Planning Board meeting would not be an official public hearing, interested persons could address the Planning Board (the existing requirement for written comments only is not proposed to continue in this revised process) and the Planning Board can take all public comments into consideration when making its recommendation.

³⁹ Required by NCGS 160A-383.

⁴⁰ This paragraph is a slight modification from existing paragraph (C), which is proposed to be deleted. It addresses what happens in the event the Planning Board fails to make a recommendation (namely, that the process moves forward without a Planning Board recommendation).

recommendation or takes no action on the application ~~as prescribed in Section 2.8.8(C)~~ within 30 days if its referral.

- ~~(B) In making its decision, the Board of Commissioners shall consider all relevant evidence presented at the public hearing and any submitted written evidence that was considered by the Planning Board in making its recommendation.~~
- ~~(C) After the Board of County Commissioners closes the public hearing, the Board of County Commissioners shall do one of the following:
 - ~~(1) defer a decision to a later Board of County Commissioners meeting date, or~~
 - ~~(2) make a decision.~~~~
- ~~(D) In making its decision, the Board of County Commissioners shall consider adopted plans, comments made at the public hearing, the Planning Board's recommendation, and the Planning Director's recommendation. The Board of County Commissioners shall also approve a statement describing whether its action is consistent with an adopted comprehensive plan or any other officially adopted plan that is applicable, and briefly explain why the board considers the action taken to be reasonable and in the public interest.⁴¹~~

~~2.8.10 Text Revisions Pertaining to Soil Erosion and Sedimentation Control Provisions~~

- ~~(A) The Erosion Control Officer shall review all of the North Carolina Sedimentation Control Commission's revisions to the State's Model Soil Erosions and Sedimentation Control Ordinance and, within 90 days of receipt of the recommended revisions, submit draft amendments to the North Carolina Sedimentation Control Commission for its consideration and comments.~~
- ~~(B) Within 150 days after receipt of the North Carolina Sedimentation Control Commission's comments, Orange County shall formally consider proposed amendments and, to the extent deemed necessary by the Board of County Commissioners, incorporate the amendments into this Ordinance.~~
- ~~(C) Text amendments to this Ordinance for soil erosion and sedimentation control provisions shall comply with the requirements in effect for any other text amendment.~~

~~2.8.11 Text Revisions Pertaining to Stormwater Provisions~~

- ~~(A) The Erosion Control Officer shall review all of the State Environmental Management Commission's revisions to the State's Model Stormwater Ordinance and, within 90 days of receipt of the recommended revisions, submit draft amendments to the State Environmental Management Commission for its consideration and comments.~~
- ~~(B) Within 150 days after receipt of the State Environmental Management Commission's comments, Orange County shall formally consider proposed amendments and, to the extent deemed necessary by the Board of County Commissioners, incorporate the amendments into this Ordinance.~~
- ~~(C) Text amendments to this Ordinance for stormwater provisions shall comply with the requirements in effect for any other text amendment.~~

SECTION 2.9: CONDITIONAL DISTRICTS

~~2.9.1 Conditional Use District (CUD)~~

- ~~(A) Generally
 - ~~(1) Any use permitted under the CUD process shall conform to all applicable development regulations for the corresponding general use zoning district as well as any specific development standards outlined within this Ordinance.~~~~

⁴¹ Required by NCGS 160A-383.

- (2) The Board of County Commissioners, in reviewing a CUD application, may impose such reasonable conditions upon approval of a CUD request as will afford protection of the public health, safety, and general welfare, ensure that substantial justice is done, and ensure equitable treatment.
- (3) Only those conditions mutually agreed to by the applicant and the Board of County Commissioners may be imposed on a CUD application.
- (4) Within the Economic Development Districts (EDDs), there are specific uses that require approval of a CUD. These uses are noted on the Table of Permitted Uses – Economic Development Districts (Section 5.2).

(B) Applications

Applications to establish a CUD shall be submitted to the Planning Director and shall be processed in accordance with the procedure(s) for:

- (1) Zoning Atlas amendment (Section 2.8),
- (2) Class A Special Use Permit (Section 2.7), and
- (3) The provisions of this Section.

(C) Submittal Requirements

- (1) In addition to the CUD application form, an applicant shall also submit the following information:
 - (a) A site plan prepared in accordance with the provisions of Section 2.5 including the following:
 - (i) A detailed description of the proposed use of property including an outline of the proposed operational characteristics of the proposed development,
 - (ii) A detailed traffic survey, regardless of the estimated number of trips per day, prepared in accordance with all applicable North Carolina Department of Transportation (NC DOT) requirements or standards as well as Section 6.17 of this Ordinance,
 - (iii) The appropriate environmental document prepared in accordance with Section 6.16; and
 - (iv) A landscape plan showing the location of on-site significant trees; proposed screening, buffers, and landscaping; and any proposed treatment of any existing natural features.
 - (b) A summary of utility services, including processing of wastewater.
 - (c) A schedule of construction of all elements of the proposal; and
 - (d) Any other information identified during the pre-application conference deemed essential to demonstrate the project's compliance with these regulations.
- (2) 26 copies of the application package required in (1) above shall be submitted by the applicant.
- (3) The Planning Board and/or Board of County Commissioners may request additional information in order to evaluate and properly process the application for a CUD.

(D) Neighborhood Information Meeting

- (1) Before a Public Hearing may be held on an accepted application for a CUD, the applicant is required to schedule, with the assistance of the Planning Department, a minimum of one neighborhood information meeting. The purpose of this meeting is to obtain surrounding property owner input and comments on the proposed development project.
- (2) The applicant shall obtain property owner mailing address information from the Orange County Planning Department and shall mail certified notices of the meeting date and time to each property owner within 500 one thousand feet of the property for which a CUD has been requested.⁴²
- (3) The notices shall be mailed a minimum of 14 days prior to the date of the proposed Neighborhood Information Meeting.
- (4) The applicant shall post a sign on the property advertising the date, place, and time of the meeting a minimum of 10 days prior to the date of the meeting.
- (5) The Neighborhood Information Meeting shall be held a minimum of 45 days prior to the date of the Public Hearing where the application is scheduled for review and public comment.

(E) Review and Evaluation of Application

- (1) All CUD applications shall be reviewed and acted upon in accordance with the review procedures for Class A Special Use Permits (Section 2.7).
- (2) The following shall be considered when evaluating an application for a CUD:
 - (a) The policies and objectives of the Orange County Comprehensive Plan, particularly in relation to the use, proposed site, and surrounding area;
 - (b) The policies and objectives of any adopted Small Area Plan(s) relating to the area; and
 - (c) The potential impacts to the surrounding area including, but not limited, to: traffic, storm water drainage, compatibility of land use activities, and land values.
- (3) The Board of County Commissioners may attach reasonable and appropriate conditions to the location, nature, and extent of the proposed use. Such conditions may address the following:
 - (a) The characteristics of the proposed use and its relationship to surrounding property and existing land uses,
 - (b) The proposed support facilities, such as parking, screening and buffer areas,
 - (c) The timing of the proposed development,
 - (d) Architectural review and controls,
 - (e) The Permitted and Special Uses allowed under the existing zoning classification, and,
 - (f) Other matters that the BOCC may find appropriate or the applicant may propose.

(F) Approval and Conditions

⁴² This section had not been proposed for modification at the September 8, 2015 public hearing. However, as a result of comments made at the public hearing, the notification boundary is proposed to be expanded from 500 feet to 1,000 feet for other types of actions so staff is suggesting the increase in this section as well so that notification distances will be consistent.

There are no revisions proposed on this page - it is provided for context.

- (3) A minor change is one that will not:
- (a) Alter the basic relationship of the proposed development to adjacent property,
 - (b) Alter the approved land uses,
 - (c) Increase the density or intensity of development, and/or
 - (d) Decrease the off-street parking ratio or reduce the buffer yards provided at the boundary of the site.

2.9.2 Conditional Zoning District (CZD)

(A) Generally

Only those uses listed on the Table of Permitted Uses in Section 5.2 for a specific Conditional Zoning District and detailed in Section 3.8 of this Ordinance shall be developed.

(B) Applications

Applications to rezone property to a CZD shall be submitted to the Planning Director and shall be processed in accordance with the procedure(s) for:

- (1) Zoning Atlas amendment (Section 2.8),
- (2) Site plans (Section 2.5) for CZDs that require a site plan, and
- (3) The provisions of this Section.

(C) Submittal Requirements

- (1) In addition to the CZD application form, an applicant shall also submit the following information:
 - (a) A site plan prepared in accordance with the provisions of Section 2.5 of this Ordinance, except for MPD-CZ applications (see (C)(2) below).
 - (b) A detailed description of the proposed use of property including an outline of the proposed development.
 - (c) A detailed traffic survey, regardless of the estimated number of trips per day, prepared in accordance with all applicable North Carolina Department of Transportation (NC DOT) requirements or standards as well as Section 6.17 of this Ordinance.
 - (d) The appropriate Environmental Document prepared in accordance with Section 6.16.
 - (e) A landscape plan showing the location of on-site significant trees; proposed screening, buffers, and landscaping; and any proposed treatment of any existing natural features.
 - (f) A summary of utility services, including processing of wastewater.
 - (g) A schedule of construction of all elements of the proposal.
 - (h) Any other information identified during the pre-application conference deemed essential to demonstrate the project's compliance with these regulations.
- (2) In lieu of the requirements in (1)(a) above, an application for a Master Plan Development (MPD) CZD shall include the requirements in Section 6.7. The requirements of (1)(b) through (1)(h) above are applicable for MPD-CZ applications.
- (3) 26 copies of the application package required in (1) and (2) above shall be submitted by the applicant.

- ~~(4) The Planning Board and/or Board of County Commissioners may request additional information in order to evaluate and properly process the application for a CZD.~~

~~(D) **Neighborhood Information Meeting**~~

- ~~(1) Before a Public Hearing may be held on an accepted application for a CZD, the applicant is required to schedule, with the assistance of the Planning Department, a minimum of one neighborhood information meeting. The purpose of this meeting is to obtain surrounding property owner input and comments on the proposed development project.~~
- ~~(2) The applicant shall obtain property owner mailing address information from the Orange County Planning Department and shall mail certified notices of the meeting date and time to each property owner within 500 one thousand feet of the property for which a CZD has been requested.⁴³~~
- ~~(3) The notices shall be mailed a minimum of 14 days prior to the date of the proposed Neighborhood Information Meeting.~~
- ~~(4) The applicant shall post a sign on the property advertising the date, place, and time of the meeting a minimum of 10 days prior to the date of the meeting.~~
- ~~(5) The Neighborhood Information Meeting shall be held a minimum of 14 days prior to the date of the Public Hearing where the application is scheduled for review and public comment.~~

~~(E) **Review and Evaluation of Application**~~

~~The review, processing, and evaluation of a CZD application is a legislative process subject to judicial review using the same procedures and standards of review that apply to general use district zoning decisions.~~

~~(F) **Approval and Conditions**~~

- ~~(1) The Board of County Commissioners shall take action on the application to rezone the property in accordance with the procedures outlined within Section 2.8.~~
- ~~(2) The applicant or the County may recommend that reasonable and appropriate conditions be attached to the approval of the application~~
- ~~(3) Conditions and site-specific standards shall be limited to those that address the conformance of the development to County ordinances, the adopted Comprehensive Plan, or any other relevant plans that address the impacts reasonably expected to be generated by the proposed development. Any such conditions may address:~~
- ~~(a) The compatibility of the proposed development with surrounding property,~~
- ~~(b) Proposed support facilities (i.e. roadways and access points, parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, storm water drainage, the provision of open space, etc), and/or~~
- ~~(c) All other matters the County may find appropriate or the petitioner may propose.~~

⁴³ This section had not been proposed for modification at the September 8, 2015 public hearing. However, as a result of comments made at the public hearing, the notification boundary is proposed to be expanded from 500 feet to 1,000 feet for other types of actions so staff is suggesting the increase in this section as well so that notification distances will be consistent. Mailing notices via first class mail rather than via certified mail is being suggested in order to keep costs lower.

