

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

1



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, November 4, 2015
Ordinance Review Committee Meeting – 6:00 pm

Note: This is a meeting of the Ordinance Review Committee (ORC) for Planning Board members who would like to review and comment on proposed amendments before the items are placed on a Quarterly Public Hearing agenda. Attendance is not mandatory and a quorum is not necessary for meetings of the ORC.

<u>No.</u>	<u>Page(s)</u>	<u>Agenda Item</u>
1.		CALL TO ORDER
2.	2 - 41	UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS – TEMPORARY HEALTHCARE STRUCTURES AND OTHER HOUSING OPTIONS To review and comment upon proposed amendments to the UDO regarding temporary healthcare structures and other custodial care housing options. Presenter: Ashley Moncado, Special Projects Planner
3.	42 - 69	UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS – AIRPORTS To review and comment upon proposed amendments to the UDO regarding airport regulations. Presenter: Michael Harvey, Current Planning Supervisor
4.		ADJOURNMENT

**ORANGE COUNTY
PLANNING BOARD ORDINANCE REVIEW COMMITTEE
ACTION AGENDA ITEM ABSTRACT**

Meeting Date: November 4, 2015

**Action Agenda
Item No. 2**

SUBJECT: Review of a Proposed UDO Text Amendment – Temporary Health Care Structures and Other Temporary Custodial Care Housing Options

DEPARTMENT: Planning and Inspections

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

INFORMATION CONTACT:

- | | | | | | |
|---|---|----------------------------|----------------|--------------------------|----------------|
| <ol style="list-style-type: none"> 1. Comprehensive Plan and Unified Development Ordinance (UDO) Amendment Outline Form and Session Law 2014-94 2. Draft UDO Text Amendment – Option A (Modifications to Existing Session Law) 3. Draft UDO Text Amendment – Option B (Creation of the Temporary Custodial Care Unit Land Use) 4. Approved May 26, 2015 Quarterly Public Hearing Minutes 5. Approved June 3, 2015 Planning Board Meeting Minutes 6. Approved September 1, 2015 BOCC Meeting Minutes | <table border="0"> <tbody> <tr> <td style="padding-right: 20px;">Ashley Moncado, Planner II</td> <td>(919) 245-2589</td> </tr> <tr> <td>Craig Benedict, Director</td> <td>(919) 245-2575</td> </tr> </tbody> </table> | Ashley Moncado, Planner II | (919) 245-2589 | Craig Benedict, Director | (919) 245-2575 |
| Ashley Moncado, Planner II | (919) 245-2589 | | | | |
| Craig Benedict, Director | (919) 245-2575 | | | | |

PURPOSE: To review and comment upon a Planning Director initiated Unified Development Ordinance (UDO) text amendment regarding temporary healthcare structures and other temporary custodial care housing options.

BACKGROUND: On August 1, 2014, the North Carolina State Legislature adopted regulations regarding the permitting of temporary health care structures in the state. These regulations allow for temporary health care structures to be permitted as an accessory use in any single family residential zoning district on lots zoned for single family detached dwellings if all the regulatory provisions outlined in Session Law 2014-94 are met. Since November 2014, staff has been working to amend the Orange County Unified Development Ordinance to incorporate these state regulations.

The proposed amendment was presented at the May 26, 2015 Quarterly Public Hearing. Comments made at the public hearing are included in Section C.1 of Attachment 1. Minutes from this meeting are included in Attachment 4. Agenda materials from the hearing can be accessed at the following link: http://www.orangecountync.gov/departments/board_of_county_commissioners/agendas.php.

The Planning Board considered this item at its June 1, 2015 meeting and voted 10-2 to recommend approval of the UDO text amendment. Minutes from this meeting are included in Attachment 5.

The amendment was presented for adoption consideration at the September 1 BOCC meeting. During discussion, BOCC members identified concerns with the proposed standards as being too restrictive for residents to provide care for mentally or physically impaired relatives, friends, or neighbors. Specific issues were identified regarding the relationship requirement between the occupant of the temporary health care structure and the occupant of the single family dwelling unit, North Carolina state residency standards, and the regulation requiring removal of the unit within 60 days. Due to these concerns, the BOCC voted to reopen the public hearing and refer the item back to the Planning Board and staff to modify the proposed amendment to address comments received at the May 26 Quarterly Public Hearing and the September 1 BOCC meeting. Comments made at this meeting are included in Section C.1 of Attachment 1. Minutes from this meeting are included in Attachment 6.

As a result of comments received at the September BOCC meeting, Planning staff has drafted two options for the Planning Board to review and discuss. Option A (Attachment 2) revises the proposed amendment, based on Session Law, to address the specific items of concern identified by the BOCC at the May and September meetings. Option B (Attachment 3) creates an entirely new land use, temporary custodial care units, which combines temporary health care structure standards outlined in Session Law 2014-94 and existing standards related to temporary mobile home units (custodial care) contained in Section 5.4.4. This option which would allow for temporary health care structures and temporary mobile homes up to 1,000 square feet in size to be placed as an accessory use to an existing single family dwelling unit, remove the required Special Use Permit for temporary mobile homes currently contained in the UDO, and address items of concern identified by the BOCC at the May and September meetings. In addition, both options will address comments regarding the number of unrelated persons that can live in a dwelling unit by increasing the number from three to five based on the North Carolina Residential State Building Code.

Attachment 1 contains additional information and analysis regarding this amendment. Proposed text amendment language can be found in Attachment 2 and Attachment 3 within a “track changes” format.

FINANCIAL IMPACT: Consideration and approval will not create the need for additional funding for the provision of County services. Costs for the required legal advertisement were paid from FY2014-15 Departmental funds budgeted for this purpose. Existing Planning staff included in the Departmental staffing budget will accomplish the work required to process this amendment.

RECOMMENDATION(S): Planning staff recommends the Ordinance Review Committee review and comment upon the proposed amendments to the UDO.

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

UDO / Zoning-2014-13

Temporary Health Care Structures

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): Section 5.2, Table of Permitted Uses

Section 5.4, Standards for Temporary Uses

Section 5.5, Standards for Residential Uses

Section 10.1, 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 incorporate changes in State Law, specifically Session Law 2014-94, related to the review and permitting of temporary health care structures. The proposed amendment will modify sections of the UDO in order to be consistent with North Carolina General Statutes.

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'.

The amendments are necessary to ensure the permitting of a temporary health care structure is consistent with changes in State Law. Session Law 2014-94, adopted August 1, 2014, defines a temporary health care structure as a transportable residential structure providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person that is primarily assembled at a location other than its site of installation, is limited to one occupant who shall be the mentally or physically impaired person, has no more than 300 gross square feet, and complies with the North Carolina State Building Code.

Based on regulations set forth in Session Law 2014-94, the proposed amendment will incorporate the new use identified in Session Law into the UDO and address the review and permitting of temporary health care structures in order to be consistent with State Law. A copy of Session Law 2014-94 can be found at the end of this form.

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

Chapter 4: Housing Element – Section 4.6 Goals
Housing Goal 2: Housing that is useable by as many people as possible regardless of age, ability, or circumstance.

4. New Statutes and Rules

Session Law 2014-94 *An Act Relating To Zoning Provisions For Temporary Health Care Structures*

C. PROCESS

1. TIMEFRAME/MILESTONES/DEADLINES

a. BOCC Authorization to Proceed

November 18, 2014

b. Quarterly Public Hearing

May 26, 2015

c. BOCC Updates/Checkpoints

May 26, 2015 Quarterly Public Hearing. This item was reviewed at the hearing where the following comments were made:

- BOCC Member Comment: Orange County staff should explore modifying the amendments and the Unified Development Ordinance in order to make temporary health care structures easily available. The onerous requirements only allowing a relative to occupy a unit, requiring

the unit be taken down 60 days after the person moves out or dies, and not allowing it to be used again makes it extremely unlikely it will ever be used.

Staff Response: The proposed amendment has been revised to address these concerns. The amendment removes the relative or legal guardian requirement and allows for a unit to stay on the property for up to 180 days after the temporary unit is no longer needed.

- BOCC Member Comment: The proposed text amendment is too restrictive as presented. Additional uses should be explored and discussed to allow more options for residents to accommodate mentally or physically impaired individuals on their property.

Staff Response: The proposed amendment is based on regulations contained in the North Carolina State Legislature's Session Law 2014-94. In order for the Unified Development Ordinance (UDO) to be consistent and meet regulations of the Session Law, the amendment is being proposed as presented. Though standards may appear limiting, the addition of temporary health care structure regulations by the State Legislature does help to provide residents with another option to address caregiving needs of mentally or physically impaired individuals.

In addition to these standards relating to temporary health care structures, other options are currently provided in the UDO that may be viewed as less restrictive. Existing standards contained in the UDO allow for additional options in caring for mentally or physically impaired individuals on a temporary or permanent basis. One option includes efficiency apartments, also known as accessory dwelling units, which may be constructed as an additional dwelling unit, accessory to a single family residence. The UDO also allows for temporary mobile homes for custodial care purposes to be placed as an accessory dwelling unit to an existing single family residence. Both of these options would allow individuals to provide onsite care to impaired relatives. Standards outlined in the UDO provide for the creation of Family Care Homes and Group Care Facilities. The amendment is also proposing to allow up to five unrelated persons to live together in a dwelling unit. This would allow residents wanting to provide care to impaired individuals who are unrelated to do so.

Additional options for residential caregiving and temporary health care structures can be reviewed in the summary chart below.

Standards	Additional Options for Residential Caregiving					Temporary Health Care Structure
	Single Family Dwelling	Temporary Mobile Home – Custodial Care	Efficiency Apartment (ADU)	Family Care Facility	Group Care Facility	
Status	Existing	Existing	Existing	Existing	Existing	Proposed
Permitting Process	Zoning Compliance Permit	Class B SUP	Zoning Compliance Permit	Zoning Compliance Permit	Class B SUP	Zoning Compliance Permit
Size Regulations	No ¹	No ¹	Shall not exceed 800 square feet	No ¹	No ¹	Shall not exceed 300 square feet
Primary or Accessory Structure	Primary	Accessory	Accessory	Primary	Primary	Accessory
Primary Structure Required	N/A	Yes	Yes	N/A	N/A	Yes
Temporary or Permanent Structure	Permanent	Temporary	Permanent	Permeant	Permeant	Temporary
Attached or Detached	N/A	Detached	Attached or Detached	N/A	N/A	Detached
Built Onsite or Offsite	Onsite or offsite ²	Offsite	Onsite or offsite ²	Onsite or offsite ²	Onsite or offsite ²	Offsite
Must Meet UDO Standards	Yes	Yes	Yes	Yes	Yes	Yes
Must Meet NC State Building Code Standards	Yes	No ³	Yes	Yes	Yes	Yes
Environmental Health Approval	Yes	Yes	Yes	Yes	Yes	Yes
Occupant Requirement	Up to 3 unrelated persons	No	No	Up to 6 unrelated persons	7 to 15 unrelated persons	1 person
Relative Requirement	No	Yes	No	No	No	Yes
Medical License Requirement	No	Certificate from licensed physician	No	Licensed by state agency	Licensed by state agency	Certificate from licensed physician
Annual Renewal Requirement	No	Yes	No	No	No	Yes

¹ No specific size regulations are contained in the UDO. However, the size of residential structures may be determined and/or limited by lot size, zoning district, zoning regulations, and environmental health standards.

² Onsite includes stick built construction (i.e. individual lumber). Offsite includes modular construction and manufactured homes.

³ Manufactured homes are built to the standards of the Department of Housing and Urban Development (HUD). A HUD Certificate is required by Orange County prior to placement in the county.

September 1, 2015 – This item was presented to the BOCC for adoption consideration. The BOCC voted to reopen the public hearing and refer the item back to the Planning Board and Planning staff to modify the proposed amendment to include comments received at the May 26 Quarterly Public Hearing and the September 1 BOCC meeting. The following comments were made:

- BOCC Member Comment: Shocked to discover that Orange County only allows up to three unrelated people to live together in a single family dwelling unit. Request for this to be reviewed by staff and modified.

Staff Response: The proposed amendment will address this comment and allow up to five unrelated people to reside together in a single family dwelling unit. The maximum of five people is based on the 2012 North Carolina Residential Code. Once there are more than five unrelated people residing together the dwelling unit must be classified and reviewed under the 2012 North Carolina State Building Code as a rooming or boarding house. A rooming or boarding house is reviewed and permitted differently in the North Carolina State Building Code and UDO compared to a single family dwelling unit.

- BOCC Member Comment: Concern with the requirement that the occupant of the temporary health care structure must be a North Carolina resident. As a result of this requirement, an Orange County resident would not be able to care for an elderly parent or sick relative from out of state.

Staff Response: The proposed amendment will address this comment by removing the standard requiring the mentally or physically impaired individual be a North Carolina resident.

- BOCC Member Comment: Recommendation that staff provides information regarding Session Law 2014-94 on the county website for the public to access.

Staff Response: A link to Session Law 2014-94 has been added to the Orange County Planning and Inspections webpage.

- BOCC Member Comment: As the county moves forward with modifications to the proposed amendment it is recommended that staff solicit comments from the Towns of Chapel Hill, Carrboro, and Hillsborough.

Staff Response: A review and comment period will be provided to the JPA Partners and Hillsborough prior to the February Quarterly Public Hearing in order to solicit feedback.

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:

December 3, 2014 – Ordinance Review Committee

This item was presented at the December 3, 2014 Ordinance Review Committee meeting for Planning Board review and comment. Following this meeting, staff

made one minor revision to the text amendment regarding signage pertaining to the advertisement of a temporary health care structure.

June 3, 2015 – Recommendation to the BOCC. This item was reviewed and the following comments were made:

- Planning Board Member Comment: Why is this amendment being proposed?

Staff Response: Due to the adoption of Session Law 2014-94 in August 2014, all cities and counties within the state must recognize and allow for temporary health care structures. As a result, Planning staff began the process to amend the UDO in November 2014 in order to recognize the new land use, provide information and access regarding permitting regulations to Orange County residents, and to be consistent with State Law.

- Planning Board Member Comment: Only a small percent of residents will be able to utilize a temporary health care structure due to the proposed standards and financial costs.

Staff Response: Due to proposed standards (based on Session Law 2014-94), environmental health regulations, and potential cost, many residents may have a limited opportunity to have a temporary health care structure be placed on their property. However, the proposed amendment for temporary health care structures is not the only option available, but is instead providing an additional option to Orange County residents. These standards and financial costs can also limit the opportunity for residents to build an efficiency apartment, construct an addition to an existing residential structure, or place a temporary mobile home. The purpose of all these residential uses, including temporary health care structures, is to provide temporary or permanent, more affordable, higher quality, and accessible housing options for those in need.

