

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



**AGENDA  
ORANGE COUNTY PLANNING BOARD**

**ORANGE COUNTY WEST CAMPUS OFFICE BUILDING  
131 WEST MARGARET LANE – LOWER LEVEL CONFERENCE ROOM (ROOM #004)  
HILLSBOROUGH, NORTH CAROLINA 27278  
Wednesday, January 6, 2016  
Regular Meeting – 7:00 pm**

No.	Page(s)	Agenda Item
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- 1. **CALL TO ORDER**
- 2. **ELECTION OF CHAIR AND VICE-CHAIR FOR 2016**
- 3. **INFORMATIONAL ITEMS**
  - a. Planning Calendar for January and February

- 4. **APPROVAL OF MINUTES**
  - 5 - 6 December 2, 2015 ORC Notes
  - 7 - 12 December 2, 2015 Regular Meeting

5. **CONSIDERATION OF ADDITIONS TO AGENDA**

6. **PUBLIC CHARGE**  
**Introduction to the Public Charge**

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

**Public Charge**

The Planning Board pledges to the residents of Orange County its respect. The Board asks its residents to conduct themselves in a respectful, courteous manner, both with the Board and with fellow residents. At any time, should any member of the Board or any resident fail to observe this public charge, the Chair will ask the offending member to leave the meeting until that individual regains personal control. Should decorum fail to be restored, the Chair will recess the meeting until such time that a genuine commitment to this public charge is observed.

7. **CHAIR COMMENTS**

<u>No.</u>	<u>Page(s)</u>	<u>Agenda Item</u>
8.	13 - 27	<b>UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT</b> - To make a recommendation to the BOCC on government-initiated amendments to the text of the UDO regarding mailed notifications. This item is scheduled for the February 18, 2016 quarterly public hearing.  <b>Presenter:</b> Perdita Holtz, Planning Systems Coordinator
9.	28 - 58	<b>UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT</b> - To make a recommendation to the BOCC on government-initiated amendments to the text of the UDO regarding temporary healthcare structures and other custodial care housing options. This item is scheduled for the February 18, 2016 quarterly public hearing.  <b>Presenter:</b> Ashley Moncado, Special Projects Planner
10.	59-83	<b>UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT</b> - To make a recommendation to the BOCC on government-initiated amendments to the text of the UDO regarding sign regulations. This item is scheduled for the February 18, 2016 quarterly public hearing.  <b>Presenter:</b> Michael Harvey, Current Planning Supervisor
11.		<b>COMMITTEE/ADVISORY BOARD REPORTS</b> a. Board of Adjustment b. Orange Unified Transportation
12.		<b>ADJOURNMENT</b>

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

<b>January 2016</b>						
< December						February >
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
Notes: * Planning Board Member Attendance Required or Expected WCOB = West Campus Office Building (131 W. Margaret Lane, Hillsborough)					New Year's Day/Offices Closed	
3	4	5	6	7	8	9
			Planning Board 7:00 pm WCOB 004*			
10	11	12	13	14	15	16
	Board of Adjustment 7:30 pm WCOB 004					
17	18	19	20	21	22	23
	Martin Luther King Jr. Day/Offices Closed		OUTBoard 7:00 pm WCOB 004	Regular BOCC Meeting 7:00 pm Whitted Building		
24	25	26	27	28	29	30
					BOCC Annual Retreat 9:00 – 4:00 (Top of the Hill)	
31						

< January		<b>February 2016</b>					March >
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	
	1	2	3	4	5	6	
		Regular BOCC Meeting 7:00 pm Whitted Building	ORC Meeting (time TBD)  Planning Board meeting @ 7:00 pm WCOB 004*				
7	8	9	10	11	12	13	
	Board of Adjustment 7:30 pm WCOB 004	BOCC Work Session 7:00 pm Southern Human Services Center					
14	15	16	17	18	19	20	
		Regular BOCC Meeting 7:00 pm Southern Human Services Center	OUTBoard 7:00 pm WCOB 004	Quarterly Public Hearing 7:00 pm Whitted Building*			
21	22	23	24	25	26	27	
28	29	Notes: * Planning Board Member Attendance Required or Expected WCOB = West Campus Office Building (131 W. Margaret Lane, Hillsborough)					

**SUMMARY NOTES**  
**ORANGE COUNTY PLANNING BOARD**  
**DECEMBER 2, 2015**  
**ORDINANCE REVIEW COMMITTEE (ORC)**

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

**MEMBERS PRESENT:** Lydia Wegman (Vice Chair), At -Large Chapel Hill Township; James Lea, Cedar Grove Township Representative; Paul Guthrie, At-Large Chapel Hill Township; Buddy Hartley, Little River Township Representative; Herman Staats, At-Large; Patricia Roberts; Cheeks Township Representative

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

**AGENDA ITEM 1: CALL TO ORDER AND ROLL CALL**

Planning Board and staff introduced themselves.

**AGENDA ITEM 2: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS – SIGNS**  
 TO REVIEW AND COMMENT UPON PROPOSED AMENDMENTS TO THE UDO REGARDING SIGN REGULATIONS.  
**PRESENTER: MICHAEL HARVEY, CURRENT PLANNING SUPERVISOR**

Michael Harvey: This item was presented for review to the Planning Board in April. Since then a U.S. Supreme Court case has forced us to change our outlook regarding a few standards in the UDO. That information is provided on page 4 of your packet regarding Reed v. Town of Gilbert. The thing to take away from the court case is that signs cannot be regulated based on content. They are a couple provisions in our UDO that allowed signs to be regulated based on content that had to be removed. That is the major difference that you may recall from the April meeting. Continued to review abstract starting on page 9.

Lydia Wegman: So there are no off premise signs permitted at all?

Michael Harvey: They are prohibited from the stand point that we do not allow a business to post a sign somewhere in the county saying shop this way. Billboards are basically off site advertising signs and are the only permitted offsite advertising signage. Those are regulated on page 9. Remind everyone that there are state and federal laws that preempt our enforcement of outdoor advertising.

James Lea: Religious facilities that currently have signs up that are not consistent with this will be allowed to keep their signs up?

Michael Harvey: Yes, as consistent with the non-conforming standards.

James Lea: But they cannot add anything additional?

Michael Harvey: Correct. No new signage and they can't modify the current signage.

Paul Guthrie: Can they rehabilitate them?

Michael Harvey: They can, but there are limitations to rehabilitate them related to cost. You are allowed to paint them or general maintenance needs; however, if someone hits it with a car you are out of luck.

*Michael Harvey continued to review the abstract.*

Michael Harvey: This item is scheduled for your review at the January Planning Board meeting. This item will follow the new process so you will be reviewing this and making a recommendation to the BOCC prior to presentation at the February Quarterly Public Hearing.

Paul Guthrie: Do you expect any push back on this?

Michael Harvey: No sir. The push back I expect is that they need to be larger than 64 square feet.

Craig Benedict: We are planning to provide pictures and examples of signs in the county that are in compliance and are not in compliance with these standards. This will give a perspective of what's allowed now and what will be allowed with the proposed changes.

Patricia Roberts: That is a great idea to determine what a good example is. Why are we limiting sign size? Is there a reason?

Michael Harvey: To control visual clutter along roadways. To ensure uniformity with respect to the display of the message, so that one property owner is treated differently than another. Also, to encourage and promote the clustering of signage to avoid unnecessary erection of multiple signs for larger projects.

Michael Harvey: If you have any additional questions please feel free to contact me.

Craig Benedict: When we were creating the Unified Development Ordinance there were many sections including signage that we wanted to review and modify. At that time the Commissioners requested to just organize those sections at that time and to come back later with amendments. We are noticing that with the development of water and sewer lines along the interstate and increased interest we do not want to provide the ability to promote development in every other place in the UDO until they get to the sign code and they face issues or problems for these projects. We are trying to be more flexible.

Patricia Roberts: These corporations have signs already worked out that they have to have that is always the same size.

Michael Harvey: Yes and no. If you look at Asheville as an example, you have chains that have adapted their signage to accommodate a very restrictive sign code.

**AGENDA ITEM 3:                   ADJOURNMENT**

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

1  
2  
3  
4  
5  
6 **MEMBERS PRESENT:** Lydia Wegman (Vice Chair), At-Large Chapel Hill Township; James Lea, Cedar Grove  
7 Township Representative; Paul Guthrie, At-Large Chapel Hill Township; Andrea Rohrbacher, At-Large Chapel Hill  
8 Township; Maxecine Mitchell, At-Large Bingham Township; Buddy Hartley, Little River Township Representative;  
9 Patricia Roberts, Cheeks Township Representative; Laura Nicholson, Eno Township Representative; Herman Staats,  
10 At-Large;

11  
12 **MEMBERS ABSENT:** Lisa Stuckey, Chapel Hill Township Representative; Tony Blake, Bingham Township  
13 Representative;

14  
15 **STAFF PRESENT:** Craig Benedict, Planning Director; Michael Harvey, Current Planning Supervisor, Perdita Holtz,  
16 Special Projects Coordinator, Meredith Pucci, Administrative Assistant II;

17  
18 **AGENDA ITEM 1:                   CALL TO ORDER**

19  
20 Craig Benedict: Opened the meeting by thanking Pete Hallenbeck for the work he has done as a member and as  
21 Chair of the Planning Board. He noted that Pete worked on the Efland-Mebane Small Area Plan (SAP) and also the  
22 implementation group for the Efland-Mebane SAP.

23  
24 Pete Hallenbeck: Noted that while it may seem like a huge and long process, that Efland now has water and sewer  
25 and has gone from nothing to being commercial allowed to over 2,000 acres that can now be commercial. The Sim  
26 Efland property tract of land has opened up and the watershed has been pushed back so it makes sense and it is  
27 actually an incredible amount of progress. His advice to the members is it to be true to the County and to  
28 themselves.

29  
30 Craig Benedict presented Pete Hallenbeck with a plaque thanking him for his service.

31  
32 The Planning Board members introduced themselves and gave a little background information about themselves and  
33 their interest in serving on the Planning Board.

34  
35 **AGENDA ITEM 2:                   INFORMATIONAL ITEMS**

- 36           a.       Planning Calendar for December and January  
37           b.       Reminder: Annual Election of Chair/Vice Chair in January  
38           c.       Revised Public Hearing Process Begins in January (Items on February QPH  
39           Agenda will be on January Planning Board Agenda for a Recommendation)

40  
41 Lydia Wegman reviewed the calendar and January QPH items

42  
43 **AGENDA ITEM 3:                   APPROVAL OF MINUTES**

- 44           November 4, 2015 ORC Notes  
45           November 4, 2015 Regular Meeting

46  
47 **MOTION** by Paul Guthrie to approve the minutes. Seconded by Laura Nicholson.

48 **VOTE: UNANIMOUS**

49

50 Paul Guthrie: I have a question for Craig and Michael, in the minutes it reminded me of the dwelling and number of  
51 people and medical supplemental housing; is there any relationship between that discussion and what Chapel Hill  
52 has recently done and established the ability to add sub units, rental units inside of individual residential housing.  
53

54 Michael Harvey: The best response from me is that in reading the newspaper article and reviewing some planning  
55 blogs online, the Town of Chapel Hill's goal is to essentially adopt the County's accessory apartment guidelines but  
56 increase the number of allowable units. I will make a personal statement that I believe it's a lot easier to do that  
57 within a municipality when you have water and sewer and are not relying on septic. I do not think it had any  
58 relationship to recent state law amendments dealing with temporary health care structures. I believe it is their  
59 attempt to address what they perceive to be the affordable housing issue in Chapel Hill. I think it will be interesting to  
60 see what arises as a result of those amendments being approved.  
61

62 Paul Guthrie: We may want to keep an eye on that for a while and see how the dynamic goes.  
63

64 Michael Harvey: I believe their staff is supposed to report back within a year to three years.  
65

66 **AGENDA ITEM 4: CONSIDERATION OF ADDITIONS TO AGENDA**

67  
68 No additions or changes  
69

70 **AGENDA ITEM 5: PUBLIC CHARGE**

71  
72 **Introduction to the Public Charge**

73 The Board of County Commissioners, under the authority of North Carolina General  
74 Statute, appoints the Orange County Planning Board (OCPB) to uphold the written land  
75 development laws of the County. The general purpose of OCPB is to guide and  
76 accomplish coordinated and harmonious development. OCPB shall do so in a manner  
77 which considers the present and future needs of its residents and business through  
78 efficient and responsive process that contributes to and promotes the health, safety, and  
79 welfare of the overall County. The OCPB will make every effort to uphold a vision of  
80 responsive governance and quality public services during our deliberations, decision, and  
81 recommendations.  
82

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85 asks its residents to conduct themselves in a respectful, courteous manner, both with the  
86 Board and with fellow residents. At any time, should any member of the Board or any  
87 resident fail to observe this public charge, the Chair will ask the offending member to  
88 leave the meeting until that individual regains personal control. Should decorum fail to be  
89 restored, the Chair will recess the meeting until such time that a genuine commitment to  
90 this public charge is observed.  
91