2.11.4 Review Procedures

- (A) Applications for an appeal of an interpretation shall be reviewed and acted upon by the Board of Adjustment in accordance with the procedures contained in Section 2.12 of this Ordinance.
- (B) The conduct of the hearing shall be consistent with the provisions of Section 2.12 of this Ordinance.
- (C) The Planning Director shall complete an assessment of the application and provide a recommendation on the disposition of the application. The assessment shall include all relevant facts utilized in rendering the disputed decision and the rationale for the interpretation made by the Planning Director.
- (D) The assessment shall be introduced at the hearing and become part of the record.
- (E) Upon hearing all evidence associated with the application, the Board of Adjustment shall close the hearing and render a decision on the matter to affirm, modify, or reverse the decision of the Planning Director.

2.11.5 Findings of Fact

The Board of Adjustment shall provide a detailed rationale for its decision in the form of an order to affirm, modify, or reverse the decision of the Planning Director. This order shall provide the necessary justification for the Board's action based on the testimony and evidence entered into the record during the hearing.

2.11.6 Notice Requirements

Notice requirements shall follow Section 2.12.6(A). Other subsections of Section ~~2.2.6~~ 2.12.6⁴⁴ are not applicable to applications for an appeal of an interpretation.

SECTION 2.12: BOARD OF ADJUSTMENT

2.12.1 General Provisions

- (A) The Board shall act on all applications before it.
- (B) The Board shall act on any appeal of a Stop Work Order issued by the Planning Director at its next regularly scheduled meeting or at a special meeting called for that purpose.

2.12.2 Quasi-Judicial Proceedings

- (A) The Board of Adjustment acts in a quasi-judicial capacity. However, it is not intended that its proceedings be conducted as formally as those before courts.
- (B) The rules of procedure and evidence set forth in this Ordinance shall be followed to protect the interests of all parties and the public.
- (C) The presiding officer shall administer oaths to all witnesses and shall make rulings necessary to preserve fairness, order, or proper decorum in any matter before the Board of Adjustment. Any person who, while under oath during a proceeding before the Board, willfully swears falsely is guilty of a Class I misdemeanor.
- (D) Any member of the Board of Adjustment or any interested party may object to, and the presiding officer may exclude, any evidence, testimony, or statement that is deemed incompetent, irrelevant, immaterial, or unduly repetitious and therefore fails to reasonably address the issues before the Board of Adjustment.

2.12.3 Evidence and Testimony

- (A) Interested Party

⁴⁴ Typographical error that staff recommends correcting as part of this amendment package.

- (1) Any interested party may present evidence or testimony, cross-examine witnesses, inspect documents, and offer evidence or testimony in explanation or rebuttal.
- (2) Any member of the Board of Adjustment may question any interested party.
- (3) Persons other than interested parties may make competent, relevant, and material comments.

(B) Subpoenas

- (1) The Board of Adjustment may subpoena witnesses and compel the production of evidence.
- (2) To request issuance of a subpoena, persons with standing as detailed under NCGS 160A-939(d), shall make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas in those cases where testimony or evidence is deemed to be relevant, reasonable in nature and scope, and not oppressive.
- (3) The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full Board.
- (4) If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of Adjustment, or the party seeking the subpoena, may apply to the General Court of Justice for an order requiring that its order be obeyed, and the Court will have jurisdiction to issue those orders after notice to all proper parties.
- (5) No testimony of any witness before the Board of Adjustment, pursuant to a subpoena issued in exercise of the power conferred by this subsection, may be used against the witness in any civil or criminal action, other than a prosecution for false swearing committed on the examination.
- (6) Anyone who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely, is guilty of a Class 1 misdemeanor.

2.12.4 Quorum and Vote Required

- (A) A quorum of the Board is necessary to conduct any business and shall consist of four members.
- (B) The affirmative vote of four of the members of the Board shall be necessary in order to effect any variation in this Ordinance.
- (C) A majority of the members shall be required to decide on the issuance of a Class B Special Use Permit or an appeal application.

2.12.5 Notification of Board Action

- (A) Within five working days after Board action, the Planning Director shall have available in the Planning Department's office a notice of decision of the Board's action.
- (B) The Planning Director shall notify the parties to an application or appeal of the Board's disposition. This includes the applicant, the property owner if different from the applicant, or any individual who has submitted a written request for a copy prior to the date the decision becomes effective. This notice shall be made by registered or certified mail within five working days of the Board's actions.
- (C) The Planning Director shall keep a copy of the Board's action on file.

2.12.6 Notice Requirements for Matters Before the Board

- (A) The Board shall give notice of matters coming before it by causing notice to be placed in a newspaper of general circulation in Orange County. The notice shall appear once a

week for two consecutive weeks, the first insertion to be not less than ten days nor more than 25 days prior to the meeting date. In computing the notice period, the day of publication is not to be included, but the day of the hearing is to be included.⁴⁵

- (B) In the case of application for a Class B Special Use permit or variance the Planning Director shall give written notice by certified first class mail to adjacent property owners. This notice shall be given not less than 15 days mailed at least ten days but not more than 25 days prior to the meeting date. Adjacent property owners are those whose property lies within 500 one thousand feet of the affected property and whom are currently listed as property owners in the Orange County tax records.⁴⁶
- (C) The Planning Director shall post on the affected property a notice of the Board meeting at least ten days but not more than 25 days⁴⁷ prior to the meeting date.
- (D) In the case of an appeal of a Stop Work Order issued by the Planning Director, the Planning Director shall give written notice by certified mail to the property owner, and/or person(s) engaged in the alleged violation. Notification of adjacent property owners, posting of property, and publication of a hearing notice is not required.

SECTION 2.13: EXEMPT SUBDIVISIONS

2.13.1 Generally

- (A) Persons proposing divisions of land that do not constitute a subdivision must request a determination of an exempt subdivision status with the Planning Director. Activities that do not constitute a subdivision are found in Section 7.2.1.
- (B) One copy of the final mylar plat and three paper copies of the plat shall be submitted with the request for a determination for an exempt subdivision.
- (C) Exempt subdivisions shall comply with all applicable non-plat requirements of this Ordinance.

2.13.2 Review and Action

- (A) Following receipt of a request for a determination of an exempt subdivision status, the Planning Director shall make a determination of the land division's exempt or nonexempt status.
- (B) If the Planning Director determines that the proposed land division does not constitute a subdivision, the Planning Director shall certify the proposed land division as exempt and include the necessary statement on the plat certifying same.
- (C) If the Planning Director determines that the proposed land division constitutes a subdivision, the applicant shall be informed of such in writing and shall be required to submit the appropriate Subdivision application.

⁴⁵ The Staff Attorney had suggested language modifications in (A) that would result in the omission of public hearings for SUPs from legal advertisements since the general public does not have standing in such matters and cannot participate. However, at the September 8, 2015 public hearing, comments were received to continue to publish SUP notices in the legal advertisements but to add additional language to the legal ad if necessary for legal sufficiency reasons. Therefore, existing language in (A) has been restored and is no longer suggested for modification. Planning and Attorney staff will work together to ensure future legal ads are modified as necessary.

⁴⁶ Language modification suggested to be consistent with Statutes and to ensure that the outer limit of 25 days in not inadvertently missed. State statutes do not require mailing via certified mail. Because of the proposed notification distance increase (from 500 feet to 1,000 feet), staff is suggesting that notices be mailed via first class mail in order to keep costs and necessary staff time lower. Because notices for the Neighborhood Information Meeting are sent more than a month before this notice for the public hearing, notification to the public regarding proposed projects is occurring much sooner in the review process than in the past.

⁴⁷ Language modification suggested to be consistent with Statutes and to ensure that the outer limit of 25 days in not inadvertently missed.

- (4) Historic properties,
 - (5) Scenic corridors,
 - (6) Known bird migratory patterns through the County,
 - (7) Voluntary Agricultural Districts, and
 - (8) Publicly-owned or quasi-public lands.
- (C) In order to participate in the Plan, all owner(s), or their legally binding representatives, shall submit an application on a form prepared by the Planning Department requesting inclusion.
- (D) All telecommunication providers who elect to construct facilities on properties in the Plan shall provide all necessary and requested information to the County's telecommunications consultant.
- (E) Modification of the Plan may be considered annually at the **February first** Quarterly Public Hearing **of the calendar year, normally held in February**. Any applicant requesting modification of the Plan shall make application to the Planning Director on or before December 1st of each year. The fee for modifying the Plan shall be that as set forth in the Orange County Schedule of Fees.
- (F) Withdrawal from the Plan is permitted if any owner submits, to the Planning Director, a notarized statement requesting same. Upon receipt of the request, including any fee for modifying the Plan as set forth in the Orange County Schedule of Fees, the Planning Director shall inform interested parties that the property has been withdrawn from consideration. Removal of the property from the Plan shall be processed as a modification as detailed herein.

5.10.3 Annual Telecommunications Projection Meeting (ATPM)

(A) Purpose and Outcome

- (1) The purpose of the ATPM meeting is to allow for a complete review of collocation opportunities, address coverage issues, and discuss the location of needed telecommunication support structures with providers who intent on submitting development applications for action by the County. The intended outcome of the meeting is to allow the County and interested parties to develop a plan for facility deployment within the County that provides reasonable coverage based on the needs of the County and its residents, while minimizing the total number of needed telecommunication support facilities, including minimizing the intrusiveness of such facilities, and encouraging the development of a more efficient telecommunication network.
- (2) The intended outcome of the meeting is an understanding amongst the Planning Director and providers on areas of the County where telecommunication support facilities are needed and application request for the year should be focused.

(B) Applicability

- (1) By December 31st of each calendar year, telecommunication providers shall submit to the Planning Director a plan indicating proposed search rings for anticipated telecommunication support structures. This plan shall identify areas where providers are looking to locate facilities, as well as identify those areas of the County that are underserved by existing facilities.
- (2) As of the effective date of this Ordinance amendment any pending applications that have not received a zoning compliance permit or a special use permit shall meet all requirements of this Ordinance, including, but not limited to submission deadlines, application standards and processing, excluding the ATPM requirement.

(C) Meeting Specifics

PROPOSED AMENDMENTS TO THE PLANNING BOARD
POLICIES AND PROCEDURES

APPROVED 11/8/2012

PLANNING BOARD POLICIES AND PROCEDURES

SECTION I: SCOPE

A. Purpose

1. To establish a policy and procedures whereby the Orange County Board of Commissioners will establish the specific policies and procedures governing the Planning Board.
2. The Orange County Board of Commissioners may appoint an advisory board whose duty is to serve in an advisory capacity to Orange County Board of Commissioners.

B. Authority

1. North Carolina General Statute 153A-76 grants boards of county commissioners the authority to establish advisory boards.
2. The Orange County Advisory Board Policy serves as the underlying policy document to which the Planning Board, in addition to this policy and procedure document, is subject. The Orange County Advisory Board Policy is attached hereto as "Exhibit A".
3. In the event that there is a conflict between the Orange County Advisory Board Policy and this Policies and Procedures document this Policies and Procedures document shall control.