The initial cost of a temporary health care structure can be alarming. A temporary health care structure can include a onetime cost up to \$125,000 or a lease cost up to \$2,000 a month, both costs depend on added medical and/or technology features. When compared to the median monthly and yearly cost of a nursing home or assisted living facility in the state of North Carolina and the Chapel Hill-Durham area, it can be viewed as a less expensive option for Orange County residents.

Median Cost of Assisted Living or Nursing Home Room Compared to a Temporary Health Care Structure					
	North Carolina		Chapel Hill – Durham Area		Temporary Health Care Structure
	Nursing Home	Assisted Living	Nursing Home	Assisted Living	
Monthly Cost	\$5,977	\$2,900	\$6,388	\$3,500	\$2,000
Yearly Cost	\$71,723	\$34,800	\$76,650	\$42,000	\$24,000

Source: North Carolina State Specific Data from the Genworth Cost of Care Survey

November 4, 2015 – Ordinance Review Committee

b. Advisory Boards:

_____	_____
_____	_____
_____	_____

c. Local Government Review:

The proposed text amendments were submitted to the JPA Partners on January 14, 2015. To date, no	comments have been received.
_____	_____
_____	_____

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 checked="" type="checkbox"/> Other:	Materials were distributed to other County Departments and/or Divisions that may be interested or affected, including Building Inspections, Aging, Health, Environmental Health, Social Services, Emergency Services, and Tax/Land Records

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 were paid from FY2014-15 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 Option A is adopted, language within the Unified Development Ordinance will be consistent with modification to State Law. The amendment will classify temporary health care structures as an accessory use to a single family dwelling unit which means they can be placed on the same lot as a single-family dwelling, subject to the standards proposed. Additionally, comments made at the May 26 Quarterly Public Hearing, June 3 Planning Board meeting, and September 1 BOCC meeting have been incorporated. These include issues identified with the relationship requirement between the occupant of the temporary health care structure and the occupant of the single family dwelling unit, North Carolina state residency standards, and the regulation requiring removal of the unit within 60 days.

If Option B is adopted, language within the Unified Development Ordinance will be consistent with modification to State Law. The amendment will create an entirely new land use, temporary custodial care units, which combines temporary health care structure standards outlined in Session Law 2014-94 and existing standards related to temporary mobile home units (custodial care) contained in Section 5.4.4. This option would allow for temporary health care structures and temporary mobile homes up to 1,000 square feet in size to be placed as an accessory use to a single family dwelling

unit, subject to the standards proposed. Additionally, comments made at the May 26 Quarterly Public Hearing, June 3 Planning Board meeting, and September 1 BOCC meeting have been incorporated. These include issues identified with the relationship requirement between the occupant of the temporary health care structure and the occupant of the single family dwelling unit, North Carolina state residency standards, and the regulation requiring removal of the unit within 60 days.

E. SPECIFIC AMENDMENT LANGUAGE

See Attachment 2 and Attachment 3.

Primary Staff Contact:

Ashley Moncado

Planning Department

919-245-2589

amoncado@orangecountync.gov

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

SESSION LAW 2014-94
HOUSE BILL 625

AN ACT RELATING TO ZONING PROVISIONS FOR TEMPORARY HEALTH CARE STRUCTURES.

The General Assembly of North Carolina enacts:

SECTION 1. Part 3 of Article 18 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-341.3. Zoning of temporary health care structures.

A county exercising powers under this Article shall comply with G.S. 160A-383.5."

SECTION 2. Part 3 of Article 19 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-383.5. Zoning of temporary health care structures.

(a) The following definitions apply in this section:

- (1) Activities of daily living. – Bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.
- (2) Caregiver. – An individual 18 years of age or older who (i) provides care for a mentally or physically impaired person and (ii) is a first or second degree relative of the mentally or physically impaired person for whom the individual is caring.
- (3) First or second degree relative. – A spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, or niece and includes half, step, and in-law relationships.
- (4) Mentally or physically impaired person. – A person who is a resident of this State and who requires assistance with two or more activities of daily living as certified in writing by a physician licensed to practice in this State.
- (5) Temporary family health care structure. – A transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S. 143-139.1(b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

(b) A city shall consider a temporary family health care structure used by a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by the caregiver as the caregiver's residence as a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings.

(c) A city shall consider a temporary family health care structure used by an individual who is the named legal guardian of the mentally or physically impaired person a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings in accordance with this section if the temporary family health care structure is placed on the property of the residence of the individual and is used to provide care for the mentally or physically impaired person.

(d) Only one temporary family health care structure shall be allowed on a lot or parcel of land. The temporary family health care structures under subsections (b) and (c) of this section shall not require a special use permit or be subjected to any other local zoning requirements beyond those imposed upon other authorized accessory use structures, except as



otherwise provided in this section. Such temporary family health care structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure.

(e) Any person proposing to install a temporary family health care structure shall first obtain a permit from the city. The city may charge a fee of up to one hundred dollars (\$100.00) for the initial permit and an annual renewal fee of up to fifty dollars (\$50.00). The city may not withhold a permit if the applicant provides sufficient proof of compliance with this section. The city may require that the applicant provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. The evidence may involve the inspection by the city of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation, and annual renewal of the doctor's certification.

(f) Notwithstanding subsection (i) of this section, any temporary family health care structure installed under this section may be required to connect to any water, sewer, and electric utilities serving the property and shall comply with all applicable State law, local ordinances, and other requirements, including Part 5 of this Article, as if the temporary family health care structure were permanent real property.

(g) No signage advertising or otherwise promoting the existence of the temporary health care structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.

(h) Any temporary family health care structure installed pursuant to this section shall be removed within 60 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section. If the temporary family health care structure is needed for another mentally or physically impaired person, the temporary family health care structure may continue to be used, or may be reinstated on the property within 60 days of its removal, as applicable.

(i) The city may revoke the permit granted pursuant to subsection (e) of this section if the permit holder violates any provision of this section or G.S. 160A-202. The city may seek injunctive relief or other appropriate actions or proceedings to ensure compliance with this section or G.S. 160A-202.

(j) Temporary family health care structures shall be treated as tangible personal property for purposes of taxation."

SECTION 3. G.S. 130A-250 is amended by adding a new subdivision to read:

"(14) Temporary family health care structures under G.S. 153A-341.3 or G.S. 160A-383.5."

SECTION 4. G.S. 131D-2.1(10) reads as rewritten:

"(10) Multiunit assisted housing with services. – An assisted living residence in which hands-on personal care services and nursing services which are arranged by housing management are provided by a licensed home care or hospice agency through an individualized written care plan. The housing management has a financial interest or financial affiliation or formal written agreement which makes personal care services accessible and available through at least one licensed home care or hospice agency. The resident has a choice of any provider, and the housing management may not combine charges for housing and personal care services. All residents, or their compensatory agents, must be capable, through informed consent, of entering into a contract and must not be in need of 24-hour supervision. Assistance with self-administration of medications may be provided by appropriately trained staff when delegated by a licensed nurse according to the home care agency's established plan of care. Multiunit assisted housing with services programs are required to register annually with the Division of Health Service Regulation. Multiunit assisted housing with services programs are required to provide a disclosure statement to the Division of Health Service Regulation. The disclosure statement is required to be a part of the annual rental contract that includes a description of the following requirements:

- a. Emergency response system;
- b. Charges for services offered;
- c. Limitations of tenancy;

- d. Limitations of services;
- e. Resident responsibilities;
- f. Financial/legal relationship between housing management and home care or hospice agencies;
- g. A listing of all home care or hospice agencies and other community services in the area;
- h. An appeals process; and
- i. Procedures for required initial and annual resident screening and referrals for services.

Continuing care retirement communities, subject to regulation by the Department of Insurance under Chapter 58 of the General Statutes, and temporary family health care structures, as defined in G.S. 160A-383.5, are exempt from the regulatory requirements for multiunit assisted housing with services programs."

SECTION 5. G.S. 160A-442(2) reads as rewritten:

"(2) "Dwelling" means any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured home or mobile home, which is used solely for a seasonal vacation purpose. Temporary family health care structures, as defined in G.S. 160A-383.5, shall be considered dwellings for purposes of this Part, provided that any ordinance provision requiring minimum square footage shall not apply to such structures."

SECTION 6. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 7. This act becomes effective October 1, 2014, and applies to temporary family health care structures existing on or after that date. No county or city may impose a fee as authorized by Section 1 and Section 2 of this act on any temporary family health care structure existing on that date.

In the General Assembly read three times and ratified this the 25th day of July, 2014.

s/ Tom Apodaca
Presiding Officer of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 11:55 a.m. this 1st day of August, 2014

UDO AMENDMENT PACKET NOTES:**Option A**

The following packet details the proposed text amendment to incorporate recent changes in State Law with respect to temporary health care structures. The amendment package will modify Sections 5.5 and 10.1 of the UDO to accommodate the new standards.

As the number of affected pages/sections of the existing UDO are being modified with this proposal, staff has divided the proposed amendments into the following color coded classifications:

- **Red Text:** Denotes new, proposed text, that staff is suggesting be added to the UDO based on Session Law 2014-94.
- **Green Text:** Denotes modifications made following the December 3 ORC meeting.
- **Red Strikethrough Text:** Denotes previously proposed text based on Session Law 2014-94 that staff is recommending to delete based on comments received at the May 26 Quarterly Public Hearing and September 1 BOCC meeting.
- **Blue Text:** Denotes modifications made to address additional comments received at the May 26 Quarterly Public Hearing and September 1 BOCC meeting.

Only those pages of the UDO impacted by the proposed modification(s) have been included within this packet. 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 or footnotes from previous sections ‘spill over’ onto the included page. Text with a large “X” is not proposed for modification.

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.

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>

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 type facility planned, the number of occupants, and the development schedule.
- (b) A site plan showing existing and proposed contours. Proposed buildings, parking, access, service, recreation, landscaped and screened areas.
- (c) Other criteria as set forth in sections 6.2.11 and 6.3.
- (d) A statement concerning the provision of public services which shall include fire, police and rescue protection.

(2) Standards of Evaluation –

- (a) Adequate parking, access and service areas are provided for the site.
- (b) Parking, service areas and buildings are adequately screened from adjacent residential uses.
- (c) Improved recreational facilities are provided for occupants.
- (d) Other criteria as set forth in sections 6.2.11 and 6.3.
- (e) Letters from public service agencies attesting to the adequacy of the provision of public services such as fire, police and rescue.

5.5.9 Temporary Health Care Structures

(A) General Standards

(1) Submittal Requirements

In addition to the information required in Section 2.4, Zoning Compliance Permits, the following information shall be supplied as part of the application for approval of this use:

- ~~(a) Documentation as to the relationship between the occupant of the temporary health care structure and the occupant(s) of the existing single family dwelling. One of the following types of relationships must exist:

 - ~~(i) First or second degree relative — a spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, or niece and includes half, step, and in-law relationships~~
 - ~~(ii) Relationship by marriage~~
 - ~~(iii) Legal guardian relationship designated by Court of Law.¹~~~~
- (b) Certification in writing from a North Carolina licensed physician stating the necessity of direct care for an mentally or physically impaired individual.

(2) Standards of Evaluation

- (a) An existing single family residential dwelling must be located on the same parcel as the temporary health care structure. Temporary health care structures are classified as an accessory use to single family detached dwellings.
- (b) No more than one temporary health care structure per lot shall be permitted.

¹ Based on comments received at the May 26 Quarterly Public Hearing and September 1 BOCC meeting, revisions to this Section will not require documentation identifying the relationship between the occupant of the temporary health care structure and the occupant of the existing family dwelling.

- (c) Temporary health care structures must meet all standards contained in Section 5.5.1, Accessory Structures and Uses.
- (d) Occupancy of a temporary health care structure shall be limited to one mentally or physically impaired individual, who is a North Carolina resident and² requires assistance with two or more activities of daily living.
- (e) No signage or advertisement promoting the temporary health care structure shall be permitted on the exterior of the temporary health care structure or on the property
- (f) A temporary health care structure shall be required to connect to water, wastewater, and electric utilities serving the principal structure on the property.
- (g) The Orange County Health Department, or the agency that provides sanitary sewer and water services, shall approve water and wastewater disposal facilities.
- (h) All applicable state and local approvals and permits shall be procured including, but not limited to, a zoning compliance permit, building permits, and health department approval.
- (i) Approval of the application shall not exceed one year. Annual renewal shall require a new application and recertification from a licensed physician stating the necessity of direct care.
- (j) Any approved temporary health care structure shall be removed no later than 60 180³ days after the time the mentally or physically impaired person is no longer receiving care or is in need of assistance. If the structure is needed for a different impaired individual, the temporary health care structure may continue to be used, subject to the requirements of this Ordinance.
- (k) The caregiver shall allow inspections of the property by the County at times convenient to the caregiver, during reasonable hours, and upon prior notice for compliance purposes.
- (l) A permit for a temporary health care structure may be revoked by the Planning Director due to failure of the applicant to comply with any of the above provisions.

SECTION 5.6: STANDARDS FOR COMMERCIAL USES

5.6.1 Nightclubs, Bars and Pubs

(A) General Standards for Evaluation

- (1) Buildings for nightclubs, bars and pubs shall not be located within 200 feet of a residence.

5.6.2 Massage Business

(A) General Standards for Evaluation

- (1) Must comply with the Ordinance for the Control of Massage and Massage Establishments

² Based on comments received, revisions to this Section will not require the occupant of the temporary health care structure to be a North Carolina resident.

³ A revision has been made to address BOCC comments regarding the removal of a temporary health care structure after a mentally or physically impaired person is no longer receiving care or is in need of assistance. Proposed standards will increase the number of days from 60 to 180.

Environmental Document

An EA, EIS, or FONSI, or all of them.

Environmentally Sensitive Areas

Land which is subject to special natural environmental conditions such as flooding that present significant constraints to built development.

Equestrian Center

A facility designed and intended for the display of equestrian skills and the hosting of events including, but not limited to, show jumping, dressage, rodeos, general horse/mule shows, and similar equestrian disciplines. Events may be larger scale, such as horse shows expected to generate more than 80 traffic trips per day, and may be held more frequently than once per month. A commercial stable may be included on the site.

Existing Construction

Structures for which, the “start of construction” commenced before March 16, 1981. This term may also be referred to as “existing structures.”

Existing manufactured home park or manufactured home subdivision

A manufactured home park or subdivision for which, for flood damage prevention purposes, the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) completed before March 16, 1981.

Extraction of Earth Products

The process of removal of natural deposits of mineral ores, soils or other solids, liquid or gaseous matter from their original location. It does not include any processing of such material, beyond incidental mechanical consolidation or sorting to facilitate transportation to the site of use or location of further processing.

FONSI

A Finding of No Significant Impact. As pertaining to an EA or EIS.