92 **AGENDA ITEM 6: CHAIR COMMENTS**

93  
94 No comments from the Vice-Chair.  
95

96 **AGENDA ITEM 7: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT - To make a recommendation**  
97 **to the BOCC on government-initiated amendments to the text of the UDO regarding**  
98 **recreational land uses, including shooting ranges. This item was heard at the September**  
99 **8, 2015 quarterly public hearing and was discussed at the October 7 and November 4,**  
100 **2015 Planning Board meetings.**

101 **Presenter: Michael Harvey, Current Planning Supervisor**  
102

103 *Michael Harvey reviewed abstract*

104  
105 Lydia Wegman: Could you review the setbacks?  
106

107 Michael Harvey: We have recommended that anyone engaging in shooting activities to be located a minimum of 300  
108 feet away from all property lines, rights-of-ways or easements; be located a minimum of 1,000 feet from occupied  
109 dwelling units that are external to the property and be directed into a projectile proof backstop. We added language  
110 to the proposal indicating if you are engaging in shooting activities indoors required setback changes to the activity  
111 only having to be 100 feet from all property lines and the shot has to be kept in the structure. We have  
112 recommended hours of operation for the discharge of firearms and obviously we have also recommended the posting  
113 of warning signs and the maintenance of a land use buffer around the area where outdoor target shooting is  
114 occurring. We also have provisions in the ordinance that incidental discharge of a firearm, the discharge of a firearm  
115 in self-defense, or engaging in target shooting activities on a parcel of property less than 2 days a month is permitted.  
116

117 Lydia Wegman: Does anyone have any concerns or questions about the information presented by Michael?  
118

119 Laura Nicholson: I think that there should definitely be a backstop requirement for shooting.  
120

121 Lydia Wegman: I agree. I think that the safety of the citizens is the most important issue.  
122

123 Maxecine Mitchell: Will the Sherriff office still respond to calls about shooting on private property with this  
124 amendment?  
125

126 Michael Harvey: Yes, the sheriff deputies will still respond when called about shots fired.  
127

128 Buddy Hartley: The Sheriff Deputies are going to come out to any call. If you call and say my neighbor is shooting  
129 they have got to come out.  
130

131 Paul Guthrie: The Sheriff's Department is not going to be enforcing the land use that is disturbing a neighbor or  
132 potential harm to the neighbor. It's going to be a question of noise and stuff like.  
133

134 Michael Harvey: Correct, we are not asking the Sheriff's Office to enforce a land use component.  
135

136 Andrea Rohrbacher: I think what really needs to happen is they need to consider the source of the complaint.  
137

138 Laura Nicholson: I agree with Andrea but I think that the recommendation made would be suitable for everyone. I  
139 would still like to see involvement from the Sherriff Department on where they stand with the issue.  
140

141 Lydia Wegman: Should we make a motion to approve or does anyone have any other questions or concerns?  
142

143 **MOTION** made by Lydia Wegman to approve text amendment. Seconded by Laura Nicholson and Buddy Hartley  
144 **VOTE:** Unanimous  
145

146 **AGENDA ITEM 8:** **UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT** - To make a  
147 recommendation to the BOCC on government-initiated amendments to the text of the UDO  
148 regarding sexually oriented businesses. This item was heard at the November 23, 2015  
149 quarterly public hearing  
150 **PRESENTER:** Michael Harvey, Current Planning Supervisor  
151

152 *Michael Harvey reviewed abstract*  
153

154 Patricia Roberts: What is the point of regulating such businesses?  
155

156 Michael Harvey: For the same reasons we regulate other businesses. We want to ensure there is a balance allowing  
157 for reasonable use of property. Sexually oriented businesses have identified secondary impacts that can affect

158 adjacent property owners. What these regulations are designed to do is ensure they can be developed and not have  
159 an impact on those identified sensitive land uses.  
160

161 Maxecine Mitchell: Are we legally able to restrict alcohol consumption from certain businesses?  
162

163 Michael Harvey: State law grants local government the authority to regulate sexually oriented businesses including  
164 establishing regulations governing the consumption of alcohol.  
165

166 Laura Nicholson: Are there any zoned properties in Orange County that would allow this?  
167

168 Michael Harvey: Yes there are a few properties zoned that could allow for the development of a sexually oriented  
169 business.  
170

171 Maxecine Mitchell: So if these lots are developed, any new sexually oriented businesses will need to get a property  
172 rezoned for this kind of land use?  
173

174 Michael Harvey: That is correct if available property is developed for such a use. There is, however, available land  
175 area that could be rezoned to support such development.  
176

177 James Lea: Will there be any substantial economic development impact from approval of the text amendment?  
178

179 Michael Harvey: It depends on your point of view. There are those that might argue this regulation may impede the  
180 development of a commercial venture. There is also a possibility local businesses may have an aversion to having a  
181 sexually oriented business locating near them because of perception concerns and a desire not to want to see it.  
182 From my standpoint, however, I believe the proposed regulation is reasonable.  
183

184 Lydia Wegman: Does anyone have any further questions or concerns before we consider a motion?  
185

186 Laura Nicholson: I just wanted to say that I think you all did a great job of including everyone's concerns from the  
187 quarterly public hearing.  
188

189 Patricia Roberts: I still have concerns with regulating such businesses, especially how it is listed in the amendment. I  
190 feel that these regulations are strict.  
191

192 Paul Guthrie: I don't feel as if this text amendment is substantiated from a legal standpoint.  
193

194 Lydia Wegman: If there aren't any other questions let's move forward with our first motion.  
195

196 **MOTION** made by Buddy Hartley to approve changes. Herman Staats seconded.  
197 **VOTE:** 7 – 2 (Paul Guthrie and Patricia Roberts)  
198

199 Lydia Wegman: Can you please state your reason for opposition?  
200

201 Paul Guthrie: I disagree for the reason previously stated.  
202

203 Patricia Roberts: I don't think we should be so heavily restricting sexually oriented businesses.  
204

205 Lydia Wegman: Should we go around the room to see if there are any concerns making the recommendations to the  
206 BOCC?  
207

208 Maxecine Mitchell: I recommend it.  
209

210 Patricia Roberts: I don't have any opposition I guess.  
211

212 Andrea Rohrbacher: I recommend the changes to be adopted.

213

214 Herman Staats: I have no concerns.

215

216 James Lea: I have no concerns.

217

218 Paul Guthrie: I still have concerns about the legality.

219

220 Buddy Hartley: I am fine with everything, so I recommend it.

221

222 Laura Nicholson: I am generally in favor.

223

224 Lydia Wegman: I see no concerns. Do we have a motion?

225

226 **MOTION** made by Buddy Hartley to make the recommendations to BOCC. Seconded by Andrea Rohrbacher.

227 **VOTE:** 8-1 (Paul Guthrie)

228

229 Paul Guthrie: I am opposed for the same reasons previously explained.

230

231 **AGENDA ITEM 9: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT - TO MAKE A**  
 232 **RECOMMENDATION TO THE BOCC ON GOVERNMENT-INITIATED AMENDMENTS TO THE TEXT OF**  
 233 **THE UDO REGARDING CAR SALES AND RENTAL OPERATIONS. THIS ITEM WAS HEARD AT THE**  
 234 **NOVEMBER 23, 2015 QUARTERLY PUBLIC HEARING**

235

236 **Presenter:** Michael Harvey, Current Planning Supervisor

237

238 *Michael Harvey reviewed abstract*

239

240 Laura Nicholson: Why has this become more of an issue?

241

242 Michael Harvey: The County has been receiving complaints related to the storage and display of vehicles being  
 243 offered for sale, specifically too many cars being placed on a parcel of property blocking or impeding access for both  
 244 customers and emergency vehicles.

245

246 Patricia Roberts: I don't think the allowed numbers of display vehicles is enough.

247

248 Herman Staats: Where did the number of cars displayed come from?

249

250 Michael Harvey: Ultimately the recommended numbers were designed to allow for approximately 20% of the property  
 251 to be used in support of motor vehicle display allowing for the remaining area to satisfy setback, office, customer  
 252 parking, and required land use buffer development.

253

254 James Lea: Does this address the storage of vehicles off-site?

255

256 Michael Harvey: This amendment would not address or impact vehicles being stored on another property or prohibit  
 257 same. Such storage would be treated as a separate, independent, land use and have to be permitted in accordance  
 258 with the provisions of the UDO.

259

260 Lydia Wegman: if vehicles stored on the property, and screened from view, would be counted as part of the display  
 261 limit.

262

263 Michael Harvey: They would not be counted unless parked within the designated vehicle display area for the  
 264 property. Staff is providing an option allowing for the storage of vehicles not intended or ready for sale/rental onsite.

265

266 Craig Benedict: This is how a typical car lot is set up. (Craig drew a picture on the white board of a typical car lot as a  
267 visual example).

268  
269 Paul Guthrie: I actually think that vehicle limit is plenty enough, especially considering the few dealerships that are in  
270 the County.

271  
272 Andrea Rohrbacher: Is there a time limit as to how long someone can have a car waiting to be prepared to sell?

273  
274 Michael Harvey: No there is not a time limit established.

275  
276 Lydia Wegman: Are there any other comments or questions for Michael?

277  
278 **MOTION** made Paul Guthrie to recommend changes to BOCC. Laura Nicholson seconded.

279 **VOTE:** 8-1 (Patricia Roberts)

280  
281 Lydia Wegman: Can you please explain why you are opposed?

282  
283 Patricia Roberts: I don't think the proposed limit for vehicles displayed is enough.

284  
285 **AGENDA ITEM 10: COMMITTEE/ADVISORY BOARD REPORTS**

286 **A. Board of Adjustment**

287 None

288  
289 **B. Orange County Transportation**

290 None

291  
292  
293 **AGENDA ITEM 11: ADJOURNMENT**

294  
295 Motion to adjourn made by Lydia Wegman.

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Lydia Wegman, Vice - Chair

**ORANGE COUNTY  
PLANNING BOARD  
ACTION AGENDA ITEM ABSTRACT**  
**Meeting Date:** January 6, 2016

**Action Agenda  
Item No. 8**

**SUBJECT:** Unified Development Ordinance Text Amendment – Mailed Notification Requirements

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**DEPARTMENT:** Planning and Inspections

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**ATTACHMENT(S):**

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

**INFORMATION CONTACT: (919)**

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

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**PURPOSE:** To review and make a recommendation to the Board of County Commissioners (BOCC) on text amendments to the Unified Development Ordinance (UDO) initiated by the Planning Director regarding mailed notification requirements.

**BACKGROUND:** The purpose of these proposed amendments is as follows:

- Correct omissions in Sections 2.7.5, 2.9.1, and 2.9.2 of the UDO that should have been part of the materials adopted on November 5, 2015 which revised the public hearing process. Specifically, the requirement for certified mail is proposed to be revised to use first class mail.
- Update mailed notice requirements in Sections 2.15 and 2.24 which relate to the required Neighborhood Information Meeting for Major Subdivisions (2.15) and Governmental Uses (2.24). Specifically, the mailed notification boundary is proposed to be increased from 500 feet to 1,000 feet. Also, for governmental uses, the requirement for certified mail is proposed to be revised to use first class mail.

The draft “Amendment Outline Form” (Attachment 1) for these amendments is scheduled for action by the BOCC at its January 21, 2016 regular meeting, Please see Section B of Attachment 1 for background and analysis on the proposed UDO text amendments.

These amendments are scheduled to be presented at the February 18, 2016 quarterly public hearing.

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

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

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

**GOAL: Enable Full Civic Participation**

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

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

1. Review the proposed UDO amendments,
2. Deliberate on the amendments as desired,
3. Consider the Planning Director's recommendation, and
4. Make a recommendation to the BOCC on the Statement of Consistency (Attachment 2) and proposed amendment package (Attachment 3) in time for the February 18, 2016 quarterly public hearing.

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

UDO / Zoning-2016-01

Mailed Notification Requirements

## 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): 2.7.5, 2.9.1, 2.9.2, 2.15.2, 2.24.2
- Other:

## B. RATIONALE

### 1. Purpose/Mission

- Correct omissions in Sections 2.7.5, 2.9.1, and 2.9.2 of the UDO that should have been part of the materials adopted on November 5, 2015 which revised the public hearing process.
- Update mailed notice requirements in Sections 2.15 and 2.24 which relate to the required Neighborhood Information Meeting for Major Subdivisions (2.15) and

Governmental Uses (2.24).
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## 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'*.

While updating the Unified Development Ordinance to incorporate amendments adopted on November 5, 2015, staff discovered inadvertent omissions in three sections: 2.7.5, 2.9.1, and 2.9.2. Text in these three sections was changed to increase the mailed notification distance from 500 to 1,000 feet but was not updated to modify the type of mailing from certified to first class mail, as was done in other sections and which was the intent of this aspect of the November 5<sup>th</sup> amendments.

Additionally, staff has analyzed other sections of the UDO that were not part of the November 5<sup>th</sup> amendments to determine if additional modifications are warranted as a result of changing the mailed notification boundary from 500 feet to 1,000 for certain types of review processes. Staff is recommending that the mailed notification requirements for the Neighborhood Information Meetings that are held for Major Subdivisions and Governmental Uses be updated to change the notification boundary from 500 feet to 1,000 feet and, in the case of governmental uses, to require first class mail rather than certified mail. Having consistency throughout the UDO in regards to distance requirements and the type of mailing should result in less potential confusion.