C. Charge

1. The charge of the Planning Board is contained in Section 1.6.3 of the Orange County Unified Development Ordinance.

The purpose for which the Planning Board was formed: to serve in an advisory capacity to the Orange County Board of Commissioners in regards to planning, zoning, and subdivision matters, as provided in Section 1.6.3 of the Orange County Unified Development Ordinance.

SECTION II: GOALS AND OBJECTIVES

A. Goals

1. The Planning Board shall carry out the duties contained in Section 1.6.3 of the Orange County Unified Development Ordinance to the best of its ability.

B. Objectives

1. Acting under the directives of the Board of County Commissioners and with County staff, the Planning Board shall pursue the duties contained in Section 1.6.3 of the Orange County Unified Development Ordinance.

SECTION III: MEMBERSHIP

APPROVED 11/8/2012

A. Authority

1. North Carolina General Statute 153A-76 grants boards of county commissioners the authority to establish advisory boards and to appoint members to and remove members from those advisory boards. In acting on this authority the Orange County Board of Commissioners hereby establishes certain general conditions to which applicants and members of advisory boards should conform.

B. Composition

1. Planning Board composition is detailed in Section 1.6.1 of the Orange County Unified Development Ordinance. Additional membership requirements are listed in said Section of the UDO.
2. The Planning Board does not have alternate members.

C. Chair, Vice Chair, and Secretary

1. The Planning Board shall elect by majority vote a Chair and Vice Chair from among its members at the regular meeting in January of each year.
2. Chair and Vice Chair terms of office shall correspond to the requirements of the Orange County Advisory Board Policy.
3. The Secretary of the Planning Board shall be the Planning Director or his/her designee.
4. The Chair and Secretary shall ensure that each Planning Board member is presented with a copy of the Planning Board's charge, scope of authority, membership responsibilities, and code of conduct when the Planning Board member is appointed to the Planning Board.
5. The Planning Board Chair, or Vice Chair in the Chair's absence, shall attend quarterly public hearings and Board of County Commissioners meetings at which a decision is scheduled for items on which the Planning Board has made a recommendation.¹

SECTION IV. MEETINGS

A. Staffing

1. The Planning Director shall perform the duties set forth in Section 1.6.4 of the Orange County Unified Development Ordinance.

B. Agendas

1. Items for agendas shall be approved by the Planning Board Chair and staff.

¹ The new requirement was suggested at the May 12, 2015 BOCC work session when the BOCC discussed the public hearing process.

APPROVED 11/8/2012

2. The designated staff will develop and distribute to each member an agenda listing the matters to be considered at upcoming advisory board meetings. The regular meeting agenda and materials shall be distributed at least seven (7) calendar days before the regular meeting
- C. Date, Time, and Location of Regular Meetings
1. Regular Meetings of the Planning Board shall be held on the first Wednesday of each month. The start time and location of the meeting shall be included on the agenda and shall typically be 7:00 p.m. at the Orange County West Campus Office Building located at 131 West Margaret Lane, Hillsborough. The Planning Board Chair, in consultation with staff, shall have the authority to change the start time and location of a regular meeting to meet any special circumstances, provided the information is included on the distributed agenda.
- D. Notice of Meetings
1. Notice of regular Planning Board meetings and agendas shall be made available to all members and interested parties, and to any person who requests such notice, at least seven (7) days in advance of the meeting by e-mail and by posting on the Orange County government website.
 2. Notice of public hearings shall conform to the notice requirements of Section 2.3.6 and/or 2.8.7, as applicable, of the Orange County Unified Development Ordinance.
 3. Agenda materials for public hearings shall be distributed to Planning Board members and posted on the Orange County government website for interested parties a minimum of ten (10) calendar days prior to the public hearing.
- E. Neighborhood Information Meetings²
1. Planning Board members shall be encouraged to attend Neighborhood Information Meetings (NIMs) for Class A Special Use Permits and Conditional Zoning Districts. At-Large members and members representing the Township in which a particular development project is proposed are specifically encouraged to attend the NIM.
 2. Planning Department staff shall keep Planning Board members informed of upcoming Class A Special Use Permit and Conditional Zoning District NIMs via e-mailed messages. Said e-mail messages

² This new procedure is in response to Planning Board members expressing the desire to be kept informed of upcoming NIMs for projects on which the Planning Board will make a recommendation so they may attend the meetings.

APPROVED 11/8/2012

shall be sent to Planning Board members on the same date, or shortly after, the notifications are mailed to adjacent property owners.

SECTION V. ORIENTATION

A. Attendance

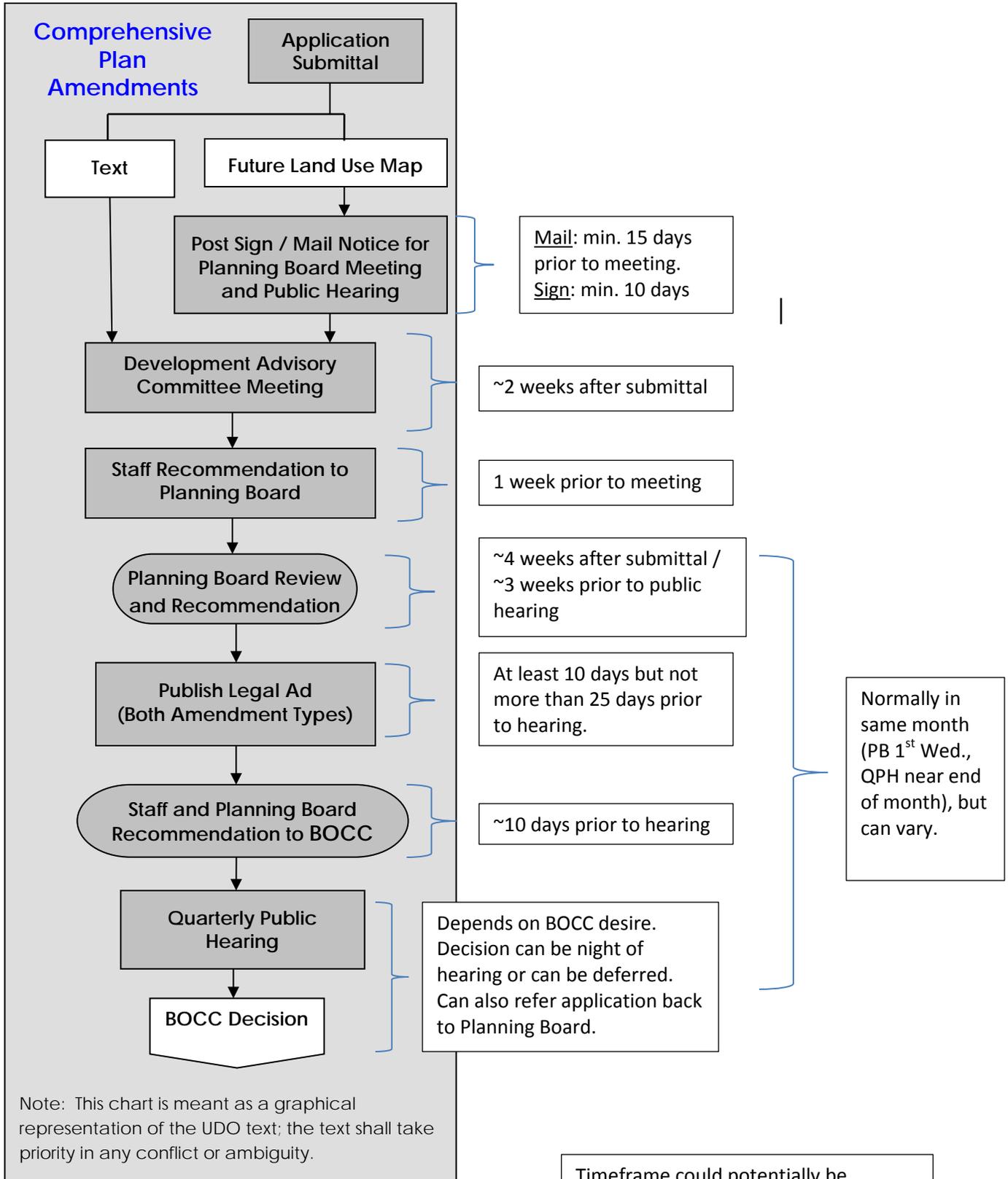
1. Each member shall attend an orientation presented by the Orange County Staff to familiarize the advisory board members with the operation of County government, the Planning Department rules, and the operating procedures of the advisory board.
2. Each voting member will be encouraged to complete the orientation within six weeks of his or her appointment and participate in at least one meeting with the staff.

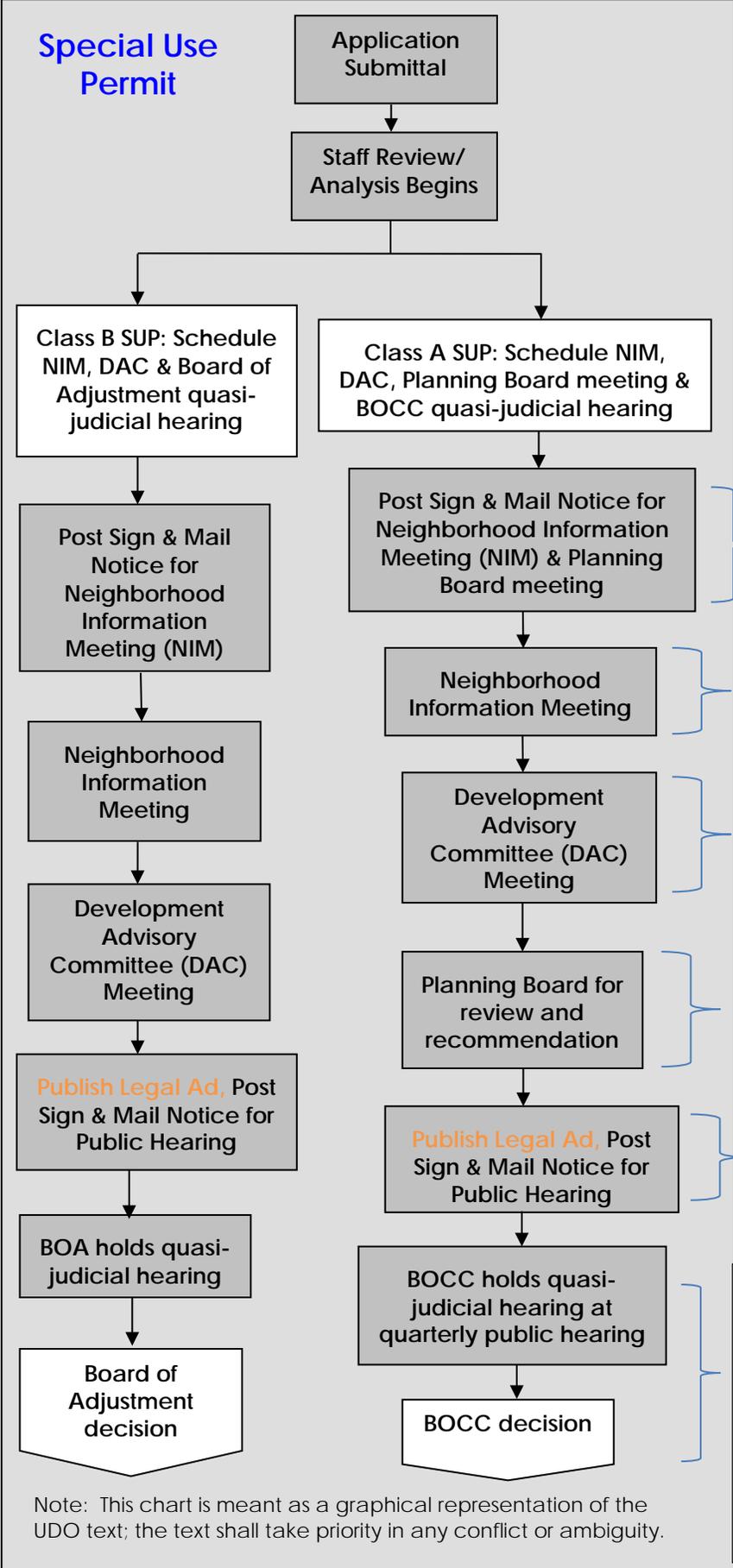
SECTION VI. BY-LAWS

A. By-Laws

1. Any Bylaws adopted by the Planning Board are void and no further bylaws shall be adopted. Procedure shall be governed solely by this policy document and the General Advisory Board Policy Document.
2. Should the Planning Board determine modifications to policies and procedures are necessary the Planning Board may petition the Board of County Commissioners for such modifications.