Family

For purposes of this Ordinance, family shall be defined as an individual ~~or~~⁴ two or more persons related by blood, marriage or adoption, living together in a dwelling unit; or a group of not more than ~~three~~⁵ five persons who need not be related in a dwelling unit. A “family” may include five or fewer foster children.

Family Care Facility

A facility licensed by the appropriate state agency, as a family care facility for from one to six unrelated individuals.

Family Day Care Home

A residence in which childcare is provided, which provides childcare for no more than three children.

Family Income

The gross annual sum of all income received by all adult members of the household, including:

- a) Earned income from wages for all family members over the age of 18;

⁴ Staff is suggesting this typographical error be corrected as part of this UDO amendment.

⁵ Based on comments received at the September 1 BOCC meeting, revisions to the definition of family will increase the number of unrelated persons allowed to live together in a dwelling unit from three to five. The maximum of five people is based on the 2012 North Carolina Residential Code. Once there are more than five unrelated people the dwelling unit must be classified and reviewed under the 2012 North Carolina State Building Code as a rooming or boarding house. A rooming or boarding house is reviewed and permitted differently in the North Carolina State Building Code and UDO compared to a single family dwelling unit.

Telecommunication Facilities, Wireless facility Stealth

A wireless support structure designed using stealth technology such that its primary purpose is, or visually appears to be, something other than the support of telecommunications equipment, the apparent purpose of the wireless support structure is customarily considered as accessory to a use that is allowed in the zoning district, and the structure and its primary use comply with this Ordinance.

Telecommunication Facilities, Wireless support structure

A new or existing structure, such as a monopole, lattice, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure.

Telecommunication Facilities, Wireless Telecommunications Facility (WTF), Includes both Telecommunications Site and Personal Wireless Facility

A structure, facility or location designed, or intended to be used as, or used to support antennas or other transmitting or receiving devices. This includes without limit wireless support structures of all types, kinds and structures, including, but not limited to buildings, church steeples, silos, water towers, signs or other structures that can be used as a support structure for antennas or the functional equivalent of such. It further includes all related facilities and equipment such as cabling, equipment shelters and other structures associated with the facility. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, SMR, paging, 911, personal communications services (PCS), commercial satellite services, microwave services, and any commercial wireless telecommunication service not licensed by the FCC.

Temporary Health Care Structure

A transportable residential structure facilitating a caregiver's provision of care for a mentally or physically impaired person that is primarily assembled offsite, is limited to one occupant, has no more than 300 gross square feet, and complies with applicable standards of the North Carolina State Building Code. Temporary health care structures shall not be installed on a permanent foundation. Temporary health care structures are classified as an accessory use to single family detached dwellings.

Temporary Residential Mobile Home

A mobile home, intended for residential use for a limited period of time, for purposes of providing for custodial care under a Class B Special Use Permit or providing temporary residential space during the installation of a replacement mobile home or construction of a stick-built or modular residential unit on the same lot, and for 30 days after the issuance of Certificate of Occupancy for the permanent unit. The temporary mobile home is not attached to a permanent or semi-permanent foundation.

Temporary Use Building

A building, not intended for residential use, consisting of one or more modules constructed off the ultimate site of use. The building is also not attached to a permanent or semi-permanent foundation.

Ten-Year Transition Land

Land located in areas that are in the process of changing from rural to urban densities and/or intensities, that are suitable for higher densities and/or intensities and could be provided with public utilities and services within the first 10-year phase of the Comprehensive Plan update or where such utilities and services are already present or planned. Non-residential uses implemented in accordance with small area plans and/or overlay districts may be appropriate.

Tourist Home

A building or group of attached or detached buildings containing, in combination, three to nine lodging units for occupancy for daily or weekly periods, with or without board, and primarily for occupancy by transients, as distinguished from rooming houses, in which occupancy is primarily by residents rather than transients.

Traffic Generation: Low

Uses which generate an average of less than 200 vehicle trips per day.

UDO AMENDMENT PACKET NOTES:**Option B**

The following packet details the proposed text amendment to incorporate recent changes in State Law with respect to temporary health care structures. The amendment package will modify Sections 5.2, 5.4, 5.5 and 10.1 of the UDO to accommodate the new standards.

As the number of affected pages/sections of the existing UDO are being modified with this proposal, staff has divided the proposed amendments into the following color coded classifications:

- **Red Text:** Denotes new, proposed text, that staff is suggesting be added to the UDO based on Session Law 2014-94 and comments received at the May 26 Quarterly Public Hearing and September 1 BOCC meeting.
- **Black Strikethrough Text:** Denotes existing text that staff is proposing to delete

Only those pages of the UDO impacted by the proposed modification(s) have been included within this packet. 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 or footnotes from previous sections 'spill over' onto the included page. Text with a large "X" is not proposed for modification.

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.

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>

- (c) The proposed activity will occur no more frequently than seven days in a 30-day period, and on no more than 50 days per year.
- (d) Signs shall be permitted in accordance with Section 6.12.11(D) of this Ordinance.
- (e) All parking shall be on-site.
- (f) Noise levels at the boundary of the area included in the special Use Permit shall not exceed 50 decibels between the hours of 7:00 a.m. and 7:00 p.m., or 45 decibels between the hours of 7:00 p.m. and midnight. No Special Event shall begin before 7:00 a.m., or extend beyond midnight.
- (g) The site plan shall have the written approval of the Orange County Division of Environmental Health regarding the adequacy of the water supply and wastewater disposal for the specified maximum number of participants for any single event and the written approval of the Orange County Fire Marshal and Orange County Sheriff's Department regarding the adequacy of parking, access or other factors relating to public safety.
- (h) The Special Use Permit shall be valid for no more than one year.

5.4.4 Temporary Use of a Residential Mobile Home

(A) General Standards of Evaluation

Residential Mobile Homes may be permitted as a temporary use during construction in accordance with the following:

- (1) The property owner shall reside in the temporary residential mobile home during construction of a new residence or the renovation of an existing residence on the same lot.
- (2) Prior to placement of the temporary residential mobile home on-site all applicable state and local approvals and permits shall be procured, including but not limited to a zoning compliance permit, building permits, and health department approval.
- (3) The temporary residential mobile home must be removed within 90 days of receipt of the certificate of occupancy for the on-site residence.

(B) 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) One of the following types of relationships shall exist between the occupants of mobile home and the existing single family dwelling.
 - (i) Blood relationship.
 - (ii) Relationship by marriage.
 - (iii) Legal guardian relationship designated by Court of Law.
- (b) A certificate in writing, from a licensed physician (MD) stating the necessity of direct custodial care because of age or poor health.
- (c) Floor plan of the existing single family unit showing that there is no reasonable alternative based on the utilization of the existing floor plan.
- (d) Site plan showing the location of the existing single family unit; the proposed mobile home, driveway, parking area, sewage disposal facilities.

- (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 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.

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 type facility planned, the number of occupants, and the development schedule.
- (b) A site plan showing existing and proposed contours. Proposed buildings, parking, access, service, recreation, landscaped and screened areas.
- (c) Other criteria as set forth in sections 6.2.11 and 6.3.
- (d) A statement concerning the provision of public services which shall include fire, police and rescue protection.

(2) Standards of Evaluation –

- (a) Adequate parking, access and service areas are provided for the site.
- (b) Parking, service areas and buildings are adequately screened from adjacent residential uses.
- (c) Improved recreational facilities are provided for occupants.
- (d) Other criteria as set forth in sections 6.2.11 and 6.3.
- (e) Letters from public service agencies attesting to the adequacy of the provision of public services such as fire, police and rescue.

5.5.9 Temporary Custodial Care Units⁵

(A) General Standards

(1) Submittal Requirements

In addition to the information required by Section 2.4, Zoning Compliance Permits, the following information shall be supplied as part of the application for approval of this use:

- (a) Certification in writing from a licensed physician stating the necessity of direct care for an mentally or physically impaired individual.

(2) Standards of Evaluation

- (a) An existing single family residential dwelling unit must be located on the same parcel as the temporary custodial care unit. Temporary custodial care units shall be classified as an accessory use to a single family detached dwelling unit.
- (b) No more than one temporary custodial care unit per lot shall be permitted.
- (c) The temporary custodial care unit must meet principal setback standards where located and shall not be located in any required front yard open space.⁶

⁵ A temporary custodial care unit use is being proposed in order to address comments received at the May 26 Quarterly Public Hearing and September 1 BOCC meeting. The new use combines the temporary health care structure standards outlined in Session Law 2014-94 and existing standards related to temporary mobile home units (custodial care) contained in Section 5.4.4. This option which would allow for temporary health care structures and temporary mobile homes up to 1,000 square feet in size to be placed as an secondary use to an existing single family dwelling unit, remove the required Special Use Permit for temporary mobile homes currently contained in the UDO, and address items of concern identified by the BOCC at the May and September meetings.

⁶ It should be noted the required front yard space is not necessarily synonymous with all the space between a dwelling and the road right-of-way. Many dwelling units in rural areas are located further from the road right-of-

- (d) Occupancy of a temporary custodial care unit shall be limited to no more than two individuals, with at least one of whom is mentally or physically impaired and requires assistance with two or more activities of daily living.
- (e) No signage or advertisement promoting the temporary custodial care unit shall be permitted on the exterior of the temporary custodial care unit or on the property
- (f) A temporary custodial care unit shall be required to connect to water, wastewater, and electric utilities serving the principal structure on the property.
- (g) The Orange County Health Department, or the agency that provides sanitary sewer and water services, shall approve water and wastewater disposal facilities.
- (h) All applicable state and local approvals and permits shall be procured including, but not limited to, a zoning compliance permit, building permits, and health department approval.
- (i) Approval of the application shall not exceed one year. Annual renewal shall require a new application and recertification from a licensed physician stating the necessity of direct care.
- (j) Any approved temporary custodial care unit shall be removed no later than 180 days after the time the mentally or physically impaired person(s) is no longer receiving care or is in need of assistance. If the structure is needed for a different impaired individual, the temporary custodial care unit may continue to be used, subject to the requirements of this Ordinance.
- (k) The caregiver shall allow inspections of the property by the County at times convenient to the caregiver, during reasonable hours, and upon prior notice for compliance purposes.
- (l) A permit for a temporary custodial care unit may be revoked by the Planning Director due to failure of the applicant to comply with any of the above provisions.

SECTION 5.6: STANDARDS FOR COMMERCIAL USES

5.6.1 Nightclubs, Bars and Pubs

(A) General Standards for Evaluation

- (1) Buildings for nightclubs, bars and pubs shall not be located within 200 feet of a residence.

5.6.2 Massage Business

(A) General Standards for Evaluation

- (1) Must comply with the Ordinance for the Control of Massage and Massage Establishments
- (2) The submittal of construction plans for all existing and proposed buildings housing the massage business. The construction plans shall include floor plans and cross sections showing the proposed use of all portions of such buildings.

way than the required front setback. Therefore, a temporary custodial care unit could potentially be located in front of an existing dwelling unit.

Environmental Document

An EA, EIS, or FONSI, or all of them.

Environmentally Sensitive Areas

Land which is subject to special natural environmental conditions such as flooding that present significant constraints to built development.

Equestrian Center

A facility designed and intended for the display of equestrian skills and the hosting of events including, but not limited to, show jumping, dressage, rodeos, general horse/mule shows, and similar equestrian disciplines. Events may be larger scale, such as horse shows expected to generate more than 80 traffic trips per day, and may be held more frequently than once per month. A commercial stable may be included on the site.

Existing Construction

Structures for which, the “start of construction” commenced before March 16, 1981. This term may also be referred to as “existing structures.”

Existing manufactured home park or manufactured home subdivision

A manufactured home park or subdivision for which, for flood damage prevention purposes, the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) completed before March 16, 1981.

Extraction of Earth Products

The process of removal of natural deposits of mineral ores, soils or other solids, liquid or gaseous matter from their original location. It does not include any processing of such material, beyond incidental mechanical consolidation or sorting to facilitate transportation to the site of use or location of further processing.

FONSI

A Finding of No Significant Impact. As pertaining to an EA or EIS.

Family

For purposes of this Ordinance, family shall be defined as an individual ~~or~~ ⁷ two or more persons related by blood, marriage or adoption, living together in a dwelling unit; or a group of not more than ⁸ five persons who need not be related in a dwelling unit. A “family” may include five or fewer foster children.

Family Care Facility

A facility licensed by the appropriate state agency, as a family care facility for from one to six unrelated individuals.

Family Day Care Home

A residence in which childcare is provided, which provides childcare for no more than three children.

Family Income

The gross annual sum of all income received by all adult members of the household, including:

- a) Earned income from wages for all family members over the age of 18;

⁷ Staff is suggesting this typographical error be corrected as part of this UDO amendment.

⁸ Based on comments received at the September 1 BOCC meeting, revisions to the definition of family will increase the number of unrelated persons allowed to live together in a dwelling unit from three to five. The maximum of five people is based on the 2012 North Carolina Residential Code. Once there are more than five unrelated people the dwelling unit must be classified and reviewed under the 2012 North Carolina State Building Code as a rooming or boarding house. A rooming or boarding house is reviewed and permitted differently in the North Carolina State Building Code and UDO compared to a single family dwelling unit.

Telecommunication Facilities, Wireless facility Stealth

A wireless support structure designed using stealth technology such that its primary purpose is, or visually appears to be, something other than the support of telecommunications equipment, the apparent purpose of the wireless support structure is customarily considered as accessory to a use that is allowed in the zoning district, and the structure and its primary use comply with this Ordinance.

Telecommunication Facilities, Wireless support structure

A new or existing structure, such as a monopole, lattice, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure.

Telecommunication Facilities, Wireless Telecommunications Facility (WTF), Includes both Telecommunications Site and Personal Wireless Facility

A structure, facility or location designed, or intended to be used as, or used to support antennas or other transmitting or receiving devices. This includes without limit wireless support structures of all types, kinds and structures, including, but not limited to buildings, church steeples, silos, water towers, signs or other structures that can be used as a support structure for antennas or the functional equivalent of such. It further includes all related facilities and equipment such as cabling, equipment shelters and other structures associated with the facility. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, SMR, paging, 911, personal communications services (PCS), commercial satellite services, microwave services, and any commercial wireless telecommunication service not licensed by the FCC.

Temporary Custodial Care Unit

A transportable residential structure facilitating a caregiver's provision of short or long term care for a mentally or physically impaired person that is primarily assembled offsite, is limited to one occupant, has no more than 1,000 gross square feet, and complies with applicable standards of the North Carolina State Building Code and/or Department of Housing and Urban Development (HUD). Temporary custodial care units shall not be installed on a permanent foundation and shall be classified as an accessory use to an single family detached dwelling unit. Includes mobile homes and temporary health care structures.