Staff notes that Section 5.10.8(2) requires a neighborhood information meeting in conjunction with a balloon test for telecommunication facilities. The current (unchanged in 2015) mailed notification distance for this type of facility is 1,000 feet and applicants are required to mail the notice via certified mail. Staff is not recommending a change to this particular process because a non-governmental entity is responsible for the mailings.

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

<b>Land Use Goal 6:</b> A land use planning process that is transparent, fair, open, efficient, and responsive.
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## 4. New Statutes and Rules

N/A
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# C. PROCESS

## 1. TIMEFRAME/MILESTONES/DEADLINES

- a. BOCC Authorization to Proceed

January 21, 2016

b. Quarterly Public Hearing

February 18, 2016 – also possible decision

c. BOCC Updates/Checkpoints

January 6, 2016 – Planning Board meeting (agenda materials are available to all interested persons)

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:

January 6, 2016 - recommendation

b. Advisory Boards:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c. Local Government Review:

Proposed text amendments were sent to JPA partners (Towns of Chapel Hill and Carrboro) on December 29, 2015 in accordance with the JPA Agreement since any project in the Rural Buffer would be subject to the amended sections.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

d. Notice Requirements

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

e. Outreach:

General Public: \_\_\_\_\_  
 Small Area Plan Workgroup: \_\_\_\_\_  
 Other: \_\_\_\_\_

**3. FISCAL IMPACT**

Consideration and approval will not create the need for additional funding for the provision of County services. Costs for the required legal advertisement will be paid from FY2015-16 Departmental funds budgeted for this purpose. Existing Planning

staff included in the Departmental staffing budget will accomplish the work required to process this amendment.

## D. AMENDMENT IMPLICATIONS

If adopted, the amendments would update the mailed notification requirements for neighborhood information meetings that take place for the type of project review/approval process in the amended sections.

## E. SPECIFIC AMENDMENT LANGUAGE

See Attachment 3.

**Primary Staff Contact:**

Perdita Holtz, AICP

Planning Department

919-245-2578

pholtz@orangecountync.gov

**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 modify mailed notification requirements.

The Planning Board finds:

- a. The requirements of Section 2.8 of the UDO have been deemed complete; and,
- b. Pursuant to Sections 1.1.5, and 1.1.7 of the UDO and to Section 153A-341 of the North Carolina General Statutes, the Board finds sufficient documentation within the record denoting that the amendment **is consistent** with the adopted 2030 Comprehensive Plan.
  1. The amendment is consistent with applicable plans because it supports the following 2030 Comprehensive Plan goals and objectives:  
 Land Use Goal 6: A land use planning process that is transparent, fair, open, efficient, and responsive.
- c. The amendment is reasonable and in the public interest because it:
  1. Corrects inadvertent omissions in amendments adopted on November 5, 2015.
  2. Provides consistency in mailed notification requirements among the various types of review procedures that require mailed notification, thereby minimizing potential confusion.

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

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Chair

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Date

## Amendment Package for Mailed Notification Requirements

### Notes

The pages that follow contain the amendments necessary to the Unified Development Ordinance (UDO) text to ensure public notification requirements are consistent among the various procedures for mailed notifications. Amendments adopted on November 5, 2015 expanded the mailed notification distance from 500 feet to 1,000 feet for several types of actions and call for notifications to be mailed via first class mail. Staff has evaluated all procedures in the UDO that require mailed notifications to ensure requirements are consistent throughout the UDO. Staff recommends procedural consistency in order to avoid potential confusion.

Staff notes that Section 5.10.8(2) (not included in this package) requires a neighborhood information meeting in conjunction with a balloon test for telecommunication facilities. The current (unchanged in 2015) mailed notification distance for this type of facility is 1,000 feet and applicants are required to mail the notice via certified mail. Staff is not recommending a change to this particular process because a non-governmental entity is responsible for the mailings.

Proposed additions/changes to existing UDO text are depicted in red. Users are reminded that these excerpts are part of a much larger document (the UDO) that regulates land use and development in Orange County. The full UDO is available online at: <http://orangecountync.gov/planning/Ordinances.asp>

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

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

- (6) A list of all parcels located within 500 feet of the subject parcel and the name and address of each property owner, as currently listed in the Orange County tax records.
- (7) Elevations of all structures proposed to be used in the development.
- (8) For Class A Special Uses 26 copies and for Class B Special Uses 10 copies of the Environmental Assessment and/or Environmental Impact Statement, if required by Section 6.16.
- (9) Method of disposal of trees, limbs, stumps and construction debris associated with the permitted activity, which shall be by some method other than open burning.
- (10) Statement from the applicant indicating the anticipated development schedule for the build-out of the project.
- (11) Statement from the applicant in justification of any request for vesting for a period of more than two years (five years maximum).

#### 2.7.4 Staff Review

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

#### 2.7.5 Neighborhood Information Meeting

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- (A) Before a Public Hearing may be held for a Special Use the applicant is required to schedule a minimum of one neighborhood information meeting. The purpose of the meeting is to obtain surrounding property owner input and comments on the proposed development project and allow staff an opportunity to explain the review process associated with the request.
- (B) The applicant shall obtain property owner mailing address information from the Orange County Planning Department, which shall utilize Orange County Land Records data, and shall mail **certified** notices of the meeting date and time **via first class mail** to each property owner within one thousand feet of the property for which a Special Use has been requested.
- (C) The applicant shall mail notice of the Neighborhood Information Meeting a minimum of 14 days prior to the date of the meeting.

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

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

**(C) Submittal Requirements**

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

**(D) Neighborhood Information Meeting**

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

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

**(C) Submittal Requirements**

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

**(D) Neighborhood Information Meeting**

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

## 2.15.2 Concept Plan

### (A) Pre-Application Review

To promote better communication and avoid unnecessary expense in the design of acceptable subdivision proposals, each subdivider is encouraged to meet with the Planning Department staff prior to submitting an application for Concept Plan approval. The purpose of this informal meeting is to introduce the applicant to the provisions of this Ordinance and discuss his/her objectives in relation thereto.

### (B) On-Site Visit

- (1) Prior to submission of a Concept Plan application, the applicant shall schedule a mutually convenient time to walk the property with the Planning Director. The purpose of this visit is to familiarize the Planning Director with the property's special features, and to provide an informal opportunity to offer guidance to the applicant regarding the tentative location of Secondary Conservation Areas, potential dwelling locations, and potential street alignments.
- (2) Prior to scheduling the on-site visit, the applicant shall have prepared the Site Analysis Map as required in Section 7.14.2(A)(3) and shall submit the Site Analysis Map to the Planning Director when the on-site visit is scheduled.
- (3) If the on-site visit is not scheduled before submittal of the Concept Plan application, it shall occur prior to the Neighborhood Information Meeting.

### (C) Application Requirements

- (1) Applications shall be submitted on forms provided by the Planning Department in accordance with Section 2.2 of this Ordinance.
- (2) Applications shall include:
  - (a) An Orange County Geographic Information Systems (GIS) Map showing the location of the parcel to be subdivided.
  - (b) 25 copies of a Concept Plan of the proposed major subdivision prepared in accordance with the specifications for Concept Plan drawings as contained in Section 7.14.2(A) of this Ordinance. A Concept Plan shall include the following:
    - (i) A Site Analysis Map;
    - (ii) A Conventional Development Option; and
    - (iii) A Flexible Development Option.
- (3) In lieu of a three-part Concept Plan, one Concept Plan may be submitted if the applicant is seeking approval only of a Flexible Development Plan. The applicant may also combine the Site Analysis Map and the Flexible Development Option into a single plan, provided the information required in Section 7.14.2(A) is displayed in a clear and legible form. If an applicant chooses this option, he/she shall comply with the provisions for determining density contained in Section 7.13.7(A).
- (4) A comparison of the impacts of the Flexible Development Option to those that would result from the Conventional Development Option.
- (5) A checklist identifying consistency with applicable design guidelines as contained in Section 7.13.7.
- (6) Number 10 (business) sized envelopes with first class postage affixed addressed to each owner of property within 500 feet of the property proposed to be subdivided. The names and addresses of property owners shall be based on the current listing as shown in the Orange County Land Records System.

### (D) Neighborhood Information Meeting

- (1) Upon acceptance of a Concept Plan application, the Planning Director shall schedule a Neighborhood Information Meeting (NIM) and mail notices of the meeting to each owner of property within ~~500~~ **one thousand** feet of the property proposed to be subdivided.
- (2) Notices of the NIM shall be mailed by first class mail at least ten days prior to the date of the meeting.
- (3) The Planning Director shall place a sign on the affected property indicating the total number of lots proposed, the date, time, and location of the NIM; and the Planning Department telephone number. The sign shall be posted on the affected property at least seven days prior to the NIM. The NIM shall be held a minimum of 14 days prior to the Planning Board meeting at which the concept plan is scheduled to be reviewed.
- (4) At the NIM, the applicant shall be available to answer questions about the proposed subdivision, and to receive comments from neighboring property owners for the purpose of improving the proposed subdivision design.
- (5) The Planning Director shall explain the subdivision approval process and shall identify meeting dates of the Planning Board and Board of Commissioners at which neighboring property owners may speak with regard to specific concerns and/or issues.

**(E) Planning Director Review Procedures**

- (1) The Planning Director shall prepare and submit a recommendation to the Planning Board which shall include the following:
  - (a) A written analysis of the Concept Plan;
  - (b) The Concept Plan's general compliance with the requirements of this Ordinance, the Comprehensive Plan, and other applicable codes and ordinances; and
  - (c) The comments of neighboring property owners expressed at the Neighborhood Information Meeting.
  - (d) Which Development Option Plan is recommended for eventual Preliminary Plat processing.
- (2) The Planning Director shall be permitted to defer the application and recommendation for one meeting beyond the Planning Board meeting at which the application is scheduled to be heard.

**(F) Planning Board Review and Approval Procedures**

- (1) After receiving the Planning Director's report and recommendation, the Planning Board shall consider the Concept Plans and take action on the proposals.
- (2) The Planning Board shall base its action on its findings as to the conformity of the proposals with all applicable regulations and shall:
  - (a) Approve one Development Option;
  - (b) Approve one Development Option subject to conditions; or
  - (c) Deny the Development Options.
- (3) The Planning Board shall vote on whether the development should proceed as a Conventional Development Option or as a Flexible Development Option.
  - (a) If that vote approves the Development Option recommended by the Planning Director, the vote by the Planning Board is the final decision on whether the development proceeds as a Conventional Development Option or as a Flexible Development Option.

- (C) The Planning Director may require greater setbacks and/or additional landscaping or screening to adequately screen the day care center in a residence for 3 to 12 children from adjoining properties.

#### **2.23.4 Application Approval**

- (A) If the application is approved, either with or without conditions, the Planning Director shall send the applicant a letter informing him or her of the approval and of the requirements of this Ordinance that apply to the day care center in a residence for 3 to 12 children
- (B) The letter must be signed by the applicant to indicate his or her willingness to operate the day care center in a residence for 3 to 12 children in conformance with the requirements and conditions set forth in the letter.
- (C) Each letter shall be kept on file by the Planning Director and shall constitute the approval for the day care center in a residence for 3 to 12 children in question.

#### **2.23.5 Application Denial**

If the application is denied, the Planning Director shall notify the applicant of the denial and shall state the reasons for denial in writing.

#### **2.23.6 Annual Review**

Each day care center in a residence for 3 to 12 children approved by the Planning Director shall be reviewed annually by the Planning Director to assure compliance with the standards of evaluation for such facilities.

#### **2.23.7 Minor Changes to Approval**

The Planning Director is authorized to approve minor changes in the approved day care center in a residence for 3 to 12 children, provided that the changes are in harmony with the action of the original approval and provided that any change in the operation complies with the standards of evaluation as specified in Section 5.8.1.

#### **2.23.8 Changes in Operation**

Any change in the operation of the day care center in a residence for 3 to 12 children that does not comply with the standards for evaluation as specified in Section 5.8.1 shall constitute a modification and shall require the approval of a Class B Special Use Permit by the Board of Adjustment under the provisions of Section 2.7 of this Ordinance.

#### **2.23.9 Appeals**

The applicant may appeal the decision of the Planning Director to the Board of Adjustment as set forth in Section 2.27.

## **SECTION 2.24: GOVERNMENTAL USES**

### **2.24.1 Applicability**

The following applies to those land uses permitted within the Governmental Uses land use category as detailed within Section 5.2.

### **2.24.2 Neighborhood Information Meeting**

- (A) If a proposed project has not been a part of a previous planning effort that included the opportunity for public comment and input, a neighborhood information meeting shall be held prior to the submittal of a site plan application. The purpose of this meeting is to obtain surrounding property owner input and comments on the proposed development.