Timeline Example – Comprehensive Plan





Timeframe for Class A SUPs could potentially be reduced to as low as ~10 weeks after application submittal. Current timeframe is ~4-5 months.

Mail: min. 14 days prior to meeting.
Sign: min. 10 days

Min. 45 days prior to public hearing

~5 weeks after submittal

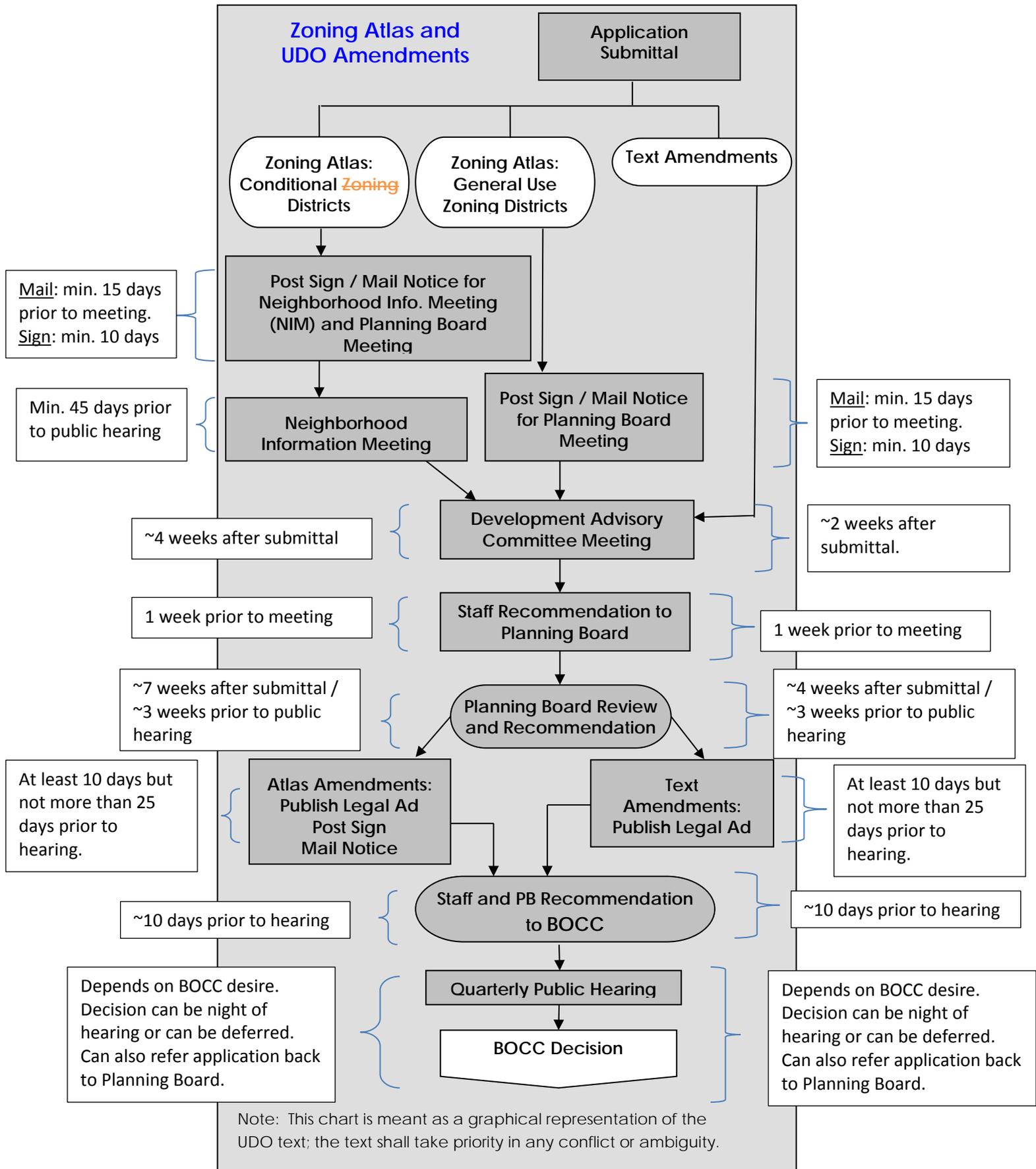
~7 weeks after submittal / ~3 weeks prior to public hearing

At least 10 days but not more than 25 days prior to hearing.

Depends on outcome of hearing. BOCC could make a decision the night of the hearing, defer a decision to a later meeting date, or request additional evidence and continue the hearing to a date/time certain.

Normally in same month (PB 1st Wed., QPH near end of month), but can vary.

Note: This chart is meant as a graphical representation of the UDO text; the text shall take priority in any conflict or ambiguity.



**ORANGE COUNTY
PLANNING BOARD
ACTION AGENDA ITEM ABSTRACT**
Meeting Date: October 7, 2015

**Action Agenda
Item No.** _____

SUBJECT: Unified Development Ordinance Text Amendment – Recreational Land Uses

DEPARTMENT: Planning and Inspections

PUBLIC HEARING: (Y/N)

Yes

ATTACHMENT(S):

1. Comprehensive Plan and Unified Development Ordinance Outline Form - Recreation Amendments (UDO/Zoning 2015-04)
2. Response from Orange County Sheriff's Office on the Discharge of Firearms
3. Statement of Consistency
4. Proposed UDO Text Amendment(s)

INFORMATION CONTACT:

Michael Harvey Planner, III (919) 245-2597
Craig Benedict, Director, (919) 245-2585

PURPOSE: To make a recommendation to the BOCC on Planning Director initiated amendments to the Unified Development Ordinance (UDO) regarding recreational land uses.

BACKGROUND: This item was presented at the September 8, 2015 Quarterly Public Hearing (materials available at: http://www.orangecountync.gov/document_center/BOCCAgendaMinutes/150908.pdf).

As indicated during the hearing, existing definitions and classification methodology for recreation land uses is inappropriate and inconsistent with acceptable legal practice. The current methodology has even complicated recent enforcement efforts relating to the discharge of firearms on private property and addressing the purported establishment of an outdoor recreational field off of Old Greensboro Highway. For additional background information please refer to Section B.1 of Attachment 1.

Staff is proposing to overhaul current regulations by:

- a. Establishing a new definition for a recreational land use with no reference to its tax status;
- b. Reviewing the types of recreational land uses permitted in each zoning district and suggesting revisions to ensure consistency;
- c. Developing new standards governing the development of recreational land uses for both private and commercial purposes; and
- d. Developing standards governing the discharge of firearms from both a business and personal enjoyment standpoint.

At the public hearing staff was asked to invite individuals who had voiced concerns about the purported shooting range to attend the October regular Planning Board meeting. Staff was also asked for information from the Sheriff's Office outlining what regulations they are able to enforce and how they typically respond to a complaint associated with the discharge of a firearm.

Please refer to Section C.1 of Attachment 1 for a synopsis of additional comments made at the public hearing. Attachment 2 contains the response from the Sheriff's Office.

Procedural Information: In accordance with Section 2.8.8 of the UDO any evidence not presented at the public hearing must be submitted in writing prior to the Planning Board's recommendation. Additional oral evidence may be considered by the Planning Board only if it is for the purpose of presenting information also submitted in writing. The public hearing is held open to a date certain for the purpose of the BOCC receiving the Planning Board's recommendation and any submitted written comments.

Planning Director's Recommendation: The Planning Director recommends **approval** of proposed text amendment and further recommends approval of the:

- i. Statement of Consistency, as contained in Attachment 3, indicating the proposed text amendment is consistent with the adopted Comprehensive Plan, is reasonable, and in the public interest, and
- ii. The text amendment as contained in Attachment 4.

FINANCIAL IMPACT: Please refer to Section C.3 of Attachment 1.

SOCIAL JUSTICE IMPACT: There is no Orange County Social Justice Goal impact associated with this item.

RECOMMENDATION(S): The Planning Director recommends the Board:

1. Deliberate on the application as necessary,
2. Consider the Planning Director's recommendation, and
3. Make a recommendation on the Statement of Consistency (Attachment 3) and the UDO text amendment (Attachment 4) in time for the **November 5, 2015** BOCC meeting.

COMPREHENSIVE PLAN / FUTURE LAND USE MAP AND UNIFIED DEVELOPMENT ORDINANCE (UDO) AMENDMENT OUTLINE

UDO / Zoning-2015-04

Revision(s) of existing definitions and regulations governing the development of recreational facilities within the County.

A. AMENDMENT TYPE

Map Amendments

- Comprehensive Plan – Future Land Use Element Map:
From: - - -
To: - - -
- Zoning Map:
From: - - -
To: - - -
- Other:

Text Amendments

- Comprehensive Plan Text:
Section(s):

- UDO Text:
 - UDO General Text Changes
 - UDO Development Standards
 - UDO Development Approval Processes

Section(s): Section(s):

1. 5.2.1 *Table of Permitted Uses – General Use Zoning Districts;*
2. 5.2.2 *Table of Permitted Uses – Economic Development Districts;*
3. 5.2.3 *Table of Permitted Uses – Conditional Use Districts;*
4. 5.7 *Standards for Recreational Uses, and*
5. *Article 10 Definitions.*

- Other:

B. RATIONALE

1. Purpose/Mission

In accordance with the provisions of Section 2.8 *Zoning Atlas and Unified Development Ordinance Amendments* of the UDO, the Planning Director has initiated a text amendment to revise existing regulations and definitions of recreational uses.

While reviewing an issue with the Attorney's office it was determined the County's existing definitions and classification methodology for recreation uses (i.e. relying on the profit/non-profit status of said operation) was not appropriate and inconsistent with acceptable legal practice. The regulation and permitting of recreational uses should be based anticipated impacts of said use rather than on its 'tax status'.

2. Analysis

As required under Section 2.8.5 of the UDO, the Planning Director is required to: *'cause an analysis to be made of the application and, based upon that analysis, prepare a recommendation for consideration by the Planning Board and the Board of County Commissioners'*.

Recreational uses are defined as follows within the UDO:

- *Recreation Use, Non-Profit:* An indoor or outdoor recreation use owned by a not-for-profit corporation, according to the laws of North Carolina.
- *Recreation Use, Profit:* An indoor or outdoor recreation use owned by an entity other than a not-for-profit corporation.