Temporary Residential Mobile Home

A mobile home, intended for residential use for a limited period of time, for purposes of providing ~~for~~ ~~custodial care under a Class B Special Use Permit or providing~~ temporary residential space during the installation of a replacement mobile home or construction of a stick-built or modular residential unit on the same lot, and for 30 days after the issuance of Certificate of Occupancy for the permanent unit. The temporary mobile home is not attached to a permanent or semi-permanent foundation.

Temporary Use Building

A building, not intended for residential use, consisting of one or more modules constructed off the ultimate site of use. The building is also not attached to a permanent or semi-permanent foundation.

Ten-Year Transition Land

Land located in areas that are in the process of changing from rural to urban densities and/or intensities, that are suitable for higher densities and/or intensities and could be provided with public utilities and services within the first 10-year phase of the Comprehensive Plan update or where such utilities and services are already present or planned. Non-residential uses implemented in accordance with small area plans and/or overlay districts may be appropriate.

Tourist Home

A building or group of attached or detached buildings containing, in combination, three to nine lodging units for occupancy for daily or weekly periods, with or without board, and primarily for occupancy by transients, as distinguished from rooming houses, in which occupancy is primarily by residents rather than transients.

Traffic Generation: Low

Uses which generate an average of less than 200 vehicle trips per day.

APPROVED 9/1/2015

MINUTES
ORANGE COUNTY BOARD OF COMMISSIONERS
QUARTERLY PUBLIC HEARING
May 26, 2015
7:00 P.M.

The Orange County Board of Commissioners met with the Orange County Planning Board for a Quarterly Public Hearing on May 26, 2015 at 7:00 p.m. at the Whitted Building, in Hillsborough, N.C.

COUNTY COMMISSIONERS PRESENT: Chair Earl McKee and Commissioners Mia Burroughs, Mark Dorosin, Bernadette Pelissier, Renee Price and Penny Rich

COUNTY COMMISSIONERS ABSENT: Barry Jacobs

COUNTY ATTORNEY PRESENT: James Bryan (Staff Attorney)

COUNTY STAFF PRESENT: County Manager Bonnie Hammersley and Clerk to the Board Donna Baker (All other staff members will be identified appropriately below)

PLANNING BOARD MEMBERS PRESENT: Chair Pete Hallenbeck and Planning Board members Lisa Stuckey, Herman Staats, Paul Guthrie, Tony Blake, Laura Nicholson, and Lydia Wegman, Andrea Rohrbacher, Maxecine Mitchell, H.T. "Buddy" Hartley

PLANNING BOARD MEMBERS ABSENT: James Lea and Bryant Warren

Chair McKee called the meeting to order at 7:05 p.m.

Chair McKee said that Commissioner Jacobs would be unable to attend the meeting tonight.

Chair McKee noted the following items at their places:

- White sheets: PowerPoint slides for Items C1-5
- Notebook for Item C-3- Request for Special Use Permit - solar array/public utility station

Chair McKee said staff requested that the Board of County Commissioners (BOCC) consider moving Item 5 - Unified Development Ordinance (UDO) Text Amendment – forward to the beginning of the agenda, as it is a short presentation.

A motion was made by Commissioner Rich, seconded by Commissioner Pelissier to move Item 5 - Unified Development Ordinance (UDO) Text Amendment - forward on the agenda to the beginning of the agenda.

VOTE: UNANIMOUS

A. OPENING REMARKS FROM THE CHAIR-Chair McKee and PB Chair Pete Hallenbeck

B. PUBLIC CHARGE

Chair McKee dispensed with the reading of the Public Charge

C. PUBLIC HEARING ITEMS

- 5. Unified Development Ordinance (UDO) Text Amendment** - To review government-initiated amendments to the text of the UDO to incorporate recent changes in State law with respect to the review and permitting of temporary health care structures.

Ashley Moncado, Orange County Planning Inspections, presented the following PowerPoint slides:

Unified Development Ordinance
Text Amendment
Temporary Health Care Structures
Quarterly Public Hearing
May 26, 2015
Item C5

Purpose

To hold a public hearing on a Planning Director initiated Unified Development Ordinance (UDO) text amendment regarding proposed standards for temporary health care structures to be added into Sections 5.5 *Standards for Residential Uses* and 10.1 *Definitions* of the UDO.

Background

What is a Temporary Health Care Structure (THCS)?

- General Definition
 - A mobile, modular unit, which may include health care amenities, designed to be temporarily placed on a caregiver's property for rehabilitation and extended care of an impaired relative.
- Purpose
 - Provide a temporary, affordable, higher quality, and accessible housing option for those in need, and for families in place of a nursing home facility.
- Similar to a state of the art hospital room
- Also known as:
 - MEDCottages
 - Granny Pods

Session Law 2014-94

- **Background**
 - Concerns with existing zoning regulations limiting temporary health care structures
 - Adopted (August 1, 2014) to accommodate use and limit permitting obstacles statewide
 - Modeled after 2010 Virginia State Legislation
- **Purpose**
 - Allow people with mental or physical impairments to live and reside with their families in order to receive the care they need.
- **Outlined Definition and Regulations**

Proposed Amendments

- Proposed Revisions to:
 - Section 5.5, *Standards for Residential Uses*
 - Article 10, *Definitions*
- Packet includes the proposed amendments in “track changes” format
- Renumbering and reformatting of identified Sections

Proposed Amendments

Definition

- A transportable residential structure facilitating a caregiver's provision of care for a mentally or physically impaired person that is primarily assembled offsite, is limited to one occupant, has no more than 300 gross square feet, and complies with applicable standards of the North Carolina State Building Code. Temporary health care structures shall not be installed on a permanent foundation. Temporary health care structures are classified as an accessory use to single family detached dwellings.

Proposed Amendments**Submittal Requirements**

- Must meet Section 2.4, Zoning Compliance Permits
- Documentation identifying the relationship of the occupant of the THCS and occupant of the single family dwelling
- Physician's certification

Proposed Amendments**Standards of Evaluation**

- Existing single family residential dwelling unit must be located on the same parcel as the THCS
- No more than one THCS per lot
- Must meet setback standards contained in Section 5.5.1, Accessory Structures and Uses
- Occupancy shall be limited to one mentally or physically impaired individual
- No signage or advertisement promoting the THCS shall be permitted
- Shall be required to connect to water, wastewater, and electric utilities serving the principal structure
- All applicable state and local approvals and permits shall be acquired

Proposed Amendments**Standards of Evaluation**

- Approval of the application shall not exceed one year and require annual renewal
- Must be removed 60 days after the mentally or physically impaired person is no longer receiving care or is in a need of assistance
- Caregiver shall allow inspections of the property by the County

Public Notification

- Completed in accordance with Section 2.8.7 of the UDO
 - Newspaper legal ads for two successive weeks

Joint Planning Area Partners

- Proposed amendments provided on January 14, 2015
 - No comments have been received

Recommendation**The Planning Director recommends the Board:**

- Receive the proposed amendments to the UDO as detailed in this abstract and attachments.

- Conduct the public hearing and accept public, BOCC, and Planning Board comment on the proposed amendments.
- Refer the matter to the Planning Board with a request that a recommendation be returned to the BOCC in time for the **September 1, 2015** BOCC regular meeting.
- Adjourn the public hearing until **September 1, 2015** in order to receive and accept the Planning Board's recommendation and any submitted written comments.

Commissioner Dorosin asked if the building of a THCS is permissible, only if the recipient of the care is related to the landowner.

Ashley Moncado said that is correct.

Commissioner Dorosin asked if the THCS must be removed from the property, once the relative improves or moves on to a different living situation.

Ashley Moncado said currently only one company makes this type of THCS, and they are built to be temporary. She said the THCS are built out of Virginia, where there are almost the same state regulations as North Carolina. She said the TCHS cost about \$100,000, and there is no restriction on the word "temporary," so it could be on a property long term.

Commissioner Rich asked if the TCHS remains on a property for many years, must it always be inhabited by the ailing relative.

Ashley Moncado said yes.

Commissioner Rich asked if there appears to be a need for the TCHS in Orange County.

Ashley Moncado she said no one has gone through the process to be permitted, but there have been inquiries.

Commissioner Price asked if a domestic partner would fall under the category of relative, and be able to reside in a TCHS.

Ashley said that would apply for the family relationship.

Commissioner Price asked for clarification regarding how water and sewer would work.

Ashley said the applicant would have to go through Environmental Health to make sure that their present system has the capacity to accommodate this usage.

Commissioner Price asked if this would also pertain to the Rural Buffer, and would Orange Water and Sewer Authority (OWASA) be involved.

Ashley said yes, but properties in the rural buffer on mostly well and septic systems.

A motion was made by Commissioner Rich, seconded by Commissioner Pelissier for the Board: To refer the matter to the Planning Board, with a request that a recommendation be returned to the BOCC in time for the **September 1, 2015** BOCC regular meeting.

VOTE: Ayes, 5; Nays, 1 (Commissioner Dorosin)

Motion Passes

Commissioner Dorosin said he likes the idea of the THCS, but he would like for the Board to consider amending the UDO, making such structures more accessible and the regulations less onerous.

Commissioner Pelissier said the BOCC could direct the Planning Board to deliberate on this issue, and to consider other options before returning to the Board of County Commissioners with their recommendation.

A motion was made by Commissioner Price seconded by Commissioner Pelissier to adjourn the public hearing until **September 1, 2015** in order to receive and accept the Planning Board's recommendation and any submitted written comments.

**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 9: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT\ AMENDMENTS: To make a recommendation to the BOCC on government-initiated amendments regarding the review and permitting of temporary health care structures. This item was heard at the May 26, 2015 quarterly public hearing.

Presenter: Ashley Moncado, Special Projects Planner

Ashley Moncado: Reviewed abstract.

Herman Staats: The building and efficiency or some other addition to a structure. I could do that anyway as long as my lot size allows me so nothing in what we discussed about this temporary health care structure prevented someone from using those if they wanted to?

Ashley Moncado: Correct. There are other options provided in the UDO.

Herman Staats: I didn't understand why it's so restrictive.

Craig Benedict: When you bring it back to the BOCC, we will explain that more.

Lisa Stuckey: If I go to page 73, 5-48 under 5.9 (a) 1, if I wanted to do one of these things and hire this company that would put one up, at that point, does it have to be a first or second degree relative?

Ashley Moncado: Yes. All those options, a relationship by marriage or a legal guardian.

Lisa Stuckey: If I want to use one of these things, then I am restructured.

Pete Hallenbeck: This is a state issue.

Michael Harvey: We are doing this amendment because the state recognizes this specific unit. Previously, our ordinance allowed for a mobile home to be on a property every year. We had to recognize it because

50 the state said we had to allow this and it was a compromise to what was really and unreasonable process
51 to allow for a temporary custodial mobile home that imposes an additional cost.

52

53 Ashley Moncado: We have had previous staff discussion about aging in place, having an accessory
54 dwelling unit to live together in a dwelling unit, etc.

55

56 Pete Hallenbeck: You are putting this in because there is a person with healthcare issues that you want to
57 take care of on your property.

58

59 Lisa Stuckey: Could we recommend losing that limitation?

60

61 Ashley Moncado: I would feel that if you are not more restrictive statute we could recommend it tonight and
62 present it to the BOCC.

63

64 Laura Rohrbacher: I have an issue regarding aging in place and if you have two aging parents, the
65 temporary health care structure does not address that.

66

67 Pete Hallenbeck: If we are going to get rid of the relationship thing. I would like to put something in there
68 that says you care for the people without charging them.

69

70 Tony Blake: How does this differ from a trailer? This sounds like a high end solution for people. This
71 sounds to be a specific company to corner the market on a high end solution and exclude everything else.

72

73 Pete Hallenbeck: The state's going to do it. Did you want to take the funny thing being rammed down our
74 throat or take the rest of the UDO and try to solve the problem? If we are getting rid of the family thing, put
75 something in there that says don't charge.

76

77 Ashley Moncado: Reconstructed NC State building codes, a manufactured or mobile home would not
78 qualify as a temporary health care structure.

79

80 Tony Blake: So there's a different building code for a temporary health care structure?

81

82 Ashley Moncado: Temporary health care structures are to be built to NC State building code as the same
83 as a modular unit so there are standards that are similar to a modular unit.

84

85 Tony Blake: Trying to prevent people from putting mobile in?

86

87 Ashley: Possibly, but we still have the option of that. You can go through the option of having a temporary
88 mobile home brought on a piece of property.

89

90 Tony Blake: this seems to be almost legislation for a specific company to try and corner the market on a
91 high end solution and exclude everything else. That's what worries me and I think that's what worries
92 commissioner Dorosin as well.

93

94 Pete Hallenbeck: All that's true, the states going to do it, they've been quietly whacking away at everything.
95 The only think I would say on amending this is do you want to take this one funny thing being rammed
96 down our throats and try and solve a problem or do you want to take the rest of the UDO and really really
97 solve a problem. I don't have a strong feeling about it, the only thing I would say is if you're taking out the
98 family thing don't charge them.

99
100 James Lea: Does this amendment require a special use permit?
101
102 Michael Harvey: No, because state law says you have to allow it.
103
104 James Lea: You have to allow this?
105
106 Michael Harvey: Yes.
107
108 Paul Guthrie: That's why it's really touchy if we take this and say oh here's this problem and get rid of
109 something and now's there's this thing that we have to allow and what's that going to bring to it.
110
111 Tony Blake: General standards aids submittal requirements 1 a & b are really there to do what you are
112 talking about which is say it's harder to judge a family than someone else.
113
114 Pete Hallenbeck: That's a good point it's harder and charge is also nebulous right
115
116 Tony Blake: Right.
117
118 Pete Hallenbeck: Grandma you can live here I got this little thing you need to sign in regards to your estate
119 first.
120
121 Paul Guthrie: If the state requires this to why do we have to put it in the UDO?
122
123 Tony Blake: Because the state has to come in and inspect them and do all of that right
124
125 Paul: The 2nd thing is if it is possible to basically do this under existing UDO provisions why get us into this
126 business of degree of relationship?
127
128 Ashley: Currently this type of use has no way to permit it under the UDO because it is specific to new use.
129 There's nothing that qualifies for it to be permitted to the UDO and we are going through this process to be
130 consistent with state regulations to identify new UDO. Now that you're looking at doing all these types of
131 amendments if we weren't going through this process then it would be permitted as state statue. Currently it
132 is allowed to be permitted and we are trumping the state statue if you're removing this regulation regarding
133 the relationship. If someone came in without this in the UDO we would have to require that relationship.
134
135 Paul Guthrie: The state doesn't require a facility to be built but does the state specify who can use it?
136
137 Ashley Moncado: Yes
138
139 Paul Guthrie: Anybody?
140
141 Ashley Moncado: Well do they specify it has to be a physically or mentally impaired individual NC resident.
142
143 Lydia Wegman: And a relative
144
145 Ashley Moncado: Yes
146
147 Paul Guthrie: And a NC resident on top of that?