- (1) Examples of planning efforts that generally include the opportunity for public input are: park master plans, small area plans, solid waste management master plans, library master plans, etc.
- (B) The Planning Department shall assist the applicant with the scheduling of the neighborhood information meeting.
- (C) The applicant shall obtain property owner mailing address information from the Planning Department, who shall utilize Orange County Land Records data, and shall mail **certified** notices of the meeting date, place, and time **via first class mail** to each property owner within **500 one thousand** feet of the subject property.
- (D) The notices shall be mailed a minimum of 14 days prior to the date of the meeting.
- (E) The applicant shall post a sign on the property advertising the date, place, and time of the meeting a minimum of 10 days prior to the date of the meeting.
- (F) The applicant **is required to shall** submit **copies of the certified mail receipts written certification that the notices were mailed in compliance with the requirements of this subsection. The written certification shall denote denoting** the date of the mailing as well as a synopsis of comments from the meeting as part of the site plan application. The applicant shall also provide a written response on what steps, if any, were taken to address said comments.
- (G) A neighborhood information meeting shall not be required in cases where an applicant is proposing to expand facilities less than 50% of existing floor area.

## SECTION 2.25: REVIEW OF ENVIRONMENTAL DOCUMENTS

### 2.25.1 Environmental Assessment

#### (A) Generally

An Environmental Assessment ("EA" in this section) may be submitted prior to submittal of the development application to determine if an Environmental Impact Statement ("EIS" in this section) may be required, provided that:

- (1) All information necessary to perform the Assessment is provided, and
- (2) The project application, when submitted, is consistent with the project described in the Assessment.

#### (B) Review Process

- (1) The Planning Department shall review the EA for completeness within 5 calendar days of the date of submittal.
- (2) If the EA is found to be incomplete, it shall be returned to the applicant with notification of its deficiencies.
- (3) Upon acceptance of a complete EA, the applicant shall submit 10 copies to the Planning Department. Additional copies may be required if needed. The EA will be distributed by the Planning Department to other appropriate departments and agencies for review and comment.
- (4) Final Action on the EA shall occur within 14 days from the date of acceptance, or such longer time as agreed to in writing by the applicant.
- (5) If the EA reveals no "significant environmental impacts", as that term is defined in this Ordinance, the Planning Department shall issue a Finding of No Significant Impact (FONSI).
- (6) If significant impacts are identified, the Planning Department shall issue a Finding of Significant Impact and shall require that an Environmental Impact Statement be prepared. The decision of the Planning Department shall be reviewed by the County Manager upon request of the applicant or Planning Department.

**ORANGE COUNTY  
PLANNING BOARD  
ACTION AGENDA ITEM ABSTRACT**  
Meeting Date: January 6, 2016

**Action Agenda  
Item No. 9**

**SUBJECT:** Unified Development Ordinance Text Amendment – Temporary Custodial Care Units

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**DEPARTMENT:** Planning and Inspections

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**ATTACHMENT(S):**

1. Comprehensive Plan and Unified Development Ordinance (UDO) Amendment Outline Form and Session Law 2014-94
2. Statement of Consistency
3. Proposed Text Amendments
4. Approved May 26, 2015 Quarterly Public Hearing Minutes
5. Approved September 1, 2015 BOCC Meeting Minutes
6. Approved November 4, 2015 Ordinance Review Committee Notes

**INFORMATION CONTACT:**

Ashley Moncado, Planner II	245-2589
Craig Benedict, Director	245-2575

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**PURPOSE:** To make a recommendation to the Board of County Commissioners (BOCC) on a Planning Director initiated text amendment to the Unified Development Ordinance (UDO) regarding temporary health care structures.

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. Approved 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](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. Agenda materials and approved minutes from this meeting can be accessed at the following link:

[http://www.orangecountync.gov/departments/planning\\_and\\_inspections/orange\\_county\\_planning\\_board\\_\(pb\).php](http://www.orangecountync.gov/departments/planning_and_inspections/orange_county_planning_board_(pb).php).

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. Approved minutes from this meeting are provided in Attachment 5. Agenda materials from the meeting can be accessed at the following link:

[http://www.orangecountync.gov/departments/board\\_of\\_county\\_commissioners/agendas.php](http://www.orangecountync.gov/departments/board_of_county_commissioners/agendas.php).

The proposed revised amendment 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 of the UDO. Proposed revisions to the amendment include:

- Proposed standards allowing 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.
- The removal of the required Class B Special Use Permit for temporary mobile homes currently contained in the UDO.
- Proposed language increasing the number of unrelated persons that can live in a dwelling unit from three to five based on the North Carolina Residential State Building Code.
- The removal of language regulating signage content for the temporary health care structures proposed in the original amendment. Due to recent court rulings regarding signage, the County Attorney's office recommended removal of this language from the amendment.
- Revisions addressing items of concern identified by the BOCC at the May and September meetings.

The revised amendment was presented for review and comment at the November 4, 2015 Ordinance Review Committee (ORC) meeting. Agenda materials from that meeting are available at [http://www.orangecountync.gov/ORC\\_Full\\_Agenda\\_Package\\_110415.pdf](http://www.orangecountync.gov/ORC_Full_Agenda_Package_110415.pdf). Approved summary notes from this meeting are included in Attachment 6.

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

These amendments are scheduled to be presented at the February 18 Quarterly Public Hearing.

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

**FINANCIAL IMPACT**: 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.

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

- **GOAL: ENSURE ECONOMIC SELF-SUFFICIENCY**  
The creation and preservation of infrastructure, policies, programs and funding necessary for residents to provide shelter, food, clothing and medical care for themselves and their dependents.

The proposed UDO amendment regarding temporary health care structures will allow for additional housing and medical care options for mentally and physically impaired individuals and families in Orange County.

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

1. Review the proposed amendments,
2. Deliberate on the petition as desired,
3. Consider the Planning Director's recommendation, and
4. Make a recommendation to the BOCC on the Statement of Consistency (Attachment 2) and proposed amendment package (Attachment 3) in time for the **February 18, 2016** Quarterly Public Hearing.

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

UDO / Zoning-2014-13

Temporary Custodial Care Units

## 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 5.4, 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. 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. In addition, the amendment will address comments received at the May 26 Quarterly Public Hearing, June 3 Planning Board meeting, and September 1 BOCC meeting.

## 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  
February 18, 2016

### 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 on the next page.*

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 <sup>1</sup>	No <sup>1</sup>	Shall not exceed 800 square feet	No <sup>1</sup>	No <sup>1</sup>	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 <sup>2</sup>	Offsite	Onsite or offsite <sup>2</sup>	Onsite or offsite <sup>2</sup>	Onsite or offsite <sup>2</sup>	Offsite
Must Meet UDO Standards	Yes	Yes	Yes	Yes	Yes	Yes
Must Meet NC State Building Code Standards	Yes	No <sup>3</sup>	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

<sup>1</sup> 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.

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

<sup>3</sup> 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: The proposed amendment was provided to the Towns of Chapel Hill, Carrboro, and Hillsborough for review and comment on December 22, 2015.*

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

January 6, 2016 – Recommendation to the BOCC

b. Advisory Boards:

_____	_____
_____	_____
_____	_____

## c. Local Government Review:

The revised amendment package  
was submitted to the JPA Partners  
and the Town of Hillsborough for

review and comment on December  
22, 2015.

## d. Notice Requirements

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

## e. Outreach:

General Public:

Small Area Plan Workgroup:

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**

Proposed 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 3.

**Primary Staff Contact:**

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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 25<sup>th</sup> 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 1<sup>st</sup> day of August, 2014

**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 custodial care units, 1,000 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.

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 caregivers 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.

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Chair

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Date

**UDO AMENDMENT PACKET NOTES:**

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 5.4, 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<sup>1</sup>

###### (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.

<sup>1</sup> Based on the proposed amendment, Section 5.4.4(B) will be modified and moved to Section 5.5.9.

- (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**

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 Units<sup>2</sup>**

**(A) General Standards**

**(1) Submittal Requirements<sup>3</sup>**

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 a mentally or physically impaired person who requires assistance with two or more activities of daily living.

**(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.

<sup>2</sup> 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 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.

<sup>3</sup> Based on comments received at the May 26 Quarterly Public Hearing and September 1 BOCC meeting, the proposed amendment will not require documentation identifying the relationship between the occupant of the temporary health care structure and the occupant of the existing family dwelling unit. In addition, the amendment will not require the occupant of the temporary health care structure to be a North Carolina resident.

- (c) The temporary custodial care unit must meet setback standards where located and shall not be located in any required front yard open space.<sup>4</sup>
- (d) Occupancy of a temporary custodial care unit shall be limited to no more than two persons, with at least one of whom is mentally or physically impaired and requires assistance with two or more activities of daily living.
- (e) A temporary custodial care unit shall be required to connect to water, wastewater, and electric utilities serving the principal structure on the property.
- (f) The Orange County Health Department, or the agency that provides sanitary sewer and water services, shall approve water and wastewater disposal facilities.
- (g) 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.
- (h) 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.
- (i) 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 person, the temporary custodial care unit may continue to be used, subject to the requirements of this Ordinance.<sup>5</sup>
- (j) 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.
- (k) 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

<sup>4</sup> If 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-way than the required front setback. Therefore, a temporary custodial care unit could potentially be located in front of an existing dwelling unit.

<sup>5</sup> Based on comments received at the May 26 Quarterly Public Hearing and September 1 BOCC meeting, the proposed amendment will allow a temporary custodial care unit to remain on the property for up to 180 days after a mentally or physically impaired person is no longer receiving care or is in need of assistance.

### 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 ~~of~~ <sup>or</sup><sup>6</sup> two or more persons related by blood, marriage or adoption, living together in a dwelling unit; or a group of not more than <sup>five</sup><sup>7</sup> 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;

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<sup>6</sup> Staff is suggesting this typographical error be corrected as part of this UDO amendment.

<sup>7</sup> 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, 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.

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 10<sup>th</sup>, and with the school boards on September 29<sup>th</sup>, returning as a decision item on October 6<sup>th</sup>.

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:

**SUMMARY NOTES  
ORANGE COUNTY PLANNING BOARD  
NOVEMBER 4, 2015  
ORDINANCE REVIEW COMMITTEE**

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

**MEMBERS PRESENT:** Peter Hallenbeck (Chair), Cheeks Township Representative; Lydia Wegman (Vice Chair), At-Large Chapel Hill Township; Lisa Stuckey, Chapel Hill Township Representative; James Lea, Cedar Grove Township Representative; Tony Blake, Bingham Township Representative; Paul Guthrie, At-Large Chapel Hill Township; Andrea Rohrbacher, At-Large Chapel Hill Township; Maxecine Mitchell, At-Large Bingham Township;

**MEMBERS ABSENT:** Buddy Hartley, Little River Township Representative; Laura Nicholson, Eno Township Representative; Herman Staats, At-Large;

**STAFF PRESENT:** Craig Benedict, Planning Director; Michael Harvey, Current Planning Supervisor, Perdita Holtz, Special Projects Coordinator, Ashley Moncado, Special Projects Planner, Meredith Pucci, Administrative Assistant II

**AGENDA ITEM 1: CALL TO ORDER AND ROLL CALL**

**AGENDA ITEM 2: 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

Ashley Moncado reviewed abstract

Perdita Holtz: Depending on how things go tomorrow night with the public hearing process if that gets adopted the next steps will be different.

Lisa Stuckey: If I live in a subdivision can I really put a 1,000 square foot unit.

Ashley Moncado: That depends on if you met zoning requirements.

Peter Hallenbeck: 350 square feet to start is too small.

Lisa Stuckey: I agree.

Lydia Wegman: Why does option B only allow two occupants?

Ashley Moncado: With option B you have the option of a larger size, so you can go up to the 1,000 square feet, you won't be limited to the 300 square feet.

Paul Guthrie: You have up to two people to reside in a temporary facility and you can have five unrelated people to live in a dwelling unit. What if you have five people living in a dwelling unit and had two people living in an unrelated care center. Could those five people use some of the facilities without violating the ordinance? Could you actually have seven people using the facility?

Ashley Moncado: In theory, possibly. If they met the health and environmental standards to put the temporary structure on the property I don't know if there is anything we could do to enforce it until we receive a complaint.

Paul Guthrie: I'm not advocating restricting it; I'm just trying to get the definition.

Ashley Moncado: The session law is a little vague regarding that.

Andrea Rohrbacher: A person from another state comes to get care here needs to have a North Carolina license provider for prescriptions. How is this going to cover that situation?

Perdita Holtz: That's not something we would enforce through land use laws.

Peter Hallenbeck: It sounds to me like there are two problems. One is the decision to bring someone in and once they get here they are going to find local medical help. I'm noticing in this there is really no protection for somebody using it as a business and there is also no protection for elderly abuse.

Ashley Moncado: Those were also concerns of ours. To be honest you could have the relationship requirement and then you could have a child abusing a parent.

Peter Hallenbeck: One would hope with these amendments there might be some accompanying ordinances that would cover it.

Ashley Moncado: I will be following up with the Department of Aging to see if they came across anything.

Craig Benedict: Any application we get for this, we could share that with the Health Department, Aging Department, and Social Services. They may want to monitor something.

Peter Hallenbeck: I think you're right on the money with working the Department of Aging. With ordinances they can figure out if there is some way to run a background check on them.

Andrea Rohrbacher: If the area where the structure was to be located happened to be a subdivision that had covenants what happens to the covenants?

Ashley Moncado: They have to meet the covenants' restrictions.

Peter Hallenbeck: It sounds like we are taking it a little bit further in saying instead of just learning how to live with what the State has mandated, let's see if we can't solve a bigger problem.