Recreation Use, Non-profit land uses are allowed, through the issuance of a Class B Special Use Permit (i.e. reviewed and acted upon by the Board of Adjustment) in:

1. All residential zoning (i.e. Rural Buffer (RB), Agricultural Residential (AR), Rural Residential (R-1), Low (R-2), Medium Residential (R-3, R-4), and High Intensity(R-5, R-8, and R-13) districts.
2. Commercial zoning (i.e. Local Commercial (LC-1), Neighborhood Commercial (NC-2), Community Commercial (CC-3), General Commercial (GC-4), and Office Institutional (OI)) districts.
3. All industrial (i.e. Light Industrial (I-1), Medium Industrial (I-2), Heavy Industrial (I-3)) districts.
4. Within a Master Planned Development Conditional Zoning (MPD-CZ) district.

Recreation Use, Profit is allowed within the Community Commercial (CC-3), General Commercial (GC-4), and Light Industrial (I-1) zoning districts as a permitted use (i.e. administrative review and approval by staff).

Within the Buckhorn and Eno Economic Development districts both Recreation Use, Profit and Non-profit land uses are only allowed within both the Low and High Intensity general use zoning designations with the review and approval of a Conditional Use (i.e. rezoning and Class A Special Use Permit) application by the BOCC. There are specific recreational land uses, including a golf driving range,

listed as a permitted use of property within these districts.

Staff has been working to address local resident concern(s) over the purported development of commercial shooting ranges. Currently the County has no land use standards governing the development of such uses (i.e. setbacks, development of protective berms to absorb bullets, etc.).

Staff is proposing to overhaul our current regulations by:

- a. Establishing new definitions for recreational uses;
- b. Reviewing the types of recreational land uses permitted in each zoning district and suggesting revisions;
- c. Developing new standards governing the development of recreational land uses; and
- d. Developing standards governing the discharge of firearms from both a commercial business and personal enjoyment standpoint.

The amendments are necessary to address outdated regulations governing the development of recreational land uses, update existing development standards and requirements, complete a review of acceptable recreational land uses throughout the County, and establish land use regulations governing the discharge of firearms.

Nothing within the proposed amendments will impact the development of parks/recreational amenities by Orange County.

3. **Comprehensive Plan Linkage (i.e. Principles, Goals and Objectives)**

Land Use Goal 2: Land uses that are appropriate to on-site environmental conditions and features and that protect natural resources, cultural resources, and community character.

Land Use Goal 4: Land development regulations, guidelines, techniques and/or incentives that promote the integrated achievement of all Comprehensive Plan goals.

4. **New Statutes and Rules**

N/A

C. PROCESS

1. **TIMEFRAME/MILESTONES/DEADLINES**

- a. BOCC Authorization to Proceed

May 5, 2015

- b. Quarterly Public Hearing

September 8, 2015. The amendment was reviewed at the September 8, 2015

Quarterly Public Hearing where the following questions/comments were made:

- There was general consensus that proposed amendments to the Buckhorn and Eno Economic Development Districts permitted use table, allowing for recreational facilities to be a permitted use of property within the high intensity zoning designations (i.e. EDB-2 and EDE-2), are acceptable.
- A BOCC member asked why there were different setback standards for gun ranges developed as an accessory use to a residential use of property or a recreational facility.

STAFF COMMENT: Staff recommended a shooting range developed as an accessory use to a residence observe a setback of 300 feet from all property lines. For a shooting range developed as a recreational facility we recommended a setback of 600 feet from all property lines.

The rationale for the different standards is based on the anticipated intensity of use, with a private recreational amenity having a perceived lower potential impact versus a facility designed to be used by the general public (i.e. more weapons being discharged at any given time).

- A BOCC member asked what the typical minimum lot size would have to be to comply with proposed setback standards for a shooting range.

STAFF COMMENT: A residential property would have to be roughly 8 ½ acres in area to accommodate a designated shooting area while a recreational facility would have to be roughly 33 acres to accommodate a non-residential outdoor shooting range.

- A BOCC and Planning Board member asked if the proposed setbacks for a gun range would be sufficient to ensure bullets remain on the property.

STAFF COMMENT: Discharged projectiles can travel upwards of ½ mile or farther depending on the caliber of the weapon.

If our goal is to rely solely on setback standards to ensure discharged projectiles remain on the property, they would have to be more extensive. Staff does not believe this option is consistent with concerns expressed at the public hearing.

This proposal combines required setbacks with additional standards mandating shooting and/or targeting activities be oriented in such a manner to keep projectiles on the property and directed into a permanent backstop. This is intended to mitigate the need for more restrictive setback requirements.

- Both BOCC and Planning Board members suggested hour limitations be established concerning the discharge of firearms on residential property.

STAFF COMMENT: Staff will add language to the proposed text amendment.

- A BOCC member asked if we were being overly restrictive with the proposed amendments as they relate to the discharge of firearms.

STAFF COMMENT: Staff understands the concern. The proposal is an

attempt to address complaints from property owners related to the discharge of firearms on neighboring properties while protecting an individual's right to engage in shooting activity and/or discharge a firearm on their property.

- BOCC and Planning Board members suggested shooting ranges/facilities ought to have similar setback requirements.
- A BOCC member asked staff to invite those individuals who had previously submitted complaints and concerns over the discharge of firearms to the October 7, 2015 Planning Board meeting to express their concerns.

STAFF COMMENT: Staff will send out a meeting notice and copy of revised text under review by the Planning Board.

- A BOCC member suggested revising Section 5.7.2 *Recreational Facilities* of the proposed text amendment to combine recreational uses played on a court into a single category.

STAFF COMMENT: Staff will combine the uses as suggested.

- A BOCC member asked why the proposed text amendments did not address the number of people discharging a firearm at a given moment or limit the number of times a firearm could be discharged in a given time frame.

STAFF COMMENT: Staff indicated such regulations would be difficult to enforce and hard to verify as part of a land use enforcement investigation.

- A Planning Board member expressed concern the amendment would overly restrict the use of private recreational accessory uses. Specifically there was concern over staff's statement a private recreational use could not be used by neighbors/friends in the owner's absence.

STAFF COMMENT: The amendment is an attempt to develop a threshold making it easier to identify instances where a recreational land use is either a private or a public amenity.

As indicated during the public hearing, staff is investigating complaints over the purported establishment of public recreational facilities without required permits (i.e. Class B Special Use Permit). As the ordinance is currently written it is difficult to make a determination either way.

Our goal is not to overly regulate private recreational accessory uses but to ensure we have an appropriate methodology to identify those instances where such uses become, or are truly, a public recreational amenity requiring a heightened permit review and approval process.

- A BOCC member asked for information from the Sheriff's Office outlining what regulations they are able to enforce and how they typically respond to a complaint associated with the discharge of a firearm.

STAFF COMMENT: Please refer to [Attachment 2](#) for the Sheriff's reponse.

c. BOCC Updates/Checkpoints

May 5, 2015 – Approval of UDO Amendment Outline Form

July 1, 2015 – Planning Board Ordinance Review Committee (ORC) (BOCC receives materials)

September 8, 2015 – Quarterly Public Hearing

November 5, 2015 – Receive Planning Board Recommendation

d. Other

N/A

2. PUBLIC INVOLVEMENT PROGRAM

Mission/Scope: Public Hearing process consistent with NC State Statutes and Orange County ordinance requirements

a. Planning Board Review:

July 1, 2015 – Ordinance Review Committee (ORC). The ORC reviewed this item at its July 1, 2015 meeting where the following comments/questions were made:

- Could a resident, on his own property, sponsor a club in his name and finance play on the field under this proposal?

STAFF COMMENT: As the Ordinance is currently written, and proposed, the property owner would have to get a special use permit as the proposed recreational land use is intended to serve the needs of the general public or members of a club/organization.

- Could I develop a putting green on my property?

STAFF COMMENT: You can have a recreational facility on your property and use it for recreational purposes, including a putting green.

When a recreational amenity is opened up for public use/access, however, the nature of the use of property changes and becomes more than a simple accessory use. Staff argues it becomes a recreational facility used to satisfy the needs of the general public, which requires a heightened level of permit review to operate.

- Could a farmer donate land to a non-profit organization to allow for the development of a recreational facility?

STAFF COMMENT: Yes but they would have to obtain a Class B Special Use Permit for the use. This is the current requirement and we are not recommending a change to the existing process.

- Is the intent with this regulation to control the development of gun ranges specifically?

STAFF COMMENT: The amendment seeks to make it easier to identify

instances where a recreational land use is a private or a public amenity. The text amendment also proposes the adoption of new development standards for recreational activities, including standards for shooting ranges/facilities.

The proposed amendment is not solely geared to address the regulation, or establishment, of gun ranges.

- Could a local homeowners association develop a recreational land use on HOA owned property for local residents to take advantage of?

STAFF COMMENT: This text amendment will not preclude that. The homeowners association would, however, have to amend the previously approved subdivision final plat to incorporate the new recreation amenity in accordance with the UDO.

- Will this proposed amendment impact County parks?

STAFF COMMENT: No.

October 7, 2015 – Review and recommendation.

b. Advisory Boards:
 Orange County Parks Advisory Board
 – DEAPR staff

c. Local Government Review:
 Staff transmitted copies of the proposed text amendments to our planning partners in the Towns of Chapel Hill, Carrboro, and Hillsborough for their review and comment on July 10, 2015.

The Orange County Sheriff's office was sent the proposed text amendment on July 10, 2015.

As of this date staff has not received any comments on the proposed amendments.

d. Notice Requirements

Legal advertisement was published in accordance with the provisions of the UDO.

e. Outreach:

General Public: Consistent with NC State General Statutes and Orange County Ordinance requirements.

At the September 8, 2015 Quarterly Public Hearing the BOCC requested staff invite individuals who previously submitted concerns related to the discharge of firearms to the October 7, 2015 Planning Board meeting.

Notices were sent on September 29, 2015 with a copy of the proposed regulations for review at the October Planning Board meeting.

Small Area Plan Workgroup:

Other:

3. **FISCAL IMPACT**

Consideration and approval will not create the need for additional funding for the provision of County services. Costs for the required legal advertisement will be paid from FY2015-16 Departmental funds budgeted for this purpose. Existing Planning staff included in the Departmental staffing budget will accomplish the work required to process this amendment.

D. AMENDMENT IMPLICATIONS

The amendment will revise existing, outdated, regulations governing the categorization and development of recreational land uses and proposes the adoption of new development standards.

E. SPECIFIC AMENDMENT LANGUAGE

Please refer to Attachment 4.

Primary Staff Contact:

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Planning

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Attachment 2

OFFICE OF THE ORANGE COUNTY SHERIFF



Sheriff Charles S. Blackwood
106 East Margaret Lane
Hillsborough, North Carolina 27278

Hillsborough
(919) 644-3050

Chapel Hill
(919) 942-6300

Fax
(919) 732-6403

Memorandum

To: Orange County Board of Commissioners
Orange County Planning Board

From: Sheriff Charles S. Blackwood

Date: September 24, 2015

Re: Response to September 8, 2015 Quarterly Public Hearing Questions regarding the Discharge of Firearms

When Central Communications relays a call for service associated with the discharge of firearms, the Orange County Sheriff's Office's ("Sheriff's Office") standard operating procedure requires the response of the appropriate area deputy. Once the deputy arrives at the property which is the subject of the complaint, he or she will attempt to locate and make contact with any individuals who may be there. If successful, the deputy informs them of the complaint and engages them in conversation to better assess the situation. A criminal history may be conducted of the individuals located at the property and firearms' serial numbers may be checked.