148
149 Pete Hallenbeck: That's where your submittal requirements came from the state law?
150
151 Ashley Moncado: Yes, all of this is the state law. We cannot change it if it's not identical it's very similar.
152
153 Paul Guthrie: The owner of the property has to be a NC resident and the recipient of the housing has to be
154 a NC resident.
155
156 Ashley Moncado: Yes
157
158 Paul Guthrie: The lawyers are going to have a field day with this one.
159
160 Pete Hallenbeck: And it's going to cost you about \$100,000.
161
162 Craig Benedict: When you get a mandate from the state and you start trying to tweak it it's a slippery slope.
163 So we can resolve some of the options about having people not related by blood living in these accessory
164 structures. I would suggest let's get this statute, preemption of a lot of our other rules, put in and address
165 the other issues about being more flexible and not having the relationship stuff addressed by other portions
166 of the code. Right now how many people do we allow unrelated by blood in the house?
167
168 Ashley Moncado: 3
169
170 Craig Benedict: Some places allow more than that so I mean there could be a case where you want to go
171 up to 4 or 5 so we would be suggesting other amendments to the code to allow housing opportunities that's
172 the new trend. I think we could make an amendment to this and the state says are you adhering to us and
173 we say yes and made it even better and they are like Orange County did something again to our
174 minimums. That's just an idea I think we can address other sections of the code and since the state is
175 asking for this almost verbatim it would be better to let this fly.
176
177 Pete Hallenbeck: I don't want to take a bad idea and say we combed it's hair and put lipstick on it and now
178 it's good.
179
180 Lydia Wegman: Craig, when you say address it in the code you would have to develop new amendments to
181 the code
182
183 Craig Benedict: Yes
184
185 Lydia Wegman: Added to the long list already
186
187 Lisa Stuckey: You could do a completely identical parallel amendment to the code and just change the
188 things we like. We could have 2 of them sitting there.
189
190 Pete Hallenbeck: I'll remind everybody that we have this dinner with the commissioners every year and
191 that's an opportunity to say here are areas that we think would be interesting to look at this might be a very
192 good thing to look at and now you're going to go through the right process instead of tweaking it and if this
193 goes away, we could still have our solution.
194
195 Laura Nicholson: I withdraw my amendment request however this is a solution without a problem. It's a
196 unaffordable ridiculous thing but I am all for complying with state regulations.

197
198 Tony: 1 question for Mike, this temporary structure does this count against your impervious surface?
199
200 Michael Harvey: Everything counts against your impervious surface if it meets the definition.
201
202 Paul Guthrie: Between the septic laws and the impervious surface, I think there can be lots of decisions
203 made on the process.
204
205 Lydia Wegman: Craig & Michael you mentioned co-housing and it sounds like some discussion is going on,
206 is that something this could include addressing this problem that we're talking about?
207
208 Craig Benedict: Yes. I think this could go true we have new initiatives about affordable housing about small
209 housing but we've been trying to describe these new housing opportunities out there. Are they mobile
210 homes, are they RVs, are they micro houses, we will be presenting to the commissioners probably in
211 September of this year. These other type of housing options would address bringing the parents back in the
212 house. We're into that process, we would expect getting a green light to address some of those issues in
213 September or October and bringing forward later this year.
214
215 Lydia Wegman: And would that kind of thing come to the planning board fi the commissioners said go?
216
217 Craig Benedict: Yes, definitely.
218
219 Lydia Wegman: Thank you.
220
221 Pete Hallenbeck: We have a statement of consistency to vote on and it says this isn't against what's in the
222 comprehensive plan. It addresses a .25% improvement on that plan. We'll need a motion to vote on that
223 and then vote on the specific amendment items here. We'll make a recommendation to the BOCC on the
224 statement of consistency that yes we think it is consistent.
225
226 MOTION made by: Buddy Hartley. Seconded by: Bryant Warren
227
228 Lydia Wegman: Housing goal #2 – Housing that is useable by as many people as possible regardless of
229 age, ability or circumstances but this is only useable by one person
230
231 Tony Blake: 1 income
232
233 Laura Nicholson: it also says affordable housing earlier in that.
234
235 Lydia Wegman: I don't think it's consistent so ia m going to vote No.
236
237 Pete Hallenbeck: The comprehensive plan and the UDO are often in conflict with each other.
238
239 Lydia Wegman: I know that.
240
241 Pete Hallenbeck: We want affordable housing and we want sidewalks.
242
243 Lydia Wegman: I realize that I will just note this requirement to vote on consistency is an empty
244 requirement because as you say Pete, there's always a lot of inconsistent things in the comprehensive plan
245 and you could find something to support almost any position in the plan.

246
247 Paul Guthrie: Are you going to call the vote.
248
249 Vote 10 to 2 (Paul Guthrie/Lydia Wegman*)
250
251 Paul Guthrie: I didn't like it.
252
253 Pete Hallenbeck: Motion to approve the amendment as in the packet UDO amendments.
254
255 James Lea: What page is that on?
256
257 Pete Hallenbeck: 73 attachement 3.
258
259 Motion by Buddy Hartley. Seconded by Bryant Warren.
260
261 Pete Hallenbeck: This is the section in red we discussed where it says the submittal requirements and so
262 forth. This document is very much driven by the state law.
263
264 Ashley Moncado: Yes
265
266 Vote: 9 to 3 (Lydia Wegman, Lisa Stuckey and Paul Guthrie)
267
268 Pete Hallenbeck: Paul would you like to say anything.
269
270 Paul Guthrie: Bad law, we can deal with the issue without it.
271
272 Lisa Stuckey: I'm voting no simply because I don't think we have all the facts. This is something worth
273 asking the attorney whether it could be made less restrictive to include nonrelatives to be in compliance
274 with other areas of our UDO to allow husband and wife to be in there together so I just feel like I would
275 rather let the attorney guide us, something for county commissioners to ask the attorney.
276
277 Lydia Wegman: I agree with Lisa. I'm concerned about approving just this piece without having the other
278 pieces. We've talked about going forward with it so it's clear that we are presenting a whole package of
279 options to people who are facing this situation. We may need to follow up on Lisa's suggestion and we
280 many need to approve this but I would like to see if there is a way at the same time to approve something
281 that is broader and meets the needs of many more people in the county.
282
283 *****

** Red text was added to the June 3, 2015 minutes to accurately present the vote regarding this item on July 2, 2015 following Planning Board adoption.*

**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 allow temporary health care structures, 300 square feet or less, to be permitted as an accessory use in any single family residential zoning district on lots zoned for single family detached dwellings if all the regulatory provisions outlined in Session Law 2014-94 are met.

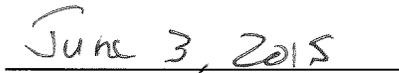
The Planning Board finds:

- 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.
- c. The amendment is consistent with applicable plans because it:
 1. *Supports the following 2030 Comprehensive Plan goals and objectives:*
Chapter 4 – Housing Element – Section 4.6 Goals
 Housing Overarching Goal: Opportunity for all citizens of Orange County to rent or purchase safe, decent, accessible, and affordable housing.
 Housing Goal 2: Housing that is useable by as many people as possible regardless of age, ability or circumstance.
- d. The amendment is reasonable and in the public interest because it:
 1. Provides a temporary, affordable, higher quality, and accessible housing option for those in need.
 2. Allows residents with mental or physical impairments to reside with their families in order to receive the care they need.

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

APPROVED 10/6/2015

**MINUTES
BOARD OF COMMISSIONERS
REGULAR MEETING
September 1, 2015
7:00 p.m.**

The Orange County Board of Commissioners met in regular session on Tuesday, September 1, 2015 at 7:00 p.m. at the Whitted Building in Hillsborough, N.C.

COUNTY COMMISSIONERS PRESENT: Chair McKee and Commissioners Mia Burroughs, Mark Dorosin, Barry Jacobs, Bernadette Pelissier, Renee Price and Penny Rich

COUNTY COMMISSIONERS ABSENT:

COUNTY ATTORNEYS PRESENT: John Roberts

COUNTY STAFF PRESENT: County Manager Bonnie Hammersley, Deputy County Manager Travis Myren and Clerk to the Board Donna Baker (All other staff members will be identified appropriately below)

Chair McKee called the meeting to order at 7:04 p.m.

1. Additions or Changes to the Agenda

Chair McKee said the discussion of a potential bond referendum will take place at the Board's work session on September 10th, and with the school boards on September 29th, returning as a decision item on October 6th.

He noted the following items at the Commissioners' places:

- Blue sheet – Copy of the Board of County Commissioners' (BOCC) Adopted Social Justice Goals from 2010
- Green – Revised Script for Item 5-b – Class A Special Use Permit (SUP) – Solar Array off White Cross Road. John Roberts noted a linguistic change on page 63 of the abstract where there are 4 instances when a Board Member can make a "motion to affirm or reject". He said when the meeting reaches this point, the Board should use the word adopt rather than affirm.
- PowerPoint slides for item 7a-Jail Alternatives Work Group Report
- Monthly Planning Department Report

PUBLIC CHARGE

Chair McKee dispensed with the reading of the Public Charge

2. Public Comments

a. Matters not on the Printed Agenda

None

b. Matters on the Printed Agenda

None

3. Announcements and Petitions by Board Members

VOTE: UNANIMOUS

5. Public Hearings

a. Unified Development Ordinance Text Amendment Related to Temporary Health Care Structures – Public Hearing Closure and Action (No Additional Comments Accepted)

The Board considered receiving the Planning Board recommendation, closing the public hearing, and deciding accordingly and/or adopting the Statement of Consistency and the Ordinance amending the Unified Development Ordinance (UDO) regarding temporary health care structures as recommended by the Planning Board and staff.

Ashley Moncado, Orange County Planning and Inspections, said this item was presented at the May Quarterly Public Hearing (QPH). She said no modifications were made after the QPH. She said the amendment was presented at the June Planning Board Meeting, and the Planning Board voted 10-2 to recommend approval of the Statement of Consistency; and 9-3 to recommend approval of the proposed amendment. She said all comments from the Planning Board meeting can be found on page 8 within attachment 2.

Commissioner Price asked if there had been any collaboration with the municipalities.

Ashley Moncado said the Town of Hillsborough is pursuing an amendment to implement the session law, and there have been no comments from the other jurisdictions despite notification of the proposed amendment being sent to them.

A motion was made by Commissioner Price, seconded by Commissioner Burroughs to close the public hearing.

VOTE: UNANIMOUS

Commissioner Dorosin said he will vote against it. He said he knows it is a directive from the State, but he finds it a poor way to do policy.

Commissioner Dorosin said at the last BOCC meeting, the Commissioners had discussed about developing something specific to Orange County with broader parameters, and he encouraged the Board to pursue this.

Commissioner Dorosin said the Board needs to re-visit the policy that no more than 3 unrelated persons can live together as this could be a violation of civil rights, and asked if staff could revise this.

Ashley Moncado said staff is interested in pursuing these changes as well, but needed to get this text amendment done first and then review changes to it.

Commissioner Dorosin asked what would happen if the Board rejected this law.

Ashley Moncado said the State law would trump County law. She said she spoke with the County Attorney's office regarding modifying the language, and changes will be pursued.

Commissioner Dorosin said it does not matter if the Board passes this amendment.

Ashley Moncado said that is correct. She said the State law would trump the County's refusal to pass it, but potential future changes could make the amendment more flexible and accommodating.

Commissioner Price said she has concerns with the residency requirement. She asked if there is a definition of, or process, to determine who is a resident.

Ashley Moncado said this was a concern with the planning board members as well, and staff knows that this needs to be explored more thoroughly.

John Roberts said this has been the law for more than a year now, and he has to recommend that the County adopt it, as it is a State law.

Commissioner Rich said she too is not supportive of this, and feels it is not well thought out by State. She said if Orange County can make this better, it should do so.

Commissioner Jacobs asked if since many of the Board members do not feel that this amendment is adequate, would it be possible to table the amendment and refer back to staff with some suggested changes the Board would like to see, so that it is more tailored to what the Board believes to be appropriate.

John Roberts said this is new ground for him. He said the public hearing would need to be re-opened and the item referred back to the Planning Board.

Chair McKee asked if the Board could open the same public hearing that was just closed.

John Roberts said he thinks so, but would research this now.

Commissioner Burroughs asked how long the process would take, if the Board passes this amendment now and re-visits it through the UDO.

Ashley Moncado said probably the February QPH would be the earliest timeframe.

Commissioner Pelissier said the other reason that she would vote for it is because it would make the rules more transparent to the public. She asked if someone wanted to create a temporary health care structure, and the County does not have it in their UDO, can a person still proceed through State law.

Commissioner Pelissier said she does not like what the State is doing.

Ashley Moncado said this amendment is not in Orange County's UDO, and that is the main concern of the planning staff.

Commissioner Pelissier asked if the Board could approve the amendment, with the contingency that it would come back in February 2016.

John Roberts said a motion to approve contingent on other things for an ordinance, is not an approval.

John Roberts said section 2.8 of the UDO does say that the Board can reopen the public hearing, as the Board is still present, and refer it back to staff and the Planning Board with any direction the Board deems appropriate.

Commissioner Price said the Board has expressed their concerns of wanting something less restrictive. She asked if Orange County created a less restrictive policy, would the State policy trump that of the County.

John Roberts said there is nothing in the state's language that implies it would preempt the county's wish. He said the State is setting a standard and he believes the County can tailor it to local needs.

Chair McKee asked if anyone has applied to make a temporary health care structure.

Ashley Moncado said no, but there have been inquires.

Commissioner Rich asked if there is a process to determine if three people living in one structure are unrelated.

Ashley Moncado said most of the County's code enforcement is complaint driven.

A motion was made by Commissioner Jacobs, seconded by Commissioner Price to reopen the public hearing.

VOTE: UNANIMOUS

A motion was made by Commissioner Jacobs, seconded by Commissioner Price for the Board to refer this item back to the Planning Board and staff and solicit comments from Board

of County Commissioners and to come back at the February 2016 QPH and to post the current law on the planning website.

Commissioner Rich made a friendly amendment to solicit remarks from Carrboro and Chapel Hill.

Commissioner Jacobs and Commissioner Price accepted.

Commissioner Dorosin clarified that this motion reflects the concerns that were mentioned tonight: how many unrelated people can live in a structure, relationships, residency requirement, and to look at past comments from previous meetings.

Commissioner Jacobs said he meant it to include all comments including those from the May 2015 QPH.