Paul Guthrie: I think we do what we can do under basically what is our core jurisdiction. Let's not try to solve the total legal implications. That's not the role of the Planning Board. Other agencies may need to be brought in but that is not our role and I think we could get in a quagmire if we try to regulate issues we have little to know knowledge of.

Peter Hallenbeck: I fully agree with that. I think we have done our part as we reviewed the land use and I think we have commented correctly with regard to how critical it is for other agencies to be involved in the process to prevent abuse.

Andrea Rohrbacher: Is the Health Department involved at all?

Ashley Moncado: This still needs to go to peer review. Tonight was just to see what option you wanted to go with and then we will send it back out to our county attorneys.

Peter Hallenbeck: Well the recommendation is simply that we review and comment and I think we've done that. People seem to like option B with all the cautions required.

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**ORANGE COUNTY  
PLANNING BOARD  
ACTION AGENDA ITEM ABSTRACT**  
Meeting Date: January 6, 2016

**Action Agenda  
Item No. 10**

**SUBJECT:** Unified Development Ordinance (UDO) Text Amendment – Sign Regulations

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**DEPARTMENT:** Planning and Inspections

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**ATTACHMENT(S):**

**INFORMATION CONTACT:**

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1. Comprehensive Plan and Unified Development Ordinance Outline Form (UDO &amp; Zoning 2015-01)</li> <li>2. Future Land Use Map of the Comprehensive Plan</li> <li>3. Statement of Consistency</li> <li>4. UDO Text Amendment</li> </ol> | <p>Michael D. Harvey, Planner III (919) 245-2597<br/>Craig Benedict, Director (919) 245-2575</p> |
|---|--|
- 

**PURPOSE:** To review and make a recommendation to the Board of County Commissioners (BOCC) on text amendments to the Unified Development Ordinance (UDO) initiated by the Planning Director modifying existing sign regulations.

**BACKGROUND:** As detailed within Attachment 1 current sign regulations do not offer a distinction between allowable signage for non-residential developments located within urbanizing or rural areas of the County. Non-residential developments, regardless of location or size, are afforded the same sizes of signage. Recent court decisions, most notably Reed versus Town of Gilbert, also necessitate modifications to existing regulations to ensure compliance.

The amendments seek to provide additional sign area for large non-residential projects within the urban areas of the County and clarify existing regulations with respect to their interpretation and application.

Please refer to Section B of Attachment 1 for more information.

This item was reviewed by the Planning Board at its April 1 and December 2, 2015 ORC meetings. Agenda materials from the April 1 meeting can be viewed at: [http://www.orangecountync.gov/4\\_1\\_15ORC\\_Packet.pdf](http://www.orangecountync.gov/4_1_15ORC_Packet.pdf) while materials from December 2 can be viewed at: [http://www.orangecountync.gov/ORC\\_Full\\_Agenda\\_Package\\_1222015.pdf](http://www.orangecountync.gov/ORC_Full_Agenda_Package_1222015.pdf). Meeting notes for the April 1 meeting can be viewed at: [http://www.orangecountync.gov/4\\_1\\_15\\_ORC\\_Notes.pdf](http://www.orangecountync.gov/4_1_15_ORC_Notes.pdf). December 2 meeting notes are contained within the January meeting agenda packet.

These amendments are scheduled to be presented at the February 18, 2016 quarterly public hearing.

Planning Director's Recommendation: The Planning Director recommends **approval** of the Statement of Consistency, indicating the amendments are reasonable and in the public interest, contained in Attachment 3 and proposed amendment package contained in Attachment 4.

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

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

**GOAL: ESTABLISH SUSTAINABLE AND EQUITABLE LAND-USE AND ENVIRONMENTAL POLICIES**

The fair treatment and meaningful involvement of people of all races, cultures, incomes and educational levels with respect to the development and enforcement of environmental laws, regulations, policies, and decisions. Fair treatment means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies.

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

1. Review the proposed UDO amendments,
2. Deliberate on the amendments as desired,
3. Consider the Planning Director's recommendation, and
4. Make a recommendation to the BOCC on the Statement of Consistency (Attachment 3) and proposed amendment package (Attachment 4) in time for the February 18, 2016 quarterly public hearing.

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

UDO / Zoning-2015-01

UDO Text Amendment(s) clarifying the allowable sign area for projects in identified Activity Nodes, regulations governing the use of electronic signs, and addressing off-site signage

## 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):
- 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 text amendment(s) to modify existing regulations governing allowable signage.

Current regulations do not offer a suitable distinction between development within urbanizing and rural areas of the County allowing for a sign of suitable size to accommodate a non-residential project on a larger parcel of property.

## 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'*.

There has been an increase in inquires and interest with respect to development of large-scale commercial operations within the County, with an emphasis on property located within the:

- a. Commercial Transition,
- b. Commercial-Industrial Transition, and
- c. Economic Development Transition

Activity Nodes (please refer to Attachment 2 for additional detail).

Current sign regulations limit the total allowable square footage for freestanding and wall signs for most non-residential general use zoning districts to 32 square feet (8 feet by 4 feet in size) regardless of the property's location (in or outside of an Activity Node), size of parcel, or amount of road frontage. The 'one-size fits all' sign limit may, in fact, be a deterrent to non-residential development in the aforementioned Activity Nodes.

There is also a noticeable lack of clarity within the UDO addressing the development of large-scale properties with multiple tenants necessitating the need for a larger, freestanding sign, advertising local businesses and on what constitutes a blinking/flashing sign leading to enforcement concerns.

Recent court decisions, most notably Reed versus Town of Gilbert, also impact the County's current sign regulations. In this case the US Supreme Court sign regulations cannot be seen as allowing/disallowing a sign based on its content. For more information on the case and its potential impacts please refer to the following: <http://canons.sog.unc.edu/?p=8167>.

The amendments are necessary to address current concerns over advertising needs for development within the urban-designated areas of the county (i.e. the Commercial Transition and Commercial-Industrial Transition Activity Nodes) and clarify the prohibition on the use of blinking/flashing signage by incorporating new definitions into the UDO.

Staff will also revise existing regulations to ensure our standards are 'content neutral' and consistent with the findings of the Gilbert case.

The proposed amendment will also incorporate an interpretation relating to the use of digital displays by gas stations. Historically gas stations have displayed gas prices through an internally/externally illuminated reader board. These displays create unnecessary glare for motorists. Orange County has allowed gas stations to incorporate digital reader board displays to advertise gas prices, reducing glare and eliminating issues of light trespass either through cracked message boards allowing undiffused light

to escape or misaligned external light fixtures creating glare for motorists.

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

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**

Reed versus Town of Gilbert, a US Supreme Court Case impacting existing sign regulations.

## d. **PROCESS**

### 1. **TIMEFRAME/MILESTONES/DEADLINES**

#### a. BOCC Authorization to Proceed

January 22, 2015 – The BOCC authorized staff to proceed with the amendment.

#### b. Quarterly Public Hearing

February 18, 2016

STAFF COMMENT: This item was originally intended for presentation at the February 19, 2015 Quarterly Public Hearing, which was cancelled due to weather.

Further delays were the result of various court proceedings. For more information on recent court decisions relating to sign regulations please refer to the following: <http://canons.sog.unc.edu/?p=8167>.

#### c. BOCC Updates/Checkpoints

January 22, 2015 – Approval of Amendment Outline form authorizing staff to proceed with project.

April 1, 2015 Ordinance Review Committee (ORC) meeting (BOCC received materials).

December 2, 2015 Ordinance Review Committee (ORC) meeting (BOCC received materials).

January 6, 2016 – Planning Board review and recommendation (BOCC received materials).

February 18, 2016 - Receive Planning Board recommendation at public hearing.

#### 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:

January 26, 2015 – Planning Board members were e-mailed the amendment packet for initial review and comment.

April 1, 2015 – ORC. During this meeting the following comment(s) were made:

- A Board member asked if digital signs were dangerous?

*STAFF COMMENT:* Staff believes digital signs pose several issues for motorists due to the frequency of the sign's message being changed as well as the incorporation of a scrolling message. We believe they represent a distraction as motorists are frequently looking at the sign to see the next advertisement.

- A Board member asked how portable signs are addressed.

*STAFF COMMENT:* Portable signage is addressed in Section 6.12.6 of the UDO and are specifically banned.

- A Board member asked what constituted a snipe sign.

*STAFF COMMENT:* As detailed in Article 10 *Definitions* of the UDO a snipe sign is a small sign advertising services (i.e. 'We Buy Houses') or off-site signage advertising homes for sale.

December 2, 2015 – ORC. During the meeting the following comment(s) were made:

- A Board member indicated freestanding and wall signs should be larger than currently allowed or proposed.
- A Board member asked for clarification on the impact of the recent US Supreme Court case Reed versus Gilbert.

*STAFF COMMENT:* Local governments cannot allow/disallow a sign based on its content. For example, Orange County currently prohibits off-premise advertising and directional signage with the exception of churches. This 'allowance' is content based in that we allow signage advertising the name and location of a church while prohibiting same for other land uses.

Staff is recommending eliminating the allowance for off-site church directional signage to ensure compliance with Reed versus Gilbert.

- A Board member asked if existing off-premise signage for churches could remain in place.

*STAFF COMMENT:* Such signage would be allowed to remain in place in accordance with the provisions of the Nonconformities section of the UDO. No new signage would be allowed.

January 6, 2016 – Recommendation.

b. Advisory Boards:

N/A

\_\_\_\_\_  
\_\_\_\_\_

c. Local Government Review:

N/A

\_\_\_\_\_  
\_\_\_\_\_

d. Notice Requirements

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

e. Outreach:

General Public:

\_\_\_\_\_

Small Area Plan Workgroup:

\_\_\_\_\_

Other:

\_\_\_\_\_

**3. FISCAL IMPACT**

Modification of existing language will not require the outlay of additional funds by the County. Processing of the amendment shall be handled by staff utilizing existing budgeted funds.

**e. AMENDMENT IMPLICATIONS**

The amendment will allow for larger freestanding and wall signs for projects in identified Activity Nodes where there is adequate road frontage necessitating the development of additional advertising space and clarify what constitutes a blinking/flashing sign to aid in enforcement efforts. It will also ensure County sign regulations are legally sufficient given the recent Gilbert US Supreme Court case.

**f. SPECIFIC AMENDMENT LANGUAGE**

Please refer to Attachment 4.

\_\_\_\_\_

**Primary Staff Contact:**

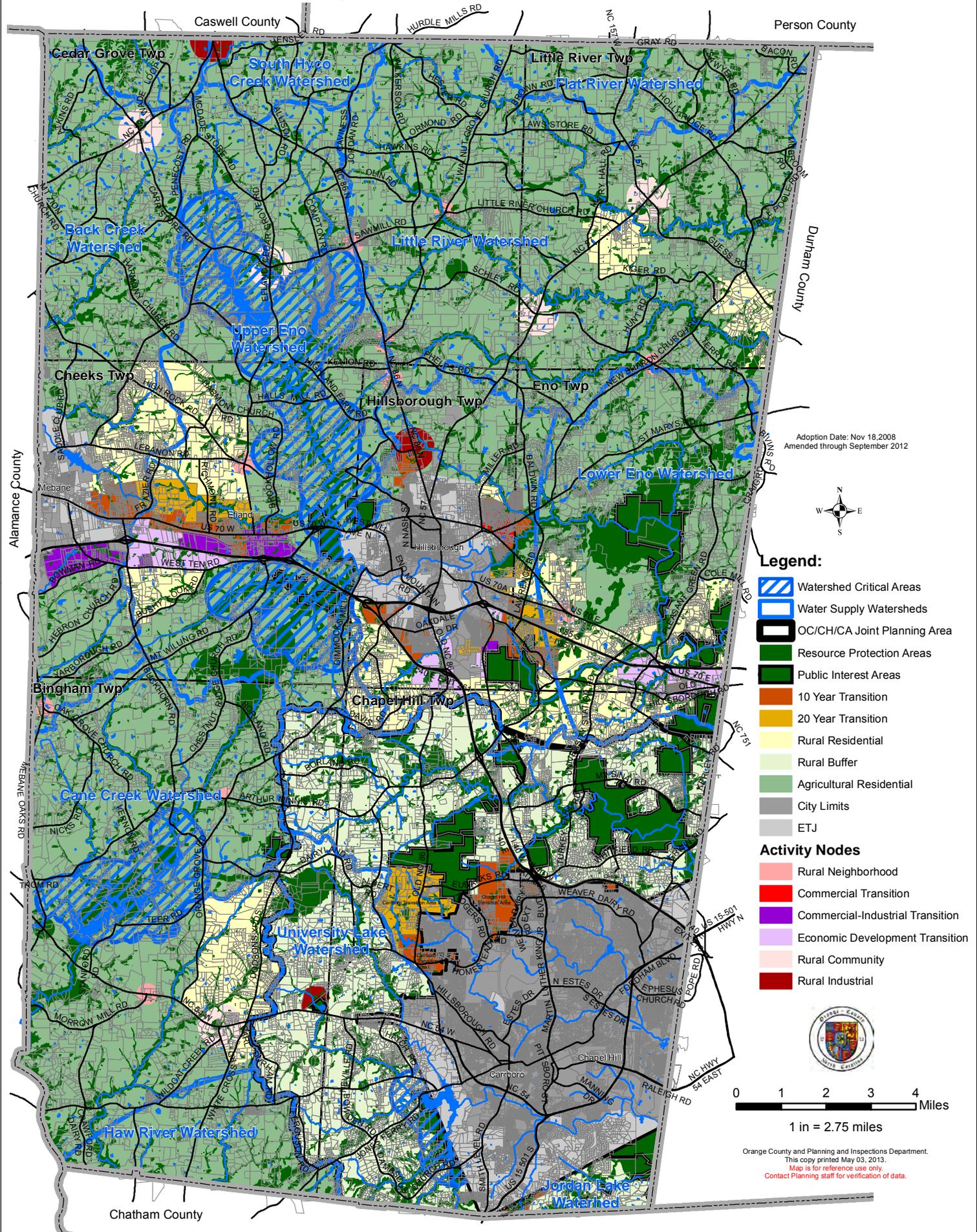
Michael D. Harvey

Planning

(919) 245-2597

[mharvey@orangecountync.gov](mailto:mharvey@orangecountync.gov)

# Future Land Use Map of the Orange County Comprehensive Plan



Adoption Date: Nov 18, 2008  
Amended through September 2012



- Legend:**
- Watershed Critical Areas
  - Water Supply Watersheds
  - OC/CH/CA Joint Planning Area
  - Resource Protection Areas
  - Public Interest Areas
  - 10 Year Transition
  - 20 Year Transition
  - Rural Residential
  - Rural Buffer
  - Agricultural Residential
  - City Limits
  - ETJ
- Activity Nodes**
- Rural Neighborhood
  - Commercial Transition
  - Commercial-Industrial Transition
  - Economic Development Transition
  - Rural Community
  - Rural Industrial



0 1 2 3 4 Miles  
1 in = 2.75 miles

Orange County and Planning and Inspections Department.  
This copy printed May 03, 2013.  
Map is for reference use only.  
Contact Planning staff for verification of data.