If weapons are being discharged at a shooting range on the property, the deputy will inspect the backstop to determine whether it provides adequate protection for the ammunition being fired. The deputy may suggest improvements be made to the backstop. At the end of the encounter, the deputy thanks the individuals he or she spoke with for their time and clears the property. Often, the deputy's visit to the property sufficiently addresses the complaint and minimizes the likelihood of future calls for service to the property.

Enforcement

The Sheriff's Office is charged with enforcing the Orange County Noise Ordinance, Chapter 16, Article 3. The Ordinance prohibits, *inter alia*, "unreasonably loud and disturbing noise" as defined therein. Maximum permissible standards by receiving land are established for continuous, regular, frequent, or intermittent source of sound produced by any activity. Sound level meters are used to determine compliance with the Ordinance. The discharge of firearms, however, is exempted from the standards but only as permitted by state law and county regulations. Absent an allegation

of criminal activity connected with the use or possession of a firearm,¹ the Sheriff's Office is unable to require an individual to cease discharging a firearm. If the County were to decide to regulate the discharge of firearms, clear standards are necessary to allow for enforcement. Noise and rate of fire regulations are extremely difficult and almost impossible to enforce given the brief duration of the sound.

Instead, the Sheriff's Office seeks to gain the cooperation of the individual whose discharge of a firearm is the subject of the complaint. Consistent with the Sheriff's Office's philosophy of community policing, deputies encourage County residents to be considerate of their neighbors when discharging firearms in addition to talking with one another about such matters. With regard to shooting ranges, the North Carolina General Assembly amended The Shooting Range Protection Act of 1997 to include any recreational shooting range, regardless of when it began operating. Effective July 1, 2015, a person who owns or operates a recreational shooting range in North Carolina is not able to be prosecuted criminally or sued civilly in any lawsuit related to noise or noise pollution resulting from the use of the shooting range, so long as the range is being operated in compliance with noise control laws in effect at the time the range began operating. *See* An Act to Amend Various Firearm Laws, 2015 N.C. Sess. Laws 2015-195 (N.C. Gen. Stat. § 14-409.46).

¹ Examples of such activity may include bullets striking a home or personal property, possession of a firearm by a felon, a victim's statement alleging the commission of a crime involving the discharge of a firearm, or discharge of a firearm on educational property.

**STATEMENT OF CONSISTENCY
OF PROPOSED UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT
WITH THE 2030 COMPREHENSIVE PLAN**

Orange County has initiated an amendment to the Unified Development Ordinance (UDO) to revise existing regulations governing the development of recreational land uses.

The Planning Board finds:

- a. The requirements of Section 2.8 of the UDO have been deemed complete; and,
- b. Pursuant to Sections 1.1.5, and 1.1.7 of the UDO and to Section 153A-341 of the North Carolina General Statutes, the Board finds sufficient documentation within the record denoting that the amendment **is consistent** with the adopted 2030 Comprehensive Plan.
 1. The amendment is consistent with applicable plans because it supports the following 2030 Comprehensive Plan goals and objectives:
 - Land Use Goal 2: *Land uses that are appropriate to on-site environmental conditions and features, and that protect natural resources, cultural resources, and community character.*
 - Land Use Goal 3: *A variety of land uses that are coordinated within a program and pattern that limits sprawl, preserves community and rural character, minimizes land use conflicts, supported by an efficient and balanced transportation system.*
 - Land Use Goal 6: *A land use planning process that is transparent, fair, open, efficient, and responsive.*
- c. The amendment is reasonable and in the public interest because it:
 1. Establishes a legally defensible regulation based on the impacts of a specific land use rather than on its tax status.
 2. Establishes uniform standards of development for recreational uses serving either as an accessory, or principal, use of property.
 3. Provides measurable thresholds with respect to what constitutes an accessory or principal recreational land use to ensure equitable enforcement of development standards.
 4. Promotes public health, safety, and general welfare by furthering the goals and objectives of the 2030 Comprehensive Plan.

The Planning Board hereby recommends that the Orange County Board of County Commissioners consider adoption of the proposed UDO Text Amendments.

Pete Hallenbeck, Chair

Date

TABLE OF PERMITTED USES – GENERAL USE ZONING DISTRICTS																					
* = PERMITTED USE		A = CLASS A SPECIAL USE				B = CLASS B SPECIAL USE				Δ = SUBJECT TO SPECIAL STANDARDS											
USE TYPE	GENERAL USE ZONING DISTRICTS																				
	RB	AR	R1	R2	R3	R4	R5	R8	R13	LC1	NC2	CC3	GC4	EC5	OI	AS	EI	I1	I2	I3	PID
Military Installations (National Guard & Reserve Armory)											*	*	*		*						
MANUFACTURING, ASSEMBLY & PROCESSING																					
Assembly and Packaging Operations Including Mail Order Houses, But Excluding On-Premises Retail Outlets												*			*			*	*	*	
Industrial, Heavy ~																				*	
Industrial, Light ~																	*	*	*	*	
Industrial, Medium ~																		*	*	*	
Microbrewery, production only ^	B	B																*	*	*	
Printing & Lithography												*	*	*				*	*	*	
Sawmills ~																*					
Winery, production only ^	B	B																*	*	*	
MEDICAL USES																					
Health Services: Over 10,000 Sq. Ft. ~													*								
Health Services: Under 10,000 Sq. Ft.										*		*	*	*	*						
Hospitals ~													*		*						
Veterinary Clinic		B								*	*	*	*	*	*	*		*	*	*	
Veterinary Clinic, mobile		B	B							*	*	*	*	*	*	*		*	*	*	
Veterinary Hospitals												*	*	*	*	*		*	*	*	
RECREATIONAL USES																					
Botanical Gardens & Arboretums	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Camp/Retreat Center	B	B	B																		
Golf Driving and Practice Ranges		B										*	*					*			
Parks, Public & Non-Profit	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*

TABLE OF PERMITTED USES – GENERAL USE ZONING DISTRICTS																					
* = PERMITTED USE		A = CLASS A SPECIAL USE				B = CLASS B SPECIAL USE				Δ = SUBJECT TO SPECIAL STANDARDS											
USE TYPE	GENERAL USE ZONING DISTRICTS																				
	RB	AR	R1	R2	R3	R4	R5	R8	R13	LC1	NC2	CC3	GC4	EC5	OI	AS	EI	I1	I2	I3	PID
~ Use may not be permitted as a Conditional Use District; See Section 5.1.4(E) ^ Allowed as more than one principal use if located on a bona fide farm (see Section 6.2.5)																					
Recreational Facilities (Non-Profit) ¹	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Recreational Facilities (Profit)																					
Golf Course	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
RESIDENTIAL USES																					
Dwelling; Mobile Home	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Dwelling; Multiple Family				*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Dwelling; Single-Family	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Dwelling; Two-Family	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Family Care Home	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Group Care Facility	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Rehabilitative Care Facility										*	*	*	*	*	*	*	*	*	*	*	*
Residential Hotel (Fraternities, Sororities, and Dormitories) ~								A	A	A			A	A							
Rooming House						*	*	*	*						*	*	*	*	*	*	*
TELECOMMUNICATIONS																					
Telecommunication Tower – Stealth (75 feet or shorter)	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Telecommunication Towers (Over 75 feet and under 200 feet)	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B

¹ Staff is eliminating the distinction between profit and non-profit recreation facilities and eliminating references to an entity’s status as a ‘non-profit’ as being a rationale for deciding the review status of a given land use (i.e. staff review, Special Use Permit, etc.). After reviewing the matter with the Attorney’s office staff has determined the ownership status of a recreational land use and/or property owner is not a reasonable means of establishing land use/permitting regulations. Whether or not a recreational facility is a for-profit entity or not the impacts of said development on adjacent property owners will be the same. From this standpoint it makes more sense to establish reasonable land use controls instead of relying on the tax status of a property owner when determining the viability of a project or identifying required permit review processes (i.e. administrative review versus a requiring a special use permit).

TABLE OF PERMITTED USES – ECONOMIC DEVELOPMENT DISTRICTS									
* = PERMITTED USE A = CLASS A SPECIAL USE B = CLASS B SPECIAL USE C = CONDITIONAL USE (REZONING & CLASS A SUP)									
USE TYPE	GENERAL USE ZONING DISTRICTS								
	BUCKHORN EDD		ENO EDD		HILLSBOROUGH EDD				
	EDB-1	EDB-2	EDE-1	EDE-2	EDH-1	EDH-2	EDH-3	EDH-4	EDH-5
# Shall be noted on Zoning Atlas as "Zoning District" – CU (e.g., EDB-2-CU)									
Recreational facilities (Non-Profit)	C#	C#	C#	C#					
Recreational facilities (Profit) ²	C# B	C# *	C# B	C# *					
Repair service, electronic and appliance	C#	C#	*	*					
Research facility		*		*					
Schools, dance, art, and music	*	C#	*	*					
Schools, elementary, middle, and high	A	A	*						
Schools, vocational	C#	C#		*					
Other Services (Hillsborough EDD only)					*		*	*	
TRANSPORTATION									
Bus terminals and garages		C#		*					
Postal and parcel delivery services		*		*					
Rail/bus passenger shelter	*	*	*	*				*	
Surface and structure parking as principal use (When associated with a local or regional transportation goal such as mass transit or park- and-ride)		*		*				*	
Transportation and Warehousing (Sector 48, 49)									*
WHOLESALE TRADE									
Wholesale Trade (Sector 42)									
Durable Goods (see listing below)									*
• Automotive parts and supplies (In an enclosed building)		*		*					

² Staff is recommending changing review processes for recreational facilities in what are considered high intensity economic development districts. We currently allow certain recreational land uses as a permitted use of property in these districts and do not believe it was the intent of the County to require both the issuance of a Class A Special Use Permit and a rezoning to allow for the development of those land uses falling within the recreational facilities designation.

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS				
* = PERMITTED USE				
USE TYPE	CONDITIONAL ZONING DISTRICTS			
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1
NOTE: Applications for Conditional Zoning Districts must list specific uses for consideration/approval				
^: Use shall not be approved on parcels located in the Rural Buffer land use classification, as designated by the adopted Comprehensive Plan.				
Veterinary Hospitals	*	*		
RECREATIONAL USES				
Arts, Entertainment & Recreation (Sector 71)				
Botanical Gardens & Arboretums	*			
Camp/Retreat Center	*			
Golf Driving and Practice Ranges		*		
Guest Ranch	*			
Parks, Public & Non-Profit	*	*		
Recreational Facilities (Non-Profit)		*		
Recreational Facilities (Profit) ³		*		
Golf Course		*	*	
Race Track (Motorized, etc.) and Go-Kart Track Facilities				*
RESIDENTIAL USES				
Dwelling; Mobile Home	*		*	
Dwelling; Multiple Family		*		
Dwelling; Single-Family	*	*		
Dwelling; Two-Family		*		
Family Care Home				
Group Care Facility		*		
Rehabilitative Care Facility		*		
Residential Hotel (Fraternities, Sororities, and Dormitories)				
Rooming House				
TELECOMMUNICATIONS				

³ Recommended changes here are to ensure consistency throughout the UDO.

- (e) A statement for setting forth the length of time for which the request is made. Approval shall not exceed one year.