VOTE: UNANIMOUS

b. Class A Special Use Permit – Solar Array off White Cross Road in Bingham Township (Receipt of Planning Board Recommendation – No Additional Public Comment or Testimony Allowed)

The Board considered receiving the Planning Board recommendation, closing the public hearing, and making a decision on a Class A Special Use Permit (hereafter 'SUP') application submitted by White Cross Solar LLC and the property owners, Mr. and Mrs. William and Carol Byron, proposing the development of a solar array in accordance with Section 2.7 *Special Use Permits* and Section 5.9.6 (C) *Solar Array-Public Utility* of the Orange County Unified Development Ordinance (UDO), approve the recommended Findings of Fact as detailed within Attachment 5, and make a motion approving the SUP.

Pat Mallet, Orange County Current Planning, reviewed this item and all the materials in the abstract. He said page 49, Attachment 5, shows all the findings of fact, and conditions of approval. He said page 50 reviews all the application components and shows that all the requirements set forth in the UDO were certified as met. He said page 51 shows that all notification requirements were met. He said pages 52-57 show requirements for special use permits and solar arrays, noting all findings were in the affirmative. He said page 58 shows the recommendation of the Planning Board, which is consistent with staff's recommendation, noting that all findings of fact have been met.

Pat reminded the Board that the applicant has had extensive conversations with the neighboring properties, and at the time of the May Quarterly Public Hearing there were still two neighbors with concerns about the buffer. He said Item 1 (Attachment 6) speaks to the buffer treatment, which is above and beyond what the code requires.

Chair McKee said this is a SUP, and no additional comment or testimony would be allowed.

ITEM: 5-b- Attachment 7

A motion was made by Commissioner Price, seconded by Commissioner Burroughs to enter Attachments 1-6, and revised Attachment 7 into the minutes.

VOTE: UNANIMOUS

Michael Harvey presented this portion:

**ORANGE COUNTY
PLANNING BOARD ORDINANCE REVIEW COMMITTEE
ACTION AGENDA ITEM ABSTRACT
Meeting Date: November 4, 2015**

**Action Agenda
Item No. 3**

SUBJECT: Unified Development Ordinance (UDO) Text Amendment – Airports

DEPARTMENT: Planning and Inspections

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

INFORMATION CONTACT:

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. Comprehensive Plan and Unified Development Ordinance Amendment Outline Form (UDO & Zoning 2015-07) 2. Proposed UDO Text Amendment | <p>Michael D. Harvey, Planner III (919) 245-2578
Craig Benedict, Director (919) 245-2575</p> |
|---|--|

PURPOSE: To review and comment upon Planning Director initiated Unified Development Ordinance (UDO) text amendments seeking to revise existing regulations governing the development of airports.

BACKGROUND: The Amendment Outline Form (Attachment 1) for this amendment was reviewed and approved by the BOCC at its May 5, 2015 regular meeting.

During the time period the UDO was being developed (2010-11) there were efforts by the State and the University of North Carolina at Chapel Hill to locate a new airport in Orange County. These efforts were, ultimately, abandoned. At that time staff and residents identified a need to revise existing regulations governing the development of airports. Work on this issue was delayed while more pressing UDO amendments were pursued. Work on new airport development standards became part the Implementation Bridge which is available at: http://www.orangecountync.gov/Implementation_Bridge.pdf.

Staff is proposing to create a new Conditional Zoning District allowing for the development of an airport. This would require the BOCC to legislatively act on a petition to amend the zoning atlas to create a new airport district and would allow for the imposition of mutually agreed upon conditions. The proposed amendments also clarify the development of private facilities for local plane enthusiasts and/or commercial operators (i.e. crop dusters).

For more information please refer to Section B of Attachment 1.

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

RECOMMENDATION(S): The Planning Director recommends the Ordinance Review Committee review and comment on the proposed amendments to the UDO.

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

UDO / Zoning-2015-07

Revision(s) of existing regulations governing the development of airports.

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. 3.8 *Conditional Districts*;
2. 5.2.1 *Table of Permitted Uses – General Use Zoning Districts*;
3. 5.17.5 *General Aviation Airports, STOL, and Heliports*; and
4. *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 governing the review and approval of airports. This is one of the items in the UDO implementation bridge.

During the time period the UDO was being developed (2010-11) there were efforts by the State and the University of North Carolina at Chapel Hill to locate a new airport in rural Orange County. The State General Assembly created a new airport authority in Orange County for the purpose of developing a new facility intended to take the place of Horace-Williams airport, which was slated to be closed with the development of Carolina North, in the Town of Chapel Hill.

These efforts were, ultimately, abandoned due to local community concerns over the process initiated by the State Legislature and the University. The State rescinded the airport authority and, as of the writing of this document, no additional activity has occurred.

At that time staff and residents identified a need to revise existing regulations governing the development of airports. Work on this issue was delayed while more pressing UDO amendments were pursued.

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'*.

Airport and other similar facilities are currently combined into a central land use category, specifically *Airports, General Aviation, Heliports, STOL*, defined within the UDO as follows:

- *"Airport (Heliport: S.T.O.L. Port), Air Carrier:* A public airport served by a certified air carrier. This includes any runways, land areas or other facilities designed or used for landing, taking off, processing passengers or cargo.
- *Airport, Commuter Service (Heliport: S.T.O.L. Port):* A public airport, not served by a certified air carrier, but is served by one or more commuter airlines which enplaned 2500 or more passengers in the preceding calendar year.
- *Airport, General Aviation (Heliport: S.T.O.L. Port):* A public airport serving aviation other than airlines. This includes any runway, land area, or other facility designed or used for the landing and taking off of small aircraft."

Such use(s) are permitted only through the review and approval of a Class A Special Use Permit by the BOCC in the following general use zoning districts:

1. Rural Buffer (RB);

2. Agricultural Residential (AR);
3. Rural Residential (R-1);
4. Light Industrial (I-1);
5. Medium Industrial (I-2); and
6. Heavy Industrial (I-3).

Staff is proposing to create a new Conditional Zoning District allowing for the development of an airport. This would require the BOCC to act on a petition to amend the zoning atlas to create a new airport district. Staff believes this mechanism will be the most appropriate as it would:

- a. Require the applicant to obtain approval of the site plan by the BOCC before the project can move forward;
- b. Allow for the review of the project in a legislative setting rather than the quasi-judicial setting associated with a Special Use Permit;
- c. Allow for a process whereby the County can negotiate with the applicant to address potential impacts of the project on surrounding property owners; and
- d. Give greater flexibility to the BOCC with respect to acting on the petition.

The proposed amendments will also clarify the development of private facilities for local plane enthusiasts.

The amendments are necessary to address previously expressed concerns over the development of an airport in the County, update existing development standards/regulations, and provide the County with greater flexibility in terms of acting on the petition.

Additional analysis will be part of the public hearing materials.

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

February 22, 2016 (NOTE: this date is subject to change with the adoption of the BOCC 2016 meetings calendar)

c. BOCC Updates/Checkpoints

May 5, 2015 – Approval of UDO Amendment Outline Form
 November 4, 2015 and January 6, 2016 (if necessary) – Planning Board Ordinance Review Committee (ORC)
 February 22, 2016 (projected date) – Quarterly Public Hearing
 May 2016 – 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:

November 4, 2015 and January 6, 2016 (if necessary) – Ordinance Review Committee
 April 6, 2016 – Recommendation

b. Advisory Boards:

Commission for the Environment –
 December 2015

 Economic Development Advisory
 Board – November 2015

c. Local Government Review:

Staff will transmit copies of the proposed text amendments to our planning partners in the Towns of Chapel Hill, Carrboro, and Hillsborough and the City of Durham for their review and comment in December of 2015.

d. Notice Requirements

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

e. Outreach:

General Public: Open House Meetings to review project with interested property owners/residents – December 2015 or January 2016. Advertising shall be in local paper and County website.

Small Area Plan Workgroup:

Other: Submit regulations to the FAA for review/comment November 2015

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 development of an airport.

E. SPECIFIC AMENDMENT LANGUAGE

Please refer to Attachment 2.

Primary Staff Contact:

Michael D. Harvey

Planning

(919) 245-2597

mharvey@orangecountync.gov

<h1 style="margin: 0;">AP-CZ AIRPORT GENERAL AVIATION DISTRICT</h1>	DIMENSIONAL AND RATIO STANDARDS	
	Tract size, min. (acres)	none
PURPOSE The purpose of the Airport – General Aviation (AP-CZ) District is to provide for potential development of aviation facilities while addressing the impacts of such development on nearby land uses. The goal of the AP-CZ district is to require that aviation facilities mitigate impacts they cause while protecting nearby existing or identified future land uses rather than requiring that surrounding land uses adjust to an aviation facility. ¹	Tract Front Setback from ROW, min. (feet)	No requirement [1]
	Tract Side Setback, min. (feet)	No requirement [1]
APPLICABILITY The district shall be located in such a manner as to cause the least impact practical to the character of existing development of surrounding properties, thus insuring the most appropriate use of land in the county. When evaluating an application for this district, emphasis shall be given to the location of the proposed airport district, the relationship of the site and site development plan to adjoining property, and the development itself.	Tract Rear Setback, min. (feet)	No requirement [1]
	Height, max. (feet)	No requirement [1]
	Tract Floor Area Ratio, max	No requirement [1]
	Required Open Space Ratio, min.	No requirement [1]
DIMENSIONAL STANDARDS NOTES: [1] The AP-CZ district is intended to allow for flexibility in dimensional standards. The overall development will be evaluated to ensure compatibility with surrounding properties and with the policies and objectives of this Ordinance. Specific site design standards shall be incorporated into the Planning Department-approved Site Plan.	Required Livability Space Ratio, min.	No requirement [1]
	Required Recreation Space Ratio, min.	No requirement [1]
	Required Pedestrian / Landscape Ratio, min.	No requirement [1]
AP-CZ DISTRICT SPECIFIC DEVELOPMENT STANDARDS		
1. Applications for the AP-CZ district shall be accepted only for parcels with direct frontage and access from a State maintained roadway. ² 2. Potential uses shall be restricted to those listed as permitted for the AP-CZ District in Section 5.2.3. 3. All roadways developed within the AP-CZ district shall be designed and constructed to the public road pavement standards as defined by the North Carolina Department of Transportation. ³		

¹ Typically when an airport is developed local land use regulations restrict adjacent development to protect the airport operation. From our standpoint what we are attempting to do is require the exact opposite, specifically an airport should not create a significant impact on adjacent property owners use of their property.

² Staff wants to ensure adequate access to a proposed airport facility by requiring frontage on a public road.

³ This is being recommended to ensure roadways can handle heavy equipment and emergency vehicles.

4. All required land area supporting development within the AP-CZ District, including required land use buffers and open space, shall be under the ownership or control of the applicant prior to the submittal of a rezoning petition.⁴
5. Specific uses shall be limited to those approved by the Board of County Commissioners. Additionally, non-residential uses are restricted based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.3 for land use restrictions.
6. Allowable impervious surface area is based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.6 for a breakdown of the allowable impervious surface area.
7. Development within the conditional zoning district shall be subject to all applicable use standards detailed in Articles 5 and all applicable development standards detailed within Article 6 of this Ordinance or provide creative alternatives that meet the intent and spirit of the regulations.
8. The AP-CZ zoning district shall be prohibited within the Rural Buffer land use classification as denoted on the Future Land Use Map of the adopted 2030 Comprehensive Plan.
9. No new development having a significant negative impact on existing roadways, traffic patterns or surface drainage patterns shall be permitted unless an appropriate and viable solution has been approved to mitigate these conditions.

⁴ The purpose of the requirement is to ensure the applicant has total control over the property(s) that will comprise the proposed airport facility. Our goal is to ensure adjacent property owners do not have their development rights limited (i.e. height restrictions) due to the development of an airport.

- ~~(C) In addition to the listing of such uses, the Board of County Commissioners intends that the general standards and the more specific requirements established herein, shall be used by the Board of Adjustment, the Planning Board and the Board of County Commissioners, as appropriate, to direct deliberations upon application or the approval of Special Uses.~~
- ~~(D) It is the express intent of the Board of County Commissioners to delineate the areas of concern connected with each Special Use and to provide standards by which applications for such Special Use shall be evaluated.~~
- ~~(E) **Establishment of Classes of Special Uses; Authority To Approve or Disapprove**~~
~~There are hereby established the following classes of Special Uses which shall be approved or disapproved as shown:~~
- ~~(1) Class A - Approved or disapproved by Board of County Commissioners~~
- ~~(2) Class B - Approved or disapproved by Board of Adjustment~~

5.1.4 Conditional Uses

- (A) The Board of County Commissioners is mindful of its responsibility to protect the public health, safety and general welfare of the residents of Orange County and intends to encourage development within the County consistent with that purpose.
- (B) The Board of County Commissioners also recognizes that certain uses are appropriate for development in Orange County but their location and site development specifics cannot be predetermined or regulated through the use of a general zoning district designation and conventional standards.
- (C) Conditional Uses and Conditional Use Districts are hereby established and shall be reviewed in accordance with the provisions of this Ordinance.
- (D) **Permitted Uses**
- (1) Any use listed as Permitted by Right or by Special Use Permit on the Table of Permitted Uses may be approved as a Conditional Use within a Conditional Use District, unless expressly excluded in Section 5.1.4(E) of this Ordinance.
- (2) Permitted uses are subject to all general and specific standards of approval for that use, as established within this Section.
- (E) **Exclusions**
- (1) Unless otherwise noted in Section 5.2, the following uses shall not be considered or approved as a Conditional Use District within the Commercial-Industrial Transition Activity Node or Economic Development Transition Activity Node land use classifications, as designated by the adopted Comprehensive Plan:
- ~~(a) Airports, General Aviation, Heliports, S.T.O.L,~~
- ~~(a)(b) Airport, Private Airfield,¹~~
- ~~(b)(c) Class II Kennels,~~
- ~~(c)(d) Commercial Feeder Operation,~~
- ~~(d)(e) Composting Operation with grinding,~~
- ~~(e)(f) Crematoria,~~
- ~~(f)(g) Extraction of Earth Products,~~
- ~~(g)(h) Junkyards,~~

¹ Staff is modifying existing language to be consistent with proposed new airport classification methodology. It is not our intent to allow these land uses to be approved through the Conditional Use District process.