**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 modify existing sign regulations.

The Planning Board finds:

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

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

**Land Use Objective LU2.10:** Develop design standards or guidelines that address scale, density, and aesthetic considerations for residential, mixed-use, industrial, and commercial land uses to promote community aesthetics and the protection of the visual and cultural environment of the County.
- c. The amendment is reasonable and in the public interest because it:
  1. Provides for a greater distinction between the signage needs associated with urban and rural non-residential developments.
  2. Ensures compliance with recent US Supreme Court decisions with respect to the regulation of signage.
  3. Clarifies the interpretation and administration of sign regulations, most notably regulations associated with electronic displays.
  4. Provides consistency in the enforcement of sign regulations.

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

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Chair

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Date

- (H) The design of light fixtures and structural supports must be compatible with the architecture of the principal building(s) and identification signs.
- (I) Where building faces are illuminated, lighting fixtures must be integrated within the architectural design of the buildings.
- (J) Ground-mounted lighting fixtures must be weather-proof and vandal resistant.
- (K) **Hillsborough EDD**  
In addition to the standards established above, the following standards shall apply within the Hillsborough EDD:
- (1) Lighting must be high efficiency lighting systems and lighting levels must be reduced during non-use hours to promote energy conservation.
  - (2) 12:1 minimum/maximum glare ratio.
  - (3) Maximum footcandles = 80

## SECTION 6.12: SIGNS

### 6.12.1 Purpose and Intent

The purpose of this Section is to regulate the type, placement and physical dimensions of all signs in the interest of public health, safety and welfare, while recognizing the need for signs within the business community.

It is the intent of this section to regulate signs on a per lot basis in conjunction with the zoning designation of the lot as described on the current tax roll whether a sign is directly visible from a street right-of-way or not.

### 6.12.2 **Off-Premise Commercial/Outdoor Advertising Signs**<sup>1</sup>

The provisions of this Article establish standards and review criteria relating to the location, erection, maintenance, lighting, setbacks, and use of signs. This includes regulations pertaining to off-premise commercial also known as outdoor advertising (i.e. Billboards) signage.

The regulation and permitting of outdoor advertising is also subject to State requirements, including the State Outdoor Advertising Control Act, and Federal requirements. In cases where there is a conflict between County regulations and State or Federal regulations, relating to the location, erection, maintenance, lighting, setbacks and use of outdoor advertising signage, the corresponding State or Federal law shall take precedent.

In cases where there is no applicable State/Federal standard, then existing County regulations shall be enforced.

### 6.12.3 General Requirements

- (A) No sign of any type nor any part thereof shall be erected, painted, posted, reposted, placed, replaced, or hung in any zoning district except in compliance with these regulations.
- (B) No person shall erect or maintain a sign, and no property owner shall allow a sign to be erected or maintained on his property except in conformity with these regulations.
- (C) A Zoning Compliance Permit approved in accordance with the provisions of this Ordinance shall be required prior to erecting a sign, unless otherwise permitted.

<sup>1</sup> Staff is adding language to ensure terminology is consistent within the UDO when referencing billboards, which we currently define as 'Off-premise Commercial' signs. We are also adding a definition of Outdoor Advertising, referencing our local classification, in Article 10.

- (A) Signs erected by a governmental agency to regulate, control, or direct vehicular or pedestrian traffic;
- (B) Legal notices, warnings, regulatory or informational signs erected by a public agency;
- (C) Signs required by law;
- (D) "No trespassing" signs, not exceeding six square feet in area;
- (E) Real estate signs, not exceeding four square feet in area;
- (F) Flags, emblems or insignia of any national, state or political subdivision;
- (G) Property number signs not exceeding two square foot in area and bearing only address numbers of premises or other identification of premises not having commercial connotations;
- (H) Holiday decorations in season that do not contain or display a commercial message;
- (I) Signs on trash receptacles, indicating the owner or party responsible for maintenance;
- (J) Hazardous chemical identification/notification signs on residential and non-residential structures;
- (K) Signs on newspaper boxes;
- (L) Private drive signs, one per drive entrance, not exceeding two square feet in area, with the message content limited to the words "Private Drive" and the address of any residences utilizing the private roadway;
- (M) Security and warning signs posted on private property warning the public against trespassing, or similar messages, provided that any such sign does not exceed two square feet in area; and
- (N) Political Signs, in accordance with the following standards:
  - (1) Political Signs are allowed in all zoning districts.
  - (2) A Zoning Compliance Permit shall not be required to allow for the placement of a political sign on private property.
  - (3) There shall be no limit to the number of political signs that can be placed on private property so long as the placement of these signs complies with the provisions of this Ordinance and the signs do not create a public safety hazard.
  - (4) Within residential zoning districts, political signs shall not exceed nine square feet in area or four feet in height.
  - (5) Within non-residential zoning districts, political signs shall not exceed the maximum allowable sign area permitted for freestanding signs.
  - (6) Political signs shall only be erected 90 days prior to the established date of a general election, school board election, referendum, special election, primary, or other similar political activity.
  - (7) Political signs shall be removed within 21 days after an election.
  - (8) Political signs shall be allowed within rights-of-way of the State highway system only in accordance with State law.
  - (9) Political signs shall not be allowed on telephone poles, utility poles, trees, other similar natural objects, and other signs or sign structures.

#### 6.12.6 Prohibited Signs

The following signs are prohibited in all zoning districts:

- (A) Advertising signs resembling traffic signals, traffic signs, emergency vehicles' flashing lights, non-governmental sanctioned signs utilizing the words 'stop', 'slow', 'caution',

~~'danger', or any sign that is likely to be misconstrued by the traveling public as being official governmental signs or emergency warnings or which by their distracting nature create a hazard to motorists;~~

- ~~(B) Signs, except for off-premises signs allowed under this Section, advertising an activity, business, product or service no longer conducted on the premises upon which the sign is located. Such signage shall be removed within 90 days from the date of termination of such activity. Upon failure of the owner to remove such signs within the prescribed time, the Planning Director shall take appropriate legal action to have such sign removed;~~
- ~~(C) Flashing, blinking, pulsating, signs or signs with moving parts ~~except for signs showing time of day and temperature that are part of an approved sign advertising a permitted business activity on a parcel of property;~~<sup>2</sup>~~
- ~~(D) Signs with electronic moveable copy, scrolling messages, or other similar electronic displays designed to change/display different advertising message(s) more than once an hour or a maximum of 6 times in a 24 hour period.<sup>3</sup> The use of electronic displays in off-premise commercial signs is specifically prohibited except in accordance with the provisions of Section 6.12 inclusive.<sup>4</sup>~~
- ~~(E) Signs, other than traffic, governmental, street name signs, political signs erected in accordance with State law, or other official governmental or public agency sign, shall not be permitted within any street right-of-way;~~
- ~~(F) Roof signs;~~
- ~~(G) Snipe signs;~~
- ~~(H) Beacon lights, animated signs, trailer signs and snipe signs;~~
- ~~(I) Portable signs, unless approved for a special event in accordance with Section 6.12.11(D);~~
- ~~(J) Signs supported in whole or in part by water, gas, air, or could otherwise be designated as inflatable signs; Individuals erecting an inflatable sign shall be subject to an immediate notice of violation and shall be required to remove the sign within the time frame it would normally take to deflate the sign, unless approved for a special event in accordance with Section 6.12.11(D);~~
- ~~(K) Signs mounted on a single pole or mast;~~
- ~~(L) Signs that contain rotating sign panels or objects;~~
- ~~(M) Signs that obstruct ingress and egress to any door, window, fire escape, stairway, ladder, or other opening intended to provide light, air, ingress, or egress for any room or building; and~~
- ~~(N) Signs that violate any provision of any law of the State of North Carolina relative to outdoor advertising.~~
- (O) Signs erected on telecommunication facilities or support structures other than safety notification(s) and those required by State or Federal regulations.<sup>5</sup>

<sup>2</sup> On advice from the County Attorney's office we are deleting this language to address a concern existing language is not content neutral. The content of a sign cannot be specified, even if it is just 'time/temperature'.

<sup>3</sup> We need a standard as to what constitutes changeable copy to ensure proper enforcement while allowing some opportunity for said advertising display to be altered during the course of a day.

<sup>4</sup> Section 6.12.2 establishes the County's limitations with respect to the regulation of off-premise/outdoor advertising (i.e. billboards). We will continue to ban the use of electronic outdoor advertising so long as said ban is consistent with applicable State and Federal regulations in accordance with NCGS 136-131.2.

<sup>5</sup> From time to time staff has received requests to place advertising signs on telecommunication facilities. To date we have forbidden such placement. Staff believes it is necessary to amend the UDO to include a specific prohibition to avoid uncertainty.

**6.12.10 Maintenance**

All signs, together with braces, guys and other supports shall be kept in good repair. If at any time a sign should be abandoned, declared unsafe, or deemed poorly maintained, the Planning Director shall notify the owner of the sign of such condition. Failure of the owner to correct the maintenance condition shall cause the Planning Director to take appropriate legal action to have the sign removed.

**6.12.11 Signs Permitted in All Zoning Districts**

The following signs are permitted in all zoning districts with the issuance of a zoning compliance permit, in accordance with the requirements of this Section and the additional standards for each sign established herein:

**(A) Permanent Identification Signs for Subdivisions, Multi-family Developments, Mobile Home Parks, and Schools**

- (1) Identification signs shall not exceed 32 square feet in area and six feet in height.
- (2) Developments shall be limited to two signs at each point of ingress/egress.
- (3) Signs shall be placed outside of the site visibility triangle so as not to obstruct the view of traffic.
- (4) Signs may be illuminated in such a fashion so as not to affect the view of motorists.

**(B) Signs for Non-profit Organizations on Premise**

- (1) Signs shall not exceed 12 square feet in area.
- (2) Signs may not display any advertising matter or logo.
- (3) Signs may not be illuminated.

~~**(C) Off-Premise Religious Facility Signs**~~<sup>6</sup>

- ~~(1) Signs shall identify the name and/or location of a religious facility.~~
- ~~(2) Signs shall not exceed six square feet in area and may not be illuminated or contain moving parts.~~
- ~~(3) Signs must be placed on a legal lot of record and the applicant shall provide a notarized statement from all owners of property allowing the off-premise sign to be erected on their property. There shall be only one off-premise religious facility sign permitted per parcel and a maximum of two per intersection.~~
- ~~(4) The placement of a off-premise religious facility sign shall be treated as an accessory use of property.~~

~~**(D)**~~**(C) Special Event Displays**

- (1) Signs or banners shall not exceed 32 square feet in area.
- (2) All displays must be located outside of the right-of-way and have approval of property owners when located on private property.
- (3) Pennants

<sup>6</sup> Staff is recommending the deletion of this allowance. The County does not allow off-site advertising signage for non-residential operations but has allowed, under certain circumstances, local churches to erect off-site directional signage. From our reading of the recent US Supreme Court case, Reed versus Town of Gilbert, this type of regulation is not consistent with the court's findings (i.e. we prohibit such signage unless same contains wording associated with the advertising of a church).