(2) Standards of Evaluation

- (a) The relationship between the occupants of the single family unit and the mobile home is established.
- (b) There is a certificate from a licensed physician (MD) stating the necessity of direct care.
- (c) The floor plan of the existing single family unit shows there is no reasonable alternative to the mobile home.
- (d) The proposed site plan shows the location and setbacks of the existing single family unit, the mobile home, and driveways and parking areas. The setbacks for all structures meet or exceed the requirements of the district in which the lot is located.
- (e) There shall be adequate lot area for each unit, according to the minimum requirements of the zoning district in which the lot is located.
- (f) Approval of the Orange County Health Department for water and sewerage disposal facilities, or the approval of the appropriate agency from which sanitary sewer and water will be supplied.
- (g) Approval of the application shall not exceed one year. Renewal shall constitute a new application.

5.4.5 Buildings for Temporary Use

(A) Standards for Class B Special Use Permit

(1) Submittal Requirements –

In addition to the information required by Section 2.7, the following information shall be supplied as part of the application for approval of this use:

- (a) Site plan showing all existing and proposed structures on the site, existing and proposed topography at a contour interval of five feet, existing and proposed landscaping, parking areas, access points, any officially designated flood plains, and other site details.
- (b) A description of the exterior materials, color and construction details.
- (c) Statement of proposed use and length of time building will be in use.

(2) Standards of Evaluation –

- (a) The temporary building shall not be used for residential purposes.
- (b) The temporary building shall not be used by operations offering drive-in services.
- (c) The use of the building shall be only for the period of time specified and for the use specified.
- (d) The proposed use is a permitted use in the district in which it is located.

SECTION 5.5: STANDARDS FOR RESIDENTIAL USES

5.5.1 Accessory Structures and Uses

(A) General Standards of Evaluation

- (1) Accessory structures and uses, including recreational uses and amenities,⁴ shall not be located in any required front open space and shall conform to the principal setbacks of the district where located unless otherwise provided in this Section.
- (2) An attached private garage, or carport, not exceeding 12 feet in height, may occupy a portion of the required side open space, provided that this does not result in a required side open space of less than 7% of the lot width, nor a total, when combined with the required side open space of the lot immediately adjacent, of less than eight feet.
- (3) Mobile homes as accessory structures to residential uses are prohibited.

5.5.2 Efficiency Apartment

(A) General Standards of Evaluation

- (1) There shall be no more than one efficiency apartment, whether detached or attached, on any lot.
- (2) The efficiency unit shall contain no more than 800 square feet of gross floor area.
- (3) The residential lot shall meet the minimum lot size requirements of the zoning district in which it is located.
- (4) The efficiency unit shall comply with the N.C. Residential Building Code including minimum light/ventilation and room sizes.
- (5) The efficiency unit shall be accessory to the principal dwelling unit and may be attached or detached.
- (6) The efficiency unit shall be served by an approved water supply and sanitary facilities.
- (7) The efficiency unit shall remain in the same ownership as the primary residence.

5.5.3 Home Occupations

(A) General Standards

(1) Submittal Requirements—

In addition to the completed application form, applicants for a minor or major home occupation shall submit the following to the Planning Department:

(a) Minor Home Occupations

- (i) A plot plan of the property on which the home occupation is to be located. The plot plan shall show:
 - a. The location of the residence and/or accessory building in which the home occupation is to be located in relation to existing property lines and adjacent homes;
 - b. The location, number, and means of access to required off street parking areas; and
 - c. The location and type of required landscaping and/or screening.
- (ii) A floor plan of the residence and/or accessory building in which the home occupation is to be located showing the location, size,

⁴ Staff has always interpreted a recreational use (i.e. pool, basketball court, etc.) to be an customary accessory use to a residential land use. We are adding language here to formalize this interpretation which will require such uses to comply with established dimensional standards (i.e. setbacks).

from adjacent residentially zoned property.

- (4) The site shall be located on a major road, as classified in the Orange County Comprehensive Plan, unless permitted as an ASE-CZ.
- (5) Parking shall not be located in the front yard space.
- (6) Application materials shall include a comprehensive groundwater study, for facilities expected to use more groundwater on an annual basis than an average single family residence (which uses 240 gallons of water per day) built at the highest density the existing zoning district would allow. For example, if the existing zoning district allows a residential density of 1 unit for 2 acres and the proposed use is on a six acre parcel (which could yield 3 residences), the proposed use(s) may use three times the water used by an average single family residence (or 720 gallons per day, on an annualized basis) before a comprehensive groundwater study is required. The water usage rates of any existing use subject to zoning regulations located on the same lot shall be taken into account when determining if a comprehensive groundwater study is required. Said study shall detail:
 - (a) The amount of water anticipated to be used on a daily, weekly, monthly, and annual basis by regulated uses located on the parcel (e.g., water usage by bona fide farm uses is not required to be included);
 - (b) An analysis of the amount of groundwater withdrawal considered to be safe and sustainable in the immediate vicinity; and
 - (c) An analysis of whether other wells in the vicinity of the proposed use are expected to be affected by withdrawals made by the proposed use.

SECTION 5.7: STANDARDS FOR RECREATIONAL USES

5.7.1 Recreational Uses as Accessory Uses⁵

(A) Residential Land Uses⁶

In addition to the requirements contained within this Ordinance, recreational uses developed as an accessory use to a residence shall abide by the following:

(1) General Standards

- (a) Accessory recreational uses shall not be open to the public or serve as a recreation amenity for other lots.⁷
- (b) Amenities, equipment, and/or facilities intended for spectators such as bleachers or public address systems shall not be permitted.⁸

⁵ There have been issues in the past with property owners allowing for the use of recreation amenities on their property to serve others. To address this issue staff is recommending the imposition of various standards to ensure this use does not become some form of commercial operation.

⁶ **Green Underlined** text added to address comments from the September 8, 2015 Quarterly Public Hearing. There was concern the regulations, as written, would prevent a church from developing a recreational amenity for their congregation's use. While staff does not believe this would be the case, we have added language clarifying the section to address the concern.

⁷ Staff is not trying to say a property owner cannot have friends over who use a pool or basketball court. What we are attempting to avoid is the de-facto expansion of an accessory use on a parcel property to serve other lots recreational needs or be open to the public like a non-residential land use can be. Please note this will not prohibit subdivision developer's from establishing a recreational amenity for their projects. That is addressed in Section 7.11 of the UDO.

⁸ Staff has received concerns from various property owners over the years with respect to a private land owners ability to erect amenities, primary athletic field lights, to expand the use of their accessory recreation use. Staff is

(c) Outdoor sports field lighting, as detailed within Section 6.11, shall be prohibited.⁹

(2) Specific Standards¹⁰

(a) Shooting activities¹¹

(i) All shooting or targeting activities, not otherwise exempted herein,¹² shall be designed or oriented to keep projectiles on the property.

(ii) Shooting activities occurring outdoors shall:

a. Be located a minimum of 300 feet from all property lines, rights-of-way, or access easements;

b. Be located a minimum of 1,000 feet from occupied dwelling units external to the property; and

c. Be directed into a projectile-proof backstop consisting of concrete, steel, earth, wood, or combination thereof a minimum of 15 feet in height and 30 feet in depth.¹³

(iii) Shooting activities occurring indoors shall:¹⁴

a. Be located a minimum of 100 feet from all property lines, rights-of-way, or access easements, and

b. Be designed to keep the shot within the structure.¹⁵

(iv) Shooting or targeting activities occurring outdoors shall occur only between the hours of 10:00 a.m. to 6:00 p.m.

recommending language that would prohibit the installation/use of equipment allowing for the expanded use of a recreation amenity beyond what is considered customary for a residential setting.

⁹ This would prohibit the erection of sports field lights for accessory recreational land uses developed to support a residential recreational facility.

¹⁰ As written staff is still proposing to establish specific standards for target shooting activities as an accessory use to a residence. There was some discussion at the public hearing to eliminate these standards, specifically setback and backstop requirements, and enforce non-residential target shooting activities only.

¹¹ There have been issues associated with the discharge of firearms on private property, focusing on noise and public safety issues. Staff is attempting to establish reasonable land use regulations to address safety concerns by requiring discharged items remain on the subject parcel and for those areas where a gun is discharged to be set distances from a property line and occupied dwelling units.

¹² **Blue Underlined** text represents a change made in consultation with the County Attorney's office designed to address a concern from the September 8, 2015 Quarterly Public Hearing proposed regulations could restrict the 'incidental' discharge of a firearm or be construed as limiting a person's right to do so.

¹³ **Green Underlined** text represents a change to address comments from the September 8, 2015 Quarterly Public Hearing and combines what was proposed to be Section(s) 5.7.1 (B) (1) (b) and (c) into 1 section. Staff has decided to add language reducing required setbacks if shooting/targeting activities occur indoors to address BOCC and Planning Board concerns over the possible impacts proposed setbacks would have on a property owner's ability to engage in target shooting activities.

¹⁴ **Green Underlined** text represents additional regulations to address comments from the September 8, 2015 Quarterly Public Hearing to provide greater flexibility for those property owners who choose to erect an indoors target range on their property with respect to required setbacks.

¹⁵ Staff is not recommending the establishment of a standard with respect to an indoor projectile-proof backstop. We believe this can be addressed on a case by case basis.

daily.¹⁶

(v) Warning signs indicating shooting activities are occurring on the property shall be posted at one hundred-foot intervals along the perimeter of the property in accordance with Section 6.12.5.¹⁷

(vi) A Type B land use buffer, as detailed within Section 6.8, shall be required around the perimeter of the portion of property where outdoor target shooting activities occurs.¹⁸

(vii) The use of exploding shells, targets, or other similar materials shall be prohibited.

(viii) Nothing within Section 5.7.1 shall be construed as limiting or otherwise restricting hunting activities, the use of fireworks, the incidental discharge of a firearm, the discharge of a firearm in self-defense, or engaging in target shooting activities on a parcel of property less than 3 days a month.¹⁹

(b) Motor Cross and Go-Kart Tracks²⁰

(i) All tracks and/or paths shall be located a minimum of 100 feet from a property line.

(ii) A track or path shall not cross over active septic fields.

(iii) A Type B Land Use Buffer, as detailed in Section 6.8, shall be required around the portion of the property where the track is located.

(B) Non-residential Land Uses²¹

In addition to the requirements contained within this Ordinance, recreational uses developed as an accessory use to a non-residential land use shall abide by the following:

(1) Uses shall not constitute Recreational Facilities.

5.7.15.7.2 Recreational Facilities

(A) General Standards of Evaluation

¹⁶ Bold Green Underlined text represents additional regulations to address comments from the September 8, 2015 Quarterly Public Hearing where BOCC and Planning Board members recommended limiting the hours which target shooting activities could occur.

¹⁷ Bold Green Underlined Text represents clarifying language requested at the September 8, 2015 Quarterly Public Hearing to ensure erected warning signs are consistent with established regulations.

¹⁸ This will require either the erection of a land use buffer, or preservation of existing vegetation, around the area of the property where shooting activities are occurring. Staff is recommending the installation of a buffer regardless of shooting occurring indoors or outdoors as the buffer will assist with the possible reduction of noise occurring from a discharged weapon.

¹⁹ Bold Blue Underlined text represents a change made in consultation with the County Attorney's office after the Quarterly Public Hearing and is designed to ensure we are not limiting the lawful discharge of a firearm or otherwise requiring compliance with development requirements for property owners who may engage in incidental target shooting activities.

²⁰ In the late 1990's and early 2000's staff received numerous complaints from local property owners over the use of motorcycles and go-karts on private property. We are amending existing regulations to establish setback and land use buffer requirements to address these concerns.

²¹ Bold Green Underlined text represents a change to address comments from the September 8, 2015 Quarterly Public Hearing clarifying development standards for recreational amenities developed by non-residential land uses such as a church.