- ~~(h)~~(i) Landfills (less than 2 acres),
- ~~(i)~~(j) Landfills (2 acres or more),
- ~~(j)~~(k) Meat Processing Facility, Regional,
- ~~(k)~~(l) Military Installations (National Guard & Reserve Army),
- ~~(l)~~(m) Residential Hotel (Fraternities, Sororities, and Dormitories),
- ~~(m)~~(n) Sawmills,
- ~~(n)~~(o) Stables, Commercial,
- ~~(o)~~(p) Stockyards / Livestock Markets, and
- ~~(p)~~(q) Waste Management Facility; Hazardous & Toxic

(2) For all land use classifications other than the Commercial-Industrial Transition Activity Node or Economic Development Transition Activity Node, the following uses shall not be considered or approved as a Conditional Use District:

- (a) Agricultural Processing Facility
- ~~(b)~~ Airports, General Aviation, ~~Heliports, S.T.O.L.~~
- ~~(b)~~(c) Airport, Private Airfield
- ~~(c)~~(d) Bus Terminals & Garages,
- ~~(d)~~(e) Class II Kennels,
- ~~(e)~~(f) Commercial Feeder Operation,
- ~~(f)~~(g) Composting Operation with grinding,
- ~~(g)~~(h) Crematoria,
- ~~(h)~~(i) Drive-In Theaters,
- ~~(i)~~(j) Extraction of Earth Products,
- ~~(j)~~(k) Farm Equipment Rental, Sales and Service,
- ~~(k)~~(l) Feed Mill,
- ~~(l)~~(m) Funeral Homes,
- ~~(m)~~(n) Health Services: Over 10,000 square feet,
- ~~(n)~~(o) Hospitals,
- ~~(o)~~(p) Hotels & Motels,
- ~~(p)~~(q) Industrial, Light,
- ~~(q)~~(r) Industrial, Medium,
- ~~(r)~~(s) Industrial, Heavy,
- ~~(s)~~(t) Junkyards,
- ~~(t)~~(u) Landfills (less than 2 acres),
- ~~(u)~~(v) Landfills (2 acres or more),
- ~~(v)~~(w) Meat Processing Facility, Regional,
- ~~(w)~~(x) Military Installations (National Guard & Reserve Army),
- ~~(x)~~(y) Motor Freight Terminals,
- ~~(y)~~(z) Motor Vehicle Maintenance & Repair (Body Shop),
- ~~(z)~~(aa) Motor Vehicle Repair Garage,

- ~~(aa)~~(bb) Petroleum Products: Storage & Distribution,
- ~~(bb)~~(cc) Research Facility,
- ~~(cc)~~(dd) Residential Hotel (Fraternities, Sororities, and Dormitories),
- ~~(dd)~~(ee) Sawmills,
- ~~(ee)~~(ff) Stables, Commercial
- ~~(ff)~~(gg) Stockyards / Livestock Markets,
- ~~(gg)~~(hh) Storage of Goods, Outdoor,
- ~~(hh)~~(ii) Waste Management Facility; Hazardous & Toxic, and
- ~~(ii)~~(jj) Wholesale Sales.

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)																					
Landfills (2 Acres or More) ~	A	A	A													A		A	A	A	
Landfills (Less Than 2 Acres) ~	B	B	B													B		B	B	B	
Waste Management Facility; Hazardous & Toxic ~													A						A	A	
MISCELLANEOUS																					
Accessory Uses	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Airports, Private Airfield General Aviation, Heliports, S.T.O.L. ²	A	A	A															A	A	A	
Assembly Facility Greater Than 300												*	*								
Assembly Facility Less Than 300										*		*									
Cemetery	B	*	B	B	B	B	B	B	B												
Church	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Clubs or Lodges; Social; Fraternal or Union Clubhouses	*	*	*							*	*	*	*	*	*	*	*	*	*	*	*
Community Center	B	B	B	B	B	B	B	B	B	*	*	*			*						
Crematoria ~																		*	*	*	
Historic Sites Non-Residential/Mixed Use	A	A	A																		
Kennels, Class I	*	*	*									*	*		*						
Research Facility ~											*	*	*		*			*	*	*	
Research Lands & Installations, Non-profit																					*
Rural Heritage Museum	B	B								B	B					B					
Rural Special Events ^	*	*													*						

² Staff’s proposal calls for the breakdown airports into 2 distinct categories, specifically private airfields and general aviation airports. Private airfields are intended to be used only by the owner of the property will be reviewed under the Class A Special Use Permit process. A general aviation airport, open for public use, will be subject to rezoning to the proposed new Airport Conditional Zoning (AP-CZ) District.

5.2.3 Table of Permitted Uses – Conditional Zoning Districts

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS					
* = PERMITTED USE					
USE TYPE	CONDITIONAL ZONING DISTRICTS				
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1	AP-CZ ³
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.					
AGRICULTURAL USES					
Agricultural Processing Facility ^	*	*			
Agricultural Processing Facility, Community	*				
Agricultural Services Uses	*	*			
Cold Storage Facility	*	*			
Community Farmers' Market	*	*			
Composting Operation, no grinding	*				
Composting Operation, with grinding ^	*				
Cooperative Farm Stand	*	*			
Equestrian Center	*				
Farm Equipment Rental, Sales and Service	*				
Farm Supply Store	*	*			
Feed Mill	*	*			
Greenhouses with On Premises Sales	*	*			
Meat Processing Facility, Community	*				
Meat Processing Facility, Regional ^	*				
Non-Farm Use of Farm Equipment	*				
Stables, Commercial	*	*			
Stockyards / Livestock Markets ^	*				

³ Staff is seeking input on the possibility of allowing commercial operations within the AP-CZ district. The main area of concern is that uses will more than likely have to rely on well and septic systems to operate. Staff is also concerned over how these land uses will be able to address public safety issues (i.e. available water sources for fire suppression). Further, we anticipate there will be objections from local residents who will view this as an attempt to further ‘urbanize’ the rural areas of the County. We have identified some land uses for consideration.

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS					
* = PERMITTED USE					
USE TYPE	CONDITIONAL ZONING DISTRICTS				
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1	AP-CZ ³
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.					
CHILD CARE & EDUCATIONAL FACILITIES					
Center in a Residence for 3 to 12 Children					
Child Care Facilities		*			
Libraries		*		*	
Non-Profit Educational Cooperative					
Schools: Dance, Art & Music		*			
Schools: Elementary, Middle & Secondary		*			
Schools: Vocational		*			
Universities, Colleges & Institutes		*			
COMMERCIAL USES					
Banks & Financial Institutions		*			
Beauty & Barber Shops		*		*	
Construction (Sector 23)		*			
Contractors, Building & Trade		*		*	
Country Store	*	*			
Finance & Insurance (Sector 52)		*			
Funeral Homes		*			
Garden Center with On Premises Sales	*	*			
Hotels & Motels		*			
Insurance Carriers & Agents		*			
Junkyards					
Kennels, Class I	*				
Kennels, Class II	*				
Laundry & Dry Cleaning Services		*			
Management of Companies & Enterprises (Sector 53)		*			

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS					
* = PERMITTED USE					
USE TYPE	CONDITIONAL ZONING DISTRICTS				
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1	AP-CZ ³
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.					
Massage, Business of		*			
Metal Fabrication Shop	*				
Microbrewery with Minor Events	*	*			
Microbrewery with Major Events ^	*	*			
Nightclubs, Bars, Pubs		*			
Offices & Personal Services, Class 1		*		*	
Offices & Personal Services, Class 2		*			* -
Offices & Personal Services, Class 3		*			* -
Professional, Scientific & Technical Services (Sector 54)		*			
Real Estate Agents & Brokers		*		*	
Repair Service Electronic & Appliance		*			
Restaurants: Carry Out		*			
Restaurants: Drive In		*			
Restaurants: General		*			
Retail, Class 1		*			
Retail, Class 2		*			
Retail, Class 3		*			
Rural Guest Establishment: Bed & Breakfast	*	*			
Rural Guest Establishment: Bed & Breakfast Inn	*	*			
Rural Guest Establishment: Country Inn	*	*			
Storage of Goods, Outdoor	*	*		*	
Storage or Warehousing: Inside Building		*		*	
Studio (Art)		*		*	
Taxidermy	*				
Theater, Indoor or Outdoor (including Drive-ins)		*		*	

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS					
* = PERMITTED USE					
USE TYPE	CONDITIONAL ZONING DISTRICTS				
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1	AP-CZ ³
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.					
Tourist Home					
Wholesale Trade		*			
Winery with Minor Events	*	*			
Winery with Major Events ^	*	*			
EXTRACTIVE USES					
Extraction of Earth Products					
GOVERNMENTAL USES					
Governmental Facilities & Office Buildings		*			
Governmental Protective Services (Police & Fire Stations) Rescue Squads, Volunteer Fire Departments		*			
Military Installations (National Guard & Reserve Armory)					
Public Administration (Sector 92)		*			
MANUFACTURING, ASSEMBLY & PROCESSING					
Assembly and Packaging Operations Including Mail Order Houses, But Excluding On-Premises Retail Outlets		*			
Industrial, Heavy		*			
Industrial, Light		*			*
Industrial, Medium		*			*
Manufacturing (Sector 31-33)		*			
Microbrewery, production only	*	*			
Pharmaceutical Products		*			
Printing & Lithography		*			
Sawmills ^	*				
Winery, production only	*	*			
MEDICAL USES					
Health Services: Over 10,000 Sq. Ft.		*			

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS					
* = PERMITTED USE					
USE TYPE	CONDITIONAL ZONING DISTRICTS				
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1	AP-CZ ³
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.					
Health Services: Under 10,000 Sq. Ft		*			
Hospitals		*			
Veterinary Clinic	*	*			
Veterinary Clinic, mobile	*	*			
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)		*			
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)					

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS					
* = PERMITTED USE					
USE TYPE	CONDITIONAL ZONING DISTRICTS				
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1	AP-CZ ³
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.					
Rooming House					
TELECOMMUNICATIONS					
Telecommunication Tower – Stealth (75 feet or shorter)	*	*			
Telecommunication Towers (150 feet in height or shorter)	*	*			
Telecommunication Towers (greater than 150 in height)	*	*			
TEMPORARY USES					
Buildings, Portable	*				
Temporary Mobile Home (Custodial Care)	*				
Temporary Mobile Home (Use during construction/installation of permanent residential unit and for 30 days following issuance of Certificate of Occupancy)	*				
TRANSPORTATION					
Bus Passenger Shelter		*			
Bus Terminals & Garages		*			* -
Motor Freight Terminals		*			* -
Motor Vehicle Maintenance & Repair (Body Shop)		*			
Motor Vehicle Repair Garage		*			
Motor Vehicle Sales Rental (New & Used)		*			
Motor Vehicle Services Stations		*			
Parking As Principal Use, Surface or Structure		*			* -
Petroleum Products: Storage & Distribution		*			
Postal & Parcel Delivery Services		*		*	* -
UTILITIES					
Elevated Water Storage Tanks	*	*			* -

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS					
* = PERMITTED USE					
USE TYPE	CONDITIONAL ZONING DISTRICTS				
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1	AP-CZ ³
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.					
Public Utility Stations & Sub-Stations, Switching Stations, Telephone Exchanges, Water & Sewage Treatment Plants	*	*			
Electric, Gas, and Liquid Fuel Transmission Lines	*	*			
Water & Sanitary Sewer Pumping	*	*			
Solar Array – Large Facility	*	*			
Solar Array – Public Utility	*	*			
WASTE MANAGEMENT					
Landfills (2 Acres or More)					
Landfills (Less Than 2 Acres)					
Waste Management Facility; Hazardous & Toxic					
MISCELLANEOUS					
Accessory Uses	*	*	*	*	
Airports, General Aviation, Heliports, S.T.O.L.					
Assembly Facility Greater Than 300 Occupants ^	*	*			
Assembly Facility Less Than 300 Occupants	*	*		*	
Cemetery					
Church	*	*			
Clubs or Lodges; Social; Fraternal or Union Clubhouses	*	*			
Community Center	*	*			
Crematoria		*			
Historic Sites Non-Residential/Mixed Use	*	*			
Information (Sector 51)		*			
Research Facility		*			* -
Research Lands & Installations, Non-profit		*			* -
Rural Heritage Museum	*				

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS					
* = PERMITTED USE					
USE TYPE	CONDITIONAL ZONING DISTRICTS				
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1	AP-CZ ³
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.					
Rural Special Events	*	*			

- (e) Recreational areas, service areas, parking and screening are adequate for the proposed use(s).
- (f) The site is served by direct access to a State maintained road.
- (g) Internal vehicular and pedestrian circulation is adequate for the proposed use(s).

(3) Expiration and Renewals

- (a) This Class A Special Use Permit, if approved, shall be valid for six years, but may be renewed or re-approved by the Board of Commissioners after receiving a report from the Planning Department that the use is, and has been continuously since it was issued, in compliance with provisions of the Special Use Permit. The Orange County Planning Department shall present its report on the compliance of the special use no later than 90 days before the expiration of the Special Use Permit.
- (b) The Board of County Commissioners shall not renew the Special Use Permit if it is determined that the applicant has failed to comply with the conditions of approval. If the Board of County Commissioners does not renew the permit, the permit shall become null and void upon the expiration of the time limit.
- (c) If the Special Use Permit is not renewed or re-approved, then the applicant may submit a new application as if it were a new use.

5.17.5 General Aviation Airports, STOL and Heliports⁴

(A) General Standards

- (1) Unmanned Aircraft Systems (UAS) as defined by the Federal Aviation Administration (FAA) used for commercial purposes shall be subject to the provisions of these regulations.⁵

(B) Standards for Airport – Private Airfield (Class A Special Use Permit)

(1) Submittal Requirements

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

- (a) A notarized statement from the applicant indicating the airfield shall be used only for personal use and not connected with commercial air travel.⁶
- (b) The number and type of aircraft proposed to be stored and used on site.
- (c) The site plan shall denote the location of storage areas for the aircraft as well as fuel storage and aircraft service areas.

⁴ As previously indicated staff is proposing to breakdown airports into 2 categories: Airport - Private Airfield and Airports – General Aviation. Private airfields will be reviewed under the Class A Special Use Permit process while a general aviation airport will be subject to rezoning to the Airport Conditional Zoning (AP-CZ) District

⁵ UAS is the term used by the FAA for drones, models, and radio controlled aircraft. The intent of the standard is to require a property owner using same as part of a commercial operation to obtain the necessary permits.

⁶ Staff is only requiring a private airfield be prohibited from being used to support a commercial air travel operation.

- ~~(a)~~(d) The site plan shall contain a configuration diagram depicting the layout of runways, taxiways, ~~approach zones~~Airport Surface Zones, helicopter pads, and overrun areas. These diagrams should also be on aerial photographs that show the area within ~~five~~2⁷ miles of the proposed site.
- ~~(b)~~(e) Isotonic contours or noise contour lines⁸ showing the effects of aircraft operations upon land within one mile of the boundary of the proposed site.
- ~~(c)~~(f) ~~The number and type of aircraft proposed to be stored including also the storage areas for aircraft, fuel and motor vehicles, service areas for aircraft.~~⁹
- ~~(d)~~(g) How on site fire and rescue services shall be provided and a letter from the appropriate agency stating services are available and adequate to protect the proposed facility.
- ~~(e)~~(h) List of land uses located within the final approach zones of the ~~airport~~airfield.
- (i) Hazardous Materials Management Plan, including a description of the program for application, storage, and handling of various chemicals and fuel products including, but not limited to, the following:
- (i) Airplane fuel,
 - (ii) Hydraulic fluid,
 - (iii) Oil,
 - (iv) Lubricants utilized to support aircraft,
 - (v) Pesticides and/or fertilizers, and
 - (vi) Any other hazardous substances;
- A Material Safety Data Sheet listing each substance, its known impacts, physical properties, and protective measures is required as part of the submittal.
- ~~(f)~~(j) Certification that all ~~Federal Aviation Administration (FAA)~~ and State standards and requirements have been met.