- (a) Pennants may be displayed during the special event to attract attention but only within 30 feet of the principal area where the special event is occurring.
- (b) Pennants must be installed at a minimum height of 18 feet above grade to ensure adequate height clearance for vehicles underneath.
- (4) Portable Signs
  - (a) Sites shall be limited to one portable sign per right-of-way frontage. However, there shall be no more than two portable signs permitted on-site at one time.
  - (b) Signs shall be limited to 16 square feet in area, per sign face.
  - (c) Signs shall be located in accordance with Section 6.12.3(F).
- (5) Inflatable Signs
  - (a) No more than one inflatable sign shall be permitted on-site at one time.
  - (b) Inflatable signs shall not exceed 25 feet in height.
  - (c) Signs shall be located a minimum of 25 feet from all property lines.
- (6) Special Event Displays may only be erected for a two week period and must be removed within five days following the event.

**~~(E)~~(D) Signs Advertising Agricultural Products Produced on the Premises**

- (1) Shall not exceed 32 square feet.
- (2) Shall be limited to two signs per parcel.

**~~(F)~~(E) Temporary Construction and Financial Institution Signs**

- (1) Shall not exceed 24 square feet in area, per sign;
- (2) May not to exceed two signs per building site;
- (3) Signs shall be erected only after a Building Permit authorizing construction on-site has been issued; and
- (4) Signs must be removed within seven days after construction work has been completed and the certificate of occupancy has been issued.

**~~(G)~~(F) Directional/Informational Signs**

- (1) May be displayed on parcels of property utilized for non-residential purposes.
- (2) May not exceed two square feet in area.
- (3) May contain corporate logos or other similar graphical displays so long as they provide some necessary information to patrons (i.e. entrance and exit locations, one-way entrance ways, drive through entranceways, ATM location, etc.).
- (4) A maximum of three directional/informational signs may be displayed on a non-residential parcel of property.

**~~(H)~~(G) Temporary Real Estate Signs, in excess of four square feet in area**

- (1) One sign shall be permitted per building site, not to exceed 24 square feet in area.
- (2) Signs shall not be placed within any public street right-of-way.
- (3) Signs must be removed after property has been transferred.

**~~(I)~~(H) Landmark Signs**

Signs shall be erected only after the historical significance of the particular site has been verified and that proposed location of the sign has been approved by the Orange County

Planning Department and all other related agencies (i.e. NC Department of Transportation).

### 6.12.12 Signs Permitted in Specific Zoning Districts

The following signs shall be permitted in the zoning districts indicated, in accordance with all other provisions of this Section and specific standards for each sign established herein:

#### (A) On-Premise Commercial Signs

- (1) These signs shall comply with all state and county building codes and the National Electric Code. Clearance of signs is required from high voltage power lines and signs shall be located in such a way that they will maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with the National Electric Code specifications, provided that no sign shall be installed closer than ten feet horizontally or vertically from any conductor or public utility guy wire.
- (2) On-premise commercial signs shall be permitted within the following zoning districts: LC-1, NC-2, CC-3, GC-4, EC-5, OI, EI, I-1, I-2, I-3, AS, MPD-CZ, MHP-CZ, ASE-CZ, REDA-CZ<sup>7</sup> and all of the Economic Development zoning districts.
- (3) ~~All~~On-premise commercial signs shall be setback a minimum of ten feet from ~~the front, side, and rear~~all property lines ~~or and~~ the edge of any existing or projected street right-of-way line ~~whichever is greater~~. Signs greater than 32 square feet, as allowed herein, shall be setback an additional 5 feet.<sup>8</sup> In cases where a property abuts a residential zoned parcel of property, the side or rear yard setback requirement shall be doubled.
- (4) **Number of Signs Permitted**
  - (a) One on-premise commercial sign shall be permitted per parcel. However, one additional on-premise commercial sign may be permitted for parcels with frontage on more than one right-of-way in accordance with the provisions of this Section.
  - (b) Under no circumstances shall more than one three-dimensional sign be permitted on-site.
  - (c) For multi-tenant buildings and/or sites permitted as a conditional use or conditional zoning district, additional on-premise commercial signs or sign area may be permitted by the Board of County Commissioners with the approval of a master sign plan.
- (5) **Height of Signs**
  - (a) Pole signs shall be limited to a height of 24 feet with a mandatory ground clearance of eight feet from the normal or finished grade elevation of the property at the base of the sign. Pole signs shall be mounted on 2 posts or masts.<sup>9</sup>
  - (b) Ground signs shall not exceed six feet in height from the normal or finished grade elevation of the property at the base of the sign
- (6) **The allowable area for on-premise commercial signs shall be determined as**

<sup>7</sup> We are adding references to the recently adopted Agricultural Support Enterprises Conditional Zoning District (ASE-CZ) and the Rural Economic Development Area Conditional Zoning District (REDA-CZ). This is to ensure freestanding signage can be erected on property.

<sup>8</sup> Staff is recommending the imposition of a larger setback in those instances where a larger free-standing sign is allowed.

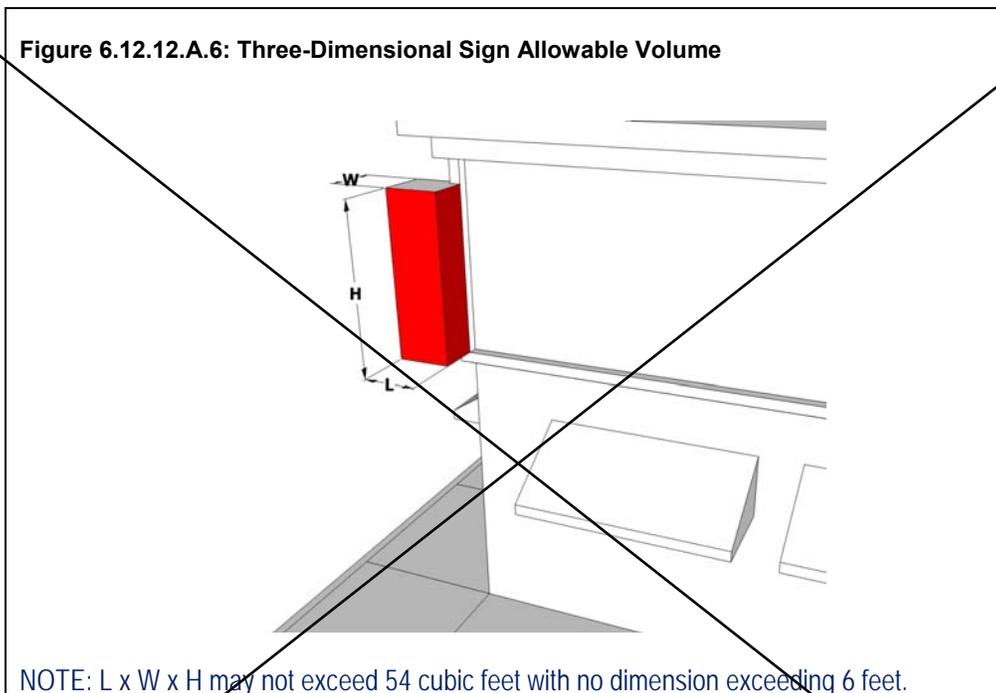
<sup>9</sup> This requirement is currently referenced within the definition section of the UDO. We are moving it here as regulation(s) are more appropriate within the various, applicable, sections rather than being contained within definitions.

**follows:**

- (a) Single or double-faced signs shall not exceed 32 square feet in area, per sign face except for parcels zoned CC-3, GC-4, O/I, I-2, I-3, AS, and MPD-CZ that:
  - (i) Are larger than 40,000 square feet in area, and
  - (ii) Have more than 300 feet of linear frontage along a NC Department of Transportation (NC DOT) maintained roadway.

In these instances signs shall not exceed 64 square feet in area per sign face.<sup>10</sup>
- (b) For parcels within Economic Development district(s), allowable sign area shall be in accordance with Section 6.12.14 of this Ordinance.<sup>11</sup>
- (b)(c) Three-dimensional signs shall not exceed a maximum volume of 54 cubic feet with no dimension exceeding six feet.

**Figure 6.12.12.A.6: Three-Dimensional Sign Allowable Volume**



- (7) An on-premise commercial sign may contain a changeable copy sign as defined in this Ordinance. However, the total sign area, including the area of changeable copy, shall not exceed the maximum allowable area established in Section 6.12.12(A)(6)(a) above.
- (8) No on-premise commercial sign shall be oriented in such a manner as to be directly visible from a major transportation corridor as established in this Ordinance.

<sup>10</sup> This would only allow larger signs on property located in the 'urban' areas of the County (i.e., along US Highway 70, the Efland-Mebane-Buckhorn area, Hillsborough and Eno EDD's) and would not include rural nodes (i.e. Rural Neighborhood, Industrial, etc.). The typical width of a non-residential general use zoning district (i.e. amount of road frontage) is approximately 75 feet. A larger sign shall only be allowed if the project is located within an identified Activity Node, where we encourage large-scale non-residential development, and the lot has sufficient road frontage to accommodate a larger sign yet be proportional to the property.

<sup>11</sup> We are establishing the necessary reference(s) to the provisions of the UDO regulating allowable sign area within our various Economic Development districts.

**(B) Off-Premise Commercial Signs**

- (1) These signs shall comply with all state and county building codes and the National Electric Code. Clearance of signs is required from high voltage power lines and signs shall be located in such a way that they will maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with the National Electric Code specifications, provided that no sign shall be installed closer than ten feet horizontally or vertically from any conductor or public utility guy wire.
- (2) Off-premise commercial signs (billboards) shall be permitted within the GC-4, EC-5, I-1, and I-2 zoning districts.
- (3) No electric tap outs allowing for an independent light source to receive power shall be allowed.
- (4) Off-premise commercial signs shall be considered the principal use of property. There shall be no additional principal uses allowed on the same parcel. Off-premise commercial signs shall not be permitted as accessory uses.
- (5) No off-premise commercial sign shall be located closer than 200 feet to the right-of-way of major thoroughfares (i.e. US 70, NC 86, NC 40, and NC 57) and 600 feet to the right-of-way for all other thoroughfares and streets.
- (6) The height of an off-premise commercial sign shall not exceed 25 feet from the grade of the right-of-way or surface grade beneath the sign, whichever is less. The clearance of an off-premise sign shall not be less than eight feet from the grade of the right-of-way or surface grade beneath the sign, whichever is less.
- (7) Off-premise commercial signs shall be limited to 480 square feet of sign area.
- (8) In no case shall an off-premise commercial sign be located closer than 1,000 feet to an existing off-premise commercial sign.
- (9) Off-premise commercial signs are prohibited within the Major Transportation Corridor (MTC) overlay district.
- (10) No person may, for the purpose of increasing or enhancing the visibility of any off-premises commercial sign, damage, trim, destroy, or remove any trees, shrubs, or other vegetation in the following locations:
  - (a) Within the right-of-way of any public street or road, unless the work is done pursuant to the express written authorization of the North Carolina Department of Transportation;
  - (b) On property that is not under the ownership or control of the person responsible for such work, unless the work is done pursuant to the express authorization of the property owner where the vegetation is located; and,
  - (c) In any area where such vegetation is required to remain under a permit issued in accordance with this Ordinance.

**(C) Wall Signs**

- (1) Shall either be mounted or painted on a building.
- (2) Wall signs may be internally illuminated and shall comply with all applicable state and county building codes and the National Electric Code.
- (3) Wall Signs shall be permitted within the following zoning districts: LC-1, NC-2, CC-3, GC-4, EC-5, OI, EI, I-1, I-2, I-3, AS, MPD-CZ, ASE-CZ, REDA-CZ and all of the Economic Development zoning districts.
- (4) All wall signs shall be offset a minimum of ten feet from the corner of the building on which it is mounted.

- (5) Wall signs shall not protrude more than 12 inches from the face of building on which it is mounted.
- (6) Number of Signs Permitted
  - (a) Only one wall sign shall be permitted per building facade. In cases where a building is located on a corner lot, an additional wall sign may be permitted on the building wall facing the second street right-of-way, subject to the requirements of this Ordinance.
  - (b) For multi-tenant buildings permitted as a conditional use or conditional zoning district additional wall signs may be permitted by the Board of County Commissioners.
- (7) The allowable sign area shall be determined as follows:

One square foot of sign area for every ½ foot of building length facing a public right-of-way, not to exceed 32 square feet except for parcels zoned CC-3, GC-4, O/I, I-2, I-3, AS, and MPD-CZ that:

  - (a) Are larger than 40,000 square feet in area, and
  - (b) Contain a structure with more than 100 linear feet of building length facing a public right-of-way, and
  - (c) Have more than 300 feet of linear frontage along a NC Department of Transportation (NC DOT) maintained roadway

In these instances signs shall not exceed 64 square feet in area per sign face.

  - (d) For parcels within Economic Development district(s), allowable sign area shall be in accordance with Section 6.12.14 of this Ordinance.
- (8) A changeable copy sign may be utilized as a wall sign.
- (9) Wall signs shall not extend above the soffit, parapet, or eave line of the building to which it is attached.