- (1) The standards included herein shall be applied to ~~the following for-profit~~ recreational facilities as a principal use of property.²²
- ~~(a) Tennis clubs~~ Sports played on a²³;
 - ~~(b) Swim clubs,~~
 - ~~(c) Racquet ball,~~
 - ~~(d) Squash clubs,~~
 - ~~(e) Pitch and putt courses,~~
 - ~~(f) Amusement areas,~~
 - ~~(g) Bowling alleys,~~
 - ~~(h) Skating rinks,~~
 - ~~(i) Shooting ranges,~~
 - ~~(j) Billiard and pool halls,~~ or other similar activities
 - ~~(k) Rope climbing or obstacle courses,~~
 - ~~(l) Go-kart or motor cross track,~~
 - ~~(m) Exercise facilities including aerobic and yoga studios,~~
 - ~~(n) Indoor athletic facilities and~~
 - ~~(o) Other similar uses.~~
- (2) The minimum lot area shall be two acres.
- ~~(3)~~ Facilities may include such features as play and training areas, athletic field lights, public address systems, parking for patrons and staff, storage/office facilities, and restroom/locker facilities.
- ~~(3)(4)~~ No building shall be closer than 20 feet from any right-of-way or property line or than the minimum requirements of the district in which it is located. or 20 feet to the public right-of-way or private property line, whichever is greater.
- ~~(4)(5)~~ Outdoor athletic fields shall comply with the provisions of Section 6.11 and shall be located a minimum of 50 feet from a property line.²⁴
- ~~(6)~~ All outdoor recreational facilities shall utilize a combination of screens, fences, nets, berms, or vegetation to keep equipment on the property.²⁵

~~(B)~~

(B) Standards for Specific Uses²⁶

(1) Shooting Ranges

- (a) Shooting ranges, not otherwise exempted herein,²⁷ shall be designed or oriented to keep projectiles on the property.

²² **Blue Underlined** text represents a change made in consultation with the County Attorney's office after the Quarterly Public Hearing in an attempt to further distinguish a recreational facility, considered a principal use of property, versus an accessory use.

²³ Text moved to the definition of a Recreational Facility in Article 10.

²⁴ This is a new regulation designed to protect adjacent property owners from the glare of outdoor lighting generated by an outdoor recreational facility.

²⁵ This regulation is designed to ensure any equipment used as part of an outdoor facility (balls, etc.) stays on the property.

²⁶ These regulations would govern the development of commercial shooting ranges.

- (b) Outdoor shooting ranges shall:²⁸
- (i) Be located a minimum of 300 feet from all property lines, street rights-of-way, or access easements;
 - (ii) Be located a minimum of 1,000 feet from occupied dwelling units external to the property; and
 - (iii) Have shooting activities directed into a projectile-proof backstop consisting of concrete, steel, earth, wood or combination thereof, a minimum of 15 feet in height and 30 feet in depth.
 - (iv) Operate only from 10:00 a.m. to 6:00 p.m. daily.²⁹
 - (v) Maintain a Type F land use buffer, as detailed in Section 6.8, around the perimeter of the range.
- (c) Indoor shooting activities shall:
- (i) Be located a minimum of 50 feet from all property lines, street rights-of-way, or access easements;
 - (ii) Be located a minimum of 500 feet from occupied dwelling units external to the property; and
 - (iii) Have shooting activities directed into a backstop to keep the shot within the structure.
 - (iv) Maintain a Type B land use buffer, as detailed in Section 6.8, around the perimeter of the property.
- (d) Nothing in Section 5.7.2 (B) shall be construed as regulating hunting activities or the operation of a shooting range developed for, and exclusively utilized by, local, State, and/or Federal law enforcement agencies.
- (e) Nothing in Section 5.7.2 (B) shall be construed as regulating or prohibiting:
- i. Hunting activities or the operation of a shooting range developed for, and exclusively utilized by, local, State, and/or Federal law enforcement agencies.
 - ii. The holding of turkey shoots or other similar activities conducted as a fundraiser or community event so long as such activities occur no more than three days in a given calendar year on a parcel of property.³⁰
 - iii. The incidental discharge of a firearm, the discharge of a firearm in self-defense, or

²⁷ **Blue Underlined** text represents a change made in consultation with the County Attorney's office after the Quarterly Public Hearing and is designed to address a BOCC concern over overregulating the 'incidental' discharge of a firearms.

²⁸ **Green Underlined** text represents a change to address comments from the September 8, 2015 Quarterly Public Hearing to ensure setback/development standards for shooting ranges are similar regardless if they are for private or public use.

²⁹ **Blue Underlined** text represents a change made in consultation with the County Attorney's office after the Quarterly Public Hearing to consolidate regulations governing outdoor shooting activities into a central section.

³⁰ Staff did not want to inadvertently prohibit what has become a lucrative fundraising opportunity for several local organizations. As a result language was included to allow for turkey shoots and other similar activities to occur.

engaging in target shooting activities on a parcel of property less than three days in a given month.³¹

(2) Outdoor Paintball

- (a) Areas where outdoor paintball activities occur shall be a minimum of 50 feet from all property lines, street rights-of-way, or access easements.
- (b) A Type B land use buffer, as detailed in Section 6.8, shall be required around the perimeter of the portion of property where outdoor paintball activity occurs.

(3) Pitch and Putt Courses

- (a) Pitch and putt areas shall be located a minimum of 40 feet from all property lines, street rights-of-way, or access easements.
- (b) A Type B land use buffer, as detailed in Section 6.8, shall be required around the perimeter of the portion of property where pitch and putt course activity occurs.

(C) Standards for Class B Special Use Permit

(1) Submittal Requirements

In addition to the information required by Section 2.7, the following information shall be supplied as part of the application for approval of this use:

- (a) A description of the exact type facility planned, the amount of area, including and number of members or participants expected, a site plan showing siting and size of existing and proposed building.
- (b) Access, parking, service and recreation areas for all planned facilities or existing facilities.
- (c) Plans, and elevation for all proposed and existing structures and descriptions of the color and nature of all exterior materials.
- (d) A landscape plan showing, at the same scale as the site plan, existing and proposed trees, shrubs, ground cover and any other landscape materials.
- (e) A signed statement from the owners or operators that there shall be no activity allowed that will have adverse effects on adjacent property. The statement shall also include a complete list of all recreational activities that will take place on the site.

(2) Standards of Evaluation

- (a) The property shall have direct frontage on, and obtain vehicular access from, a public road.³²
- ~~(a)~~(b) Lot size shall be adequate for the method of sewage disposal proposed, and for the proposed recreational uses.
- ~~(b)~~(c) The site plan should show the boundaries of the site, the distances to the nearest residential structures, proposed or existing access points, parking and service areas, location of outdoor recreational facilities, and location of existing or proposed buildings.

³¹ **Bold Blue Underlined** text represents a change made in consultation with the County Attorney's after the Quarterly Public Hearing to ensure we are treating the discharge of a firearm consistently within the UDO.

³² Staff is recommending this change in an attempt to ensure there is adequate access to a recreation facility and to avoid the use of private roadways supporting such activities.

Additional amendments, specifically the renumbering of section(s), are not included as part of this review.

- ~~(e)~~(d) The landscape plan shall be at the same scale as the site plan and should show how the facilities will be screened from the adjacent properties, in addition to proposed or existing trees, shrubs and ground cover.
- ~~(d)~~(e) Elevations of all structures and buildings. The structure shall be of such a nature as to preserve the residential character of the area.
- ~~(e)~~(f) There are no adverse impacts on the adjacent roads or residential property.

5.7.25.7.3 Golf – Driving and Practice Range

(A) Standards for Class B Special Use Permit

(1) Submittal Requirements

In addition to the information required by Section 2.7, the following shall be submitted as part of the application:

- (a) A site plan showing the following:
 - (i) All existing or proposed buildings, tee areas, lawn areas,
 - (ii) Distances to nearest residential structures,
 - (iii) Access road(s) to the site, with an indication of type of proposed surface;
 - (iv) On-site parking and roads, with an indication of type of proposed surface; and
 - (v) All other requirements as indicated in section 2.5.

(2) Standards of Evaluation

- (a) Unless public sewer is proposed to be extended, the adequacy for the method of sewage disposal will be determined by the lot size and soil suitability. Appropriate letters from the Orange County Environmental Health Department, local jurisdictions and/or the State Division of Environmental Management shall be submitted to indicate preliminary approval.
- (b) The landscape plan shall show how the facilities will be screened from the adjacent properties. A Type D 50 foot buffer, as indicated in Section 6.8, shall be observed around the perimeter of the property. This buffer shall be located outside of the required dimensional area indicated in d. below.
- (c) The site plan, as required in Section 2.7, shall be reviewed by the Orange County Recreation and Parks Director.
- (d) The depth of a range along the driving axis shall be not less than 350 yards measured from the locations of the tees and the breadth not less than 200 yards at a distance of 350 yards from the tees.
- (e) Service to customers shall be halted at dusk. Lighting of the driving and practice range is not permitted.

5.7.35.7.4 Golf Courses

(A) Intent

The purpose of this Subsection is to protect natural, visual, and cultural resources by regulating the location, planning, design, construction, operation, and maintenance of golf courses and associated uses.

Public Interest Area

Land which contains public or quasi-public uses such as state parks, research forests or known archaeological or historical sites.

Public Safety Hazard and/or Nuisance

Anything, which is injurious to the safety or health of an Orange County neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Public Vehicular Areas

Street in a platted subdivision which are open for vehicular traffic and have been offered for dedication to the public and where the offer for dedication has not been accepted.

Recreation Use, Non-Profit

~~An indoor or outdoor recreation use owned by a not for profit corporation, according to the laws of North Carolina.~~

Recreation Use, Profit

~~An indoor or outdoor recreation use owned by an entity other than a not for profit corporation.~~

Recreation Space

Exterior area appropriately improved for common recreational use. Part of total and livability open space.

Recreation Space Ratio

Recreation space ratio is the minimum square footage of open space in residential areas, suitable by location, size, shape, access and improvements, required for each square foot of gross land area. This area is a public or private exterior area improved for recreation of all residents, having a least dimension of 50 feet, and average dimension of 100 feet and a minimum area of 10,000 square feet.

Recreation Vehicle (RV)

A self-propelled or towed vehicle, qualified to be licensed by the appropriate State Agency, and is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, providing short term recreational living accommodations, designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

Recreational Facility – For Profit Facilities

~~Includes uses such as tennis clubs, swim clubs, racquet ball, squash clubs, pitch and putt courses, amusement areas, bowling allies, skating rinks, shooting ranges, billiard and pool halls, indoor athletic facilities and such similar uses. A use of property occurring indoors and/or outdoors providing recreational amenities, activities, or services³³ including, but not limited to: sports played on a court, amusement arcades, bowling alleys, skating rinks, shooting ranges, billiard and pool halls, paintball, rope climbing or obstacle courses, go-kart or motor cross tracks, exercise centers including aerobic and yoga studios, athletic facilities, and gymnasiums.³⁴~~

Reference level

The portion of a structure or other development that must be compared to the regulatory flood protection elevation to determine regulatory compliance. For structures within Special Flood Hazard Areas designated as Zone AE, the reference level is the top of the lowest floor.

³³ Language within the definition was revised after the public hearing based on comments from the County Attorney's office in an attempt to make enforcement easier.

³⁴ **Blue Underlined** text represents a change made in consultation with the County Attorney's office after the Quarterly Public Hearing moving language previously found in Section 5.7.1