(2) Standards of Evaluation

- (a) There shall be a limit of 5 aircraft for the facility all of which shall be owned by the property owner.¹⁰
- ~~(a)~~(b) All ~~F.A.A.~~ and State regulations are met as a condition of approval including, but not limited to, noise level limits.¹¹

⁷ Staff is not requiring the full 5 mile radius for an Airport-Private Airfield as the impacts should not be as great as what we anticipate for an Airport – General Aviation land use.

⁸ In reviewing FAA information on airport development these terms are used interchangeably.

⁹ This provision was moved to subsection(s) (b) and (c) of the proposed amendment.

¹⁰ Staff is recommending this language to avoid the blurring of commercial versus private facilities. What we want to avoid is a private property owner allowing for ‘public’ use of an airstrip as part of a club, organization, or other similar activity.

¹¹ Noise contour lines are a continuous line on a map representing equal levels of noise exposure. According to the FAA severe noise exposure occurs outside the 55 DNL (day-night average sound level) contour line, the level at which the Federal Aviation Administration (FAA) describes noise exposure as minimal. Noise exposure is regarded as significant above the 65 DNL noise contour line.

- ~~(b)~~(c) The site and its operation will not adversely affect existing adjacent land uses.
- ~~(e)~~(d) Land sufficient to provide approach zones and overrun areas is owned or controlled by the applicant.
- ~~(d)~~(e) Adequate land area is provided for all of the proposed uses, buildings and storage areas.
- ~~(e)~~(f) Screening of buildings, storage and maintenance areas is provided from adjacent residential land.
- ~~(f)~~(g) Letters from appropriate fire and rescue agencies that protective services can be provided at an adequate level.
- ~~(g)~~(h) Access shall be directly onto a State maintained road.
- ~~(h)~~(i) Compatible land uses are located in the final approach areas of the airport.

(C) Standards for Airports – General Aviation (AP-CZ)

(1) Pre-application Submittal Requirements¹²

(a) Letter of Intent: An applicant shall be required to submit to the Planning Department a Letter of Intent indicating the interest in developing an AP-CZ District within the county. As part of this Letter, the applicant shall include the following:

- (i) A map and aerial photo of the subject property including a legal description.
- (ii) Preliminary feasibility studies outlining the rationale for choosing the site in question.
- (iii) A site plan outlining the location of all facilities and required areas as detailed herein, and
- (iv) An environmental assessment completed in accordance with Section 6.16.3 of the Ordinance.

Staff shall inform the County Manager's office in writing within 5 days of the submittal of the letter and outline a preliminary schedule for review of the project.

(b) Initial Neighborhood Information Meeting: Within fourteen days of submitting the Letter of Intent the petitioner shall schedule, at their expense, a Neighborhood Information Meeting (NIM) designed to inform local residents of the proposed project. The location of this meeting shall be a government office, community building, or other similar facility that is located in close proximity to the proposed District.

During this meeting, Planning Staff will outline the process that will be employed to review the formal application, once submitted, and outline the detailed studies and plans that will be part of the review process.

The applicant shall adhere to notification criteria outlined within Section 2.9.2 (D) of this Ordinance.

¹² Given the nature of the development staff believes it would be appropriate to require a the submittal of a notice of intent to inform all parties of a pending application as well as an initial neighborhood meeting so that the general public can comment on the proposed prior to it being submitted. As written there will be 2 neighborhood meetings for the development of an Airport- General Aviation facility with the second meeting occurring prior to the actual public hearing.

The applicant shall also be required to advertise the scheduled initial NIM two (2) weeks prior to the agreed upon date of the meeting in a newspaper of general circulation within the county.

(2) Submittal Requirements:

In addition to the information required herein as well as Section(s) 2.5¹³ and 2.9.2, the following shall be submitted as part of the application:

- (a) The site plan shall contain a configuration diagram depicting the layout of runways, taxiways, overrun areas, and Airport Surface Zones¹⁴. In addition, required information shall be provided on aerial images that show the area within 5 miles of the proposed site.
- (b) An architectural concept plan shall be required demonstrating the proposed building materials, colors, and anticipated design elements of all structures proposed for the District.
- (c) Site Data: A written and graphic site analysis illustrating:
 - (i) Soils,
 - (ii) Depth to water table,
 - (iii) Slope,
 - (iv) Hydrology,
 - (v) Natural areas and habitats of special concern,
 - (vi) Infrastructure and other manmade features,
 - (vii) Historic and archaeological sites, and
 - (viii) A visual analysis of views into and from the site;
- (d) A grading, erosion control, and stormwater management plan.
- (e) A biological inventory which identifies:
 - (i) Habitat diversity,

¹³ All site plans have to demonstrate compliance with development standards contained within Article 6 which includes parking, signage, and lighting. Staff does not believe it necessary to repeat compliance with these individual sections herein.

¹⁴ An airport has several imaginary surfaces and zones that exist primarily to prevent existing or proposed manmade objects, objects of natural growth, or terrain from extending upward into navigable airspace. These include approach surfaces/zones, transitional surfaces/zones, horizontal surfaces/zones, and conical surfaces/zones. The Ordinance requires the applicant to identify, define, and locate each zone as part of the submittal package.

- (ii) Species diversity,
- (iii) Species of special concern such as those designated as threatened or endangered, last known sighting, and candidate species likely to be present which may warrant protection,
- (iv) Specimen trees outstanding in size and/or species, and the status and source of the information compiled in the inventory.

The biological inventory shall be accompanied by an analysis describing habitat integrity, relationships between habitats and to ecological communities off-site, any existing threats to flora and fauna, and potential for habitat enhancement.

- (f) An Environmental Impact Statement prepared in accordance with Section 6.16.4 of the Ordinance.
- (g) A comprehensive groundwater study to determine the appropriateness of the proposed land use(s). Such a study shall detail how much water is anticipated to be consumed, the amount of groundwater withdrawal that is safe and sustainable in the immediate vicinity of the use, and if other wells within the vicinity are expected to be affected by such withdrawals.
- (h) Resources Management and Mitigation Plan including, but not limited to:
 - (i) Construction policies,
 - (ii) Methods for protecting water resources and natural areas,
 - (iii) Pollutant monitoring program,
 - (iv) Restoration and mitigation plan for wetlands and other habitats,
 - (v) State and/or Federal permits as may be required for alteration of wetlands,
 - (vi) Maintenance specifications for on-going site management, including solid waste, and
 - (vii) Water conservation plan.
- (i) Hazardous Materials Management Plan, including a description of the program for application, storage, and handling of various chemicals and fuel products including, but not limited to, the following:
 - (i) Airplane fuel,
 - (ii) Hydraulic fluid,
 - (iii) Oil,
 - (iv) Lubricants utilized to support aircraft,
 - (v) Pesticides and/or fertilizers, and
 - (vi) Any other hazardous substances;

A Material Safety Data Sheet listing each substance, its known impacts, physical properties, and protective measures is required as part of the submittal.
- (j) Isotonic contours or noise contour lines showing the effects of aircraft operations upon land within 5 miles of the boundary of the proposed site.
- (k) An Emergency Management Plan outlining the facilities procedures and responses to an emergency event. This plan shall identify anticipated resources for fighting a fire including water access sites and provide a detailed breakdown of anticipated involvement by outside public safety agencies.

(l) Type of runway proposed, specifically precision versus non-precision instrument runways.

(m) Evidence the proposed airport complies with applicable Federal Aviation Administration (FAA) and State regulations.

(3) Standards of Evaluation

(a) No structure greater than 50 feet in height shall be erected, altered or maintained, and no trees shall be allowed to grow in any Airport Surface Zone created under the AP-CZ district.¹⁵

(b) A perimeter land use buffer shall be installed or maintained consistent with the Type E land use buffer standard as detailed in Section 6.8.6 of this Ordinance.¹⁶

(c) A facility with an non-precision instrument runway shall be allowed to operate only from dawn to dusk.

5.17.6 Major Subdivision

(A) Standards for Class A Special Use Permit

(1) Submittal Requirements

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

(a) Notification

Stamped envelopes addressed to each owner of property within 500 feet of the property proposed for subdivision. The names and addresses of property owners shall be based on the current listing as shown in the Orange County Land Records system.

(b) Development Schedule

A statement, from the applicant, indicating the anticipated development schedule for the build out of the project.

(c) Water and Wastewater

(i) If the proposed lots are to be served by a public water system, proof of water supply and service availability in the form of a certified copy of a resolution to that effect enacted by the governing body of the water system providing the water to serve the lots in the subdivision.

(ii) If the proposed lots are to be served by a public sewer system proof of public sewer service availability in the form of a certified copy of a resolution to that effect enacted by the governing body of the sewer system providing the sewer service to the lots in the subdivision.

¹⁵ In reviewing other example Ordinances height limits can range from 50 to 75 feet. Staff selected 50 feet as it is more consistent with existing height limits in other general use zoning districts.

¹⁶ In recommending this standard staff understands there will be concerns over potential conflicts created with the preservation/planting of vegetation and aircraft safety (i.e. approach and take off patterns). Our goal is to require a sufficient land use buffer to shield adjacent property owners from the impacts of an Airport – General Aviation facility and confine runaway areas to the interior portion of the AP-CZ District in an attempt to mitigate noise, vibration, and visual impacts.

Agritourism

A business directly related or incidental to agricultural activities occurring on the bona fide farm on which it is located and conducted for the enjoyment or education of the public.

~~Airport (Heliport: S.T.O.L. Port), Air Carrier~~

~~A public airport served by a certified air carrier. This includes any runways, land areas or other facilities designed or used for landing, taking off, processing passengers or cargo.~~

~~Airport, Commuter Service (Heliport: S.T.O.L. Port)~~

~~A public airport, not served by a certified air carrier, but is served by one or more commuter airlines which enplaned 2500 or more passengers in the preceding calendar year.~~

~~Airport, General Aviation (Heliport: S.T.O.L. Port)~~

~~A public airport serving aviation other than airlines. This includes any runway, land area, or other facility designed or used for the landing and taking off of small aircraft.~~

Airport – General Aviation

A public airport providing service to air passengers and/or leased aircraft for commercial and/or institutional purposes. Development shall include, but not be limited to, runways, landing areas, supporting infrastructure and facilities, Airport Surface Zones, and ancillary non-residential land uses.

Airport – Nonprecision Instrument Runway

A runway having an instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

Airport – Precision Instrument Runway

A runway having an instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR) or a facility for which a precision approach system has been approved or planned.

Airport – Private Airfield

A private airfield or strip providing service for personal aircraft. Development shall include, but not be limited to, runways, landing areas, Airport Surface Zones, supporting infrastructure and facilities.

Airport Runway

Edges of pavement for the taxiing, takeoff, and landing of aircraft.

Airport Surface Zones

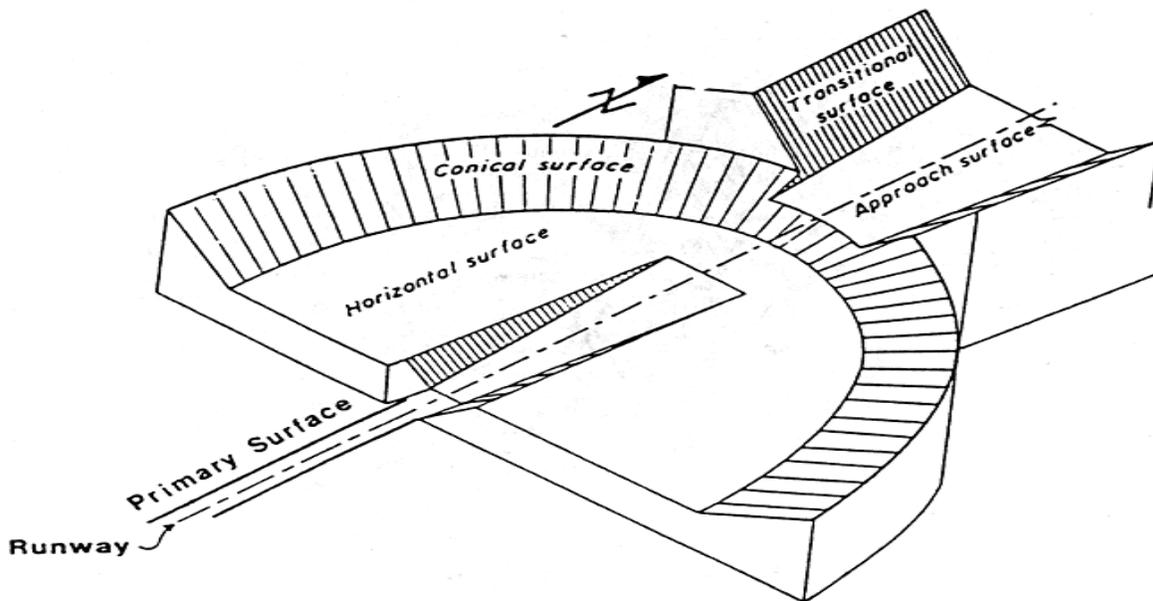
Imaginary surfaces and zones that exist primarily to prevent existing or proposed manmade objects, objects of natural growth, or terrain from extending upward into navigable airspace including:

- (A) Approach Surface Zone. A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope. The inner edge approach zone coincides with the width of the primary surface and begins 200 feet from the runway end and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- (B) Conical Surface Zone. A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet. The conical zone is established on the area that commences at the periphery of the horizontal zone and extends outward there for a distance of 4,000 feet and upward at a slope of 20:1.
- (C) Transitional Surfaces Zone. These surfaces extend outward at right angles (ninety degree angles) to the runway centerline and extend at a slope of 7 feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they

intersect the horizontal and conical surfaces. The transitional zones are the areas beneath the transitional surfaces.

- (D) Horizontal Surfaces. A horizontal plane 150 feet above the established airport elevation, the perimeter of which coincides with the perimeter of the horizontal zone. The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of the end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- (E) Primary Surface. A surface longitudinally centered on a runway extending 200 feet beyond each end of said runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is 1,000 feet.

A graphic example of the individual Airport Surface Zones is as follows:



Airport Visual Runway

A runway intended solely for the operation of aircraft using visual approach procedures.

Anchoring

The fastening of the mobile home to its mobile home stand in order to prevent upset or damage due to wind, erosion, flooding, or other natural forces.

Appeal

A request from a review of an administrative interpretation of any provision of this Ordinance by the Board of Adjustment.

Applicator