**(D) Projecting Signs**

- (1) Projecting signs shall be mounted on a building.
- (2) Projecting signs may be internally illuminated and shall comply with all applicable state and county building codes and the National Electric Code.
- (3) Projecting signs shall be permitted within the following zoning districts: LC-1, NC-2, CC-3, GC-4, EC-5, OI, EI, I-1, I-2, I-3, AS, MPD-CZ and all of the Economic Development zoning districts.
- (4) Projecting signs shall adhere to the minimum setback requirements established for all structures within the zoning district in which it is located.
- (5) Only one projecting signs shall be permitted per building facade even in cases of a building located on a corner lot.
- (6) The allowable sign area shall be determined as follows:
  - (a) One square foot of sign area for every ½ foot of building length, facing a public right-of-way, not to exceed 32 square feet in area.
- (7) Projecting signs shall clear sidewalks and pedestrian paths by a height of at least ten feet above finished grade.
- (8) Projecting signs shall not extend above the soffit, parapet, or eave line of the building to which it is attached.
- (9) Projecting signs shall not be located at the corner of a building except at right angles to the building façade.

**(E) Window Signs**

- (1) Window signs shall be permitted within the following zoning districts: LC-1, NC-2, CC-3, GC-4, EC-5, OI, EI, I-1, I-2, I-3, AS, MPD-CZ and all of the Economic Development zoning districts.
- (2) Window signs shall be limited to a maximum of 30% of the total window area where the sign is to be located.
- (3) Window signs may be utilized for advertising specials or sales within the business, or displaying the name and other pertinent business information associated with the principal use.
- (4) Signs may be etched, painted or otherwise attached to be made a permanent addition to the pane of glass.

**(F) Awning Signs**

- (1) Awning signs shall be permitted within the following zoning districts: LC-1, NC-2, CC-3, GC-4, EC-5, OI, EI, I-1, I-2, I-3, AS, MPD-CZ and all of the Economic Development zoning districts. See Section 6.12.14(E) for additional standards for Awning Signs located in Economic Development Districts.
- (2) Awning Signs shall be located above the main entrance to a nonresidential land use and shall contain the name of the use.
- (3) Awning Sign area shall be limited to a maximum of 50% of the total awning area erected over the entrance of a nonresidential land use. Where an awning sign is utilized at a multi-use development, the amount of sign area shall be computed as part of the overall sign area allotted to wall signs, not to exceed 50% of the total awning area.

**(G) Drive-Through Menu Signs**

- (1) Applicants must establish to the satisfaction of the Planning Director that a drive-through menu sign is considered a customary accessory use to the principal business on the property and is necessary for the normal operations of the commercial operation.
- (2) Signs shall be limited to 32 square feet in area.
- (3) No external illumination shall be permitted.
- (4) A land use that utilizes such a sign shall also be permitted an independent speaker box, no greater than 12 square feet in area with a height no greater than four feet.

**6.12.13 Sign Standards for Specific Uses**

In addition to the requirements contained herein, the following land uses shall adhere to these additional standards:

**(A) Changeable Copy Signs Utilized by Churches or Public Entities**

- (1) Shall not exceed 32 square feet in area.
- (2) Bulletin boards/reader boards may be internally illuminated.

**(B) Service Stations/Gas Station**

- (1) Signs may be erected above gas pumps subject to the following standards:
  - (a) No internal or external illumination shall be permitted;
  - (b) Signs shall be limited to four square feet in area; and

- (c) Signs must advertise items for sale on the property. Under no circumstances may a sign advertise a sale, activity, business, or product not associated with the principal use of property.
- (2) Signs may be erected on the canopy covering gas pumps subject to the following standards:
  - (a) Advertising material shall be limited to trademarks, logos, and the name of the service station or other similar display.
  - (b) Such displays shall be limited to six square feet of area.

(3) The advertisement of gas prices may be displayed electronically as part of an approved on-premise sign.

**(C) Yard Sales/Garage**

- (1) Signs shall be erected on the property where the sale is taking place.
- (2) Signs shall be limited to four square feet of area.
- (3) No off-site displays shall be permitted.
- (4) Signs shall be removed no later than sunset of the day the event occurs.

**(D) Institutional Uses and Private Parks Located within Residential Zoning Districts**

- (1) One ground and one wall sign shall be permitted;
- (2) Maximum sign area shall be 32 square feet per sign face; and
- (3) No ground sign shall exceed six feet in height.

**(E) Home Occupations**

- (1) The Home Occupation shall have a valid Zoning Compliance Permit issued by Orange County,
- (2) There shall only be one sign limited to eight square feet in area and four feet in height;
- (3) Such sign shall not be illuminated by any means;
- (4) Sign shall not be located within any public street right-of-way, sight visibility triangle, easement, vehicular area or other similar area; and
- (5) The sign message shall be limited to the business name and telephone number.

**(F) Parks, Public and Non-profit; Recreational Facilities, Non-Profit; Recreational Facilities, Golf Courses; and Recreational Facilities, Profit**

**(1) Purpose and Intent**

- (a) Unlike signs for non-residential development(s), signs for recreational land uses are intended to serve a different function and purpose. Signs within these types of land uses are intended to provide essential information concerning:
  - (i) Rules and regulations governing the operation of the facility;
  - (ii) Educational information identifying unique aspects of the facility, the property itself, or significant environmental features that are located on the property; and
  - (iii) Identification of sponsors or public/private partnerships that are responsible for the development, upkeep, and maintenance of existing recreational amenities.

- (iv) Informational kiosks may be internally illuminated or have external illumination installed consistent with the provisions of this Ordinance.
- (v) Informational kiosks shall be ground mounted, not to exceed seven feet in height, exclusive of architectural supports or housing.
- (vi) Informational kiosks shall be located a minimum of five feet from any active recreational activity fields (i.e. soccer, baseball, football, etc) or one foot from any established nature, man-made trail, and/or passive recreational area.
- (vii) Informational kiosks shall be set back a minimum of ten feet from all property lines.
- (viii) An informational kiosk may contain the name, logo, or slogan of a sponsor that is responsible for the development/upkeep/maintenance of the recreational amenity subject to the following limitations:
  - a. The name and/or logo of a sponsor shall not take up more than 20% of the total kiosk area.
  - b. No other advertising material shall be permitted on the kiosk.
- (e) Directional Signs
  - (i) Shall be allowed in an effort to provide information to visitors on the location of recreational amenities or offices located on the property.
  - (ii) Directional signs shall be limited to six square feet in area.
  - (iii) Directional signs shall not include any advertising material.
  - (iv) All directional signs shall be ground mounted signs not exceeding seven feet in height.
  - (v) All directional signs shall be located a minimum of five feet from any active recreational activity field or one foot from any established nature or man-made trail, and shall be set back a minimum of ten feet from all property lines,
- (f) Scoreboards
  - (i) One scoreboard, not to exceed 144 square feet, shall be permitted for each athletic field

#### 6.12.14 Additional Standards for Economic Development Districts

In addition to the overall sign standards established herein, the following specific standards shall apply in the Economic Development Districts:

##### (A) General Standards

- (1) A sign plan must be submitted and approved as part of the comprehensive site plan or master plan.
- (2) For multiple use sites or buildings, unified directional/informational signs and the use of coordinated individual wall signs is the preferred approach to business identification.
- (3) Sign colors must not be overpowering but must accent the building which the sign identifies or on which it is mounted.

- (4) The light from an illuminated sign must not be permitted to shine into any road right-of-way or across property lines.
- (5) In addition to the prohibited signs in Section 6.12.6, the following types of signs are prohibited in the Economic Development Districts: off premises advertising signs, billboards, inflatable, and portable signs.

**(B) Identification Signs**

**(1) ~~Freestanding Identification~~ On-premise Commercial Signs <sup>12</sup>**

- (a) Only one ~~freestanding identification~~ on-premise commercial sign is permitted for each development. However, a second sign may be permitted where a site has more than one vehicular entrance on different sides of the building.
- (b) An ~~freestanding identification~~ on-premise commercial sign must be placed perpendicular to approaching vehicular traffic so that it is clearly visible and does not obstruct the view of any other identification or information sign.
- (c) An ~~freestanding identification~~ on-premise commercial sign must be located at least 10-feet from any property line or driveway.

**(2) Buckhorn EDD & Eno EDD Only**

The following criteria shall govern the number, size, and height of identification signs in the Buckhorn and Eno EDDs:

TABLE 6.12.14.B.3: BUCKHORN AND ENO EDD IDENTIFICATION SIGN STANDARDS	
Maximum Number of Signs	3 per use
Maximum Number of <del>Freestanding-On-premise Commercial</del> Signs	1 per use
Maximum Total Square Footage of All Signs	200 sq. ft.
Maximum Size of Any Sign	75 sq. ft.
Maximum Height of Any Sign	12 ft. <sup>13</sup>

**(C) Directional/Informational Signs**

In lieu of the requirements contained in Section 6.12.11(G), the following requirements shall apply to Directional/Informational signs located in Economic Development Districts:

- (1) Information signs must be placed perpendicular to approaching traffic so that they are visible and legible.
- (2) Signs must be located outside of the site visibility triangle.
- (3) Information signs must be positioned to avoid confusing backgrounds, particularly when they are intended to direct vehicular traffic on or to-and-from the site.
- (4) Information signs may be placed no closer than six feet to the edge of a road or drive, and, in no case, may they be located within a street right-of-way unless they are erected by a governmental agency.
- (5) Information signs may not exceed four feet in height.

<sup>12</sup> Staff is modifying existing language to ensure we are using consistent language throughout the UDO when identifying a sign.

<sup>13</sup> We are keeping the height of signs erected within our Economic Development Districts the same. From our standpoint there was a conscious decision by the County to have different allowable signs heights for projects in and outside of Economic Development districts and we are going to preserve this distinction.

### **Open Burning Of Trees, Limbs, Stumps And Construction Debris Associated With The Permitted Activity**

The disposal of limbs, stumps and construction debris associated with the permitted activity by means of outdoor fires.

### **Open Space - (flexible development)**

"Primary Conservation Areas" and "Secondary Conservation Areas", as defined in Section 7.13, which are preserved through conservation easements or other restrictions in a flexible development subdivision.

### **Open Space - (land use intensity)**

- A. Open space is the total horizontal area of uncovered open space plus half the total horizontal area of covered open space subject to limitations set forth below.
- B. Uncovered open space is total gross land area not covered by buildings, plus open exterior balconies and roof areas improved as recreation space.
- C. Covered open space is usable open space closed to the sky, but having two clear unobstructed open or partially open sides. Partially open sides is to be construed as 50% or more. Examples of covered space are covered balconies, covered portions of improved roof areas, or space under buildings supported on columns or posts or cantilevered. The square footage countable as covered open space shall not exceed the square footage of the open space sides.

### **Open Space Ratio**

The minimum square footage of open space required for each square foot of gross land area. This area includes parking and vehicular access areas and it can also include balconies, and roofs improved for recreation.

### **Outdoor Advertising**

[See Sign, Off-premise Commercial](#)

### **Outdoor Advertising Industry**

The organizations that provide outdoor displays or display space on a lease or rental basis.

### **Outdoor Lighting**

Installation of lighting equipment, whether attached to poles, building structures, the earth, or any other location to allow for the illumination of a building and exterior area(s) within the confines of a defined property line. Included are open air spaces on a property, which are under a roof or other cover and not fully enclosed such as a canopy, pavilion, drive-through bay, or parking deck.

### **Outdoor Lighting, Cutoff Fixture**

A fixture shielded or constructed in such a manner that no more than 2 ½% of the total light emitted by the fixture is projected above the horizontal plane of the fixture.

### **Outdoor Lighting, Direct Light**

Light emitted directly from the lamp, off of the reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

### **Outdoor Lighting, Fixture**

The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

### **Outdoor Lighting, Flood Lamp**

A form of lighting designed to direct its output in a specific direction with a reflector formed from the glass envelope of the lamp itself. Such lamps are so designated by the manufacturers and are typically used in residential outdoor area lighting.

A sign structure advertising an establishment, merchandise, service, or entertainment that is not sold, produced, manufactured, or furnished at the property on which said sign is located. This definition includes billboards and other similar outdoor advertising mechanisms.

- Example of an off-premise commercial sign includes:



### Sign, Off-Premise Religious

A sign located off the property of a religious facility intended to provide directional information as to the location of a specific religious facility. Such signs shall only be erected at major roadway intersections and contain the name and address of the facility as well as a directional arrow to provide motorists an idea of which road is necessary to access the facility.

### Sign, On-Premise Commercial

A sign that pertains to the use of the premises where it is located and can include pole mounted and/or ground; monument signs. On-Premise Commercial Signs can contain changeable copy or a reader board so long as the total square footage allowed for the sign is not exceeded.

~~For the purpose of this ordinance, pole mounted signs shall not be permitted. Pole mounted signs shall be considered signs mounted on a single pole or mast rather than on two posts or poles or ground mounted.~~<sup>14</sup>

- Examples of on-premise commercial signs include:



### Sign Owner

A person recorded as such on official records. ~~The owner of property on which a sign is located is presumed to be the owner of the sign unless facts to the contrary are officially recorded or otherwise brought to the attention of the Planning Director (e.g., a sign leased from a sign company).~~

### Sign, Pole

A sign that is elevated above the ground by ~~one or more~~ upright supports placed upon the ground and not attached to any part of a building.

### Sign, Political

For the purposes of this Ordinance, a sign used in connection with a local, state, or national election or referendum.

### Sign, Portable

<sup>14</sup> Standard moved to Section 6.12.12 (5) (a)